

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

BLUE SHEET NO: 20030275

1. REQUESTED MOTION:

ACTION REQUESTED: Adopt a Resolution on Petition VAC2002-00046 to Vacate a 60 foot Right-Of-Way as recorded in O.R. Book 1008, Page 1679, of the Public Records of Lee County, Florida.

WHY ACTION IS NECESSARY: To close the existing road and relocate to another location, as well as accepting replacement Utility Easements. **The vacation of the Right-of-Way will not alter existing traffic patterns and the Right-of-Way is not necessary to accommodate any future Right-of-Way requirement.**

WHAT THE ACTION ACCOMPLISHES: Vacates the Right-of-Way.

2. DEPARTMENTAL CATEGORY:

COMMISSION/DISTRICT # 5

5:00 #1

3. MEETING DATE:

03-25-2003

4. AGENDA

CONSENT
 ADMINISTRATIVE
 APPEALS
 PUBLIC

TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

(Specify)

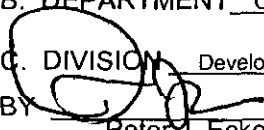
STATUTE
 ORDINANCE
 ADMIN. 13-8
 OTHER

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER _____

B. DEPARTMENT Community Development

C. DIVISION Development Services

BY  3/05/03
Peter J. Eckenrode, Director

7. BACKGROUND:

The Board of County Commissioners has adopted a Resolution to set a Public Hearing for 5:00 p.m. on the 25th day of March, 2003.

LOCATION: The 60 foot Right-Of-Way as recorded in O.R. Book 1008, Page 1679, of the Public Records of Lee County, Florida.

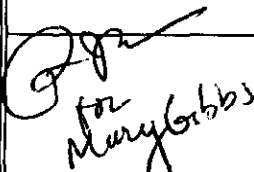
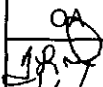
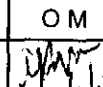
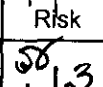
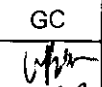
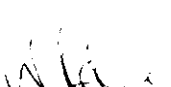
Documentation pertaining to this Petition to Vacate is available for viewing at the Office of the Clerk of Circuit Court, Minutes Department.

There are no objections to this Petition to Vacate. Staff recommends adoption of this resolution.

Attached to this Blue sheet is the Resolution with exhibits.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL

| A Department Director | B Purchasing or Contracts | C Human Rel. | D Other | E County Attorney | F County Administration | | | | G County Manager |
|--|------------------------------------|--------------------|------------|----------------------------|---|--|---|---|---|
| | | | | | OA | OM | Risk | GC | |
|  | N/A | N/A | | John J Eckman 3-6-03 |  3/6/03 |  3/6/03 |  3/6/03 |  3/6/03 |  |

10. COMMISSION ACTION:

APPROVED
 DENIED
 DEFERRED
 OTHER

Rec. by CoAtty
Date: 3/6/03
Time: 8am
Forwarded To:
Co. ADM.
3/6/03 JPH

RECEIVED BY
COUNTY ADMIN.
3-6-03
2:30 PM
COUNTY ADMIN.
FORWARDED TO: [Signature]
3/6/03

NOTICE OF PUBLIC HEARING FOR PETITION TO VACATE

Case Number: VAC2002-00046

TO WHOM IT MAY CONCERN:

NOTICE is hereby given that on the 5th day of March, 2003, at 5:00 P.M. in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider and take action on a Petition vacating, abandoning, closing and discontinuing the public's interest in the right-of-way or portion of a right-of-way, legally described in the attached Exhibit "A".

Interested parties may appear in person or through a representative and be heard with respect to the Petition to Vacate.

Anyone wishing to appeal the decision made by the Board with respect to any matter considered at this meeting will need a record of the proceeding for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

A copy of the Petition to Vacate is on file in the Office of the Clerk of the Circuit Court of Lee County, Florida, Minutes Office, 2115 Second Street, Fort Myers, Florida.

