

**Lee County Board of County Commissioners**

**Agenda Item Summary**

**Blue Sheet No. 20021196**

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Approve the acquisition of Parcel 101-E by accepting three 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:** 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

*CLA*

**3. MEETING DATE:**  
*11-26-2002*

**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*

**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 Right-of-Way Easement of approximately 482 square feet, a Grant of Perpetual Non Exclusive Easement for Bikepath/Sidewalk and a Perpetual Public Utility Easement of approximately 1385 square feet, located at 7750 Cypress Lake Drive, Fort Myers, Florida; STRAP No. 23-45-24-55-00000.0020.

SouthTrust Bank, an Alabama banking corporation, the owner, has agreed to donate the three easements for the subject parcel. Lee County will be required to pay customary title examination, search and closing fees, and title insurance, documentary stamps, and recording fees of approximately \$600.

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 - S Ft. Myers/San Carlos
- 506110 Purchase of Land & Related Costs

**ATTACHMENTS:**  
Three Easements  
Title Search

**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
<i>4/8/02</i> <i>[Signature]</i>			<i>BAO</i> <i>11/14/02</i>	<i>[Signature]</i> <i>11-12-02</i>	OA <i>11-12-02</i>	OM <i>11/26</i>	RISK <i>11/14/02</i>	GC <i>11/20/02</i>	<i>[Signature]</i>

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

**Rec. by CoAtty**  
Date: *11-8-02*  
Time: *3:35*  
**Forwarded to:**  
*11-12-02*

**RECEIVED BY COUNTY ADMIN.** *EW*  
*11-12-02*  
*10:30*  
**COUNTY ADMIN.**  
**FORWARDED TO:** *BL*  
*11/19 3:00*

This Instrument Prepared by:  
COUNTY LANDS DIVISION  
P.O. Box 398  
Fort Myers, FL 33902-0398  
Parcel: 101E  
Project: Cypress Lake Drive  
Widening, No. 4064  
STRAP No.: 23-45-24-55-00000.0020

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 25 day of September, 2002, between SouthTrust Bank, N.A., a national banking association, N/K/A SouthTrust Bank, an Alabama banking corporation, Owner, whose address is P.O. Box 2554, Birmingham, Alabama 35290, Attn: Corporate Realty, 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.

Grant of Perpetual Public Utility Easement

Page 2

Project: Cypress Lake Drive Widening, No. 4064

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. To the extent allowed by law and subject to the claim provisions and limitations contained in §768.28, Florida Statutes, the County agrees to be liable for tort claims predicated upon an injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee, contractor of the County while acting within the scope of his office or employment under circumstances in which the County, if a private person, would be liable to the claimant, in accordance with the general laws of the State of Florida.

8. Grantee will be responsible for maintenance of the public utility facilities.

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

**IN WITNESS WHEREOF**, SouthTrust Bank, a Alabama banking corporation, GRANTOR, has caused this document to be signed on the date first above written.

SIGNED, SEALED AND DELIVERED

**TWO SEPARATE WITNESSES:**

GRANTOR:

SouthTrust Bank, an Alabama banking corporation

Carlene S. Caragher  
1st Witness Signature

CARLENE S CARAGHER  
Printed name of 1st Witness

By: Michael R. Riley  
Michael R Riley  
Printed Name

[Signature]  
2nd Witness Signature

SR. Vice President  
Title

Seannie Wade  
Printed name of 2nd Witness

(CORPORATE SEAL)



STATE OF Alabama )  
COUNTY OF Jefferson )

The foregoing instrument was acknowledged before me this 25 day of September, 2002, by Michael R Riley  
(name of officer or agent, title of officer or agent)

of SouthTrust Bank, an Alabama banking corporation  
(name of corporation acknowledged) State or place of incorporation)

on behalf of the corporation. He/she is personally known to me or has produced N/A as identification.  
(type of identification)

Patsy K. Hill  
(Signature of Notary Public)

PATSY K. HILL, Admin. ASST.  
(Name typed, printed or stamped)  
(Title or Rank)  
(Serial Number, if any)

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

**Exhibit "A"**

PARCEL 101E

Page 1 of 2

PERPETUAL EASEMENT

That portion of Lot 2, 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 southwest corner of said Lot 2; 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, Supplemental Task Authorization Number 18); thence along the west line of said Lot 2, N 00°51'22"W, a distance of 2.90 feet; thence N 89°21'48"E, a distance of 246.55 feet to the east line of said Lot 2 and the beginning of a curve concave northwesterly and having a radius of 48.00 feet; thence along said east line and said curve to the right an arc distance of 8.25 feet through a central angle of 09°50'39" with a chord bearing South 42°36'06" West and chord distance of 8.24 feet to the end of said curve; thence S 89°21'48"W, a distance of 189.74 feet to the south line of said Lot 2 and said northerly right of way line; thence along said south line of said Lot 2 and also along said northerly right of way line, N 87°09'53"W, a distance of 51.24 feet to the POINT OF BEGINNING.

Said lands containing 1,385 square feet, more or less.

