

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

Blue Sheet No. 20060010-UTL

1. Action Requested/Purpose:

Authorize the Chairwoman, on behalf of the BOCC, to 1) execute "Agreement for Cooperative Funding of Master Lift Station between Lee County and Fisherman's Wharf Condominium Association" (FWCA); and, 2) execute and approve recording of "Grant of Perpetual Public Utility Easement".

2. What Action Accomplishes:

Allows construction of a master lift station, which would provide regional/central sanitary sewer service to an existing 34-unit multi-family residential development, and future regional/central sanitary sewer service to portions of St. James City. Through this lift station construction, the existing Fisherman's Wharf wastewater treatment plant will be totally eliminated.

3. Management Recommendation:

Approval.

4. Departmental Category: 10 -

CIOA

5. Meeting Date:

02-14-2006

6. Agenda:

- Consent**
- Administrative**
- Appeals**
- Public**
- Walk-On**

7. Requirement/Purpose (specify)

- Statute**
- Ordinance**
- Admin. Code**
- Other** **Approval**

8. Request Initiated:

Commissioner _____
Department **Public Works**
Division **Utilities**
By: _____ **1/26/06**
Rick Diaz, P.E., Director

9. Background:

In April of 1998, the Fisherman's Wharf Condominium Association (FWCA) committed to connecting to the Pine Island Regional Sewer System through the Lee County BOCC approved Pine Island Sewer System Connection Incentive Program (Blue Sheet 970591). In addition to the commitment to connect, FWCA agreed to provide an easement to Lee County for the placement of a master lift station to serve the FWCA development in the short-term, and portions of St. James City in the future.

FWCA now desires connection to the regional/central sewer system. FWCA is willing to eliminate their on-site wastewater treatment plant once connected to Lee County's system. FWCA has committed to contributing \$30,000.00 toward the construction of a master lift station, which they will connect to, and is currently estimated to cost \$110,000. Additionally, FWCA is providing an easement to Lee County for placement of the master lift station at the southwest corner of their property.

CIP funds will be made available for the construction of the master lift station in Account No. 20723848713.

Operating funds are available for the recording of the easement in Account. No. OD5366348700.504930.

Attachments: Agreement (3), Easement (1)

SECTION 02 TOWNSHIP 46S RANGE 22E DISTRICT #1 COMMISSIONER JANES

10. Review for Scheduling

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager / P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>J. Lavender</i> Date: 1-26-06	<i>C. Logan</i> Date: 1/27/06	N/A Date:		<i>S. Coovert</i> Date: 1/27/06	<i>P.M</i> 1/30/06	<i>wd</i> 1/30/06	<i>17</i> 1/30/06	<i>1/30/06</i>	<i>J. Lavender</i> Date: 1-26-06

11. Commission Action:

- Approved**
- Deferred**
- Denied**
- Other**

RECEIVED BY COUNTY ADMIN: *PM*
 1-27-06
 4:21
 COUNTY ADMIN FORWARDED TO: *JL*
 2/2/06
 10:15 AM

Rec. by CoAtty
 Date: *1/27/06*
 Time: *3:10 PM*
 Forwarded To:
 1/27/06
3:53 PM

TO: RECORDERS OFFICE

PLEASE PUT MY NAME ON THE ATTENTION LINE:

Sue Gullidge

**CHARGE TO: LEE COUNTY UTILITIES -
LCU 500283**

ACCOUNT NO. OD5360748700.504930

PROJECT NAME: FISHERMAN'S WHARF

BLUE SHEET NO. 20060010-UTL

THANK YOU.

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

Strap Number:

02-46-22-22-00000.00CE

LCU 500283

THIS SPACE RESERVED FOR RECORDING

GRANT OF PERPETUAL PUBLIC UTILITY EASEMENT

THIS INDENTURE is made and entered into this _____ day of _____, 2006, by and between **FISHERMAN'S WHARF CONDOMINIUM ASSOCIATION**, Owner, hereinafter referred to as GRANTOR, and **LEE COUNTY**, a political subdivision and charter county of the State of Florida, 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 will 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 may 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 will 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 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 from any and all liens and encumbrances, except as herein stated, and accordingly, GRANTOR will forever defend the right, 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, its heirs, successors or assigns, agrees to assume all liability 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 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 located 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, amended or renumbered from time to time.