LEE COUNTY
SOUTH FLORIDA

CHARLIE GREEN, CLERK

Deputy Clerk Signature

Please Print Name

APPROVED AS TO FORM

County Attorney Signature

Please Print Name

EXHIBIT "A"
VAC2002-00046
Page 1 of 1


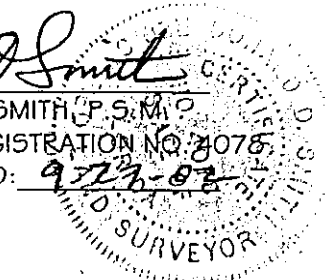
PARCEL "C"

A PARCEL OF LAND LYING IN THE SOUTH 1/2 OF THE NORTH 1/2 OF SECTION 25, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE NORTH LINE OF SAID SOUTH 1/2 OF THE NORTH 1/2 OF SECTION 25 WITH THE EASTERLY RIGHT OF WAY LINE OF TAMiami TRAIL (STATE ROAD 45); THENCE SOUTH 00°33'30"EAST ALONG SAID EASTERLY RIGHT OF WAY LINE, SAID EASTERLY LINE BEING 83.00 FEET FROM THE CENTERLINE, A DISTANCE OF 2.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF TORO LANE, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE NORTH 89°05'24"EAST ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 848.24 FEET; THENCE NORTH 00°54'36"WEST, A DISTANCE OF 2.00 FEET TO A POINT ON SAID NORTH LINE OF THE SOUTH 1/2 OF THE NORTH 1/2 OF SECTION 25, SAID POINT ALSO BEING A POINT OF A CURVE AND BEING ON THE NORTHEASTERLY RIGHT OF WAY LINE OF SAID TORO LANE; THENCE SOUTHEASTERLY ALONG SAID CURVE AND RIGHT OF WAY LINE TO THE RIGHT, HAVING A RADIUS OF 110.00 FEET, A CENTRAL ANGLE OF 89°58'58", A CHORD BEARING OF SOUTH 45°55'02"EAST AND A CHORD DISTANCE OF 155.54 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 00°55'28"EAST ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID TORO LANE, A DISTANCE OF 123.18 FEET TO A POINT OF A CURVE; THENCE SOUTHEASTERLY ALONG SAID CURVE AND RIGHT OF WAY LINE OF SAID TORO LANE TO THE LEFT, HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 90°00'00", A CHORD BEARING OF SOUTH 45°55'28"EAST AND A CHORD DISTANCE OF 70.71 FEET TO A POINT OF A NON TANGENT LINE; THENCE SOUTH 88°05'47"WEST, A DISTANCE OF 158.29 FEET TO A POINT OF A CURVE BEING ON THE NORTH RIGHT OF WAY LINE OF ANDREA LANE AS DESCRIBED IN OFFICIAL RECORDS BOOK 1249, PAGE 733 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTHEASTERLY ALONG SAID CURVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID TORO LANE TO THE LEFT, HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 88°00'24", A CHORD BEARING OF NORTH 43°04'43"EAST AND A CHORD DISTANCE OF 69.47 FEET TO THE POINT OF TANGENCY; THENCE NORTH 00°55'28" WEST ALONG SAID WESTERLY RIGHT OF WAY LINE OF TORO LANE, A DISTANCE OF 125.92 FEET TO A POINT OF A CURVE; THENCE NORTHWESTERLY ALONG SAID CURVE AND SAID WESTERLY RIGHT OF WAY LINE TO THE LEFT, HAVING A RADIUS OF 48.00 FEET, A CENTRAL ANGLE OF 89°58'46", A CHORD BEARING OF NORTH 45°55'02"WEST AND A CHORD DISTANCE OF 67.87 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 89°05'24" WEST ALONG THE SOUTHERLY RIGHT OF WAY LINE OF SAID TORO LANE, A DISTANCE OF 850.60 FEET TO A POINT ON SAID EASTERLY RIGHT OF WAY LINE OF TAMiami TRAIL (STATE ROAD 45); THENCE NORTH 00°33'30" WEST ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING. CONTAINING 70,045.54 SQUARE FEET, MORE OR LESS.

