

**LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

BLUE SHEET NO: 20040167-UTL

1. REQUESTED MOTION:

ACTION REQUESTED:

Approve final acceptance, by Resolution and recording of a utility easement, for one 10" diameter master meter assembly and the off-site force main extension serving *Cypress Point*; and, to authorize payment of \$19,550.40 to Watermen of Cypress Point LLC for the construction and upsizing improvements made to the sewage force main. This is a developer-contributed asset with certain items to be paid by Lee County. The project is located on the west side Six Mile Cypress Parkway approximately 1/2 mile north of Daniels Parkway.

WHY ACTION IS NECESSARY:

To provide potable water service, fire protection, and sanitary sewer service to the subject property and, with the oversizing of the new force main provides sanitary sewer service to adjacent undeveloped properties.

WHAT ACTION ACCOMPLISHES:

Complies with the Lee County Utilities Operations Manual and the Developer's Agreement previously approved by the Board.

**2. DEPARTMENTAL CATEGORY: 10
COMMISSION DISTRICT #: 2**

CIOA

3. MEETING DATE: 06-15-2004

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:

- (Specify)*
- STATUTE _____
 - ORDINANCE _____
 - ADMIN. CODE _____
 - OTHER Res., Easement _____

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER: _____
 B. DEPARTMENT: Lee County - Public Works
 C. DIVISION/SECTION: Utilities Division
 BY: Rick Diaz, P.E., Utilities Director
 DATE: 5/27/04

7. BACKGROUND:

The Board granted permission to construct on 3-11-03; Blue Sheet #20030005.
 The installation has been inspected for conformance to the Lee County Utilities Operations Manual.
 Satisfactory pressure and bacteriological testing of the water system has been completed.
 Satisfactory pressure testing of the force main has been performed.
 Record Drawings have been received.
 Engineer's Certification of Completion has been provided---copy attached.
 Project location map---copy attached.
 Warranty has been provided---copy attached.
 Waiver of lien has been provided---copy attached.
 Certification of Contributory Assets has been provided---copy attached.
 The on-site water and sanitary sewer systems are privately owned and maintained.
 100% of the connection fees have been paid.
 Funds are available for recording fees in account # OD5360748700.504930.

(CONT'D.)

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL

(A) DEPARTMENT DIRECTOR	(B) PURCH. OR CONTRACTS	(C) HUMAN RESOURCES	(D) OTHER	(E) COUNTY ATTORNEY	(F) BUDGET SERVICES			(G) COUNTY MANAGER
<i>J. Lavender</i> Date: <u>5/28/04</u>	N/A	N/A	B. Dearborn Date: <u>N.O.</u> T. Osterhout Date: <u>5-27</u>	<i>S. [Signature]</i> Date: <u>5/28/04</u>	OM <u>6/1/04</u>	Risk <u>5/28/04</u>	GC <u>6/1/04</u>	<i>J. Lavender</i> Date: <u>5/28/04</u>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by *Cathy*
 Date: 5/28/04
 Time: 1:00
 Forwarded To:
 Co. Admin
5/28/04

RECEIVED BY
 COUNTY ADMIN:
5/28/04
4:00 PM SLT
 COUNTY ADMIN
 FORWARDED TO:
6/2/04
240

7. BACKGROUND: (CONT'D.)

On 3-11-03, the Board of County Commissioners approved, and the Chairman signed, the Developer Agreement to pay for the construction of and upsizing of the proposed force main extension between Lee County and Waterman of Cypress Point LLC (copy attached). This agreement was entered into due to the Master Plan for Lee County Utilities indicates that Lee County Utilities will provide a force main on the west side of Six Mile Cypress Parkway to provide service to the area from Daniels Parkway north to Penzance Road. The preliminary design for this line was completed in 1989; however, because of insufficient customer base at the time, the line was not then constructed. Lee County Utilities requested the upsizing of the new force main to provide adequate capacity for adjacent undeveloped properties to connect to central sewer service to avoid the proliferation of small wastewater treatment plants or septic systems being constructed adjacent to the Six Mile Cypress Slough.

Based on Cypress Point's anticipated flow, the Developer proposed to construct a 4" diameter force main from the entrance to Cypress Point north to the existing force main located within the right-of-way of Penzance Road. To avoid having to construct a parallel force main in the near future Lee County Utilities proposed to pay to upsize this 4" diameter force main to 6" for a final cost to Lee County of \$19,550.40.

Lee County Utilities has agreed to reimburse Waterman for the additional engineering, design, and permitting cost directly related to the improvements requested by Lee County Utilities for a final cost to Lee County of \$19,550.40.

This upsizing policy is in accordance with the Lee County Utilities Operations Manual.

Funds for the reimbursement/Cost-Sharing Agreements are available in Account 20720848713.506540
(Utilities Operating/Capital Projects/Sewer System Improvements/Improvements Construction/Sewer Connection Fees /Improvements/Construction)

SECTION 17 TOWNSHIP 45S RANGE 25E DISTRICT 2 COMMISSIONER ST. CERNY

Attachments:

- Engineer's Certification of Completion-Copy
- Project Location Map-Copy
- Warranty-Copy
- Waiver of Lien-Copy
- Certifications of Contributory Assets-Copy
- Easement-ORIGINAL
- Agreement (Developer Cost-Sharing)-Copy



RESOLUTION NO. _____

RESOLUTION ESTABLISHING UTILITY ACCEPTANCE OF
DEVELOPER CONTRIBUTED ASSETS
IN LEE COUNTY, FLORIDA

WHEREAS, it is the desire of Portofino-Ft. Myers Limited Partnership, owner of record, to make a contribution to Lee County Utilities of water facilities (one 10" diameter master meter assembly) and sewer facilities (off-site force main extension) serving "**CYPRESS POINT**"; and,

WHEREAS, Lee County Utilities requires proof of a Release of Lien, a warranty (one-year) on all labor and materials, an accurate value of contributed assets, and right-of-way and/or easement-indemnity granted for all systems being contributed to Lee County Utilities; and,

WHEREAS, all of the above information has been received and approved as complete by Lee County Utilities; and,

WHEREAS, Lee County Utilities has recommended to the Board of County Commissioners that the above-named system be accepted for ownership, operation, and maintenance.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that the above facilities, for a contributed value of **\$58,417.23** is hereby ACCEPTED and acknowledged as an addition to Lee County Utilities.

