

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

Blue Sheet No. 20031029

1. REQUESTED MOTION:

ACTION REQUESTED: Approve: (1) Joint Project Agreement between the Florida Department of Transportation (FDOT) and Lee County to establish a mitigation project in the southern portion of the Six Mile Cypress Slough Preserve for environmental impacts of the Metro Parkway Extension; (2) Declare County-owned property identified as part of Strap Nos. 31-45-25-00-00002.1360 & .1390, 13.858 acres within the Six Mile Preserve, located south of Six Mile Parkway near the rail road crossing in South Fort Myers, as surplus, and direct staff to proceed with the donation conveyance to the FDOT in accordance with FS 125.38; approve Resolution of Surplus Real Property; authorize Chairman, on behalf of the Board of County Commissioners, to execute County Deed; authorize County Lands to handle and accept all documentation necessary to complete this transaction with the FDOT. (3) Consider whether Lee County should contribute funding for additional culverts under Metro Parkway.

WHY ACTION IS NECESSARY: The JPA is required to insure FDOT and Lee County agree to meet their respective permitting, mitigation and fiscal responsibilities to allow the Metro Parkway Extension project to be constructed. The land donation is necessary for provision of the right-of-way needed to build the road on what is presently County property.

WHAT ACTION ACCOMPLISHES: Meets the requirements of the FDOT, Lee County and the environmental permitting agencies for the Metro Parkway Extension Project and provides land for the road construction of Metro Parkway.

**2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #**

C11A

3. MEETING DATE:

09-16-2003

4. AGENDA:

- CONSENT ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:
(Specify)**

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER- Agreement

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT **Parks and Recreation**
- C. DIVISION **County Lands**

BY: **John Yarbrough**
J. Yarbrough by ccm

7. BACKGROUND: Lee County and the FDOT have been working together for several years to design and permit the Metro Parkway Extension. Cooperation of these parties has resulted in location of the project in a manner to provide improved transportation, to minimize environmental impact to the Six Mile Cypress Slough Preserve and to provide mitigation that will result in restoration of a significant portion of the preserve (please see attached mitigation plan). The estimated value of the restoration effort is \$2,022,946. County staff is recommending the donation of 13.858 acres, valued at \$22,200, within the Six Mile Cypress Slough Preserve.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

ccm

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services			G County Manager	
<i>dy by ccm</i>	<i>[Signature]</i>			<i>[Signature]</i> <i>8/27/03</i>	QA <i>[Signature]</i> <i>8/27/03</i>	OM <i>[Signature]</i> <i>8/27/03</i>	Risk <i>[Signature]</i> <i>8/27/03</i>	GC <i>[Signature]</i> <i>8/27/03</i>	<i>[Signature]</i> <i>8-27-03</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by Comtty
Date: <i>8/27/03</i>
Time: <i>2:30</i>
Forwarded To: <i>[Signature]</i>

RECEIVED BY COUNTY ADMIN:
<i>[Signature]</i> <i>8/27/03</i>
COUNTY ADMIN FORWARDED TO:

**FM NO: 195719-1-C8-01
COUNTY: LEE**

**JOINT PROJECT AGREEMENT
BETWEEN THE
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
LEE COUNTY
FOR THE CONSTRUCTION OF MITIGATION PROJECT**

This is an Agreement by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT" and LEE COUNTY, FLORIDA, hereinafter referred to as the "COUNTY".

W I T N E S S E T H

WHEREAS, the DEPARTMENT plans in its work program to construct the Metro Parkway Extension (SR 739) from south of Alico Road to the Six Mile Cypress Parkway, a six-lane highway (hereinafter "Metro Parkway Project"); the Project is scheduled to begin in fiscal year 2003/2004, under FM Number 195719-1-C8-01; and

WHEREAS, the DEPARTMENT as applicant for an Environmental Resource Permit from the South Florida Water Management District, and a Section 404 permit from the United States Army Corps of Engineers will be impacting 31.13 acres of South Florida Water Management District jurisdictional wetlands and 41.02 acres of United States Army Corps of Engineers jurisdictional wetlands, incidental to the construction of the Metro Expansion Project; and

WHEREAS, 40 C.F.R. § 230.10 and Florida Administrative Code Rule Chapter 40-E stipulate that an applicant may offset certain impacts to jurisdictional wetlands within the confines of a project; and

WHEREAS, the COUNTY has agreed to undertake a mitigation project (hereinafter the "PROJECT") on behalf of the DEPARTMENT to offset said wetland impacts associated with the Metro Parkway Project; and

WHEREAS, said Metro Parkway Project is on the State Highway System, is not revenue producing and is contained in the tentative five year work program; and

WHEREAS, the COUNTY is willing to undertake the PROJECT and the DEPARTMENT is willing to compensate the COUNTY for costs directly related to the construction of the PROJECT; and

WHEREAS, the COUNTY by Resolution, dated the ___ day of _____, 2002, a copy

of which is attached hereto and made a part hereof, has authorized the Chairperson or Vice-Chairperson of the Board of County Commissioners to enter into this Agreement.

NOW THEREFORE, in consideration of the mutual benefits to be derived from joint participation in this Agreement, the parties agree as follows:

1. The COUNTY agrees to undertake the management and completion of the PROJECT and the DEPARTMENT agrees to pay for said services, as stated in paragraph 9 herein, and to perform such construction in accordance with the DEPARTMENT's specifications and the terms and conditions of this Agreement. The COUNTY shall not commence work on the PROJECT until receipt from the DEPARTMENT of a written notice to proceed with the PROJECT work.
2. The PROJECT consists of the completion of a mitigation project to offset the impact to wetlands within or impacted by the Metro Parkway Project. Said mitigation project shall be completed on or before the dates specified in the applicable permits obtained by the DEPARTMENT in connection with the Metro Parkway Project and as further described above.
3. The DEPARTMENT will secure the necessary permits from the United States Army Corps of Engineers and the South Florida Water Management District. The DEPARTMENT through the permit process shall determine specifically the types and acreages of wetlands to be impacted. The DEPARTMENT will develop a mitigation plan that offsets wetland impacts and will be acceptable to the permitting and commenting agencies. All mitigation activities by the COUNTY shall be in accordance with the permits obtained by the DEPARTMENT and with the mitigation plan developed by the DEPARTMENT.
4. The COUNTY will complete the mitigation project from the approved permit mitigation plan from the DEPARTMENT. Upon completion, the COUNTY will submit a final report to the permitting agencies for review and completion of project to permit specifications.
5. The COUNTY shall conduct and ensure that any remedial mitigation activities, all maintenance and monitoring requirements, and all success criteria for the PROJECT are met in accordance with Section 404 of the Clean Water Act (33 U.S.C. § 1344); Chapter 373, Florida Statutes; the Rules and Regulations of the South Florida Water Management District (Chapter 40E-4, Florida Administrative Code); and all other applicable local, State, and Federal laws, regulations and permits.
6. The DEPARTMENT, as the permittee, will be considered to have satisfied all of its responsibilities for the mitigation site, upon submittal and approval of the final monitoring report for the mitigation site. At that time, the COUNTY will assume legal responsibility for any remedial construction activities, maintenance, monitoring and any other activities required in order to achieve the stated success criteria for the PROJECT.
7. After all success criteria have been achieved, the COUNTY shall assume all responsibilities for perpetual maintenance of the PROJECT, compliance with any remaining permit conditions and adherence to the County's Six Mile Cypress Slough Preserve Land

Stewardship Plan. This provision shall survive final completion and acceptance of the PROJECT.

8. If applicable, the DEPARTMENT must approve any consultant or contractor selected for the PROJECT. The COUNTY shall certify that the consultant or contractor has been selected in accordance with applicable Florida law. Any contractor or consultant, including any subcontractor or subconsultant, shall be qualified with the DEPARTMENT as required by DEPARTMENT regulations and applicable law.

9. The DEPARTMENT agrees to a maximum participation, including contingencies, in the PROJECT in the amount of \$1,814,900.00. Payment shall be made to the COUNTY in proportion to the completion of the work on the PROJECT as determined by the DEPARTMENT. Payment shall be made upon completion of tasks of the PROJECT. In addition, upon completion of the PROJECT, the DEPARTMENT shall provide an additional payment of \$208,046.55 for long-term maintenance of the PROJECT and in order to meet the continued success criteria of the wetland mitigation areas encompassed within the PROJECT. The COUNTY agrees that said additional amount shall be placed in an account held by the COUNTY and shall be used solely for the purpose of maintaining the PROJECT.

10. The DEPARTMENT agrees to pay the COUNTY in accordance with Section 339.12, Florida Statutes, and the DEPARTMENT's obligation to pay shall be subject to legislative approval and appropriation. In any event, no payments shall be made before 2003/2004, the fiscal year in which the Metro Parkway Project is currently programmed.

11. All tracings, plans, specifications, maps and/or reports prepared or obtained under this Agreement shall be considered works made for hire and shall become the property of the DEPARTMENT without restriction or limitation on their use. The DEPARTMENT will have the right to visit the PROJECT site for inspection of the work at any time.

12. All notices under this Agreement and invoices from the COUNTY to the DEPARTMENT shall be directed to the following addresses:

TO DEPARTMENT:

Eduardo Ponce, P.E.
District Environmental Permits Engineer
Florida Department of Transportation
Post Office Box 1249
Bartow, Florida 33831-1249

TO COUNTY:

Sarah Jamieson
Land Stewardship Coordinator
Lee County Parks and Recreation
3410 Palm Beach Blvd.
Fort Myers FL 33916

13. (a) Invoices or requests for payment from the COUNTY shall be submitted in detail sufficient for a proper preaudit and postaudit thereof and in sufficient detail for the DEPARTMENT to confirm the extent of work completed and compliance of such work with the terms of this Agreement.