THE BEARINGS USED IN THIS DESCRIPTION ARE BASED ON THE NORTH LINE OF SAID RIGHT OF WAY OF TORO LANE AS BEARING NORTH 89°05'24"EAST AS IT APPEARS IN THE OFFICIAL RECORDS BOOK 1008, PAGE 1679.

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


DONALD D. SMITH, P.S.M.
FLORIDA REGISTRATION NO. 2076
DATE SIGNED: 9-22-02


NOTICE OF RESOLUTION ADOPTION FOR PETITION TO VACATE

Case Number: VAC2002-00046

TO WHOM IT MAY CONCERN:

NOTICE is hereby given that on the 25th of March, 2003 the Board of County Commissioners of Lee County, Florida adopted Resolution No. . The effect of this Resolution is to vacate, abandon, close and discontinue the public's interest in the right-of-way or portion of right-of-way legally described in the attached Exhibit "A".

Please Govern Yourself Accordingly.

CHARLIE GREEN, CLERK

Deputy Clerk Signature

Please Print Name

APPROVED AS TO FORM

County Attorney Signature

Please Print Name

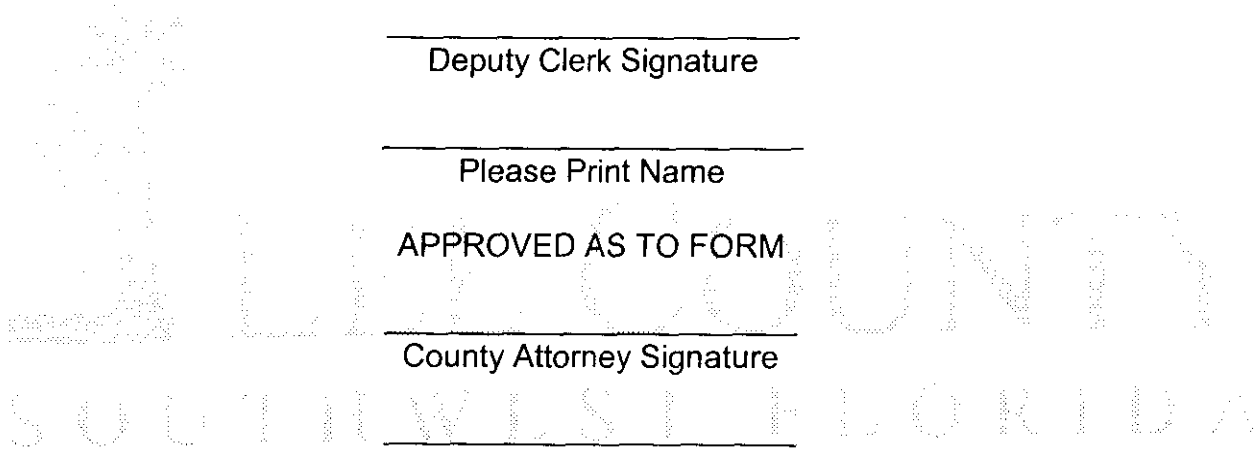


EXHIBIT "A"
VAC2002-00046
Page 1 of 1


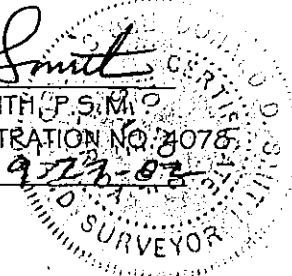
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NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF THE LICENSED FLORIDA SURVEYOR AND MAPPER. THE ATTACHED SKETCH OF DESCRIPTION IS NOT A SURVEY.