THE FOREGOING RESOLUTION was offered by Commissioner _____ who moved for its adoption. The motion was seconded by Commissioner _____ and, upon being put to a vote, the vote was as follows:

- Commissioner Bob Janes: _____ (1)
- Commissioner Douglas St. Cerny: _____ (2)
- Commissioner Ray Judah: _____ (3)
- Commissioner Andrew Coy: _____ (4)
- Commissioner John Albion: _____ (5)

DULY PASSED AND ADOPTED this _____ day of _____, _____.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
DEPUTY CLERK

By: _____
CHAIRMAN

APPROVED AS TO FORM

OFFICE OF COUNTY ATTORNEY

COPY

LETTER OF COMPLETION

DATE: 7-03-03

Department of Lee County Utilities
Division of Engineering
Post Office Box 398
Fort Myers, FL 33902

Gentlemen:

This is to certify that the water distribution and/or sewage collection system(s) located in Cypress Point Phase I

(Name of Development)

were designed by me and have been constructed in conformance with:

the approved plans - the revised plans, attached

and:

the approved specifications - the revised specifications, attached

Less punchlist item - water services must be installed to meter boxes

Upon completion of the work, we observed the following successful tests of the facilities: water main pressure test,

Very truly yours,

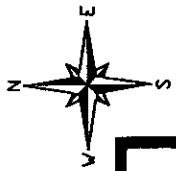
Eddie Neese, P.E. - Neese & Associates
(Owner, or Name of Corporation)

Eddie Neese
(Signature)

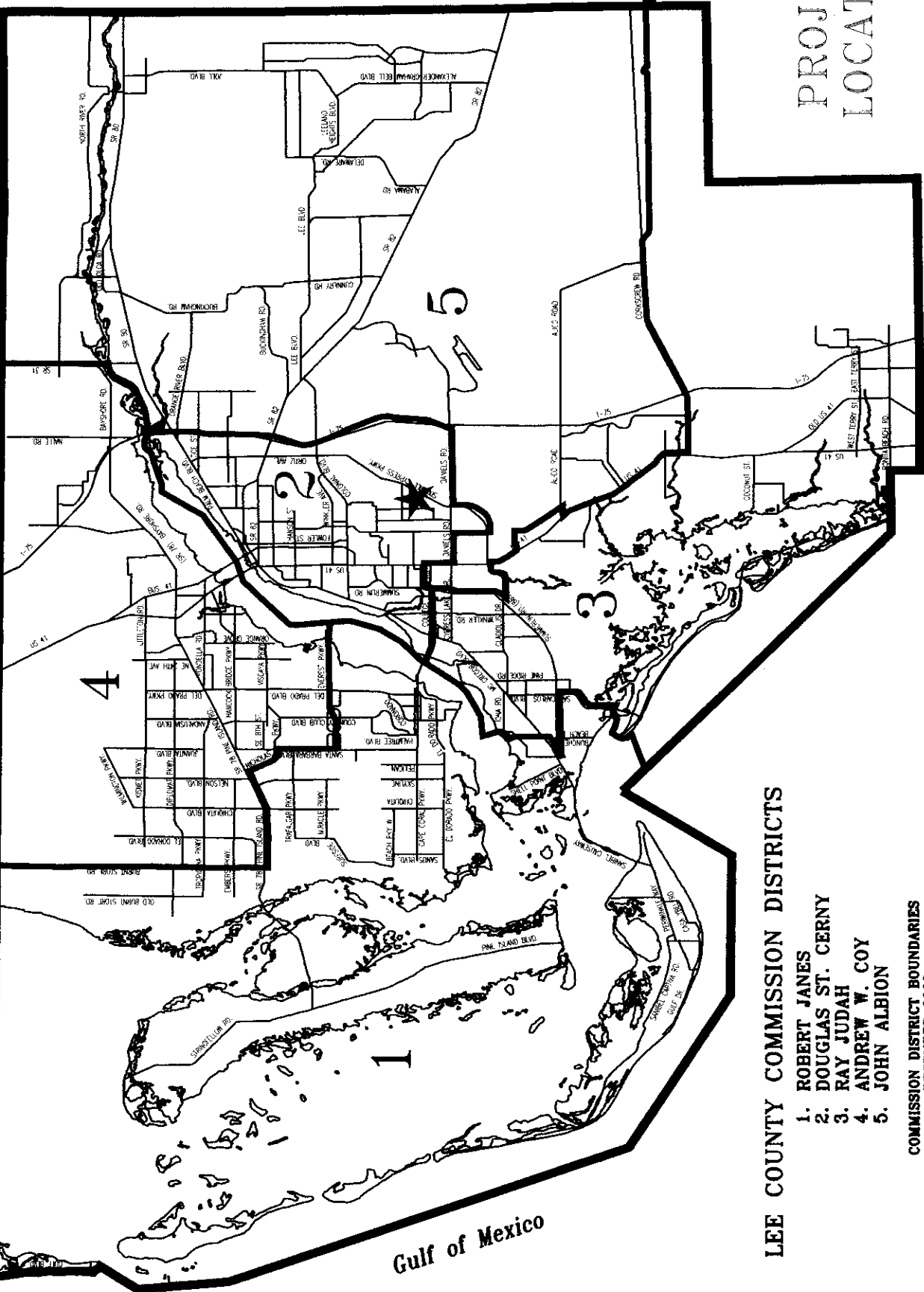
7/7/03

President
(Title)