(b) Bills or invoices for travel expenses, if applicable, specifically authorized in this Agreement shall be submitted and paid in accordance with Section 112.061, Florida Statutes.

(c) The COUNTY shall allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the COUNTY in conjunction with this Agreement. Failure by the COUNTY to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the DEPARTMENT.

(d) The DEPARTMENT agrees to pay the COUNTY for the herein described services at the compensation amount as detailed in this Agreement. The COUNTY agrees to complete the PROJECT for the amount set forth in this Agreement.

(e) Vendors (in this document identified as COUNTY) providing goods and services to the DEPARTMENT should be aware of the following time frames. Upon receipt, the DEPARTMENT has five (5) working days to inspect and approve the goods and services, unless the Agreement specifies otherwise. The DEPARTMENT has 20 days to deliver a request for payment (voucher) to the Department of Banking and Finance. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

(f) If a payment is not available within 40 days, a separate interest penalty at the rate established pursuant to Section 55.03(1), Florida Statutes, per day will be due and payable, in addition to the invoice amount, to the Vendor. Interest penalties of less than one (1) dollar will not be enforced unless the Vendor requests payment. Invoices which have to be returned to a Vendor because of Vendor preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the DEPARTMENT.

(g) A Vendor Ombudsman has been established within the Department of Banking and Finance. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (904) 488-2924 or by calling the State Comptroller's Hotline, 1-800-848-3792.

(h) Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this Agreement and for three years after final payment is made. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred include any consultant's or contractor's general accounting records and the project records, together with supporting documents and records, of any consultant or contractor and all subconsultants or subcontractors performing work on the PROJECT, and all other records of the considered

necessary by the DEPARTMENT for a proper audit of costs.

(i) The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding five years but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

(j) No funds received pursuant to this Agreement may be expended for lobbying the Legislature or a state agency.

(k) The COUNTY shall not sublet, assign or transfer any work under this Agreement without the prior written consent of the DEPARTMENT

(l) The DEPARTMENT shall not be obligated or liable hereunder to any party other than the COUNTY.

(m) In no event shall the making by the DEPARTMENT of any payment to the COUNTY constitute or be construed as a waiver by the DEPARTMENT of any breach of covenant or any default which may then exist, on the part of the COUNTY, and the making of such payment by the DEPARTMENT while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the DEPARTMENT with respect to such breach or default.

(n) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

(o) An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work,

may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

(p) Unless otherwise specifically stated herein, this Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

14. a) The DEPARTMENT also reserves the right to seek termination or cancellation of this Agreement in the event the COUNTY shall be placed in either voluntary or involuntary bankruptcy. The DEPARTMENT further reserves the right to terminate or cancel this Agreement in the event an assignment be made for the benefit of creditors.
- b) If the DEPARTMENT determines that the performance of the COUNTY is not satisfactory, the DEPARTMENT shall have the option of (i) immediately terminating the Agreement, or (ii) notifying the COUNTY of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or (iii) take whatever action is deemed appropriate by the DEPARTMENT.
- c) If the DEPARTMENT requires termination of the Agreement for reasons other than unsatisfactory performance of the COUNTY, the DEPARTMENT shall notify the COUNTY of such termination, with instructions as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

Notwithstanding the above, the parties agree that in the event of a breach of this Joint Project Agreement, the party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of nonbinding alternative dispute resolution with a qualified third party acceptable to both parties. The parties shall each pay 50% of any costs for the services provided by such third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Joint Project Agreement.

- d) If the Agreement is terminated before performance is completed, the COUNTY shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress will become the property of the DEPARTMENT and will be turned over promptly by the COUNTY.

15. If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.

16. a) To the extent allowed by Section 768.28, Florida Statutes, the COUNTY hereby agrees to indemnify, defend, save and hold harmless the DEPARTMENT and all of its officers, agents or employees from all suits, actions, claims, demands, liabilities of any nature whatsoever arising out of, because of, or due to breach of this Agreement by the COUNTY, its officers, agents, employees or subcontractors or due to any negligent act or occurrence of omission or commission of the COUNTY, its officers, agents, employees or subcontractors. Neither COUNTY nor any of its officers, agents, employees or subcontractors will be liable under this section for the negligence of the DEPARTMENT or any of its officers, agents or employees. The parties agree that 1% of the total compensation to the COUNTY for performance of this Agreement is the specific consideration from the DEPARTMENT to the COUNTY for the COUNTY's indemnity agreement.

b) The COUNTY agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"The contractor shall indemnify, defend, save and hold harmless the DEPARTMENT and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the contractor, its officers, agents or employees. Neither the contractor, nor any of its officers, agents or employees will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the DEPARTMENT or any of its officers, agents or employees."

17. Except as otherwise provided herein, this Agreement shall continue in effect and be binding on the parties until the PROJECT is completed, final costs are known and legislatively appropriated reimbursements, if approved, are made by the DEPARTMENT.

18. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

IN WITNESS WHEREOF the COUNTY has caused this Agreement to be executed in its behalf this ____ day of _____, 2002, by the Chairperson of the Board of Commissioners, authorized to enter into and execute same by Resolution Number _____ of the Board on the ____ day of _____, 2002, and the DEPARTMENT has executed this Agreement through its District Secretary for District One, Florida Department of Transportation, this ____ day of _____, 2002.

BOARD OF COMMISSIONERS
LEE COUNTY, FLORIDA

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
CHAIRPERSON

By: _____
DISTRICT SECRETARY

ATTEST:

ATTEST:

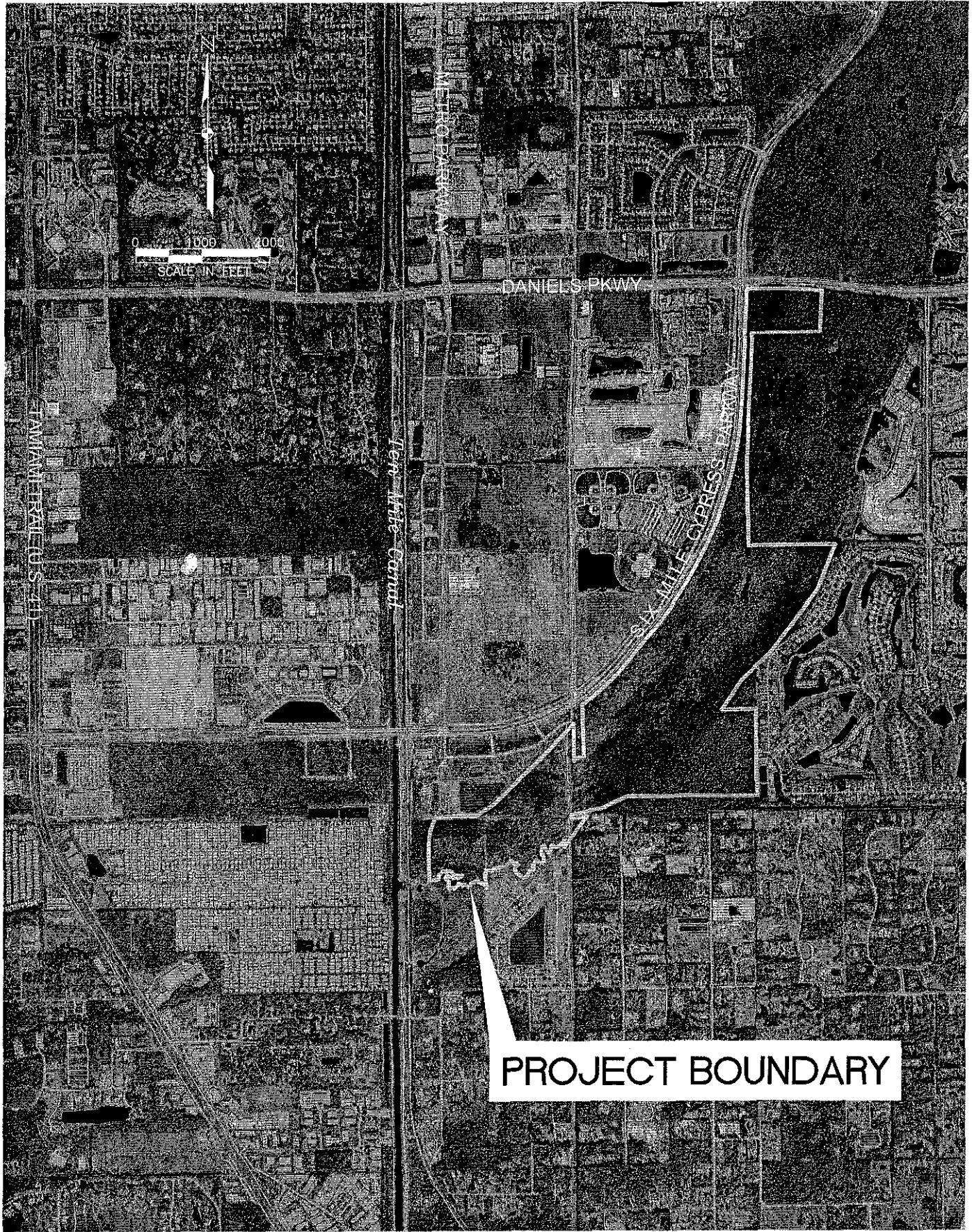
By: _____ (Seal)
CLERK

By: _____ (Seal)
EXECUTIVE SECRETARY

Legal Review:

By: _____
DISTRICT LEGAL COUNSEL

J:\21009\Mit Const Plans\AERIAL BDRY MAP.dwg (8.5X11) JOC Aug 22, 2003 - 1:13pm



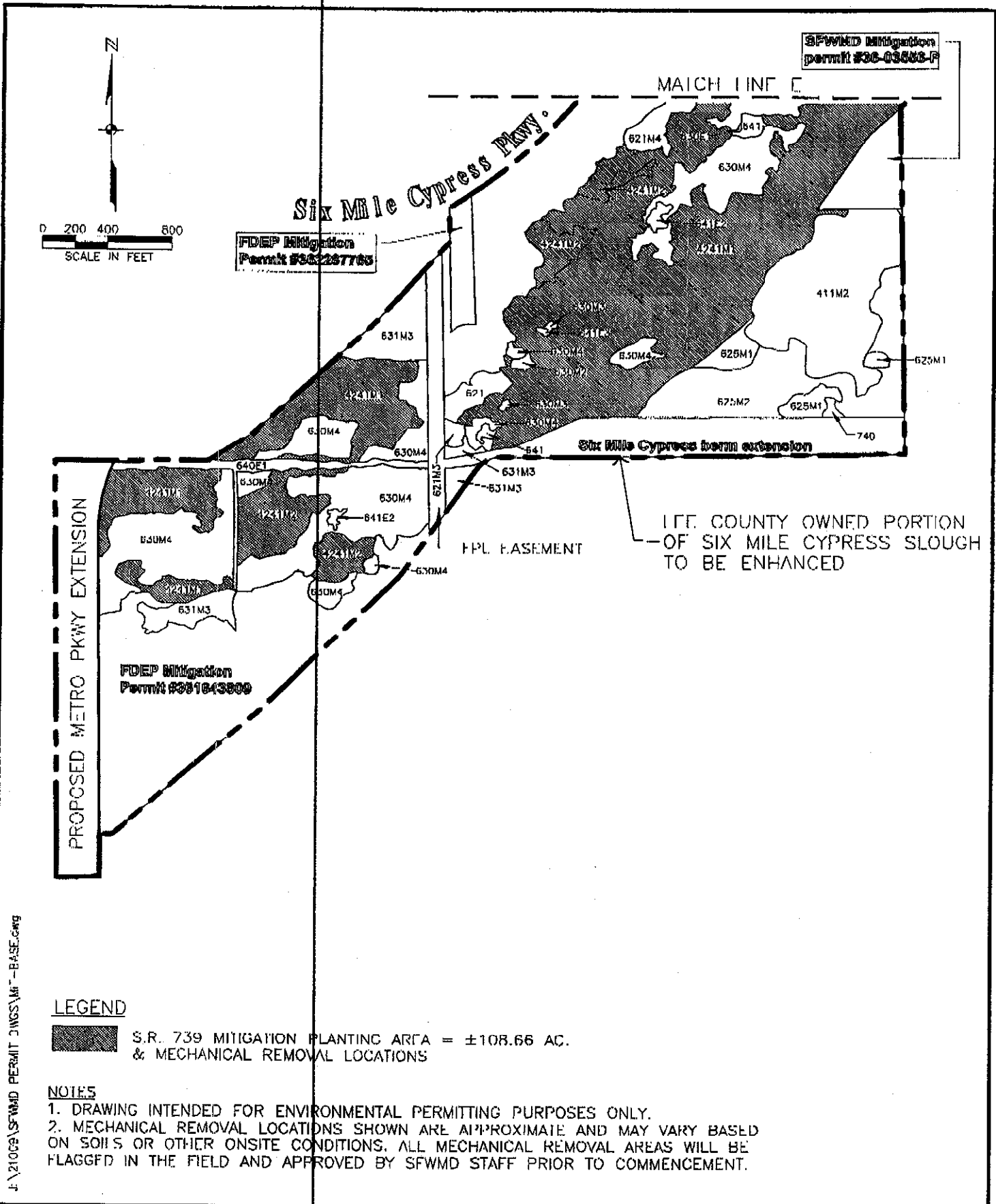
PROJECT BOUNDARY

JOHNSON
ENGINEERING

2158 JOHNSON STREET
P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE (239) 334-0046
FAX (239) 334-3661
E.B. #642 & L.B. #642

**S.R. 739 Extension Mitigation
Aerial Boundary Map**

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
Aug. 2003	21009	30-45-25	Shown	ATTACHMENT A



LEGEND

 S.R. 739 MITIGATION PLANTING AREA = ±108.66 AC. & MECHANICAL REMOVAL LOCATIONS

NOTES

1. DRAWING INTENDED FOR ENVIRONMENTAL PERMITTING PURPOSES ONLY.
2. MECHANICAL REMOVAL LOCATIONS SHOWN ARE APPROXIMATE AND MAY VARY BASED ON SOILS OR OTHER ONSITE CONDITIONS. ALL MECHANICAL REMOVAL AREAS WILL BE FLAGGED IN THE FIELD AND APPROVED BY SFWMD STAFF PRIOR TO COMMENCEMENT.

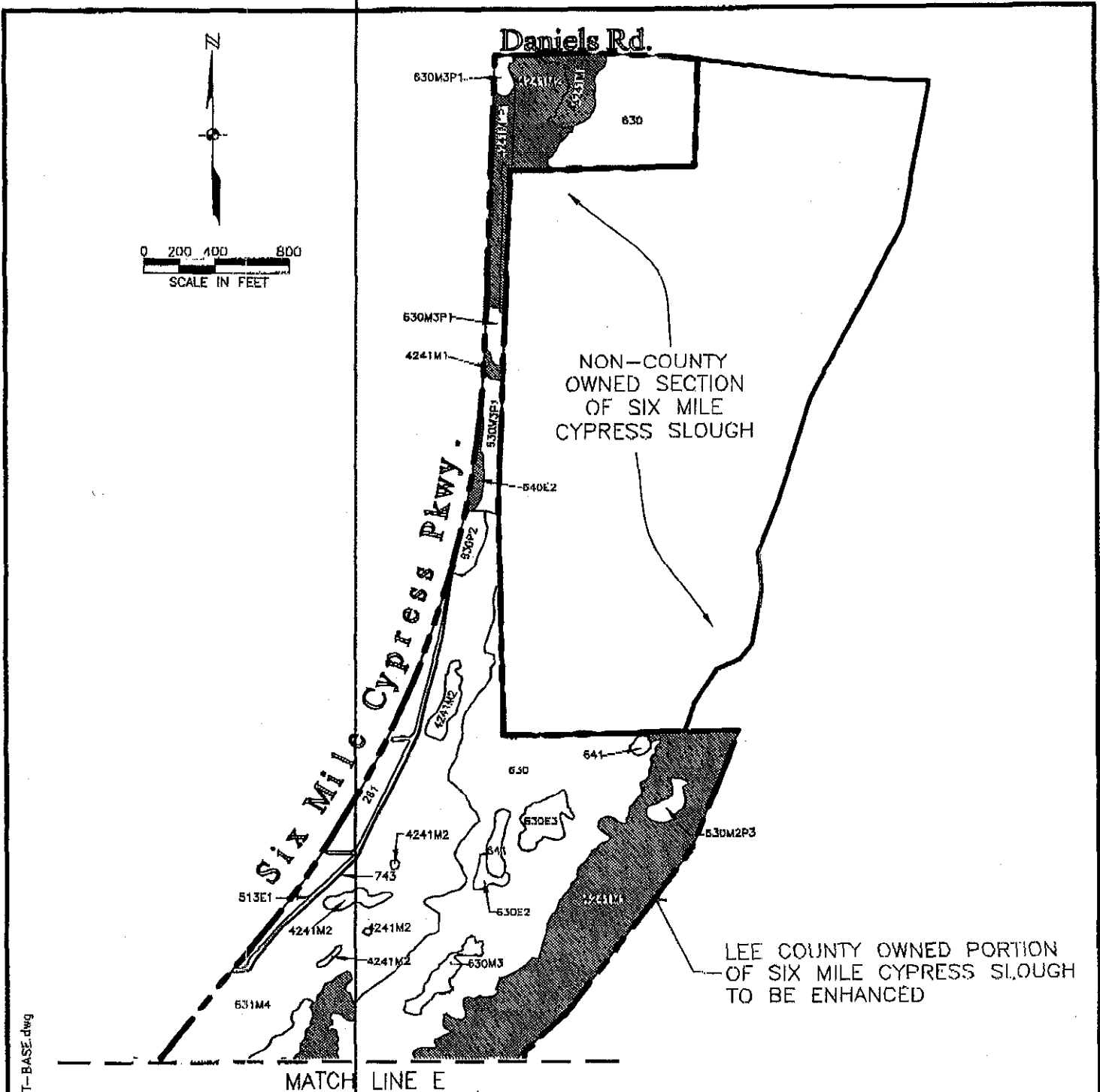
JOHNSON ENGINEERING

2158 JOHNSON STREET
 P.O. BOX 1550
 FORT MYERS, FLORIDA 33902-1550
 PHONE (941) 334-0046
 FAX (941) 334-3661
 E.B. #642 & L.B. #642

**Six Mile Cypress Slough
 SFWMD Mitigation Planting Location Map**

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
Sept. 2001	21009	50-45-25	1"=800'	17

J:\21009\SFWMD PERMIT 21009\MIT-BASE.dwg



LEGEND

 S.R. 739 MITIGATION PLANTING AREA = ±108.66 AC.
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JOHNSON ENGINEERING

2158 JOHNSON STREET
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 MYERS, FLORIDA 33902-1550
 PHONE (841) 334-0048
 FAX (841) 334-3661
 E.B. #642 & L.B. #642

**Six Mile Cypress Slough
 S.R. 739 Mitigation Planting Location map**

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
Sept. 2001	21009	30-45-25	1"=800'	16

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 10/20/03 10:34 AM
 2393343661
 AUG 27 2003 10:34 AM
 JOHNSON ENGINEERING

S.R. 739 (Metro Parkway) Extension

MITIGATION PLAN

The major emphasis of the mitigation plan is to assist Lee County in the long-term restoration and local management of the Six Mile Cypress Slough (SMCS). Mitigation activities will be conducted within Lee County owned portions of the SMCS. Because Lee County is the landowner of the proposed mitigation site, all mitigation construction, monitoring and maintenance activities will be a joint effort between Lee County and FDOT. To fulfil the mitigation, FDOT will enter into an agreement with Lee County to ensure the mitigation activities are executed in accordance with permit conditions. FDOT will essentially provide the necessary funding for the mitigation activities and develop the mitigation plan, and Lee County will be responsible for coordinating the work and subsequent maintenance and monitoring required until the mitigation areas meet the permit success criteria. After the mitigation areas have met the permit success criteria, perpetual maintenance will be assumed by Lee County in accordance with the "Lee County Six Mile Cypress Slough Preserve Land and Water Management Plan" and permit conditions.