DONALD D. SMITH, P.S.M.
FLORIDA REGISTRATION NO. 8078
DATE SIGNED: 9-23-02


This Instrument Prepared By:
Lee County Utilities
1500 Monroe Street - 3rd Floor
Fort Myers, Florida 33901

PERPETUAL PUBLIC UTILITY EASEMENT GRANT

THIS INDENTURE is made and entered into this 15th day of November, 2002,
by and between LEONARD J. LUCAS, Successor Trustee for the JOAN Elizabeth Guy Trust, dated November 27, 1989, Owner, hereinafter referred to as GRANTOR(S), and LEE COUNTY, hereinafter referred to as GRANTEE.

WITNESSETH:

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

2. GRANTEE, its successors, appointees and assigns, are granted the right, privilege, and authority to construct, replace, renew, extend and maintain a wastewater collection and/or water distribution system, together with, but not limited to, all necessary service connections, manholes, valves, fire hydrants, lift stations and appurtenances, to be located on, under, across and through 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 system, and to trim and remove roots, trees, shrubs, bushes and plants, and remove fences or other improvements which may affect the operation of lines, mains and/or utility facilities.

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

4. Title to all utilities constructed and/or placed hereunder by GRANTEE or its agents shall remain in the GRANTEE, GRANTEE's successors, appointees, and/or assigns.

5. Subject to any pre-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(S) covenant that they are lawfully seized and possessed of the described real property (Exhibit "A"), have good and lawful right and power to sell and convey it, and that the said property is free of any and all liens and encumbrances, except as herein stated, and accordingly, GRANTOR(S) will forever defend the title and terms of this said easement and the quiet possession thereof by GRANTEE against all claims and demands of all other entities.

6. GRANTOR(S), its heirs, successors or assigns, shall indemnify and hold the GRANTEE harmless for any consequential damages to any houses, fences, buildings, carports, garages, storage sheds, overhangs, or any other structures or portions of structures subsequently constructed by GRANTOR(S) in violation of paragraph 3 within the above easement, which result from the required activities of the GRANTEE for any construction, maintenance or repairs to the utilities location within the above-described easement.

7. GRANTEE will be liable for money damages in tort for any injury to or loss of property, personal injury, or death caused by the negligent or wrongful act(s) or omission(s) of any official or employee of the GRANTEE while acting within the scope of the official's or employee's office or employment under circumstances in which a private person would be found to be liable in accordance with the general laws of the State of Florida, and subject to the limitations as set out in Section 768.28, Florida Statutes, as it may be revised or amended from time to time.

8. GRANTEE shall have 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 described easement shall be restored by GRANTEE, to the condition in which it existed prior to the damage as is reasonably practicable.

9. By acceptance of this easement, the GRANTEE assumes no responsibility for ownership or maintenance of roads. The easement is strictly for utility purposes.



2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-2904
239.338.4207 DIRECT
239.337.3850 MAIN
239.337.0970 FAX
bgrady@ralaw.com

November 20, 2002

Ms. Sharon Mihm
Lee County Planning Department
1500 Monroe Street
Fort Myers, Florida 33901

HAND DELIVERED

**Re: Vacation of Public Right of Way of Road Easement
Case No. VAC2002-00046**

Dear Ms. Mihm:

You are in possession of original, executed utility easements to Florida Power and Light and Lee County Utilities associated with the above referenced matter. It has come to our attention that said easements were executed incorrectly. Mr. Leonard Lucas owns the property as "Successor Trustee for the Joan Elizabeth Guy Trust, dated November 27, 1989," and therefore the easements need to be executed in full as such.

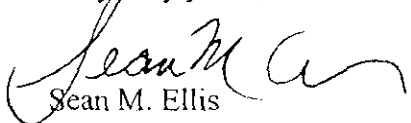
Enclosed please find an original executed easement in favor of Florida Power and Light, and an original executed easement in favor of Lee County Utilities, each now properly executed. Please accept these and return to us the two improperly executed originals you currently have, so as to avoid any confusion.