(SEAL OF ENGINEERING FIRM)



CYPRESS POINT
 17-45-25-00-00003.0000
 COMMISSION DISTRICT # 2 - DOUGLAS ST. CERNY



PROJECT
 LOCATION

LEE COUNTY COMMISSION DISTRICTS

- 1. ROBERT JANES
- 2. DOUGLAS ST. CERNY
- 3. RAY JUDAH
- 4. ANDREW W. COY
- 5. JOHN ALBION

COMMISSION DISTRICT BOUNDARIES
 DECEMBER 2000

Gulf of Mexico

COPY

WARRANTY

THE UNDERSIGNED parties do hereby warrant and/or guaranty all work executed by the contractor on the water and/or sewer systems of Cypress Point to be free from defects in material and workmanship for a period of one (1) year from the date of acceptance by the Lee County Board of County Commissioners. The undersigned parties further agree that they will, at their own expense, repair and replace all such defective work and all other work damaged by said defective work under this Warranty-Guaranty

It is furthermore understood that the consideration for the giving of this warranty and/or guaranty is the requirement by the General Conditions and Specifications under which the contract was let that such warranty and/or guaranty would be given.

Honc Construction, Inc.

(NAME OF OWNER/CONTRACTOR)

BY: *David Strickland*

(SIGNATURE OF OWNER/CONTRACTOR)

STATE OF FL)

) SS:

COUNTY OF Lee)

The foregoing instrument was signed and acknowledged before me this 11th day of August, 2003 by David Strickland who has produced the following as identification - Personally Known By Me, and who did take an oath.

Pamela J. Moody

Notary Public Signature

Pamela J. Moody

Printed Name of Notary Public



Pamela J. Moody
My Commission DD216642
Expires May 28, 2007

(Notary Seal & Commission Number)

COPY

WAIVER AND RELEASE OF LIEN
UPON FINAL PAYMENT

The undersigned lienor, in consideration of the final payment in the amount of Fourteen Thousand Seventy Three and 25/100(\$14,073.25) hereby waives and releases its lien and right to claim a lien for labor, services, or materials furnished to Watermen @ Cypress Point on the job of Cypress Point to the following described property:

Cypress Point water distribution system
(Name of Development/Project) (Facilities Constructed)
12580 Ben C Pratt Six Mile Cypress (Lee County) 17-45-25-00-00003.0000
(Location) (Strap # or Section, Township & Range)
(Please provide full name and location of development and a description of the utility system constructed).

Dated on: August 11, 2003

By: [Signature] Honc Construction, Inc.
(Signature of Authorized Representative) (Name of Firm or Corporation)

By: David Strickland 1130 Pondella Road
(Print Name of Authorized Representative) (Address of Firm or Corporation)

Phone #: (239)458-3335 Ext. North Fort Myers, FL 33903-
(City, State & Zip Of Firm Or Corporation)

Fax#: (239)458-3331

STATE OF FL)
) SS:
COUNTY OF Lee)

The foregoing instrument was signed and acknowledged before me this 11th day of August 2003 by David Strickland who has produced the following as identification - Personally Known by Me, and who did not take an oath.

[Notary Seal] Pamela J. Moody
My Commission DD216642
Expires May 28, 2007

(Notary Seal & Commission Number)

[Signature]
(Notary Public Signature)

Pamela J. Moody
(Printed Name of Notary Public)

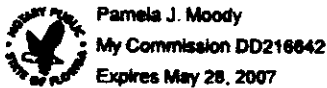
COPY WAIVER AND RELEASE OF LIEN UPON FINAL PAYMENT

The undersigned lienor, in consideration of the final payment in the amount of Forty-Four Thousand Three Hundred Forty-Three and 98/100(\$44,343.98) hereby waives and releases its lien and right to claim a lien for labor, services, or materials furnished to Watermen @ Cypress Point, LLC. on the job of Cypress Point to the following described property:

Cypress Point	force main
(Name of Development/Project)	(Facilities Constructed)
12580 Ben C Pratt Six Mile Cypress (Lee County)	17-45-25-00-00003.0000
(Location)	(Strap # or Section, Township & Range)
(Please provide full name and location of development and a description of the utility system constructed).	
Dated on: <u>August 11, 2003</u>	
By: <u>[Signature]</u>	Honc Construction, Inc.
(Signature of Authorized Representative)	(Name of Firm or Corporation)
By: <u>David Strickland</u>	1130 Pondella Road
(Print Name of Authorized Representative)	(Address of Firm or Corporation)
Phone #: (239)458-3335 Ext.	North Fort Myers, FL 33903-
	(City, State & Zip Of Firm Or Corporation)
Fax#: (239)458-3331	

STATE OF FL)
) SS:
 COUNTY OF Lee)

The foregoing instrument was signed and acknowledged before me this 3 rd day of SEPT, 2003 by _____ who has produced the following as identification - _____, and who did not take an oath.



(Notary Seal & Commission Number)

[Signature]
 (Notary Public Signature)

Pamela J. Moody
 (Printed Name of Notary Public)

COPY

11.5

CERTIFICATION OF CONTRIBUTORY ASSETS

PROJECT NAME: Cypress Point

STRAP NUMBER: 17-45-25-00-00003.0000

LOCATION: 12580 Ben C Pratt Six Mile Cypress

OWNER'S NAME: WaterMen @ Cypress Point, LLC (owner at time of construction)

OWNER'S ADDRESS: 4235 West 16th Ave Suite 101

OWNER'S ADDRESS: Hialeah, Fl 33012-

TYPE UTILITY SYSTEM: WATER
(list water, sewer and effluent reuse separately)

DESCRIPTION AND COST OF MATERIAL, LABOR, AND SERVICES

<u>ITEM</u>	<u>SIZE</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>UNIT COST</u>	<u>TOTAL</u>
CL-50 DIP	10"	41	LF	\$343.25	\$14,073.25
<u>TOTAL</u>					\$14,073.25

Please list each element of the system, e.g., pipe, manholes, lift stations, meters, valves, fittings, etc. (If more space is required, use additional page(s). Number each page and include the name of the project).