8. GRANTEE will 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 any associated roads. The easement is strictly for utility purposes.

10. This easement will be binding upon the parties hereto, their successors in interest and any assigns.

IN WITNESS WHEREOF, the GRANTOR has caused this document to be signed on the date and year first above written.

Beryl Burgess

[1st Witness' Signature]

BERYL BURGESS

[Type or Print Name]

Beth Smith

[2nd Witness' Signature]

Beth Smith

[Type or Print Name]

BY:

Gary L. Hodges

[Signature Grantor/Owner]

GARY L. HODGES

[Type or Print Name]

PRESIDENT

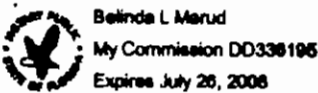
[Title]

STATE OF FLORIDA

COUNTY OF Lee

The foregoing instrument was signed and acknowledged before me this 17th day of January 2006, by Gary L. Hodges who produced the following as identification Michigan Dr. License or is personally known to me, and who did/did not take an oath.

[stamp or seal]



Belinda L Marud

[Signature of Notary]

Belinda L Marud

[Typed or Printed Name]

Approved and accepted for and on behalf of Lee County, Florida, this ____ day
of _____, 2006.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Tammara Hall, Chairwoman

APPROVED AS TO FORM

BY: _____
Office of the County Attorney



E.F. Gaines Surveying Services, Inc.

DESCRIPTION

being part of Lot 9, Gulf Haven Unit K
Plat Book 9, Page 83, Public Records of Lee County, Florida

UTILITY EASEMENT FOR LIFT STATION

All that part of Lot 9, Gulf Haven Unit K, Plat Book 9, Page 83, Public Records of Lee County, Florida being more particularly described as follows:

BEGINNING at the southwest corner of said Lot 9 also being the intersection of the north right-of-way line of Eighth Avenue (80 feet wide) and the east right-of-way line of Pine Island Boulevard (100 feet wide);

thence along the east right-of-way line of Pine Island Boulevard and the west line of said Lot 9 N.07°09'00"W. for 30.17 feet to a line lying 30 feet northerly of and parallel with the north right-of-way line of said Eighth Avenue;

thence along said parallel line N.89°00'00"E. for 30.17 feet to a line lying 30 feet easterly of and parallel with the east right-of-way line of said Pine Island Boulevard;

thence along said parallel line S.07°09'00"E. for 30.17 feet to the north right-of-way line of said Eighth Avenue and the south line of said Lot 9;

thence along the north right-of-way line of said Eighth Avenue and the south line of said Lot 9 S.89°00'00"W. for 30.17 feet to the Point of Beginning of the Parcel herein described;

Parcel contains 905.21 square feet, more or less;

Subject to existing easements, restrictions and reservations of record;

Bearings are based on the east line of Pine Island Boulevard being N.07°09'00"W.

Prepared by:

E.F. Gaines Surveying Services, Inc.

Elizabeth F. Gaines, PSM
Florida License No. 4576

12/31/05

Date

Not valid unless signed and sealed (embossed) by the surveyor named above.

Sketch: EFGaines Drawing No. 0264-001.dwg

0264-001-LGL.doc

Revised: 12/31/2005

(Fisherman's Wharf project)