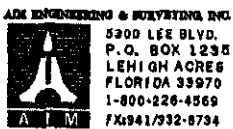
NOT A SURVEY

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

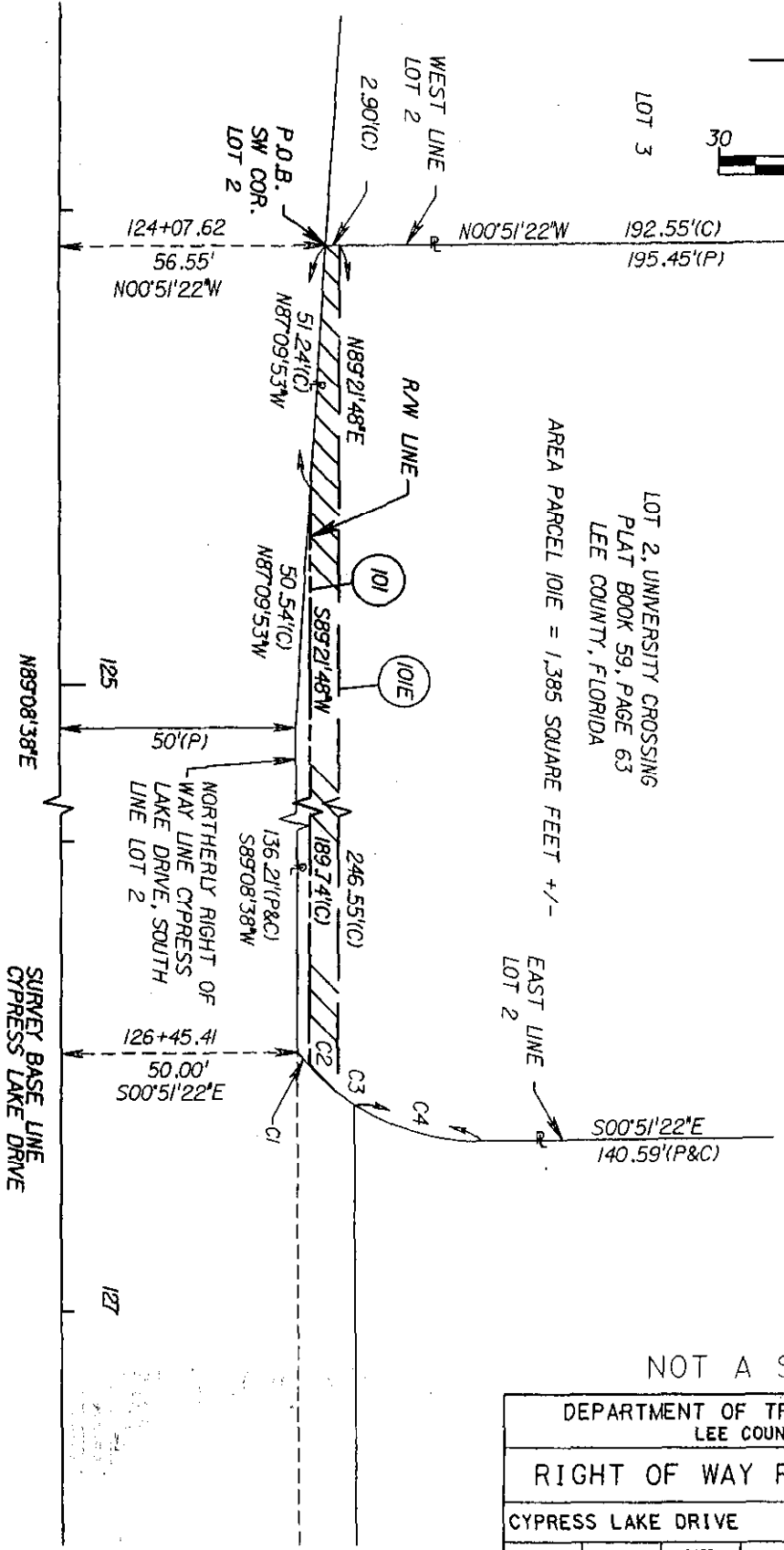
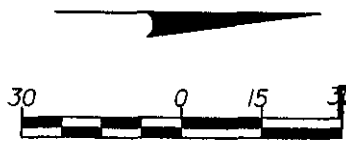
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

PREPARED BY:  
AIM ENGINEERING & SURVEYING, INC.

MICHAEL J. POLYAK  
REGISTERED SURVEYOR AND MAPPER  
FLORIDA CERTIFICATE NO. 5751  
LICENSED BUSINESS #9114



REVISION	BY	DATE



C1:  
DELTA = 04°46'12"  
L = 4.00'(C)  
R = 48.00'(C)  
CB = S49°54'32"W  
CD = 3.99'

C2:  
DELTA = 09°50'39"  
L = 8.25'(C)  
R = 48.00'(C)  
CB = S42°36'06"W  
CD = 8.24'

C3:  
DELTA = 05°09'16"  
L = 4.32'(C)  
R = 48.00'(C)  
CB = S35°06'09"W  
CD = 4.32'

C4:  
DELTA = 33°22'53"  
L = 27.97'(C)  
R = 48.00'(C)  
CB = S15°50'04"W  
CD = 27.57'

LOT 2, UNIVERSITY CROSSING  
PLAT BOOK 59, PAGE 63  
LEE COUNTY, FLORIDA  
AREA PARCEL 101E = 1,385 SQUARE FEET +/-

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 AIM ENG. & SURVEYING, INC.		FIELD BOOK NO.'S N/A	
S.T.A. NO. 18		SCALE: 1" = 30'	
CONTRACT No. 111			SHEET 2 OF 2

AIM ENGINEERING & SURVEYING, INC.  
5900 LEE BLVD.  
P.O. BOX 1238  
LEHIGH ACRES  
FLORIDA 33970  
1-800-224-4869  
FX1941/332-8734

REVISION	BY	DATE

This instrument prepared by:  
Lee County  
Public Works/County Lands  
Post Office Box 398  
Fort Myers, Florida 33902-0398

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

Parcel: 101  
Project: Cypress Lake Drive Widening, Project No. 4064  
STRAP No.: 23-45-24-55-00000.0020

**GRANT OF PERPETUAL  
RIGHT-OF-WAY EASEMENT**

This INDENTURE, made and entered into this 25 day of September, 2002, between SouthTrust Bank, N.A., a national banking association, N/K/A SouthTrust Bank, an Alabama banking corporation, Owner, whose address is P.O. Box 2554, Birmingham, Alabama 35290, Attn: Corporate Realty, hereinafter "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 "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 right-of-way easement situated in Lee County, Florida, and located and described as set forth in Exhibit "A" attached.

2. Grantee, its successors, appointees and assigns, are granted the right, privilege, and authority to construct, replace, renew, extend and maintain a public roadway, signalization equipment including overhead signal pole and the roadway drainage system, together with, but not limited to, swales, culverts, manholes and appurtenances, to be located on, under, across, and through the easement which is located on the property described in Exhibit "A", with the additional right, privilege and authority to remove, replace, repair and enlarge said system within the easement.

3. The right-of-way easement will not limit the particular type of drainage necessary for said roadway, nor will it limit the placement of improvements within the easement to a particular type, style, material or design. The Grantor may not construct any structures within said easement, nor will any foliage be placed in said easement.

4. Title to the constructed improvements will remain in the Grantee, Grantee's successors, appointees and/or assigns.

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, Grantor covenant that they are lawfully seized and possessed of the described real property in Exhibit "A", have good and lawful right and power to sell and convey it, and that the property is free and clear of all liens and encumbrances, except as herein stated, and accordingly, Grantor 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. Grantor, its heirs, successors or assigns, will indemnify and hold the Grantee harmless for any consequential damages to any houses, fences, buildings, carports, garages, storage sheds or any other structures subsequently constructed by Grantor in violation of paragraph 3. within the above easement, resulting from the required activities of the Grantee for any construction, maintenance or repairs to the rights-of-way located within the above-described easement.

