



## TRANSPORTATION DIVISION

### ENGINEERING & CONSTRUCTION MANAGEMENT DEPARTMENT

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## INSTRUCTIONAL MEMORANDUM

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TO: ALL THOSE PERSONS OR ENTITIES REQUIRED TO CONVEY ANY  
REAL PROPERTY INTEREST TO COLLIER COUNTY

DATE: December 1, 2005

FROM: Kevin Hendricks, Right-of-Way Acquisition Manager

SUBJECT: Instructions for the Conveyance of Real Property Interests to Collier County

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To begin, here are a few things you should know:

- In order for the conveyance to be valid, the conveyance must be accepted by the County Commission as the governing body of Collier County, Florida.
- Acceptance should occur **PRIOR** to recording in the Official Records.
- Unless an easement for public utilities is being conveyed to the Collier County Water-Sewer District, the County, as “Grantee,” should be referred to in the conveyance instrument as “**COLLIER COUNTY**, a political subdivision of the State of Florida.”
- If the conveyance is of a fee interest via Warranty Deed, the Grantor may execute either the County’s format conveyance instrument, or any form of **general** Warranty Deed prepared in compliance with Chapter 689, Florida Statutes. (**NO special** warranty deeds.)
- If the conveyance is of an **Easement**, then the Grantor must obtain the appropriate format instrument from the Transportation Right-of-Way Section.

Now for the step-by-step instructions:

- After the appropriate format easement instrument has been obtained from the County, the Grantor (or the Grantor’s attorney) must prepare the conveyance instrument properly, incorporating the legal description of the easement into the body of the conveyance instrument - **OR** where a metes and bounds description is used, it shall be accompanied by a sketch of the easement “parcel,” and both the sketch and description of the easement parcel shall be attached to the conveyance instrument as Exhibit “A.”

- The Grantor shall then properly execute the conveyance instrument in the presence of two witnesses and a notary public. (Two witnesses are not required for a conveyance instrument from a corporation (as Grantor) signed by the President or Vice President of the corporation, and to which the official corporate seal has been affixed.)
- If the Grantor is a corporation, a partnership, or a trustee, evidence must be provided attesting to the authority of the individual signing the conveyance instrument to execute the instrument on behalf of the Grantor.
- The unrecorded conveyance instrument must be delivered to the Transportation Right-of-Way Section for review accompanied by an Attorney's Opinion of Title identifying the record title holder of the subject property, as well as all those holding an interest in said real property.
- The Attorney's Opinion of Title shall include as attachments, legible copies of the record title holder's deed, as well as legible copies of all encumbrances (mortgages and financing statements, mechanic's and materialmen's liens, judgements, lis pendens, contracts for deed, recorded leases, easements, state and federal tax liens, ad valorem tax deficiencies and any and all declaration, covenants and restrictions of record) affecting the real property being conveyed to the County.
- If a mortgage encumbers the real property being conveyed to Collier County via Warranty Deed, then a properly executed Partial Release of Mortgage must be provided to the County for review.
- If a mortgage encumbers an Easement being conveyed to Collier County, then a properly executed Subordination, Consent and Joinder of Easement must be provided to the County for review.
- Releases from mechanic's and materialmen's liens must also be provided, along with judgment satisfactions, consents, joinders and waivers of claim from any lessees or contract purchasers, as well as subordinations from others holding any form of easement interest in the subject property.
- Allow 30 days for review and approval (assuming the conveyance package was complete upon initial submittal and that no corrections or revisions are required). In most instances, conveyance instruments (along with the releases, subordination, consents, et al) must also be reviewed by the Office of the County Attorney.
- After the conveyance package has been reviewed and approved by the Transportation Right-of-Way Section and the Office of the County Attorney, the conveyance instrument(s) will be affixed with a stamp indicating Board of Commissioners acceptance,\*\* whereupon the package will be returned to the Grantor for recording in the Official Records Office of the Clerk of Court.

\*\* If the conveyance is being made in order to fulfill certain development commitments stipulated by Collier County re-zone ordinances, development orders, conditional use approvals, site development plan approvals, or in order to fulfill obligations which may now or in the future be contained in agreements between Collier County and any legal entity, or which are conveyed to Collier County, at the request of County staff, for the construction of capital improvement projects, such conveyances are covered under a blanket acceptance created by Board Resolution. If the conveyance does not fall under one of these broad categories, then it is NOT covered by the blanket resolution and must be presented to the Commission for acceptance at a regular meeting of the Board of County Commissioners (consent agenda).