Mitigation will be accomplished by enhancing 283.96 acres of environmentally sensitive wetlands and uplands in the slough, directly adjacent to the project impacts. The components of the mitigation plan will include a combination of wetland enhancement, wetland restoration, wetland creation and upland enhancement.

The boundaries for the proposed mitigation include the majority of the Lee County owned portion of the SMCS between Daniels Parkway and the project limits near Ten Mile Canal. Six Mile Cypress Parkway and the proposed ROW abut much of the mitigation area to the west. Eagle Ridge Subdivision and privately owned, undeveloped SMCS land borders most of the mitigation area to the east. Portions of the SMCS south of Daniels Road have been determined to be unavailable as mitigation for this project. These non-mitigation areas within the SMCS include the FPL transmission easement, Lee County's SMCS berm extension project from Briarcrest to Eagle Ridge and several existing mitigation areas for other projects, as shown in the permit sketches.

Six Mile Cypress Slough - Existing Conditions

The predominant vegetation community types identified in the mitigation area include melaleuca wetland monoculture, cypress forested wetlands, hydric pine flatwoods, wetland shrub and brush, pine flatwoods, wetland hardwood / conifer mix and freshwater marsh. Exotic vegetation, primarily melaleuca, has invaded these vegetation communities to varying degrees. Other exotic vegetation species noted include Brazilian pepper (*Schinus terebinthifolius*), tropical soda apple (*Solanum tampicense*), torpedo grass (*Panicum repens*), West Indian marsh grass (*Hymenachne amplexicaulis*), cogon grass (*Imperata cylindrica*), Old World climbing fern (*Lygodium microphyllum*), seaside mahoe (*Thespesia populnea*), para grass (*Brachiaria mutica*), Caesar weed (*Urena lobata*) and creeping oxeye (*Wedelia trilobata*).

Proposed Mitigation Plan

Mitigation activities proposed within the SMCS include wetland enhancement, wetland restoration and upland enhancement. The following is a brief description of each mitigation activity.

Wetland Enhancement (+/- 264.92 acres) – Approximately 264.92 acres within the SMCS have been invaded by varying degrees of exotic vegetation. This type of mitigation comprises the majority of the proposed plan. Approximately 133.37 acres of wetlands will be enhanced through the mechanical removal of melaleuca and Brazilian pepper. Mechanical removal areas in general currently have greater than 50% coverage by exotics and have little to no significant native vegetation. Mechanical clearing limits will be flagged in the field prior to clearing and may vary as a result of soil conditions or other limiting factors. Areas that contain native vegetation will be selectively cleared. In order to minimize ground disturbance, equipment used for mechanical clearing will either have low tire pressure or will be tracked. Areas mechanically cleared of exotics will be recontoured to natural grade. Mechanical work will be conducted only during times of dry soil conditions to minimize ground disturbance.

Approximately 131.55 acres of wetland enhancement will entail hand removal or the “killing in place” of exotic vegetation species. Areas targeted for hand removal generally contain higher amounts of desirable native vegetation with less dense exotic vegetation coverage. Hand removal of exotic vegetation will generally be required in areas with mucky soil conditions or other physical features that preclude the use of mechanical equipment. All stems from hand removal areas will be removed from the mitigation area or stacked in accordance with the SFWMD “Guidelines for Melaleuca Removal” and remaining stumps will be treated with an appropriate herbicide to minimize regrowth. “Killing in place” of exotic species will be limited to small, isolated pockets of exotic vegetation in remote areas, where it is not practical to remove the material. Exotic species killed in place will be subsequently felled to promote faster decomposition of the material.

After removing the exotic and nuisance species, the wetland enhancement areas will be replanted with native tree and shrub species according to the S.R. 739 Mitigation Planting Location Map and Plant Quantity Summary or allowed to revegetate naturally. Wetland areas generally containing less than 50% exotic and nuisance species will be allowed to revegetate naturally. Natural recruitment is expected as desirable native ground cover still exists within the majority of these areas and a viable seed bank is likely present within the topsoil. Removing the exotic and nuisance species will provide additional sunlight and free up nutrients to promote the establishment of the existing viable seed bank. This is commonly observed in areas where the topsoil is not removed and the soil is not sterile as a result of fire or other phenomena. Highly degraded wetland areas, generally containing greater than 50% exotic and nuisance species and minimal native vegetation species, will be targeted for replanting. In these areas, plants will be installed in clusters to more closely resemble natural conditions. Plant vegetation shall be from a local or regional (Lake Okeechobee or south) source and nursery grown. A minimum of four to five different tree species will be planted in each cluster to increase diversity and provide an increased likelihood for survival. Specific locations of clusters within the replanting areas may vary as a result of soil conditions or other limiting factors, as determined by the construction supervisor.

Wetland Restoration (6.35 acres) – Approximately 6.35 acres within the SMCS is currently comprised of an abandoned agricultural field and associated perimeter ditch and berm. This area is located immediately east of Six Mile Cypress Parkway and the Lee County Sports Complex. Representative vegetation species noted within this area consists of scattered slash pine (*Pinus elliottii*), bald cypress (*Taxodium distichum*), wax myrtle (*Myrica cerifera*) and red maple (*Acer rubrum*) with various pasture grasses and sedges. The adjacent ditch and berm system is located between SMCS and the abandoned agricultural field, and appears to prevent the natural sheet flow. It is proposed to chemically treat existing exotic vegetation within the ditch. The perimeter ditch will then be filled with the spoil berm material to match adjacent wetland grade. This will restore sheet flow to the fallow agricultural field and restore a more natural hydroperiod. It is anticipated this will promote the reestablishment of native hydrophytic herbaceous species and the growth of existing wetland tree / shrub species in the mid-canopy.

Upland Enhancement (12.69 acres) - Approximately 12.69 acres within SMCS are comprised of melaleuca infested pine flatwoods (12.47 ac.) and a disturbed herbaceous upland (0.22 ac.). Similar to wetland enhancement areas, upland enhancement will involve a combination of mechanical removal, hand removal and “killing in place”.

MAINTENANCE OF MITIGATION AREAS

A maintenance program shall be implemented in the mitigation areas on a regular basis to insure the integrity and viability of the mitigation activities. The maintenance will be conducted in perpetuity to insure that total coverage of exotic and nuisance plant species (those species currently identified by the Florida Exotic Pest Plant Council’s current list of most evasive plant species and incorporated herein by reference) constitute no more than 5% total coverage. Mitigation areas will be exotic free immediately following treatment. After the five (5) year monitoring period, a final environmental compliance inspection will be scheduled with the SFWMD and the USACOE. A final

inspection may be requested earlier if the mitigation activities are deemed to be successful prior to five (5) years.

In addition:

- A. Periodic assessments of the site will be conducted no less than quarterly to identify any potential infestations that will require the attention of the maintenance crew; and
- B. Periodic maintenance will be performed on a quarterly, semi-annual or annual basis, as appropriate for the species in question, to treat any exotic or nuisance plant species. Treatment may consist of, but not be limited to:
 - 1. The use of EPA approved herbicides applied by state licensed pesticide applicators in accordance with the applicable material safety data sheets and label directions;
 - 2. The manual removal and disposal of the nuisance or exotic plant species; and
 - 3. Melaleuca removal will adhere to the "Guidelines for Melaleuca Removal."

MONITORING OF MITIGATION AREAS

A. Introduction

The purpose of the monitoring program is to evaluate the degree of success and trends for any given mitigation activity using established protocols and to evaluate and recommend changes to the mitigation and/or maintenance program.

In order to successfully track the mitigation effort, four categories of monitoring are required. Each category of monitoring fulfills a specific need. The categories of monitoring are described below.

- 1. Baseline Monitoring

The goal of the baseline monitoring is to document the current condition of the mitigation areas and facilitate the tracking of the restoration program over time. The changes anticipated as a result of hydrological restoration and wetland enhancement include shifts in vegetation species composition and cover, increased wildlife utilization, etc. Therefore, it is important that the baseline monitoring be both repeatable in methodology and sufficiently broad in scope to adequately document these anticipated changes. The principal components of the monitoring plan are vegetation, wildlife utilization, photographic documentation, and hydrology. Baseline monitoring is a one-time event and is completed prior to initiation of the restoration activities.

2. Construction Monitoring

The goal of construction monitoring is to ensure the mitigation activities are undertaken in accordance with the approved design. Construction monitoring allows for potential errors and/or unforeseen problems to be identified early on and if required, corrective action taken immediately. The probability of wetland restoration/creation success is thereby significantly increased and the long-term overall costs reduced.