I do hereby certify that the quantities of material and services described above are a true and accurate representation of the as-installed cost of the system being contributed to Lee County and corresponds with the record drawings.

CERTIFYING:

X [Signature]
(Signature of Certifying Agent)

David Strickland Project Manager
(Name & Title of Certifying Agent)

Honc Construction, Inc.
(Name of Firm or Corporation)

1130 Pondella Road
(Address of Firm or Corporation)

North Fort Myers, Fl 33903 -

STATE OF Fl)
) SS:
COUNTY OF Lee)

The foregoing instrument was signed and acknowledged before me this 13th day of Aug, 2003 by _____ who has produced the following as identification - _____, and who did take an oath.

[Signature]
Notary Public Signature

JAN OLIVER
Printed Name of Notary Public

DD216797
Notary Commission Number

(NOTARY SEAL)  Jan Oliver
My Commission DD216797
Expires May 28, 2007

CERTIFICATION OF CONTRIBUTORY ASSETS

PROJECT NAME: Cypress Point

STRAP NUMBER: 17-45-25-00-00003.0000

LOCATION: 12580 Ben C Pratt Six Mile Parkway

OWNER'S NAME: Watermen @ Ccypress Point, LLC (owner at time of construction)

OWNER'S ADDRESS: 4235 West 16th Ave Suite 101

OWNER'S ADDRESS: Hialeah, Fl 33012-

TYPE UTILITY SYSTEM: SEWER
(list water, sewer and effluent reuse separately)

DESCRIPTION AND COST OF MATERIAL, LABOR, AND SERVICES

<u>ITEM</u>	<u>SIZE</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>UNIT COST</u>	<u>TOTAL</u>
PVC C-900 DR-18	6"	3,738	LF	\$8.73	\$32,632.74
PLUG VALVE	6"	1	EA	\$771.00	\$771.00
PVC C-900 DR-18	4"	2,150	LF	\$4.42	\$9,503.00
PLUG VALVE	4"	2	EA	\$718.62	\$1,437.24
TOTAL					\$44,343.98

Please list each element of the system, e.g., pipe, manholes, lift stations, meters, valves, fittings, etc. (If more space is required, use additional page(s). Number each page and include the name of the project).

I do hereby certify that the quantities of material and services described above are a true and accurate representation of the as-installed cost of the system being contributed to Lee County and corresponds with the record drawings.

CERTIFYING:

X *David Strickland*
(Signature of Certifying Agent)

David Strickland Project Manager
(Name & Title of Certifying Agent)

Honc Construction, Inc.
(Name of Firm or Corporation)

1130 Pondella Road
(Address of Firm or Corporation)

North Fort Myers, Fl 33903 -

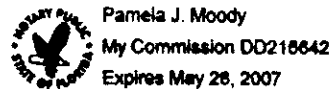
STATE OF Fl.)
) SS:
COUNTY OF Lee)

The foregoing instrument was signed and acknowledged before me this 11th day of August, 2003 by David Strickland who has produced the following as identification - Personally Known By Me , and who did take an oath.

Pamela J. Moody
Notary Public Signature

Pamela J. Moody
Printed Name of Notary Public

DD 216642
Notary Commission Number



(NOTARY SEAL)

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

PERPETUAL PUBLIC UTILITY EASEMENT GRANT

THIS INDENTURE is made and entered into this ___ day of _____, 2004
by and between ^{Portofino, Inc. P} Owner, hereinafter referred to as GRANTOR(S), and LEE
COUNTY, hereinafter referred to as GRANTEE.

WITNESSETH:

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

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

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

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



5. Subject to any pre-existing easements for public highways or roads, railroads, laterals, ditches, pipelines and electrical transmission or distribution lines and telephone and cable television lines covering the land herein described, GRANTOR(S) covenant that they are lawfully seized and possessed of the described real property (Exhibit "A"), have good and lawful right and power to sell and convey it, and that the said property is free of any and all liens and encumbrances, except as herein stated, and accordingly, GRANTOR(S) will forever defend the title and terms of this said easement and the quiet possession thereof by GRANTEE against all claims and demands of all other entities.
6. GRANTOR(S), its heirs, successors or assigns, shall 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(S) in violation of paragraph 3 within the above easement, which result from the required activities of the GRANTEE for any construction, maintenance or repairs to the utilities 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 shall have reasonable right of access across GRANTOR's property for the purposes of reaching the described easement (Exhibit "A") on either paved or unpaved surfaces. Any damage to GRANTOR's property or permitted improvements thereon as the result of such access to the described easement or the construction, maintenance, or repairs located within the described easement shall be restored by GRANTEE, to the condition in which it existed prior to the damage as is reasonably practicable.
9. By acceptance of this easement, the GRANTEE assumes no responsibility for ownership or maintenance of any associated roads. The easement is strictly for utility purposes. If GRANTEE fails to utilize the granted easement (Exhibit "A", hereto) for the purposes as set out herein and for the time as set out in Section 255.22, Florida Statutes, then this easement shall be extinguished pursuant to law.
10. This easement shall 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.

X [Signature]
(Signature of 1st Witness)

Kyle J Castillo
(Name of 1st Witness)

X [Signature]
(Signature of 2nd Witness)

John Reynolds
(Name of 2nd Witness)

X [Signature]
(Grantor's/Owner's Signature)

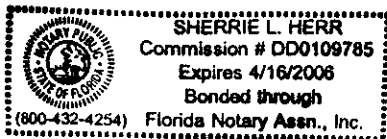
TIRSO SAN JOSE
(Grantor's/Owner's Name)
Tirso San Jose

[Signature]
(Grantor's Title) Portofino

TIRSO SAN JOSE
(Grantor's/Owner's Name)

STATE OF FLORIDA)
) SS:
COUNTY OF LEE)

The foregoing instrument was signed and acknowledged before me this 21st day of April 2004 by TIRSO SAN - JOSE, and who did take an oath.