7. Grantee will have a reasonable right of access across Grantor's property for the purposes of reaching the described easement in Exhibit "A" on either paved or unpaved surfaces. Any damage to Grantor's property or permitted improvements resulting from use of the access to the easement or the Grant of Perpetual Right-of-Way Easement construction, maintenance, or repairs located within the easement will be restored by the Grantee, to the condition it existed prior to the damage.

8. To the extent allowed by law and subject to the claim provisions and limitations contained in §768.28, Florida Statutes, the County agrees to be liable for tort claims predicated upon an injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee, contractor of the County while acting within the scope of his office or employment under circumstances in which the County, if a private person, would be liable to the claimant, in accordance with the general laws of the State of Florida.





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

**Exhibit "A"**

PARCEL 101

Page 1 of 2

RIGHT OF WAY

That portion of Lot 2, 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:

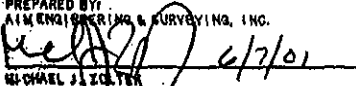
COMMENCE at the southwest corner of said Lot 2; said point lying N 00°51'22"W, 56.55 feet from survey Number III, Supplemental Task Authorization Number 18; thence along the south line of said Lot 2 and the northerly right of way line of Cypress Lake Drive, S 87°09'53"E, a distance of 51.24 feet to the POINT OF BEGINNING; thence N 89°21'48"E, a distance of 189.74 feet to the east line of said Lot 2 and the beginning of a curve concave northwesterly and having a radius of 48.00 feet; thence along said east line and said curve to the right an arc distance of 4.00 feet through a central angle of 04°46'12" with a chord bearing South 49°54'32" West and chord distance of 3.99 feet to the end of said curve and the south line of said Lot 2; thence along said south line and also along said northerly right of way line of Cypress Lake Drive for the following two (2) courses: 1) S 89°08'38"W, a distance of 136.21 feet, 2) N 87°09'53"W, a distance of 50.54 feet to the end of said courses and the POINT OF BEGINNING.

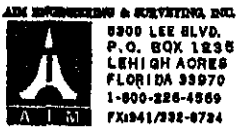
Said lands containing 462 square feet, more or less.

NOT A SURVEY

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

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

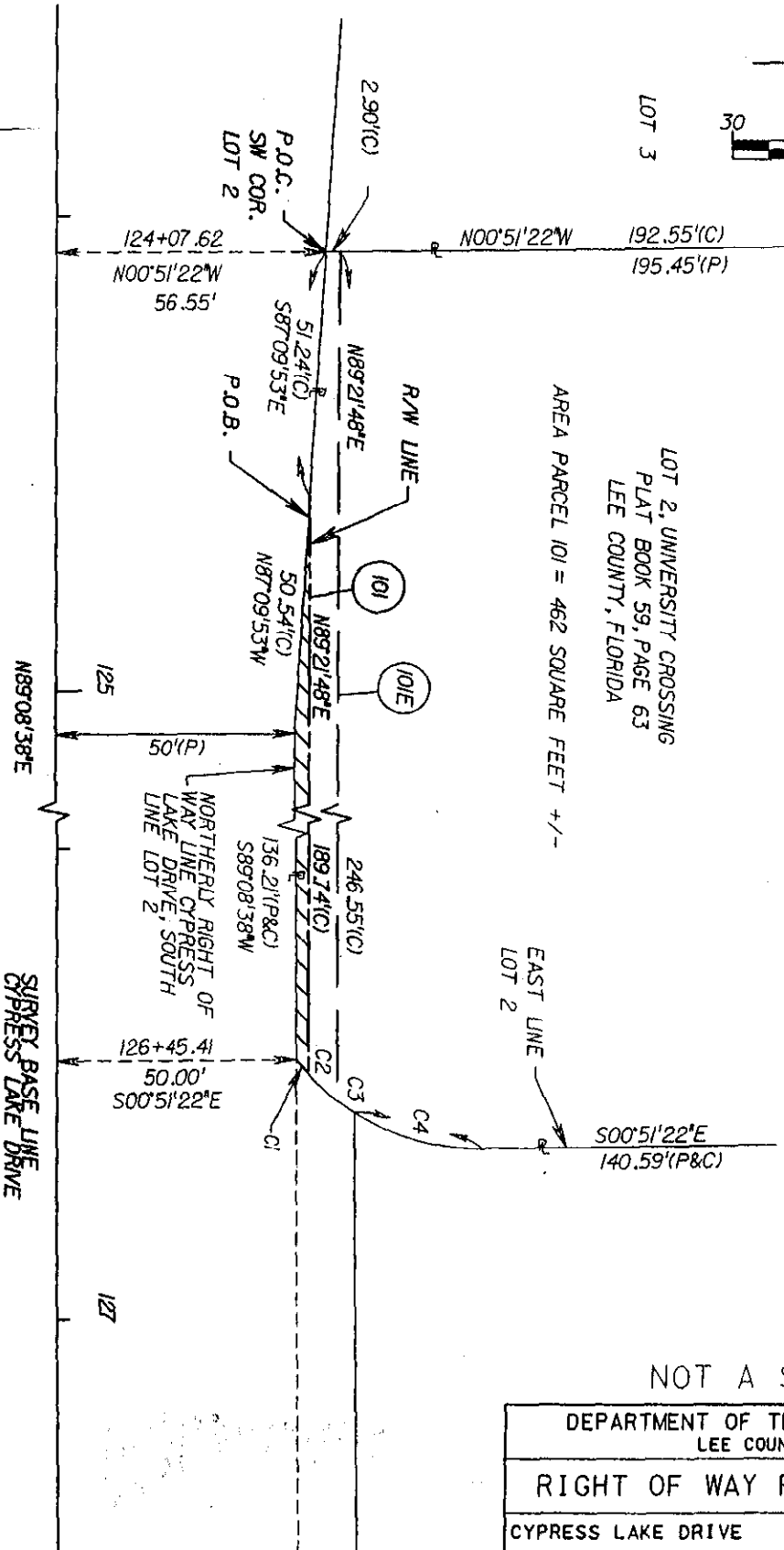
PREPARED BY:  
 4/17/01  
 MICHAEL J. CLAYTON  
 REGISTERED SURVEYOR AND MAPPER  
 FLORIDA CERTIFICATE NO. 8751  
 LICENSED BUSINESS #8114