Lee County is to hold these documents in escrow. Upon approval of the vacation of Toro Lane, Lee County is authorized to record these easements. If the above vacation is denied, Lee County should return these easements to me at the above address.

Enclosed with Beverly Grady's letter of October 22, 2002 were two checks totaling \$70.50 to pay for recording fees of the easements upon approval of the vacation. Please keep said checks for the recording fees. This should complete all information regarding the vacation.

Thank you for your attention to this matter

Very truly yours,


Sean M. Ellis
For the Firm

Ms. Sharon Mihm
November 20, 2002
Page 2

Enclosures: FPL Original Easement
Lee County Utilities Original Easement

Cc: Ms. Mary McCormic, Engineering Tech III
Lee County Utilities
Via Facsimile: 479-8176

120681_1

Work Order No. N/A

EASEMENT

This Instrument Prepared By

Sec. 25 , Twp 45 S, Rge 24 E

Name: Jeff Sanders

Co. Name: Florida Power & Light

Parcel I.D.
(Maintained by County Appraiser)

Address 15834 Winkler Road

Form 3722 (Stocked) Rev. 7/94

Fort Myers, Fl. 33908

pg 1 of 3.

The undersigned, in consideration of the payment of \$1.00 and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, grant and give to Florida Power & Light Company, its licensees, agents, successors, and assigns, an easement forever for the construction, operation and maintenance of overhead and underground electric utility facilities (including wires, poles, guys, cables, conduits and appurtenant equipment) to be installed from time to time; with the right to reconstruct, improve, add to, enlarge, change the voltage, as well as, the size of and remove such facilities or any of them within an easement 10 feet in width described as follows:

Reserved for Circuit Court

See attached Exhibit "A"

Together with the right to permit any other person, firm or corporation to attach wires to any facilities hereunder and lay cable and conduit within the easement and to operate the same for communications purposes; the right of ingress and egress to said premises at all times; the right to clear the land and keep it cleared of all trees, undergrowth and other obstructions within the easement area; to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees or limbs outside of the easement area which might interfere with or fall upon the lines or systems of communications or power transmission or distribution; and further grants, to the fullest extent the undersigned has the power to grant, if at all, the rights hereinabove granted on the land heretofore described, over, along, under and across the roads, streets or highways adjoining or through said property.

IN WITNESS WHEREOF, the undersigned has signed and sealed this instrument on _____, 20__.

Signed, sealed and delivered
in the presence of:

[Signature]
(Witness' Signature)

Print Name Stacy Eavis Hewitt
(Witness)

[Signature]
(Witness' Signature)

Print Name Emily McCartney
(Witness)

By: [Signature]
(Corporate's name)

Print Name: LEONARD J. LUCAS, Successor Trustee for the Joan Elizabeth Guy Trust, dated November 27, 1989

Print Address: _____

Attest: _____
(Secretary's signature)

Print Name: _____

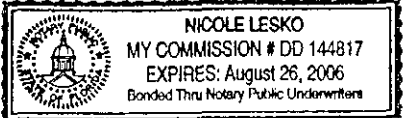
Print Address: _____

(Corporate Seal)

STATE OF Florida AND COUNTY OF Lee. The foregoing instrument was acknowledged before me this 5th day of November, 2002 by Leonard Lucas, and _____, respectively the _____ President and _____ Secretary of _____, a _____ corporation, on behalf of said corporation, who are personally known to me or have produced Driver's license as identification, and who did (did not) take an oath.