(Notary Seal & Commission Number)

[Signature]

Notary Public Signature

Sherrrie L. Herr

Printed Name of Notary Public

Approved and accepted for and on behalf of Lee County, Florida, this ____ day of _____, 20__.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chairman

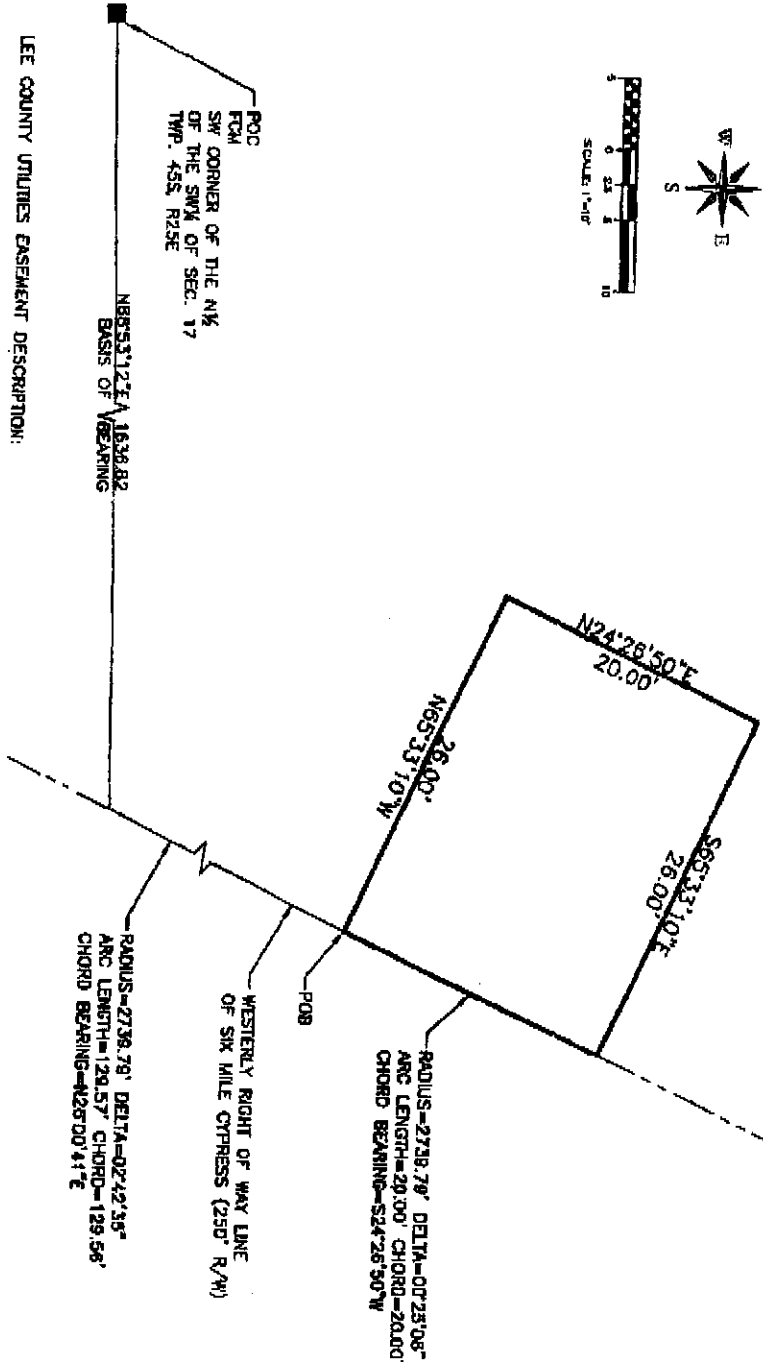
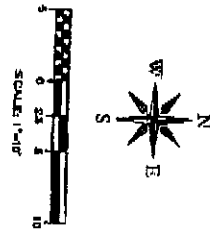
[Type or Print Name]

[Type or Print Name]

Approved as to form by:

County Attorney's Office





LEE COUNTY UTILITIES EASEMENT DESCRIPTION:

A TRACT OR PARCEL OF LAND IN THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH 1/4 OF THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, LYING WEST OF THE WESTERLY RIGHT OF WAY LINE OF SIX MILE PARKWAY; THENCE N86°53'12"E ALONG THE QUARTER SECTION LINE AS A BASIS OF BEARING FOR A DISTANCE OF 1635.82 FEET TO THE WESTERLY RIGHT OF WAY LINE OF SIX MILE PARKWAY (250' WIDE R/W) BEING A NON-TANGENT CURVE TO THE LEFT; THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE BEING A CURVE HAVING A RADIUS OF 2739.79 FEET, DELTA OF 02°42'35", CHORD OF 129.56 FEET, CHORD BEARING OF N26°00'41"E FOR A DISTANCE OF 129.57 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL.

THENCE N65°33'10"W FOR 26.00 FEET; THENCE N24°26'50"E FOR 20.00 FEET; THENCE S65°33'10"E FOR 26.00 FEET TO SAID WESTERLY RIGHT OF WAY LINE (250' WIDE R/W) BEING A NON-TANGENT CURVE TO THE RIGHT; THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE BEING A CURVE HAVING A RADIUS OF 2739.79 FEET, DELTA OF 02°25'06", CHORD OF 20.00 FEET, CHORD BEARING OF S24°26'50"W FOR A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.12 ACRES MORE OR LESS.