8900 LEE BLVD. P.O. BOX 1238 LEHIGH ACRES FLORIDA 33970 1-800-226-4569 FX1841/232-8724	REVISION	BY	DATE

Exhibit "A"

Page 2 of 2



AREA PARCEL 101 = 462 SQUARE FEET +/-

LOT 2, UNIVERSITY CROSSING  
PLAT BOOK 59, PAGE 63  
LEE COUNTY, FLORIDA

C1:  
DELTA = 04461/2°  
L = 4.00'(C)  
R = 48.00'(C)  
CB = 549.54'32"W  
CD = 3.99'

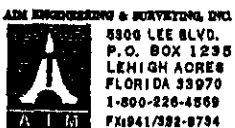
C2:  
DELTA = 0950'39"  
L = 8.25'(C)  
R = 48.00'(C)  
CB = 542.36'06"W  
CD = 8.24'

C3:  
DELTA = 0509'16"  
L = 4.32'(C)  
R = 48.00'(C)  
CB = 535.06'09"W  
CD = 4.32'

C4:  
DELTA = 3322'53"  
L = 27.97'(C)  
R = 48.00'(C)  
CB = 515.50'04"W  
CD = 27.57'

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 AIM ENG. & SURVEYING, INC.		FIELD BOOK NO.'S N/A	
S.T.A. NO. 18		SCALE: 1" = 30'	
CONTRACT No. 111		SHEET 2 OF 2	



AIM ENGINEERING & SURVEYING, INC.  
5506 LEE BLVD.  
P.O. BOX 1236  
LEHIGH ACRES  
FLORIDA 33970  
1-800-226-4569  
FX1941/982-9794

REVISION	BY	DATE

THIS INSTRUMENT PREPARED BY:

Lee County  
Post Office Box 398  
Fort Myers, Florida 33902

Parcel: 101E  
Project: Cypress Lake Drive  
Widening Project No. 4064  
Strap No.: 23-45-24-55-00000.0020

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

**GRANT OF PERPETUAL  
NON EXCLUSIVE EASEMENT  
FOR BIKEPATH/SIDEWALK**

This **INDENTURE**, made and entered into this 25 day of September 2002, between SouthTrust Bank, N.A., a national banking association, N/K/A SouthTrust Bank, an Alabama banking corporation, Owner, whose address is P.O. Box 2554, Birmingham, Alabama 35290, Attn: Corporate Realty, hereinafter "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 and any drainage facility within said easement area.
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. To the extent allowed by law and subject to the claim provisions and limitations contained in §768.28, Florida Statutes, the County agrees to be liable for tort claims predicated upon an injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee, contractor of the County while acting within the scope of his office or employment under circumstances in which the County, if a private person, would be liable to the claimant, in accordance with the general laws of the State of Florida.

8. The County will have a reasonable right of access for the purposes of reaching the described easement on either paved or unpaved surfaces, including existing on site drainage area to cure any drainage flow problems during construction. 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.

9. The County agrees to replace, at no cost to the Grantor, the existing open swale drainage, within or adjacent to easement area as described in attached Exhibit A, with pipe under the new sidewalk being constructed as part of the Cypress Lake Drive Widening CIP Project #4064.

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

11. 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, SouthTrust Bank, a Alabama banking corporation, Grantor has caused this document to be signed on the date first above written.

TWO SEPARATE WITNESSES:

GRANTOR:

SouthTrust Bank, an Alabama banking corporation

By: Michael Riley

Michael R. Riley  
Printed Name

Sr. Vice President  
Title:

(CORPORATE SEAL)

Carly Stewart  
1st Witness Signature

CARLY S Stewart  
Printed name of 1st Witness

Janna Wade  
2nd Witness Signature

Jeannie Wade  
Printed name of 2nd Witness

STATE OF Alabama )  
COUNTY OF Jefferson )

SWORN TO AND SUBSCRIBED before me this 25 day of September, 2002 by

Michael R Riley of SouthTrust Bank, an Alabama banking  
name of officer or agent, title of officer or agent) (name of corporation acknowledged)

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

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

Patsy K. Hill  
(Signature of Notary Public)  
PATSY K. HILL, Admin. ASST.  
(Name typed, printed or stamped)  
(Title or Rank)  
(Serial Number, if any)

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

**Exhibit "A"**

PARCEL 101E

Page 1 of 2

PERPETUAL EASEMENT

That portion of Lot 2, 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 southwest corner of said Lot 2; 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, Supplemental Task Authorization Number 18); thence along the west line of said Lot 2, N 00°51'22"W, a distance of 2.90 feet; thence N 89°21'48"E, a distance of 246.55 feet to the east line of said Lot 2 and the beginning of a curve concave northwesterly and having a radius of 48.00 feet; thence along said east line and said curve to the right an arc distance of 8.25 feet through a central angle of 09°50'39" with a chord bearing South 42°36'06" West and chord distance of 8.24 feet to the end of said curve; thence S 89°21'48"W, a distance of 189.74 feet to the south line of said Lot 2 and said northerly right of way line; thence along said south line of said Lot 2 and also along said northerly right of way line, N 87°09'53"W, a distance of 51.24 feet to the POINT OF BEGINNING.

Said lands containing 1,385 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
PRELIM	DKT	4-17-01	
FINAL	DKT	4-19-01	
CHECKED	MJZ	4-19-01	
MAPS PREPARED BY		FIELD BOOK NO.'S	
AIM ENG. & SURVEYING, INC.		N/A	
S.T.A. NO. 18		SCALE: N/A	
CONTRACT No. 111		SHEET 1 OF 2	