3. Time Zero Monitoring

The goal of time zero monitoring is to accurately document the conditions within created and restored wetlands/uplands at the time construction activities (i.e., exotic removal, grading, planting, etc.) are completed. This monitoring documents that the mitigation areas have been cleared of exotics and grading activities are appropriate. Time zero monitoring also provides a reference point from which plant survival, growth, and change in aerial percent coverage can be evaluated.

4. Post-Construction Monitoring

The goal of the post-construction monitoring is to track the progress of the mitigation area effort towards meeting the project's success criteria. Accurate and repeatable monitoring is needed to identify trends, respond to problematic situations, and to demonstrate the eventual success of the mitigation project.

B. Monitoring Methodology

1. Baseline Monitoring

The baseline study will consist of monitoring vegetation, wildlife utilization, photo documentation, and hydrology. Each component is described below:

a. Vegetation Monitoring

The mitigation areas consist of both herbaceous and forested components. The distribution of the various macrophyte communities has been delineated using the Florida Land Use, Cover and Forms Classification System (FLUCFCS). The mapping of the dominant macrophyte communities will be adjusted, as needed, within each wetland prior to sampling. The distribution of these communities will be used to stratify the vegetation sampling.

Three strata will be sampled in each plot for representative baseline conditions and will be representative of habitat types within the mitigation areas. These strata are: overstory (plants >10 cm diameter breast height (DBH)), understory (plants <10 cm DBH and greater than 1 meter in height), and ground cover (all non-woody plants and woody plants less than 1 meter in height). The overstory and understory vegetation will be sampled in 5m² plots and the ground cover vegetation sampled in 1m² plots. For the overstory and understory strata the relative canopy closure for each species will be recorded. The percent cover of groundcover species and bare ground will be estimated for the herbaceous study plots. Qualitative inspections will be conducted in all of the preserve areas, including uplands. The presence of exotic species will be noted and targeted for eradication.

b. Wildlife Utilization

Regular and periodic observations of wildlife will be made during all monitoring events and other site visits by qualified ecologists. This will consist of recording evidence and sign of wildlife (i.e., direct sightings, vocalizations, burrows, nests, tracks, droppings, etc.).

c. Photographic Documentation

Photographs provide physical documentation of the condition and appearance of the mitigation areas as well as any changes taking place within them. Photographs will accompany vegetation data in each report.

d. Hydrologic Monitoring

Current water levels at each monitoring plot/station will be recorded and rainfall data will be collected. Staff gauges and/or piezometers will be utilized to monitor monthly water levels within the mitigation areas. This data will be included in the baseline monitoring report. Pertinent discussion about the soil/weather conditions for the area will also be included.

e. Monitoring Report

The vegetation, wildlife, photographic, and hydrological data collected during the baseline monitoring will be summarized and presented in the baseline monitoring report. Each mitigation area will be described and discussed in terms of these parameters. Upland preserves will be assessed for the presence of exotic plants. This report will be submitted to the agencies within sixty days of data collection.

2. Construction Monitoring

During the course of the mitigation activities, periodic observations will be made. Observations will begin when the mitigation areas are field staked and continue through the completion of mitigation activities. Evaluation of work in progress will be made and any potential problems noted. Immediate action will be initiated to correct deficiencies. Specific items to be checked will include:

- Exotic species removal
- Water levels/soil moisture within mitigation areas
- Compliance with construction documents

Through these inspections the contractors, project sponsor, and agencies will be advised of the status of the construction efforts.

3. Time Zero Monitoring

As part of the Time Zero report, permanent site specific linear transect stations and quadrant locations will be established through representative sections of the mitigation areas. The time zero monitoring will consist of documenting existing vegetation, success of exotic species removal and various other creation, restoration and enhancement activities. Each component is described below. Quantitative time zero monitoring will target those restoration areas where large areas of exotics have been removed. Qualitative monitoring will be conducted in all exotic removal areas.

a. Quantitative Vegetation Monitoring

Within the herbaceous wetlands, 1m² study plots will be utilized. Relative coverage will be estimated for each species that occurs within each plot. In existing forested communities, 5m² plots will be utilized. Data will be recorded as documented in the baseline methodology. Water levels within each plot will be recorded with a ruler.

b. Qualitative Vegetation Monitoring

Subsequent to the completion of the initial exotic removal effort, each mitigation area will be observed and documented. Any melaleuca or Brazilian pepper that was missed during the initial treatment, or that have re-sprouted from stumps, and/or that have colonized the mitigation area subsequent to the treatment will be clearly identified for immediate removal.

c. Photographic Documentation

Panoramic photographs will accompany the vegetation data in each report. Locations of photo stations will remain constant throughout the duration of the monitoring program.

d. Monitoring Report

The data and photographs collected during the time zero monitoring event will be compiled in a summary report. The report will be submitted to the agencies within sixty days of data collection.

4. Post-Construction Monitoring

The monitoring methodologies utilized for the baseline and time zero monitoring events will be used for all post-construction monitoring. The mitigation areas will be monitored annually for a period of five (5) years and will involve the submittal of seven (7) reports to SFWMD and U.S. Army Corps of Engineers staff. This period may be shortened if mitigation is determined to be successful prior to five (5) years. Mitigation success criteria for wetland enhancement, restoration and creation areas shall be 80% coverage by desirable obligate, facultative wetland and facultative species. Total coverage of exotic and nuisance plant species within the mitigation areas, including upland enhancement areas, may constitute no more than 5% total coverage.

**STATE ROAD 739 (METRO PARKWAY) EXTENSION
MITIGATION**

**SIX MILE CYPRESS SLOUGH (BETWEEN DANIELS
PARKWAY AND TEN-MILE CANAL)**

TECHNICAL SPECIFICATIONS

**State Road 739 (Metro Parkway) Extension Mitigation
Six Mile Cypress Slough (between Daniels Parkway and Ten-Mile Canal)**

Section 101-1

Mobilization

Perform preparatory work and operations in mobilizing for beginning work on the project, including, but not limited to, those operations necessary for the movement of personnel, equipment, supplies, and incidentals to the project site and for the establishment of temporary offices, safety equipment and first aid supplies, and sanitary and other facilities.

Include the costs of bonds and any required insurance, all permits, and any other preconstruction expense necessary for the start of the work, excluding the cost of construction materials.

Basis of payment –

Item 101-1 – Mobilization Contractor:

Lump Sum (L.S.)

Section X-102-1

Boundary Survey

This work entails performing a survey to establish the project limits for the mitigation activities. This task may include research of property deeds and verification, recovery and/or reestablishment of boundary monumentation, if necessary. The limits of the mitigation area will be staked, flagged or otherwise clearly delineated in the field at a minimum of 50-foot intervals. Densely forested areas will be staked and/or flagged at 25-foot intervals if necessary, as determined by the Construction Manager.

Basis of payment –

Item X-102-1 – Boundary Survey:

Lump Sum (L.S.)

Section X-103-1

Field Delineate Mechanical Clearing Limits

This task includes field locating and flagging the mechanical clearing limits within the mitigation area. Additionally, this task includes meeting onsite with SFWMD staff to approve all mechanical clearing limits prior to clearing.

Basis of payment –

Item X-103-1 – Field Delineate Mechanical Clearing Limits: Lump Sum (L.S.)

Section X-105-1

Construction, Engineering and Observation

This task includes field observations, meetings and associated coordination with Lee County staff and project contractors performing the mitigation activities to ensure the mitigation project is being conducted in accordance with the approved mitigation plan and is in compliance with agency permits.

Basis of payment –

Item X-105-1 – Construction, Engineering and Observation: Lump Sum (L.S.)

Section 104

Prevention, Control and Abatement of Erosion and Water Pollution

This work included in this section includes artificial coverings, baled hay or straw, floating turbidity barriers and staked silt fence required to protect any siltation from leaving the project.

Basis of payment –

Item 104-10 – Baled Hay or Straw:

Per Each (Ea.)

Item 104-13 – Staked Silt Fence:

Per Lineal Foot (L.F.)

Section X-120

Berm Removal

This work includes the following:

1. The perimeter berm surrounding a historic farm field just east of the Lee County Sports Complex will be pushed into the adjacent ditch and portions of the internal swales will be filled to match adjacent grade in the Slough.
2. All areas to be graded will be staked in the field and verified by the Construction Manager.
3. All necessary clearing will be pushed and left in place and is included in the Berm Removal cost.
4. Contractor is responsible for all construction staking.

Method of Measurement: Berm removal will be measured in lineal feet.

Basis of payment –

Item X-120 – Berms

Per Lineal Foot (L.F.)

Section X-450

Initial Exotic and Nuisance Species Eradication

Contractor is responsible for killing all exotic and nuisance species occurring within the ±284 acre mitigation area. Exotic and nuisance species are those identified by the Florida Exotic Pest Council's current list of most invasive plant species. Herbicides applied must be EPA approved and applied by State licensed herbicide applicators in accordance with the applicable material safety data sheets and label directions. All treated material will be stained with a colored dye.

Basis of payment –

Item X-450-1 – Initial Exotic and Nuisance
Species Eradication:

Per Acre (Acre)

Section 460

Field Crew – Hand Harvesting

Field crew (with supervisor) maintenance/exotic removal. Price includes appropriate herbicides (see Section 450) and equipment. Approximate area 124 acres. All material to be removed from the mitigation area unless approved by Construction Manager.

Method of Measurement: Contractor shall GPS locate limits of harvested areas and calculate acreage from GPS data.