JOB # 010008.03

Neese & Associates
Civil Engineering & Land Surveying
13661 Alameda Parkway
Fort Myers, Florida 33912
Tel: 239-768-9457
Fax: 239-768-9457
L29-03390

PORTOFIND
CROSSROADS COMMUNITIES
SECTION 17, TOWNSHIP 45 SOUTH, RANGE 25 EAST

SKETCH (NOT A SURVEY)
LEE COUNTY UTILITIES EASEMENT

DATE: 04/20/04
DRAWN BY: [Signature]
CHECKED BY: [Signature]

SCALE: 1"=40'
FIELD BOOK: N/A
DATE DRAWN: 4-20-04
FILE #: 010008-001-136

AGREEMENT

LEE COUNTY CONTRACT NO. 2413

This Agreement is made and entered into this 11th day of March, 2003, between **WATERMEN AT CYPRESS POINT LLC**, Developer, hereinafter referred to as **CYPRESS POINT**, and the **LEE COUNTY BOARD OF COUNTY COMMISSIONERS**, hereinafter referred to as "LEE COUNTY", collectively, "the Parties".

Whereas, LEE COUNTY currently has a regional sanitary disposal system known as the Lee County Utilities Sewer System; and,

Whereas, CYPRESS POINT is desirous of connecting to said System to ensure the safe and efficient disposal of wastewater; and,

Whereas, the South Fort Myers Sewer System has sufficient capacity to treat the sewage to be generated by CYPRESS POINT; and,

Whereas, the Master Plan for the Department of Lee County Utilities' sewage force mains in South Fort Myers indicates that Lee County Utilities will provide a sewage force main within the right-of-way of Six Mile Cypress Parkway; and,

Whereas, the preliminary design for this force main was completed in 1989, however, because of insufficient customer base at the time, the force main was not constructed; and,

Whereas, Lee County Utilities is now recommending construction of a sewage force main extension from approximately one mile north of Daniels Parkway along Six Mile Cypress Parkway north to Penzance Road in order to provide sanitary sewer service to this area; and,

Whereas, CYPRESS POINT agrees to construct said force main with reimbursement from Lee County Utilities for the upsizing from 4" to 6" in diameter which is expected not-to-exceed \$19,550.40; and,

Whereas, CYPRESS POINT has proposed to construct approximately 6,320'± of 4" diameter sewage force main with all related appurtenances along the west side of Six Mile Cypress Parkway to the south side of Penzance Road; and,

Whereas, based on CYPRESS POINT'S anticipated flow, County staff agrees that CYPRESS POINT only requires a 4" diameter main; however, to minimize the number of small diameter lines within the road rights-of-way and to provide sanitary sewer service to other properties in the area, Lee County Utilities proposes to pay to upsize 3,700' of this 4" diameter line to 6" diameter; and,

Whereas, Lee County Utilities' policy is to request that developers oversize certain utility mains under construction to accommodate anticipated flows at build-out of the area, with the County paying the oversizing costs by cash reimbursements; and,

Whereas, this "upsizing" policy is in accordance with the Lee County Utilities Operation Manual; and,

Whereas, Lee County Utilities proposes construction of an 6" main to handle flows at build-out; and,

Whereas, CYPRESS POINT, by this Agreement, will proceed with the construction of a 6" diameter sewer main with LEE COUNTY reimbursing not-to-exceed \$3.94 per linear foot for upsizing, and all related appurtenances. This not-to-exceed \$19,550.40 is the calculated portion of the project, which is a LEE COUNTY capital cost not attributable to this development. (See attached Cost Estimate).

C10e
3-11-03

APR 04 2003

COPY

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

1. The above recitations are incorporated herein and affirmed by the Parties as if set out further at length.
2. CYPRESS POINT will construct a sewage force main to Lee County Utilities' standards, which will connect CYPRESS POINT to Lee County Utilities Sewer System as shown on the attached Exhibit "A".
3. The sewage force main will be constructed in accordance with the plans prepared by Neese and Associates, Inc., dated 1-30-03, which have been reviewed and approved by Lee County Utilities.
4. CYPRESS POINT will be responsible for obtaining all required Department of Environmental Protection Permits and will ensure compliance with all of Lee County Utilities' standards.
5. Lee County Utilities will reimburse CYPRESS POINT within sixty (60) days upon completion and final acceptance of the sewage force main by the Board of County Commissioners and the submittal of a detailed invoice from CYPRESS POINT to LEE COUNTY, for the actual cost for oversizing the sewage force main, not-to-exceed \$19,550.40.
6. This Agreement shall be binding upon the parties hereto, their successors and assigns, and shall be construed according to the laws of the State of Florida.
7. This Agreement constitutes the entire understanding between the Parties, and supersedes any and all other prior understandings whether written or oral.
8. 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.
9. Should any party 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.
10. Notices to either party should be sent as follows:

If To County:

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

If to Cypress Point:

Eddy Garcia
Watermen At Cypress Point LLC
8045 NW 155th Street
Miami Lakes, FL 33016
305- 828- 0103

WHEREFORE, the Parties indicate their acceptance of the terms and conditions of this Agreement by the signatures of their duly authorized representatives, below:

WATERMEN AT CYPRESS
POINT LLC

[Signature]
Witness

By: [Signature]
Manager

Date: 2/10/03

[Signature]
Witness

STATE OF FLORIDA

COUNTY OF Dee

BEFORE ME personally appeared Eddy Garcia as Manager of WATERMEN AT CYPRESS POINT LLC, known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before that he executed this said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this 11 day of February, 2003.