1342 Colonial Boulevard, Suite E-34B, Fort Myers, Florida 33907

Phone: 239-418-0126 • Fax: 239-418-0127 • E-mail: Survey@EFGaines.com

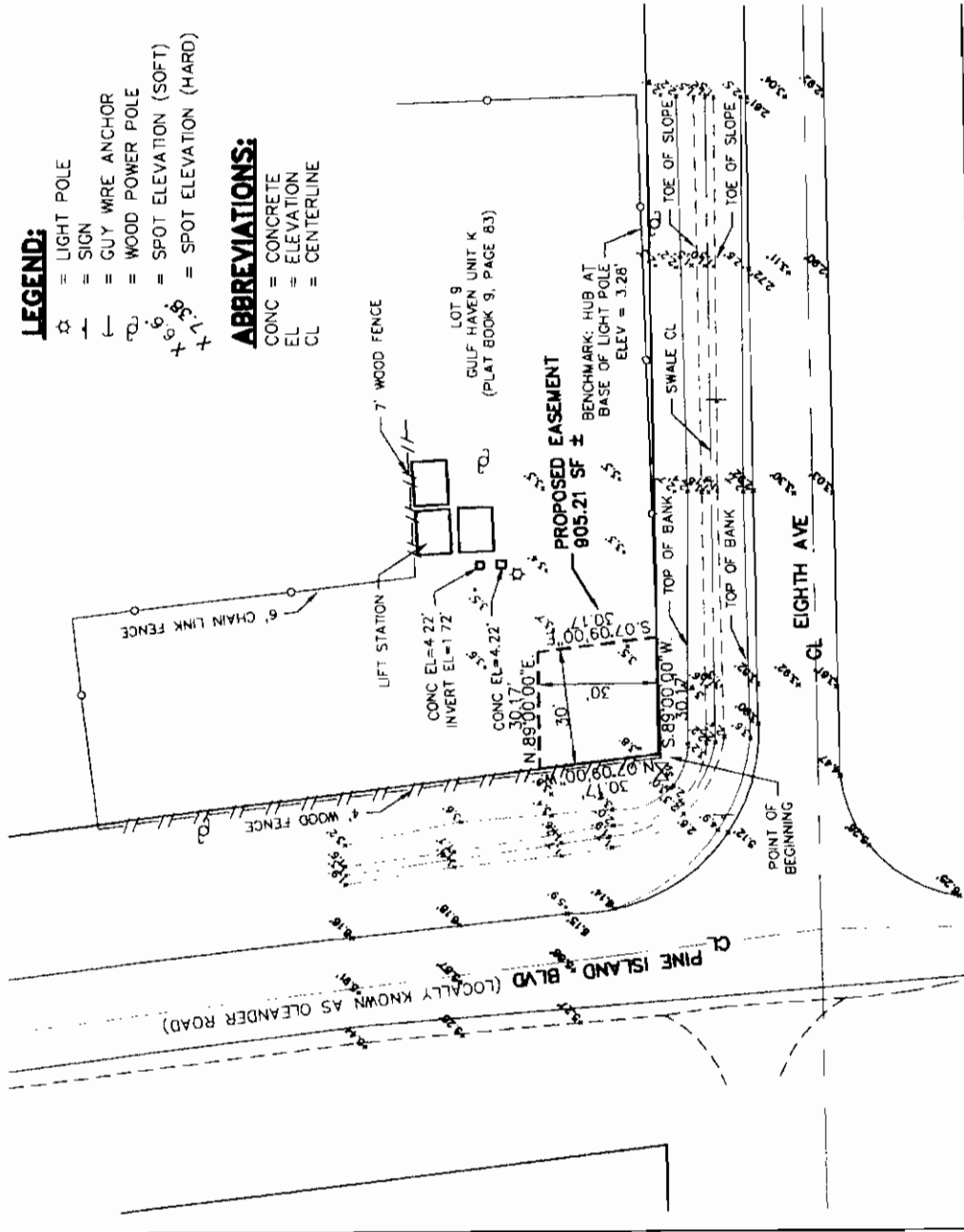
(Fisherman's Wharf project)

LEGEND:

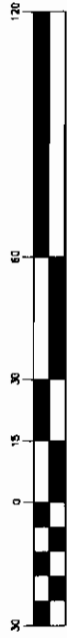
- ☆ = LIGHT POLE
- ⊙ = SIGN
- ⊙ = GUY WIRE ANCHOR
- ⊙ = WOOD POWER POLE
- ⊙ = SPOT ELEVATION (SOFT)
- ⊙ = SPOT ELEVATION (HARD)

ABBREVIATIONS:

- CONC = CONCRETE
- EL = ELEVATION
- CL = CENTERLINE



GRAPHIC SCALE



SURVEYOR'S REPORT/NOTES:

1. DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.
2. ELEVATIONS SHOWN ARE REFERENCED TO THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD 29).
3. DATE OF LAST FIELD WORK: JUNE 6, 2005
4. UNDERGROUND UTILITIES HAVE NOT BEEN INVESTIGATED, LOCATED OR CONFIRMED.
5. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR ZONING, EASEMENTS, RIGHTS-OF-WAY, OWNERSHIP, RESTRICTIONS OR RESERVATIONS.
6. SEE ATTACHED FOR LEGAL DESCRIPTION.
7. LEE COUNTY TAX I.O. NUMBER: 02-46--22-22-00000.0000
REVISION: 12/31/2005 - ADDED LEE COUNTY S.T.R.A.P. NUMBER.

THIS TOPOGRAPHIC SURVEY OF THE LAND SHOWN HEREON AND SKETCH OF LEGAL DESCRIPTION OF A PROPOSED EASEMENT WAS PREPARED FOR THE LEE COUNTY UTILITY DEPARTMENT

E.F.Gaines Surveying Services, Inc.
 1342 Colonial Boulevard Suite E-348
 Fort Myers, Florida 33907
 Phone: (239) 418-0126 Fax: (239) 418-0127
 Web: www.EFGaines.com

FOR: LEE COUNTY UTILITY DEPARTMENT
 DATE OF DRAWING: OCTOBER 5, 2005
 DATE OF LAST FIELD WORK: JUNE 9, 2005
 SCALE: 1"=30'
 F.B./P.G.: 155/2-3
 FILE NAME: 0264-001

12/31/05

DATE SIGNED

ELIZABETH F. GAINES, P.S.M. FL LIC. NO. 4576

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

**AGREEMENT FOR COOPERATIVE FUNDING OF
MASTER LIFT STATION BETWEEN LEE COUNTY
AND FISHERMAN'S WHARF CONDOMINIUM ASSOCIATION**

THIS AGREEMENT is made and entered into this ____ day of _____, 2006, between **FISHERMAN'S WHARF CONDOMINIUM ASSOCIATION**, Developer, hereinafter referred to as "Fisherman's Wharf", and the **LEE COUNTY**, a political subdivision and charter county of the State of Florida, hereinafter referred to as "Lee County", collectively, "the Parties".

WITNESSETH:

WHEREAS, Lee County currently has a regional sanitary disposal system known as the Lee County Pine Island Wastewater System ("Wastewater System"); and,

WHEREAS, Fisherman's Wharf is desirous of connecting to said Wastewater System to ensure the safe and efficient disposal of wastewater; and,

WHEREAS, the Wastewater System has sufficient capacity to treat the sewage to be generated by Fisherman's Wharf; and,

WHEREAS, Lee County Utilities has identified the need to provide a master lift station for the purpose of providing sewer service to the Saint James City area in the future; and,

WHEREAS, an ideal location for the above-mentioned future lift station is at the southwest corner of the Fisherman's Wharf property; and,

WHEREAS, Fisherman's Wharf has agreed to grant Lee County an easement for the placement of the future master lift station; and,

WHEREAS, Lee County Utilities is now recommending construction of a master lift station in the above-mentioned location to provide sanitary wastewater service to this area; and,

WHEREAS, it is in the best interest of both Parties to construct the master lift station at this location and at this time; and,

WHEREAS, if the proposed master lift station is not constructed by Lee County, Fisherman's Wharf needs to build, at its cost, a lift station to connect to the Wastewater System; and,

WHEREAS, in lieu of constructing their own lift station, Fisherman's Wharf agrees to contribute \$30,000 toward the cost of the construction of the future master life station; and,

WHEREAS, Fisherman's Wharf, by this Agreement, will contribute \$30,000 to the construction of the proposed master lift station in order to eliminate the need for constructing its own lift station.

NOW, THEREFORE, it is hereby agreed between the Parties as follows:

SECTION ONE: MUTUAL COVENANTS

The above recitations are incorporated herein and affirmed by the Parties as if set out further at length.