(Type of Identification)

My Commission Expires:



[Signature]
Notary Public, Signature

Print Name Nicole Lesko

EXHIBIT "A"


DESCRIPTION

A PARCEL OF LAND FOR A 10 FOOT WIDE FLORIDA POWER AND LIGHT EASEMENT, LYING IN THE SOUTH ½ OF THE NORTH ½ OF SECTION 25, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE NORTH LINE OF SAID SOUTH ½ OF THE NORTH ½ OF SECTION 25 WITH THE EASTERLY RIGHT OF WAY LINE OF TAMiami TRAIL (STATE ROAD 45); THENCE SOUTH 00°33'30"EAST ALONG SAID EASTERLY RIGHT OF WAY LINE, SAID EASTERLY LINE BEING 83.00 FEET FROM THE CENTERLINE, A DISTANCE OF 2.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF TORO LANE AS DESCRIBED IN OFFICIAL RECORDS BOOK 1008, PAGE 1679 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 89°05'24"EAST ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 848.24 FEET; THENCE NORTH 00°54'36"WEST, A DISTANCE OF 2.00 FEET TO A POINT ON SAID NORTH LINE OF THE SOUTH ½ OF THE NORTH ½ OF SECTION 25, SAID POINT ALSO BEING A POINT OF A CURVE AND BEING ON THE NORTHEASTERLY RIGHT OF WAY LINE OF SAID TORO LANE; THENCE SOUTHEASTERLY ALONG SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 110.00 FEET, A DELTA OF 89°58'58", A CHORD BEARING OF SOUTH 45°55'02"EAST AND A CHORD DISTANCE OF 155.54 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 00°55'28"EAST ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID TORO LANE, A DISTANCE OF 123.18 FEET TO A POINT OF A CURVE; THENCE SOUTHEASTERLY ALONG SAID CURVE TO THE LEFT AND RIGHT OF WAY LINE OF SAID TORO LANE, HAVING A RADIUS OF 50.00 FEET, A DELTA OF 54°05'47", A CHORD BEARING OF SOUTH 27°58'23"EAST AND A CHORD DISTANCE OF 45.47 FEET TO THE POINT OF BEGINNING OF SAID 10 FOOT WIDE FLORIDA POWER AND LIGHT EASEMENT; THENCE CONTINUE SOUTHEASTERLY ALONG SAID CURVE TO THE LEFT AND SAID EASTERLY RIGHT OF WAY LINE OF TORO LANE, HAVING A RADIUS OF 50.00 FEET, A DELTA OF 35°54'09", A CHORD BEARING OF SOUTH 72°58'21"EAST AND A CHORD DISTANCE OF 30.82 FEET TO A POINT OF A NON TANGENT LINE; THENCE SOUTH 88°05'47"WEST, A DISTANCE OF 158.29 FEET TO A POINT OF A CURVE BEING ON THE NORTH RIGHT OF WAY LINE OF ANDREA LANE AS DESCRIBED IN OFFICIAL RECORDS BOOK 1249, PAGE 733 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTHEASTERLY ALONG SAID CURVE TO THE LEFT AND THE WESTERLY RIGHT OF WAY LINE OF SAID TORO LANE, HAVING A RADIUS OF 50.00 FEET, A DELTA OF 35°52'19", A CHORD BEARING OF NORTH 69°08'45"EAST AND A CHORD DISTANCE OF 30.80 FEET TO A POINT OF A NON TANGENT LINE; THENCE NORTH 88°05'47"EAST, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING. CONTAINING 1191.04 SQUARE FEET.

THE BEARINGS ARE BASED ON THE NORTH LINE OF SAID RIGHT OF WAY OF TORO LANE AS BEARING NORTH 89°05'24"EAST AS IT APPEARS IN THE OFFICIAL RECORDS BOOK 1008, PAGE 1679.