Maria D Garcia
My Commission DD033924
Expires June 16, 2005

[Signature]
Notary Public

My Commission Expires: June 16, 2005

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: [Signature]
Deputy Clerk

By: [Signature]
Chairman



APPROVED AS TO FORM:

By: [Signature]
Office of County Attorney

Force Main System Upsizing Cost Analysis

Cypress Point

Job No. 010008.00 September 10, 2002

Prepared By: NEESE & ASSOCIATES

Description	Estimated			Total
	Quantity	Units	Unit Price	Estimated Price
Construction Item				
1 6" Automatic Air Relief Valve	1	EACH	3,662.07	3662.07
2 4" Automatic Air Relief Valve	-1	EACH	3,697.13	-3697.13
3 6"x4" Reducer	1	EACH	298.70	298.70
4 10"x4" Reducer	-1	EACH	358.53	-358.53
5 10"x6" Reducer	1	EACH	406.38	406.38
6 6" MJ 45° Bend	6	EACH	345.26	2071.56
7 4" MJ 45° Bend	-6	EACH	270.13	-1620.78
8 6" C900 DR18 PVC Green	3700	LF	7.92	29304.00
9 4" DR 18 PVC Green	-3700	LF	3.98	-14726.00
10 6" Joint Restraint	12	EACH	44.62	535.44
11 4" Joint Restraint	-12	EACH	31.28	-375.36
Engineering Cost for upsizing				1,500.00

TOTAL ESTIMATED COST OF CONSTRUCTION

TOTAL 17,000.35

115% OF TOTAL COST FOR ASSURANCE OF COMPLETION

1.15 19,550.40

ESTIMATED DATE OF COMPLETION OF OFF-SITE IMPROVEMENTS

DECEMBER 2002

LF= Linear Feet

CERTIFIED BY:



EDDIE E. NEESE, P.E. #18364

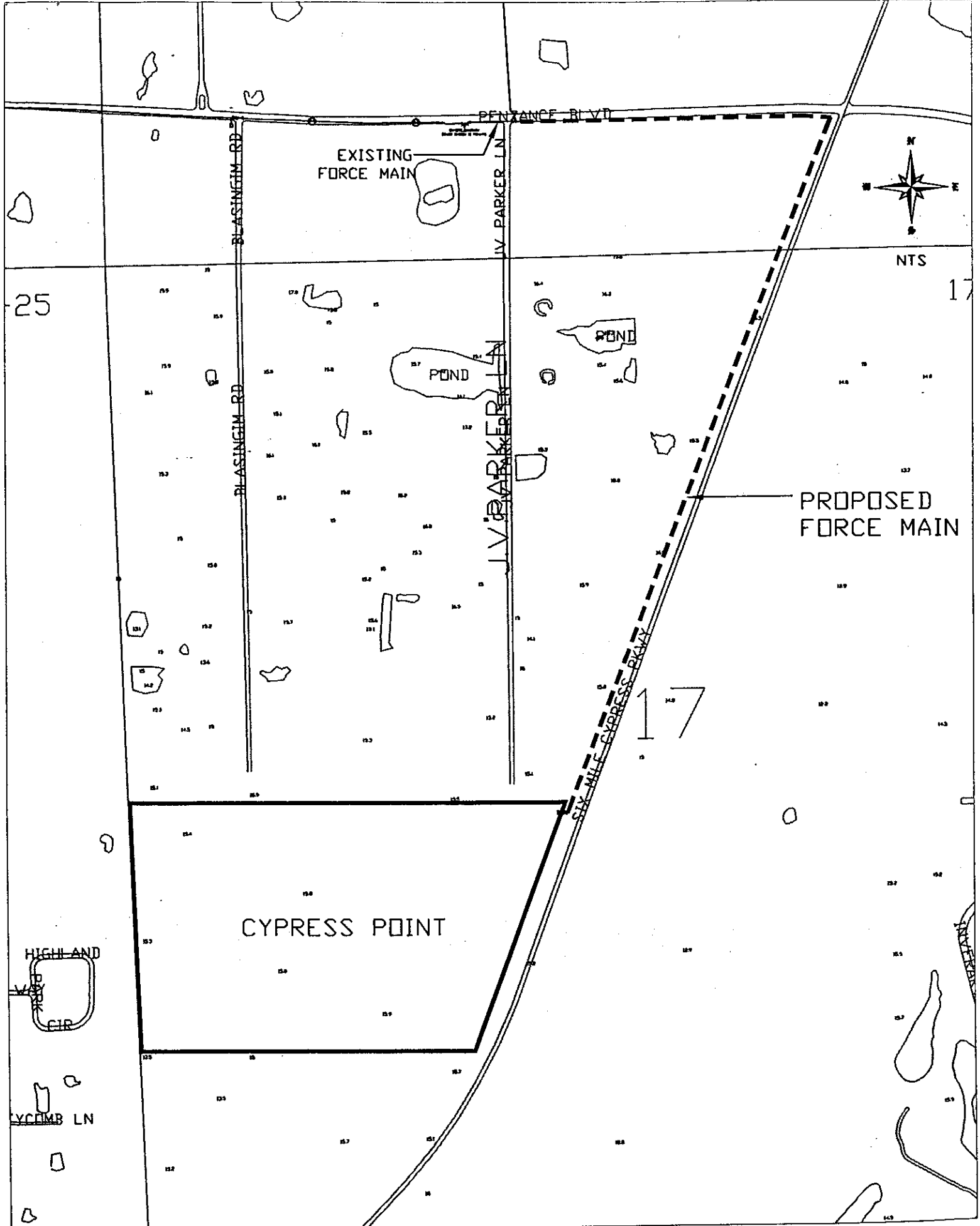


EXHIBIT 'A'

2



This instrument prepared by or under the supervision of

Name: Carlos M. Rodriguez, Esquire
Address: Greenberg Traurig, P.A.
1221 Brickell Avenue
Miami, Florida 33131

(and after recording should be returned to):

Name: Cheryl L. Hastings, Esquire
Address: Grant, Fridkin, Pearson, Athan & Crown, P.A. ✓
Pelican Bay Corporate Center
5551 Ridgewood Drive, Suite 501
Naples, Florida 34108-2719

INSTR # 5995767
Official Records BK 04081 PG 4244
RECORDED 10/03/2003 03:49:22 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY
RECORDING FEE 10.50
DEED DOC 54,908.00
DEPUTY CLERK G Sherwood

Parcel I.D. No: 17-45-25-00-00003.0000

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED is made and entered into as of the 3rd day of ~~September~~ ^{October}, 2003 by **Watermen at Cypress Point L.L.C.**, a Florida limited liability company ("Grantor"), whose mailing address is 8045 NW 155th Street, Miami Lakes, Florida 33016, to **Portofino-Ft. Myers Limited Partnership**, a Florida limited partnership ("Grantee"), whose employer identification number is 01-0696917 and whose mailing address is c/o Hearsthstone, Inc., 55 Francisco Street, Suite 700, San Francisco, CA 94133. Wherever used herein, the terms "Grantor" and "Grantee" shall include all of the parties to this instrument and their successors and assigns.