Basis of payment –

Item X-460-1 – Eradication of Exotic/Nuisance Species: Per Acre (Acre)

Section 470

Mechanical Harvesting

Mechanical harvesting of exotic/nuisance species (10 acre minimum). Total area to be harvested approximately 109 acres. Harvested material shall be removed from the mitigation area. Also includes clearing and grubbing necessary for staging areas and regrading of any areas that become rutted or otherwise disturbed by mechanical harvesting activities. Staging areas to be located in areas of monotypic melaleuca only.

Method of Measurement: Contractor shall GPS locate harvested areas and calculate acreage from GPS data.

Basis of payment –

Item X-470-1 – Mechanical Harvesting: Per Acre (Acre)

Section X-550-1

Fencing

This work includes furnishing and installing a 4' metal hog wire farm fence. Includes furnishing and erecting mesh fabric, line posts, corner posts, pull and end post assemblies. All necessary clearing of brush will be pushed to side and left in place. Cost of clearing is included in the fencing cost.

Basis of payment:

Item X-550-1 – Fence: Per Lineal Foot (L.F.)

Section 600-1

Planting

Planted vegetation shall be from a local or regional (Lake Okeechobee or south) source and nursery grown. All plant material is to be non-topped. All harvested plant material shall be from a FDEP approved and permitted harvested site. Plant installation work consists of furnishing and installing the complete plant materials as specified and shown on the plans. The work shall include the furnishing of all labor, equipment, materials and appliances required for the installation. Changes to plant species have to be approved by the Construction Manager. Trees and shrubs will be planted with root ball intact and unexposed. All containerized plant material 1-gallon size or larger will be fertilized with 20:10:5 AgriForm tablets or equivalent. Application rate shall be 10 grams per gallon of plant container. Trees requiring stability will be staked and tied to keep them upright.

Extensively degraded wetland enhancement areas, generally containing greater than 50% exotic and nuisance species and minimal native vegetation species, will be replanted with native tree and shrub species according to the S.R. 739 Mitigation Planting Location Map and Plant Quantity Summary. Plants will be installed in clusters to more closely resemble natural conditions. A minimum of four to five different tree or shrub species will be planted in each cluster to increase diversity and provide an increased likelihood for survival. Specific locations of clusters within the replanting areas may vary as a result of soil conditions or other limiting factors, as determined by the Construction Manager.

Cypress tree plantings will be concentrated toward the central, deeper areas of the Slough mitigation planting areas. Wetland hardwood species including red maple, laurel oak and swamp bay will generally be planted along the perimeter of the Slough mitigation planting areas, which are less frequently inundated.

PLANT QUANTITY SUMMARY

Plant Name	Species	Size	Quantity
Cypress	<i>Taxodium spp.</i>	3 gallon /4'-6'	2,100
Cypress	<i>Taxodium spp.</i>	7 gallon /6'-8'	2,100
Slash Pine	<i>Pinus elliottii</i>	3 gallon /4'-6'	400
Slash Pine	<i>Pinus elliottii</i>	7 gallon /6'-8'	400
Red Maple	<i>Acer rubrum</i>	3 gallon /4'-6'	500
Red Maple	<i>Acer rubrum</i>	7 gallon /6'-8'	500
American Elm	<i>Ulmus americana</i>	3 gallon /4'-6'	400
American Elm	<i>Ulmus americana</i>	7 gallon /6'-8'	400
Laurel Oak	<i>Quercus laurifolia</i>	3 gallon /4'-6'	500
Laurel Oak	<i>Quercus laurifolia</i>	7 gallon /6'-8'	500

Plant Name	Species	Size	Quantity
Swamp Bay	<i>Persea spp.</i>	3 gallon /4'-6'	400
Swamp Bay	<i>Persea spp.</i>	7 gallon /6'-8'	400
Pop Ash	<i>Fraxinus caroliniana</i>	3 gallon /4'-6'	400
Dahoon Holly	<i>Ilex cassine</i>	3 gallon /4'-6'	500
Swamp Dogwood	<i>Cornus foemina</i>	3 gallon /4'-6'	200
Myrsine	<i>Myrsine guianensis</i>	3 gallon /4'-6'	200
Red Bay	<i>Persea borbonia</i>	3 gallon /4'-6'	200
Pond Apple	<i>Annona glabra</i>	3 gallon /4'-6'	200
Buttonbush	<i>Cephalanthus occidentalis</i>	3 gallon /4'-6'	200

Basis of payment –

Item P-600-1 – Planting:

Per Plant Installed

Section 700-40-1

FDOT Mitigation Area Signage

Contractor to furnish and install three (3) signs mounted on 4" x 4" posts, which indicate the area is a joint FDOT and Lee County mitigation area. Lee County to provide actual sign information. Signs to be installed at locations shown on construction drawings.

Basis of payment –

Item 700-40-1 – FDOT Mitigation Area Signage:

Per Sign

Section 701

Mitigation Maintenance

Maintenance of the mitigation area will be conducted for no less than five (5) years and includes the entire mitigation area (±284 acres). At no time shall exotic and nuisance species exceed 5% total coverage within any one area. Mitigation areas will be exotic free immediately following maintenance events. Periodic assessments of the site will be conducted no less than quarterly by the Contractor to identify any potential exotic species infestations that will require eradication. Maintenance will be performed on a quarterly, semi-annual or annual basis, as appropriate for the species in question.

Basis of payment –

Item M-701-1, M-701-2, M-701-3,

M-701-4, M-701-5 – Annual Maintenance:

Per Year (Year)

Section 705

Mitigation Monitoring

The mitigation areas will be monitored annually for a period of five (5) years and will involve the submittal of seven (7) reports to SFWMD and U.S. Army Corps of Engineers staff. This period may be shortened if mitigation is determined to be successful prior to five (5) years. Mitigation success criteria for wetland enhancement, restoration and creation areas shall be 80% coverage by desirable obligate, facultative wetland and facultative species. Total coverage of exotic and nuisance plant species within the mitigation areas, including upland enhancement areas, may constitute no more than 5% total coverage.

Basis of payment –

Item M-705-1, M-705-2, M-705-3,

M-705-4, M-705-5 – Annual Maintenance: Per Monitoring Event (Event)

Additional Items:

1. Educational Outreach - \$10,000.00

This item could include: educational video production, other multi-media education, brochures and educational printed materials, project signage and other public outreach activities

Basis of payment –

Initial funding from JPA:

Per item purchased or funds expended

This instrument Prepared by:
PUBLIC WORKS/COUNTY LANDS DIVISION
Post Office Box 398
Fort Myers, Florida 33902-0398

STRAP No. 31-45-25-00-00002.1360 & .1390

THIS SPACE FOR RECORDING

**COUNTY DEED
(Statutory)**

THIS DEED, executed this ___ day of _____, 20___, by **LEE COUNTY, FLORIDA, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA**, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398, COUNTY, to State of Florida Department of Transportation whose address is P. O. Box 1249, Bartow, Florida 33831-1249, Grantee.

WITNESSETH: The COUNTY, for and in consideration of the sum of Ten (\$10.00) Dollars to it in hand paid by the Grantee, receipt whereof is hereby acknowledged, has granted, bargained and sold to the Grantee, its heirs and assigns forever, the following described land, lying and being in Lee County, Florida:

SEE ATTACHED EXHIBIT "A"

In accordance with Florida Statutes s. 270.11, the COUNTY hereby reserves an undivided three-fourths interest in, and title in and to an undivided three-fourths interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the subject land and an undivided one-half interest in all the petroleum that is or may be in, on, or under the subject land with the privilege to mine and develop each interest. Provided, however, the right of entry with respect to any interest in phosphate, minerals, metals or petroleum reserved in favor of the County is hereby released if the subject parcel being conveyed is or has always been a contiguous tract of less than 20 acres in the aggregate under the same ownership.

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

IN WITNESS WHEREOF the COUNTY has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chair or Vice Chair of said Board, the day and year above.

(OFFICIAL SEAL)

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO LEGAL FORM:

Office of County Attorney

Exhibit "A"

PARCEL INFORMATION SHEET

FP NO. 1957191 SECTION 12014-2504 STATE ROAD NO. 739 COUNTY Lee

DESCRIPTION

PARCEL 139.1

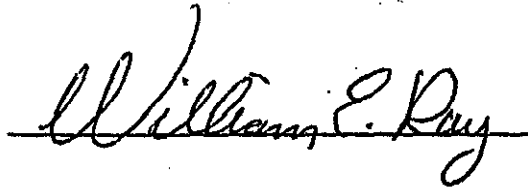
That portion of the northwest $\frac{1}{4}$ of Section 31, Township 45 South, Range 25 East, being a part of Six Mile Cypress Strand (per Resolution Number ZAB-82-270 Resolution of the Board of County Commissioners) Lee County, Florida.

Being described as follows:

BEGIN at the northwest corner of Lot 13, Briarcliff Unit No. 3 per Official Records Book 728, Page 685 and per Unrecorded Plat Book 1, Page 31, Public Records of Lee County, Florida said corner being on the east existing right of way line of CSX Transportation Inc. Railroad (per Track Map V18 Fla); thence along said east existing railroad right of way line, North $00^{\circ}36'34''$ West a distance of 624.23 feet to the intersection with the south boundary of said Six Mile Cypress Strand for a POINT OF BEGINNING; thence along the south boundary of said Six Mile Cypress Strand, North $00^{\circ}36'34''$ West a distance of 2,371.27 feet; thence North $89^{\circ}06'39''$ East a distance of 344.11 feet; thence South $22^{\circ}25'33''$ West a distance of 31.97 feet to the beginning of a curve concave easterly having a radius of 1,023.29 feet; thence along the arc of said curve to the left a distance of 411.41 feet through a central angle of $23^{\circ}02'07''$ with a chord bearing South $10^{\circ}54'30''$ West to the end of said curve; thence South $00^{\circ}36'34''$ East a distance of 1,922.54 feet to the south boundary of said Six Mile Cypress Strand; thence along said south boundary, South $84^{\circ}41'10''$ West a distance of 250.84 feet to the POINT OF BEGINNING.