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



DONALD D. SMITH, P.S.M.
FLORIDA REGISTRATION NO. 4078
DATE SIGNED: 6-21-02

ROETZEL & ADDRESS

A LEGAL PROFESSIONAL ASSOCIATION

2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-2904
239.338.4244 DIRECT
239.337.3850 MAIN
239.337.0970 FAX
llanier@ralaw.com

January 15, 2003

VIA HAND DELIVERY

Ms. Sharon Mihm
Lee County Planning Department
1500 Monroe Street
Fort Myers, Florida 33901

Re: VAC2002-00046 - Vacation of Toro Lane/Gamma Way

Dear Ms. Mihm:

Our Engineering firm Morris-Depew has worked with Sprint to develop the necessary easements. Enclosed please find an original executed easement in favor of Sprint regarding its facilities in Gamma Way. Lee County is to hold these documents in escrow. Upon approval of the vacation, Lee County is authorized to record these easements. If the above vacation is denied, Lee County should return these easements to our office at the above address.

Enclosed please find a check in the amount of \$19.50 to pay for recording fees of this easement upon approval of the vacation. Please keep said check for the recording fee.

Please proceed with scheduling this for hearing as soon as possible. Thank you for your cooperation in this matter.

Should you have any questions regarding this please do not hesitate to contact me.

Sincerely,



LaVita Lanier
Land Use Paralegal

Enclosure- Original Sprint Utility Easement dated January 6, 2003 and check for recording fees

123154_1

This Instrument Prepared By:
Sean M. Ellis, Esq.
Roetzel & Andress, a legal professional association
2320 First Street, Suite 1000
Fort Myers, Florida 33901

UTILITY EASEMENT

THIS AGREEMENT is made this 5th day of January, 2003, 2002, by LEONARD J. LUCAS, SUCCESSOR TRUSTEE FOR THE JOAN ELIZABETH GUY TRUST, dated November 27, 1989 (hereinafter referred to as "Grantor"), in favor of SPRINT (hereinafter referred to as "Grantee").

WHEREAS, Grantor desires to grant and convey to Grantee, and Grantee desires to accept and obtain from Grantor, a perpetual non-exclusive easement for underground and above ground communications utilities, situated in Lee County, Florida as more particularly described on Exhibit "A" attached hereto (the "Easement Property").

NOW, THEREFORE, in consideration of the above premises, and for ten dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Grantor hereby grants and conveys to Grantee, its successors and assigns, a perpetual non-exclusive easement over, under and across the Easement Property for the purposes of construction, installation, alteration, operation, use, maintenance, repair and replacement of overhead and underground communications lines and equipment, and any and all related improvements and facilities.

2. Additional Rights of Grantee. The easement herein granted includes the right of Grantee from time to time to trim and remove roots, trees, shrubs, bushes, plants, fences and other improvements and obstructions on and under the surface of the Easement Property or as may otherwise be reasonably necessary or convenient for Grantee to enjoy and use the easement herein granted.

3. Grantor's Covenants. Subject to any existing easements for public highways or roads, laterals, ditches, pipelines, and electrical transmission or distribution lines and telephone and cable television lines covering the land herein described, Grantor covenants that they are lawfully seized and possessed of the Easement Property, 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 by Grantee against all claims and demands of all other entities.

4. Governing Law and Venue. This Agreement shall be governed and construed in accordance with Florida law; and any action brought hereon shall only be brought in a court of competent jurisdiction in Lee County, Florida.

5. Successor Bound. This Agreement shall be binding upon and inure to the benefit of Grantor and Grantee and their respective heirs, personal representatives, successors and

assigns. It is specifically agreed that Grantee may assign and transfer the easements and rights granted hereunder to one or more corporations or entities whether governmental or private, which hereafter own or operate the utilities and related improvements and facilities.

IN WITNESS WHEREOF, the Grantor has executed this Agreement effective the day and year set forth above.

WITNESSES:

GRANTOR:

LEONARD J. LUCAS, SUCCESSOR TRUSTEE FOR THE JOAN ELIZABETH GUY TRUST, dated November 27, 1989

Carlos R. Gonzalez
Witness Sign Name

Leonard J. Lucas
Leonard J. Lucas

CARLOS R. GONZALEZ
Witness Print Name

Emily M. McCartney
Witness Sign Name

Emily McCartney
Witness Print Name

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 6th day of January, 2003, 2002, by Leonard J. Lucas, Successor Trustee for The Joan Elizabeth Guy Trust, Dated November 27, 1989, who is personally known to me or who has produced Salvador L. Garcia L22053040427-0 as identification.