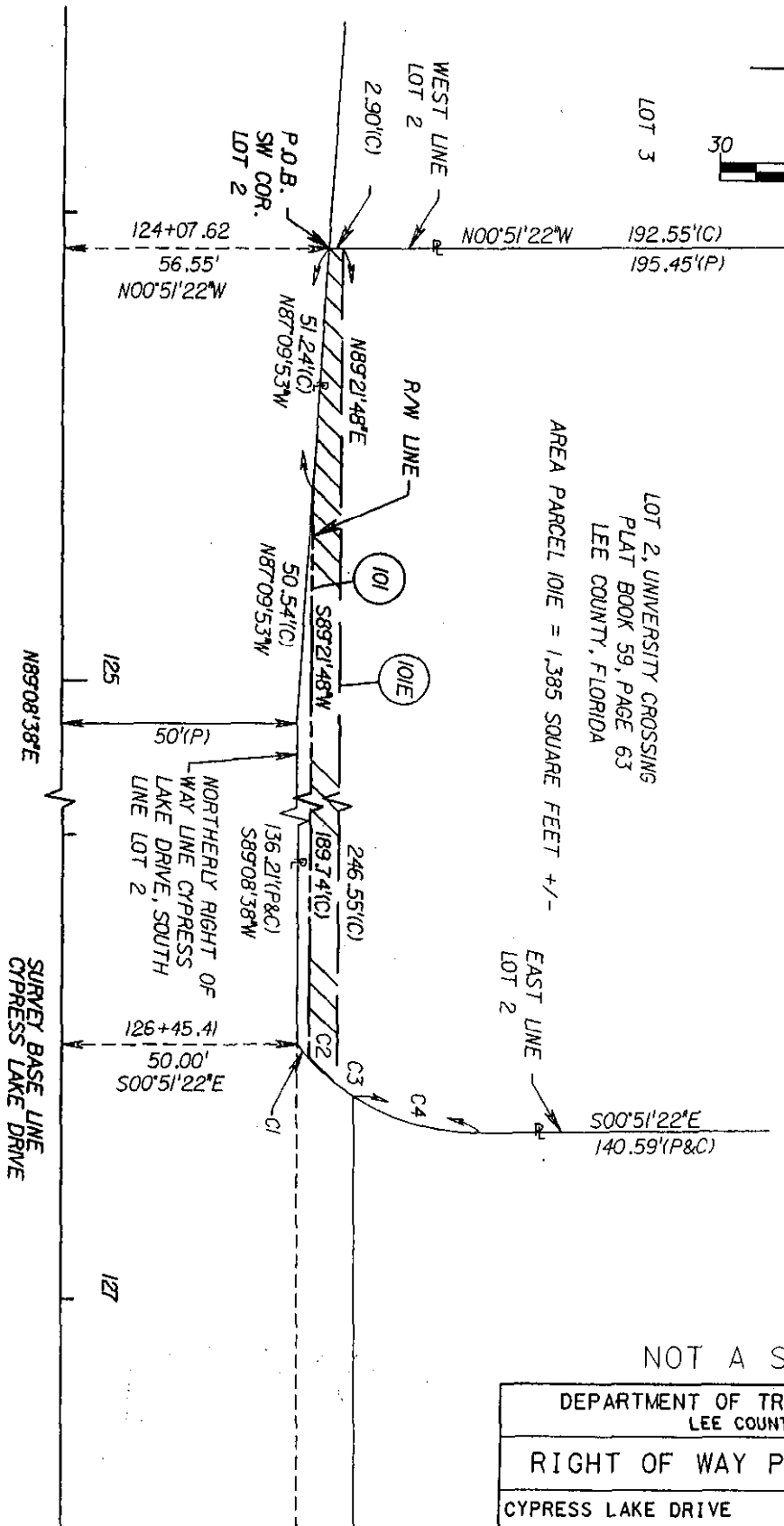
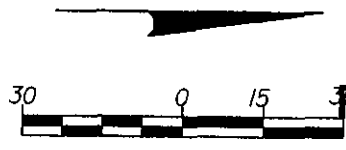
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

PREPARED BY:  
AIM ENGINEERING & SURVEYING, INC.

*[Signature]* 4/17/01  
MICHAEL V. TOLYK  
REGISTERED SURVEYOR AND MAPPER  
FLORIDA CERTIFICATE NO. 8751  
LICENSED BUSINESS #9114



REVISION	BY	DATE



C1:  
DELTA = 04°46'12"  
L = 4.00'(C)  
R = 48.00'(C)  
CB = S49°54'32"W  
CD = 3.99'

C2:  
DELTA = 09°50'39"  
L = 8.25'(C)  
R = 48.00'(C)  
CB = S42°36'06"W  
CD = 8.24'

C3:  
DELTA = 05°09'16"  
L = 4.32'(C)  
R = 48.00'(C)  
CB = S35°06'09"W  
CD = 4.32'

C4:  
DELTA = 33°22'53"  
L = 27.97'(C)  
R = 48.00'(C)  
CB = S15°50'04"W  
CD = 27.57'

LOT 2, UNIVERSITY CROSSING  
PLAT BOOK 59, PAGE 63  
LEE COUNTY, FLORIDA

AREA PARCEL 101E = 1,385 SQUARE FEET +/-

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 AIM ENGINEERING & SURVEYING, INC.		FIELD BOOK NO.'S N/A	
S.T.A. NO. 18		SCALE: 1" = 30'	
CONTRACT No. 111		SHEET 2 OF 2	

AIM ENGINEERING & SURVEYING, INC.  
5300 LEE BLVD.  
P.O. BOX 1235  
LEHIGH ACRES  
FLORIDA 33970  
1-800-226-4869  
FX1941/332-8734

REVISION	BY	DATE



# Division of County Lands

## Updated Ownership and Easement Search

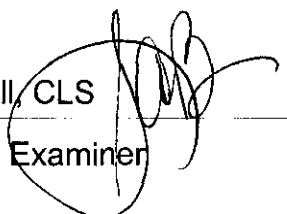
Search No. 21869/D

Date: October 8, 2002

Parcel: 101

Project: Cypress Lake Drive Widening #4064

To: Michael J. O'Hare  
Property Acquisition Agent

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

STRAP: 23-45-24-55-00000.0020

Effective Date: September 29, 2002, at 5:00 p.m.

**Subject Property:** Lot 2, University Crossing, a subdivision according to the plat thereof recorded in Plat Book 59, Pages 62 and 63, Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

**South Trust Bank, N.A., now known as South Trust Bank, an Alabama banking operation**

by that certain instrument dated December 17, 1997, recorded December 19, 1997, in Official Record Book 2901, Page 2879, Public Records of Lee County, Florida.