SECTION TWO: GENERAL RESPONSIBILITIES

Lee County will construct a sewage master lift station in compliance with Lee County's design standards which will be utilized by Fisherman's Wharf for connection to the Wastewater System. The master lift station will be constructed in accordance with the construction plans prepared by Lee County Utilities or its consultant. Lee County will be responsible for obtaining all required Department of Environmental Protection Permits and will ensure compliance with Lee County Utilities standards.

SECTION THREE: CONTRIBUTIONS AND CONNECTION FEES

Fisherman's Wharf will contribute \$30,000 toward the construction of the master lift station. Payment of the \$30,000 will be made within thirty (30) days from the date of contract award for the construction of the master lift station by the Board of County Commissioners. Fisherman's Wharf will pay the wastewater connection fees for existing units in the Fisherman's Wharf development based on Lee County Utility's current rate at the time of connection. The connection fees will be paid upon connection to the proposed master lift station. Any future units of development at Fisherman's Wharf shall pay wastewater connection fees as set forth in the Lee County Utilities Operations Manual.

SECTION FOUR: PERPETUAL EASEMENT AND WASTEWATER CAPACITY

Fisherman's Wharf will grant a perpetual utility easement to Lee County at the southwest corner of their property for the placement of the proposed master lift station. In the event that Lee County decides not to construct the proposed master lift station, Fisherman's Wharf shall retain the right to construct a smaller lift station at its expense and connect to the Wastewater System. In such an event, capacity to serve Fisherman's Wharf

will be reserved upon payment of connection fees by Fisherman's Wharf and the easement referenced herein will be granted.

SECTION FIVE: ENTIRE AGREEMENT

This Agreement shall be binding upon the Parties hereto, their successors and assigns, and shall be construed in accordance with the laws of the State of Florida. This Agreement constitutes the entire understanding between the Parties, and supersedes any and all prior understandings whether written or oral. Should any portion of this Agreement be deemed invalid or unenforceable, it is the intent of the Parties that the remainder of the Agreement will remain in full force and effect.

SECTION SIX: PREVAILING PARTY

Should any Party to be required to initiate or defend legal proceedings of any nature arising out of this Agreement, the prevailing Party therein shall be entitled to an award of costs and a reasonable attorney's fee incurred at any administrative level, at trial, or on appeal.

SECTION SEVEN: NOTICE

All written notices to either Party should be sent as follows:

If to County:

Rick Diaz, P.E.
Lee County Utilities
1500 Monroe Street, 3rd Floor
Fort Myers, FL 33901-5500

If to Fisherman's Wharf

Buryl Burgess, P.A.
Fisherman's Wharf Condominium Association
2876 Oleander Street, Apartment #D-7
Saint James City, FL 33956

IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed by their duly authorized officers and their official seals hereto affixed, the day and year first above written.

ATTEST:

FISHERMAN'S WHARF CONDOMINIUM ASSOCIATION

Buryl Buryl
[1st Witness' Signature]

BURYL BURGESS
[Type or Print Name]

Beth Smith
[2nd Witness' Signature]

Beth Smith
[Type or Print Name]

BY: Gary L. Hodges
[Signature Grantor's/Owner's]

GARY L. HODGES
[Type or Print Name]

Pres.
[Title]

STATE OF FLORIDA

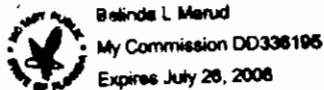
COUNTY OF LEE

The foregoing instrument was signed and acknowledged before me this 17th day of January, 2006, by Gary L. Hodges who produced the following as identification Michigan Dr. License or is personally known to me, and who did/did not take an oath.

[stamp or seal]

Belinda L. Marud
[Signature of Notary]

Belinda L. Marud
[Typed or Printed Name]



Approved and accepted for and on behalf of Lee County, Florida, this _____ day
of _____, 2006.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Tammara Hall, Chairwoman

APPROVED AS TO FORM

BY: _____
Office of the County Attorney