NOTARY RUBBER STAMP SEAL
OR EMBOSSED SEAL

Nicole Lesko
Notary Public
Nicole Lesko
Printed Name
DD 144817
Commission No. August 26, 2006
Expiration Date



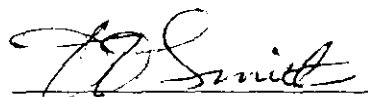
DESCRIPTION

A PARCEL OF LAND FOR UTILITY PURPOSES BEING A PART OF THE SOUTH 1/2 OF THE NORTH 1/2 OF SECTION 25, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE NORTH LINE OF SAID SOUTH 1/2 OF THE NORTH 1/2 OF SECTION 25 WITH THE EASTERLY RIGHT OF WAY LINE OF TAMiami TRAIL (STATE ROAD 45); THENCE SOUTH 00°33'30"EAST ALONG SAID EASTERLY RIGHT OF WAY LINE, SAID EASTERLY LINE BEING 83.00 FEET FROM THE CENTERLINE, A DISTANCE OF 2.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF TORO LANE AS DESCRIBED IN OFFICIAL RECORDS BOOK 1008, PAGE 1679 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 89°05'24"EAST ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 848.24 FEET; THENCE NORTH 00°54'36"WEST, A DISTANCE OF 2.00 FEET TO A POINT ON SAID NORTH LINE OF THE SOUTH 1/2 OF THE NORTH 1/2 OF SECTION 25, SAID POINT ALSO BEING A POINT OF A CURVE AND BEING ON THE NORTHEASTERLY RIGHT OF WAY LINE OF SAID TORO LANE; THENCE SOUTHEASTERLY ALONG SAID CURVE AND RIGHT OF WAY LINE TO THE RIGHT, HAVING A RADIUS OF 110.00 FEET, A CENTRAL ANGLE OF 89°58'58", A CHORD BEARING OF SOUTH 45°55'02"EAST AND A CHORD DISTANCE OF 155.54 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 00°55'28"EAST ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID TORO LANE, A DISTANCE OF 123.18 FEET TO A POINT OF A CURVE; THENCE SOUTHEASTERLY ALONG SAID CURVE AND RIGHT OF WAY LINE OF SAID TORO LANE TO THE LEFT, HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 90°00'00", A CHORD BEARING OF SOUTH 45°55'28"EAST AND A CHORD DISTANCE OF 70.71 FEET TO A POINT OF A NON TANGENT LINE, SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE OF ANDREA LANE AS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 1008, PAGE 1679; THENCE SOUTH 88°05'47"WEST ALONG SAID NORTH LINE, A DISTANCE OF 79.97 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 88°05'47"WEST ALONG SAID NORTH LINE, A DISTANCE OF 30.00 FEET TO A POINT AT THE WEST LINE OF GAMA LANE AS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 1008, PAGE 1679; THENCE NORTH 00°55'28"WEST ALONG SAID WEST LINE, A DISTANCE OF 42.00 FEET; THENCE NORTH 88°05'47"EAST, A DISTANCE OF 30.00 FEET; THENCE SOUTH 00°55'28"EAST, A DISTANCE OF 42.00 FEET TO THE POINT OF BEGINNING. CONTAINING 1260.00 SQUARE FEET.

BEARINGS ARE BASED ON THE NORTH RIGHT OF WAY LINE OF TORO LANE AS BEARING NORTH 89°05'24"EAST AS IT APPEARS IN THE OFFICIAL RECORDS BOOK 1008, PAGE 1679.

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



DONALD D. SMITH, P.S.M.
FLORIDA REGISTRATION NO. 4078
DATE SIGNED: 12-24-02