Containing 13.858 acres.

Legal Description Approved by:



Date: 02-06-02

NOT A DEED - INFORMATION PURPOSES ONLY

OWNED BY: (BSD.03 BSD. 04) - Lee County, a political subdivision of the State of Florida

Grantor(s)' Mailing Address:

SUBJECT TO:

N/A

**RESOLUTION AUTHORIZING THE CONVEYANCE OF
LEE COUNTY PROPERTY
TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**

WHEREAS, the Board of County Commissioners is the governing body for Lee County, a political subdivision of the State of Florida; and

WHEREAS, the Board has certain powers and authority relative to the disposition of real property belonging to the County; and

WHEREAS, Section 125.38, Florida Statutes, authorizes the conveyance of County property to municipalities if that property will be used for public or community interests and welfare; and

WHEREAS, the State of Florida Department of Transportation has requested the conveyance of property identified as part of Strap No. 31-45-25-00-00002.1360 and 1390 located south of Six Mile Parkway, Fort Myers, Florida; and

WHEREAS, the Board has confirmed through its staff that such property is not needed for County purposes; and

WHEREAS, the State of Florida Department of Transportation requests voluntary conveyance for nominal consideration so that the property may be used for public purposes; and

WHEREAS, it is the intent of this resolution to acknowledge the request of the State of Florida Department of Transportation, the purpose for which the property will be used, and the price therefore.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lee County, Florida, that:

1. The above recitations are true and accurate and are hereby adopted and incorporated herein as if set out at length.
2. Lee County has concluded that the real property described below is surplus land and is not needed for County purposes. This land is particularly described on Exhibit A attached hereto
3. Lee County accepts the request of the State of Florida Department of Transportation and hereby finds that the States use complies with the statutory requirement that the property be used for public or community interest and welfare.

4. The County agrees to convey the property to State of Florida Department of Transportation for one dollar (\$1.00) and other good and valuable consideration.

5. In order to complete the transaction contemplated herein, the Board authorizes County staff to finalize documents necessary to complete the transaction contemplated herein. In addition, this resolution specifically authorizes the Chairman of the Board of County Commissioners to execute the documents necessary to convey the property to the City.

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

Bob Janes	_____
Douglas R. St. Cerny	_____
Ray Judah	_____
Andrew W. Coy	_____
John E. Albion	_____

Duly passed and adopted this _____ day of _____, 2003.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman, or Vice Chairman

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

Exhibit "A"

PARCEL INFORMATION SHEET

FP NO. 1957191 SECTION 12014-2504 STATE ROAD NO. 739 COUNTY Lee

DESCRIPTION

PARCEL 139.1

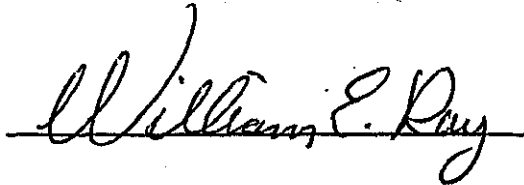
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Being described as follows:

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Containing 13.858 acres.

Legal Description Approved by:



Date:

02-06-02

NOT A DEED - INFORMATION PURPOSES ONLY

OWNED BY: (BSD.03 BSD. 04) - Lee County, a political subdivision of the State of Florida

Grantor(s)' Mailing Address:

SUBJECT TO:

N/A

VALUE FINDING

Parcel Owner Lee County, a political subdivision of the State of Florida Parcel Number 139
 Address of Property East Side Atlantic Coast Railway, Old US 41 Item/Segment 1957191
 County Lee Sec/Twn/Rge 31/46S/25E FA Number N/A
 Location of Legal Description In file Name Metro Parkway
 Real Property Interest Appraised:
 Fee Simple Permanent Easement Temporary Construction Easement

Brief Description of Parent Tract:

According to FDOT provided maps and information, the parent tract contains 53.175 Acres, excluding an easement portion indicated on FDOT maps as parcel 151. The subject is generally rectangular except for the irregular southeastern corner and measures approximately 2,400' by 1,000 feet. The parent tract consists of 100% wetlands, is zoned "Environmentally Critical (EC)" by Lee County, and enjoys full "improvement protection" from any true development. The property has no legal ingress and or egress.

The governing land use for the subject property precludes conventional development, no roads, septic systems and / or other development normally associated with the economic development of land is permitted. The "Highest and best use" for the parent tract is conservation. The economic permitted use for this property is for some economic development of its limited, nature conservation potential. The demand for these wetlands is low. On the subject inspection date, the parent tract was completely covered with native vegetation, the visible subject was flooded with clear standing and free flowing water. Access to the property is undefined, making anything but "conservation" impossible.

The subject parcel acquisition is for 13.858 Acres of the above parent tract and describes to the same condition characteristics as indicated for the parent tract, except for the parent tract's larger size. The acquisition is for an irregular, rectangular portion between the railway-parent tract's western-most property-boundary. The western boundary length of this acquisition is about 2,371 feet with a curved easterly depth, at the north-most property boundary, some 344 feet, tapering to a southerly depth of about 251 feet. The reconciled value reflects a price per acre of \$1,600 or \$0.04 per Square Foot (SF).

State the Highest and Best Use: Conservation purposes (see above for discussion).

Before Value: (Land Only)

Land 53.175 AC/SF @ \$1,600 AC/SF = \$85,080
 Total Land \$85,100 R

Brief Description of Property Being Acquired: The acquisition consists of about 26% of the parent tract. The irregularly rectangular acquisition is 100% wetlands. The calculated value is based on the same per square foot amount as the whole property (see above for discussion).

Land 13.858 AC/SF @ \$1,600 AC/SF = \$22,173
 Total Land \$22,200 R

Improvements None \$-0-
 Total Improvements \$-0-

RECEIVED
 OCT 27 2002
 1ST DIST. DOT

Brief Description of the Remainder Property: (if applicable)

The remainder consists of a generally rectangular shape except for the irregular southeastern corner and is 100% wetlands (according to environmental experts called in on adjacent parcels). The calculated value is based on the same per acre factor as the whole property. There is no change in the Highest and Best Use as a result of the acquisition.

State Highest and Best Use: Conservation.

After Value: (Land Only)

Land	39.317 AC/SF	@ \$1,600 /AC/SF =	<u>\$62,907</u>
		Total Land	<u>\$62,900 R</u>

Brief Description of Severance Damages or Cost to Cure the Remainder Property: (if applicable)

Before Value	<u>\$85,100</u>
Part Taken	<u>\$22,200</u>
Value as Part of Whole	<u>\$62,900</u>
After Value	<u>\$62,900</u>
Severance Damages	<u>\$-0-</u>
Cost to Cure	<u>\$-0-</u>
Total Damages	<u>\$-0-</u>

Summary of Compensation:

Land	<u>\$22,200</u>
Improvements	<u>\$-0-</u>
Damage and/or Cost to Cure	<u>\$-0-</u>
Total	<u>\$22,200</u>

Attachments:

- Photograph Addendum
- Parcel Information Sheet (legal description of acquisition)
- Sketch/Survey of Proposed Acquisition
- Wetlands Delineation Map
- Zoning and Tax Map
- Vesting Deed (last deed of record)
- Property Inspection Letter (Owner Letter)
- Wetlands Study Conclusions on Adjacent Parcel 141
- Comparable Sales Data

CERTIFICATE OF VALUE

Parcel No.: 139 Item/Segment: 1957191 Managing District I State Road: 739 (US 41 Bus.) County: Lee FAP No.: N/A

I certify to the best of my knowledge and belief, that:

- 1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions and conclusions are my personal, unbiased, professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions that were developed.
5. This is a [limited/complete] appraisal communicated in a restricted use report format. (If limited, departures are as follows: N/A) This report is intended for use only by the Florida Department of Transportation. Use of this report cannot be relied upon without access to the additional information contained in the appraiser's work files.
6. I have made a personal inspection of the property that is the subject of this report on October 10, 2002 on behalf of the State of Florida's Department of Transportation and the property owner, Lee County. I have also made a personal field inspection of the comparable sales relied upon in making this appraisal.
7. No persons other than those named herein provided significant professional assistance to the person signing this report.
8. The purpose of this appraisal is to estimate market value as of the effective date of the report. The definition of market value can be found in the FDOT Supplemental Standards, Section 6.2, Right of Way Manual. The intended use is in connection with the acquisition of right-of-way for a transportation facility to be constructed by the State of Florida with the assistance of Federal-aid highway funds, or other Federal or State funds. This report is not intended for any other use.
9. This appraisal has been made in conformity with appropriate State laws, regulations, policies and procedures applicable to appraisal of right-of-way for highway purposes; and, to the best of my knowledge, no portion of the property value entered on this certificate consists of items which are noncompensable under the established law of the State of Florida.
10. I have not revealed the findings or results of this appraisal to anyone other than the proper officials of the Florida Department of Transportation or officials of the Federal Highway Administration and I will not do so until authorized by State officials or until I am required by due process of law, or until I am released from this obligation by having publicly testified as to such findings.
11. Regardless of any stated limiting condition or assumption, I acknowledge that this appraisal report and all maps, data, summaries, charts and other exhibits collected or prepared under this agreement shall become the property of the Department without restriction or limitation on their use. This file information is retained to support the conclusions, opinions, and analyses.
12. Statements supplemental to this certification required by membership or candidacy in a professional appraisal organization are described on an addendum to this certificate and, by reference, are made a part hereof.