**Easements:**

1. Private Ingress/Egress Easement dedicated for the benefit of present and future owners within University Crossing Subdivision in the Northwesterly corner of subject lot; said easement is sixteen feet (16 ft.) in width and sixty-two feet (62 ft.) in length, as shown on plat. [Does not abut Cypress Lake Drive or SR 869]
2. Florida Power and Light Company Easement shown on Plat and recorded in Official Record Book 2099, Page 1774 Public Records of Lee County, Florida; said easement is ten feet (10 ft.) in width and twenty feet (20 ft.) in length and lies in the Southwesterly corner of subject lot. [Abuts Cypress Lake Drive R-O-W]
3. Perpetual Water Pipeline Easement along the Northerly ten feet (10 ft.) of subject lot granted to Florida Cities Water Company, as recorded in Official Record Book 2829, Page 1195, as corrected in Official Record Book 2849, Page 2855, and further recorded in Official Record Book 2852, Page 1581, Public Records of Lee County, Florida. [Does not abut Cypress Lake Drive or SR 869]
4. 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 ft.) to twelve feet (12 ft.) along a portion of the Southerly boundary of subject lot. [Abuts Cypress Lake Dr. R-O-W]

**Division of County Lands****Updated Ownership and Easement Search**

Search No. 21869/D

Date: October 8, 2002

Parcel: 101

Project: Cypress Lake Drive Widening  
#4064

5. 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].
6. 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 generally describe the common areas as driveways, roadways, green areas together with any portion of the surface water management system].
7. 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.
8. 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.

NOTE (1): Notice of Development Order Approval, recorded in Official Record Book 3443, Page 4132, Public Records of Lee County, Florida.

NOTE (2): Mortgage executed by Kathie P. Brandenburg, unmarried in favor of South Trust Bank, National Association, dated May 11, 2000, recorded June 29, 2000, in Official Record Book 3273, Page 3652, Public Records of Lee County, Florida. Legal description is correct for subject parcel, but mortgagor does not appear in the chain of title. This must be addressed and resolved by the Title Company or Attorney that handles the transfer to the County.

## Division of County Lands

### Updated Ownership and Easement Search

Search No. 21869/D

Date: October 8, 2002

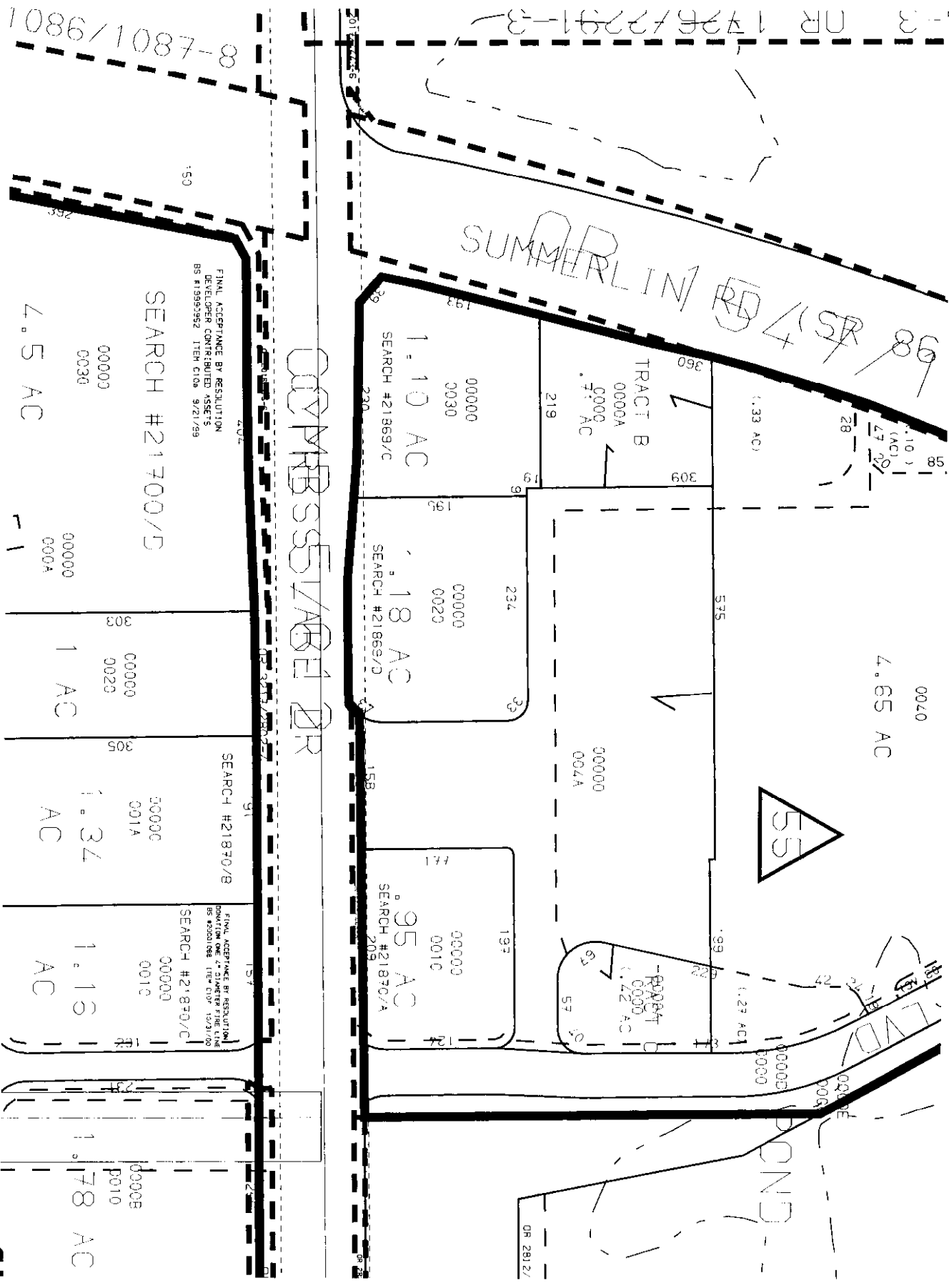
Parcel: 101

Project: Cypress Lake Drive Widening  
#4064

**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.)*

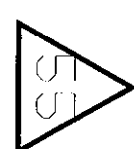
**The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.**