Based upon my independent appraisal and the exercise of my professional judgment, my opinion of the market value for the part taken, including damages, if any, of the property appraised as of the 10th day of October, 2002, is: \$22,200.

Market Value should be allocated as follows:

Land: \$22,200 Land Area (Ac/SF) 13.858
Improvements: \$-0- Property Type RVSP
Severance Damages/ Cost to Cure: \$-0-
Total: \$22,200

*Property Type Codes:

- 1. R - Rural, U - Urban
2. I - Improved, V - Vacant
3. H - Home/Residence, B - Business
A - Agricultural, S - Special Purpose
4. W - Whole Taking, P - Partial Taking

October 11, 2002
Date

Signature of Joseph S. Was, FDOT I R/W Staff Appraiser

11-25-02
Date

Signature of Joseph C. Harper, Staff Appraiser Review

11/26/02
Date

Wyatt W. Busing FDOT I R/W Appraisal Project Coordinator
State Certified General Real Estate Appraiser No. 2327

Table with columns: Value of Acquisition Including Uneconomic Remainder, Land Area: SF/AC, Land, Improvements, Damages and/or Cost to Cure, Total. Partial/Whole P/W.

RECEIVED

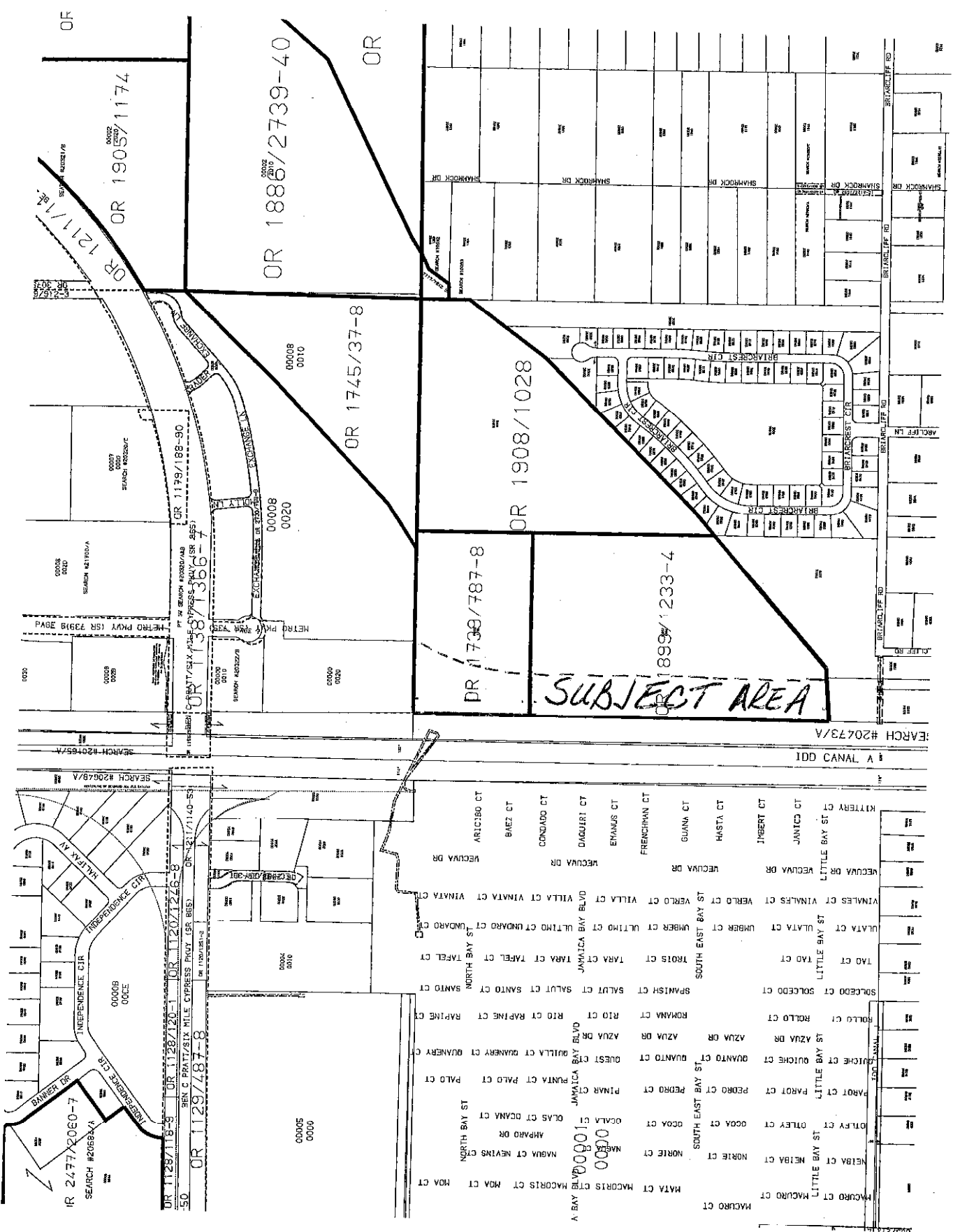
RECEIVED

NOV 26 2002

OCT 27 2002

Comments on Uneconomic Remnant:

FDOT DIST. DCOIT



SUBJECT AREA

DR 1738/787-8

DR 1899/1233-4

OR 1908/1028

OR 1745/37-8

OR 1886/2739-40

OR 1905/1174

OR

OR

SEARCH #2073/A
IDD CANAL A

OR 2477/2080-7
SEARCH #2068/A

SEARCH #2068/A

SEARCH #2078/A

SEARCH #2078/A

SEARCH #2078/A

SEARCH #2078/A

SEARCH #2078/A

SEARCH #2078/A

This Instrument Prepared by:
PUBLIC WORKS/COUNTY LANDS DIVISION
Post Office Box 398
Fort Myers, Florida 33902-0398

STRAP No. 31-45-25-00-00002.1360 & .1390

THIS SPACE FOR RECORDING

**COUNTY DEED
(Statutory)**

THIS DEED, executed this ___ day of _____, 20___, by **LEE COUNTY, FLORIDA, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA**, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398, COUNTY, to State of Florida Department of Transportation whose address is P. O. Box 1249, Bartow, Florida 33831-1249, Grantee.

WITNESSETH: The COUNTY, for and in consideration of the sum of Ten (\$10.00) Dollars to it in hand paid by the Grantee, receipt whereof is hereby acknowledged, has granted, bargained and sold to the Grantee, its heirs and assigns forever, the following described land, lying and being in Lee County, Florida:

SEE ATTACHED EXHIBIT "A"

In accordance with Florida Statutes s. 270.11, the COUNTY hereby reserves an undivided three-fourths interest in, and title in and to an undivided three-fourths interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the subject land and an undivided one-half interest in all the petroleum that is or may be in, on, or under the subject land with the privilege to mine and develop each interest. Provided, however, the right of entry with respect to any interest in phosphate, minerals, metals or petroleum reserved in favor of the County is hereby released if the subject parcel being conveyed is or has always been a contiguous tract of less than 20 acres in the aggregate under the same ownership.

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

IN WITNESS WHEREOF the COUNTY has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chair or Vice Chair of said Board, the day and year above.

(OFFICIAL SEAL)

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO LEGAL FORM:

Office of County Attorney

Exhibit "A"

PARCEL INFORMATION SHEET

FP NO. 1957191 SECTION 12014-2504 STATE ROAD NO. 739 COUNTY Lee

DESCRIPTION

PARCEL 139.1

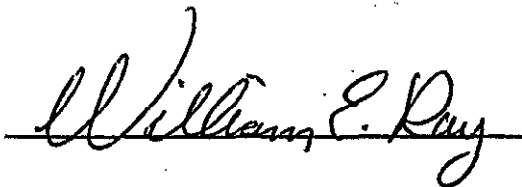
That portion of the northwest $\frac{1}{4}$ of Section 31, Township 45 South, Range 25 East, being a part of Six Mile Cypress Strand (per Resolution Number ZAB-82-270 Resolution of the Board of County Commissioners) Lee County, Florida.

Being described as follows:

BEGIN at the northwest corner of Lot 13, Briarcliff Unit No. 3 per Official Records Book 728, Page 685 and per Unrecorded Plat Book 1, Page 31, Public Records of Lee County, Florida said corner being on the east existing right of way line of CSX Transportation Inc. Railroad (per Track Map V18 Fla); thence along said east existing railroad right of way line, North $00^{\circ}36'34''$ West a distance of 624.23 feet to the intersection with the south boundary of said Six Mile Cypress Strand for a POINT OF BEGINNING; thence along the south boundary of said Six Mile Cypress Strand, North $00^{\circ}36'34''$ West a distance of 2,371.27 feet; thence North $89^{\circ}06'39''$ East a distance of 344.11 feet; thence South $22^{\circ}25'33''$ West a distance of 31.97 feet to the beginning of a curve concave easterly having a radius of 1,023.29 feet; thence along the arc of said curve to the left a distance of 411.41 feet through a central angle of $23^{\circ}02'07''$ with a chord bearing South $10^{\circ}54'30''$ West to the end of said curve; thence South $00^{\circ}36'34''$ East a distance of 1,922.54 feet to the south boundary of said Six Mile Cypress Strand; thence along said south boundary, South $84^{\circ}41'10''$ West a distance of 250.84 feet to the POINT OF BEGINNING.

Containing 13.858 acres.

Legal Description Approved by:



Date:

02-06-02

NOT A DEED - INFORMATION PURPOSES ONLY

OWNED BY: (BSD.03 BSD. 04) - Lee County, a political subdivision of the State of Florida

Grantor(s)' Mailing Address:

SUBJECT TO:

N/A