SUMMERLIN RD / SR 86

OVERSIZED DR

TRACT B



FINAL ACCEPTANCE BY RESOLUTION  
 DEVELOPER CONTRIBUTED ASSETS  
 BS #1595252 ITEM C/D 9/21/99  
 SEARCH #21700/D

00000  
 0030  
 4.5 AC

1.10 AC  
 SEARCH #21869/C

1.18 AC  
 SEARCH #21869/D

1.34 AC  
 SEARCH #21870/B

1.15 AC  
 SEARCH #21870/A

4.65 AC

0000E  
 P010  
 1.78 AC

8-7801/9801

NR 1726/2291-3

DR 291/2/

POND





STATE OF ALABAMA

MONTGOMERY COUNTY

RECEIVED  
AUG 13 2002

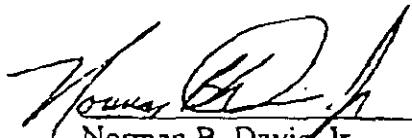
COUNTY LANDS

CERTIFICATE OF APPROVAL TO CONVERT  
TO A STATE BANKING CORPORATION

I, Norman B. Davis, Jr., as Superintendent of Banks, State of Alabama, do hereby certify that SouthTrust Bank, National Association, a national banking association, has fully complied with the provisions of §§ 5-7A-20 through 5-7A-24, Code of Alabama 1975, to convert to a state banking corporation with the name SouthTrust Bank and that SouthTrust Bank, the resulting bank, and all of its stockholders, officers and employees shall have the same powers and privileges and shall be subject to the same duties, liabilities and regulations, in all respects, as shall have been prescribed for banking corporations originally organized as banking corporations under the laws of the State of Alabama; and I do, therefore, authorize SouthTrust Bank, Birmingham, Alabama, a state banking corporation to transact business as a bank effective upon the filing of this Certificate and attached documents with the Judge of Probate of Jefferson County. I further certify that all proper business can be entrusted to said bank.

Given under my hand and seal of office this the 5<sup>th</sup> day of June 2000.



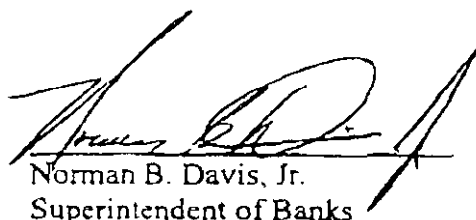
  
Norman B. Davis, Jr.  
Superintendent of Banks

STATE OF ALABAMA  
MONTGOMERY COUNTY

PERMIT TO BEGIN BUSINESS

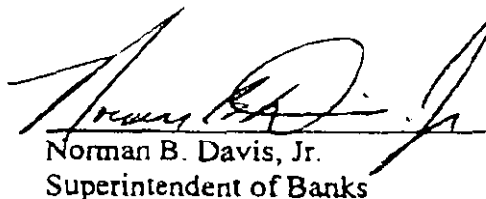
I, Norman B. Davis, Jr., as Superintendent of Banks, State of Alabama, do hereby certify that SouthTrust Bank, Birmingham, Alabama, has duly complied with all requirements of law relating to the organization of a bank under the laws of the State of Alabama, and I do, therefore, authorize it to transact business as a bank, and I further certify that it is authorized to conduct and operate a trust department.

Given under my hand and seal of office this the 5<sup>th</sup> day of June 2000.


  
Norman B. Davis, Jr.  
Superintendent of Banks

STATE OF ALABAMA  
MONTGOMERY COUNTY

I, Norman B. Davis, Jr., as Superintendent of Banks, State of Alabama, do hereby certify that the foregoing is a true and correct copy of the Certificate as the same appears on file and of record in this office.

  
Norman B. Davis, Jr.  
Superintendent of Banks



State of Alabama - Jefferson County  
I certify this instrument filed on:  
2000 JUN 06 P.M. 14:58  
Recorded and \$  
and \$ 36.00  
Total \$ 36.00  
Deed Tax and Fee Amt.  
GEORGE R. KEYNOLDS, Judge of Probate  
  
200006/8530



# STATE OF ALABAMA

I, Jim Bennett, Secretary of State of the State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

as appears on file and of record in this office, the pages attached contain a true, accurate and literal copy of the Articles of Incorporation of SouthTrust Bank as received and filed in the office of the Secretary of State of Alabama on June 6, 2000, showing the date of incorporation as June 6, 2000, the date said instrument was filed in the office of the Judge of Probate of Jefferson County.



In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the City of Montgomery, on this day.

06/06/00

Date

*Jim Bennett*

Jim Bennett

Secretary of State

ARTICLES OF INCORPORATION  
OF  
SOUTHTRUST BANK,  
an Alabama banking corporation

The undersigned, acting as incorporators under the Code of Alabama 1975, as amended, including, without limitation, the provisions of § 5-7A-21 thereof, adopt the following Articles of Incorporation.

ARTICLE 1  
Name

The name of the corporation shall be SouthTrust Bank.

ARTICLE 2  
Duration

The duration of the corporation shall be perpetual, unless otherwise legally terminated.

ARTICLE 3  
Objects

The objects or purposes for which the corporation is formed are:

- (a) To do all things necessary and incident to carrying on the business of banking and such business as is done by trust companies doing a banking business.
- (b) To discount bills, notes and other evidences of debt.
- (c) To receive and pay out deposits, with or without interest, and impose charges for services.
- (d) To receive on special deposit money, bullion, or foreign coins, or bonds or securities.
- (e) To buy and sell foreign and domestic exchanges, gold and silver bullion or foreign coins, bonds, bills of exchange, notes and other negotiable paper.
- (f) To lend money on personal security or upon pledge of bonds, stocks or other negotiable security.

(g) To take and receive security by mortgage, security agreement, or otherwise own property, real and personal.

(h) To become trustee for any purpose and to be appointed and to act as executors, administrators, guardians, receivers or fiduciaries as provided by law.

(i) To lease real and personal property upon the specific request of a customer.

(j) To perform computer, management, and travel agency services for others.

(k) To subscribe to the capital stock and become a member of the Federal Reserve System and to comply with the rules and regulations thereof.

(l) To do any business and exercise any powers incident to the business of bank and trust companies doing a banking business.

#### ARTICLE 4 Registered Office and Agent

The address of the corporation's initial registered office shall be 420 North 20th Street, Birmingham, Jefferson County, Alabama 35203 and its initial agent at such address shall be John D. Buchanan.

#### ARTICLE 5 Capital Accounts

5.1 The corporation's total authorized capital stock shall be \$9,006,600.00, divided into 1,020,000 shares of common stock with a par value of eight dollars and eighty-three cents (\$8.83) each.

5.2 The amount of capital, surplus and undivided profit with which the corporation will begin business as a state bank shall be \$9,006,600 as capital stock, \$1,722,348,855 as surplus, \$1,634,759,842 as undivided profit and net unrealized gain (loss) on available for sale securities of (\$141,831,404) for a total of \$3,224,283,893.

#### ARTICLE 6 Principal Office

The location of the principal office of the corporation in the State of Alabama shall be 420 North 20th Street, Birmingham, Jefferson County, Alabama 35203.

ARTICLE 7  
Powers

The corporation shall possess all of the powers necessary and incident to the conduct the banking business and it is hereby vested with the necessary power to carry out the objects and purposes herein expressed in Article 3 hereof, and shall have all powers especially conferred upon its corporation by the laws of the State of Alabama, as well as those necessarily implied, together with the following additional powers:

(a) To engage in business as a natural person may, not inconsistent with the provisions of law pertaining to the organization and regulation of a banking corporation in the State of Alabama.

(b) To lend money and take security therefor, and to borrow money and give security therefor on any and all of the property of the corporation.

(c) To buy, sell, lease, acquire, own, use and occupy real estate and personal property in any locality, in a legal manner, that may be necessary or convenient for the conduct and maintenance of a banking business.

(d) To conduct for a reasonable time any business of each and every kind that might be necessary for it to conduct by virtue of the corporation having taken over such business as a result of a foreclosure of any mortgage or collateral security that might necessarily have taken over; provided, however, that said authority shall in no event continue or be exercised beyond such time as the Superintendent of Banks for the State of Alabama shall fix as the termination date for the reasonable exercise of the authority.

(e) To accept deposits and payments on loans and other obligations as agent for other banks located in Alabama that are subsidiaries of the same bank holding company.

(f) To exercise any power which a federally chartered or regulated bank could exercise (subject to the prior approval, if required, of the Superintendent of Banks for the State of Alabama).

ARTICLE 8  
Directors

8.1 The corporation's current Board of Directors consists of fourteen (14) persons, who shall serve until the next annual meeting of the shareholders and until their successors are elected and qualified.

8.2 Each director shall be the owner and holder of shares of stock in the corporation or its ultimate parent bank holding company, and each director shall hold at least two shares in his or her name, unpledged and unencumbered in any way except for a statutory lien which might attach in favor of the corporation issuing such stock.

8.3 Not less than 75% of the directors of the corporation shall, during their whole term of service, be citizens of the United States. At least 51% of the directors of the corporation shall be residents of the State of Alabama.

8.4 The names and addresses of the members of the current Board of Directors are set forth below:

- (a) Julian W. Banton: SouthTrust Bank, National Association  
420 North 20th Street, 4th Floor  
Birmingham, Alabama 35203
- (b) Thomas E. Bradford, Jr.: Bradford & Company  
Post Office Box 278  
Birmingham, Alabama 35201
- (c) Ronald G. Bruno: Bruno Capital Management Corporation  
Bruno Capital Building  
100 Grandview Place, Suite 500  
Birmingham, Alabama 35243
- (d) H. M. Burt, Jr.: 727 Hillyer High Road  
Anniston, Alabama 36207
- (e) David J. Cooper: Cooper/T. Smith Corporation  
Post Office Box 1566  
Mobile, Alabama 36633
- (f) Sallie C. Creel: Thrifty Car Rental  
3844 Brook Hollow Lane  
Birmingham, Alabama 35243
- (g) James D. Davis: Jemison Investment Company, Inc.  
2001 Park Place, Suite 320  
Birmingham, Alabama 35203
- (h) James C. Harrison: Protective Industrial Insurance Company  
2300 11th Avenue North  
Birmingham, Alabama 35234
- (i) Chris H. Horgen: Southeastern Technology Fund  
207 Eastside Square  
Huntsville, Alabama 35801
- (j) Judy M. Merritt: Jefferson State Junior College  
2601 Carson Road  
Birmingham, Alabama 35215

- (k) Thomas E. Mitchell: Stuart Construction Company, Inc.  
Post Office Box 579  
Bay Minette, Alabama 36507
- (l) William V. Muse: Auburn University  
107 Sanford Hall  
Auburn, Alabama 36849
- (m) William E. Smith, Jr.: Royal Cup, Inc.  
160 Cleage Drive  
Birmingham, Alabama 35217
- (n) R. Neal Travis: 2120 Southwinds Circle  
Birmingham, Alabama 35244

ARTICLE 9  
Incorporators

9.1 The name and address of the incorporators are as follows:

- (a) Julian W. Banton: SouthTrust Bank, National Association  
420 North 20th Street, 4th Floor  
Birmingham, Alabama 35203
- (b) Thomas E. Bradford, Jr.: Bradford & Company  
Post Office Box 278  
Birmingham, Alabama 35201
- (c) H. M. Burt, Jr.: 727 Hillyer High Road  
Anniston, Alabama 36207
- (d) Sallie C. Creel: Thrifty Car Rental  
3844 Brook Hollow Lane  
Birmingham, Alabama 35243
- (e) James D. Davis: Jemison Investment Company, Inc.  
2001 Park Place, Suite 320  
Birmingham, Alabama 35203
- (f) James C. Harrison: Protective Industrial Insurance Company  
2300 11th Avenue North  
Birmingham, Alabama 35234

- (g) Judy M. Merritt: Jefferson State Junior College  
2601 Carson Road  
Birmingham, Alabama 35215
- (h) William E. Smith, Jr.: Royal Cup, Inc.  
160 Cleage Drive  
Birmingham, Alabama 35217
- (i) R. Neal Travis: 2120 Southwinds Circle  
Birmingham, Alabama 35244

ARTICLE 10  
By-Laws

10.1 The dates on which the shareholders' annual meeting shall be held, the number of directors and the terms of office of the officers, and the powers and duties of the officers shall be fixed by the by-laws of the corporation.

10.2 The corporation shall have power to make by-laws for the regulation and governance of the corporation, its agents, servants or officers, and for all other purposes not inconsistent with the Constitution and laws of the State of Alabama.

ARTICLE 11  
No Director Liability

A director of the corporation shall have no liability to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except for liability for (A) the amount of a financial benefit received by a director to which he or she is not entitled; (B) an intentional infliction of harm on the corporation or the shareholders; (C) a violation of Alabama Code Section 10-2B-8.83, (D) liability imposed by any federal or state law or regulation or applicable regulatory agency; (E) an intentional violation of criminal law; or (F) a breach of the director's duty of loyalty to the corporation or its shareholders.

IN WITNESS WHEREOF, the undersigned incorporators set their names on the 19th  
day of May, 2000.

James B. [Signature]

Julian W. Burt

Wm E. [Signature]

[Signature]

Sallie C. Creel

[Signature]

Therese [Signature]

Dane [Signature]

Judy M. Merritt