WITNESSETH:

GRANTOR, for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by Grantee, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain and sell, to Grantee, and Grantee's heirs, successors and assigns forever, the following property located in Lee County, Florida (the "**Property**"), to-wit:

All that part of the North Half of the Southwest Quarter of Section 17, Township 45 South, Range 25 East, Lee County, Florida, lying West of the Westerly right-of-way line of Six Mile Parkway, more particularly described as follows:

Beginning at the West Quarter corner of said Section 17, thence N 88° 52'48" E 2,178.13 feet along the Quarter Section Line to the Westerly right-of-way line of Six Mile Parkway, thence S 19°59'23" W 1,075.41 feet along the said right-of-way line to the P.C. of a curve; thence Southwesterly along said curve to the right, having a radius of 2,739.79 feet, a central angle of 7°21'59", an arc of 352.24 feet, to a point on the South line of the North half of the Southwest Quarter of said Section 17; thence S 88°53'02" W 1,637.06 feet along said South line to the West line of said Section 17; thence N 1°24'28" W 1,322.64 feet to the Point of Beginning.

THIS CONVEYANCE is subject to: (a) taxes and assessments for the year 2003 and subsequent years; (b) all laws, ordinances, regulations, restrictions, prohibitions and other requirements imposed by governmental authority, including, but not limited to, all applicable building, zoning, land use and environmental ordinances and regulations; and (c) easements, leases, conditions, restrictions, orders, matters, limitations and reservations of record, but this reference shall not operate to reimpose same.

TO HAVE AND TO HOLD unto Grantee and Grantee's heirs, successors and assigns in fee

COPY

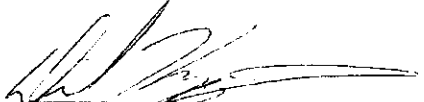
simple forever.

Grantor hereby specially warrants the title to the Property subject to the foregoing matters and will defend the same against the lawful claims of all persons claiming by, through, or under Grantor, and no others.


IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed as of the day and year first above written.

Witnessed by:

Watermen at Cypress Point L.L.C., a Florida limited liability company


Print Name: DAVID KRAIZBREIN

By: 
Name: Eddy Garcia, Manager


Print Name: Maria D Garcia


COPY

STATE OF FLORIDA)
) ss:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 29 day of September, 2003 by Eddy Garcia, Manager of Watermen at Cypress Point L.L.C., a Florida limited liability company, on behalf of the corporation. He is personally known to me or produced personally known as identification.

My commission expires:

Name: Maria D Garcia
Notary Public, State of Florida
Commission No. DD033924

 Maria D Garcia
My Commission DD033924
Expires June 18, 2005

[Notarial Seal]



FLORIDA DEPARTMENT OF REVENUE
RETURN FOR TRANSFERS OF INTEREST IN REAL PROPERTY
 (PLEASE READ INSTRUCTIONS BEFORE COMPLETING)



FDOR10240300
 DR-219
 R. 07/98

Use black ink. Enter numbers as shown below. If typing, enter numbers as shown below.

0	1	2	3	4	5	6	7	8	9			0	1	2	3	4	5	6	7	8	9
---	---	---	---	---	---	---	---	---	---	--	--	---	---	---	---	---	---	---	---	---	---

1. Parcel Identification Number
 (If Parcel ID not available
 please call County Property
 Appraiser's Office) →

17452500000030000

2. Mark (x) all that apply
 Multi-parcel transaction? → Transaction is a split or cutout from another parcel? → Property was improved with building(s) at time of sale/transfer? →

3. Grantor (Seller): **EASEMENT DONATION BY: PORTOFINO-FT MYERS LP (C/O HEARTHSTONE)**

Last		First	MI	Corporate Name (if applicable)		
55 FRANCISCO ST-#700		SAN FRANCISCO	CA	94133	(4152491500	
Mailing Address		City	State	Zip Code	Phone No.	

Last		First	MI	Corporate Name (if applicable)		
RICK DIAZ, P.E., UTIL. DIR. FOR		LEE CO. BOARD OF COUNTY COMMISSION	FL	33902	(2394798181	
Mailing Address		City	State	Zip Code	Phone No.	

5. Date of Sale/Transfer: / / / / /
 Month Day Year

Sale/Transfer Price: \$, , , , , .
 (Round to the nearest dollar.)

Property Located In: **Lee**

6. Type of Document: Contract/Agreement for Deed Other Warranty Deed Quit Claim Deed

7. Are any mortgages on the property? If "Yes", outstanding mortgage balance: \$, , , , , .
 (Round to the nearest dollar.)

YES / NO

8. To the best of your knowledge, were there unusual circumstances or conditions to the sale/transfer such as: Forced sale by court order? Foreclosure pending? Distress Sale? Title defects? Corrective Deed? Mineral rights? Sale of a partial or undivided interest? Related to seller by blood or marriage.
 YES / NO

9. Was the sale/transfer financed? YES / NO If "Yes", please indicate type or types of financing:
 Conventional Seller Provided Agreement or Contract for Deed Other

10. Property Type: Residential Commercial Industrial Agricultural Institutional/Miscellaneous Government Vacant Acreage Timeshare

11. To the best of your knowledge, was personal property included in the sale/transfer? If "Yes", please state the amount attributable to the personal property. (Round to the nearest dollar.)
 YES / NO \$, , , , , .
 Cents

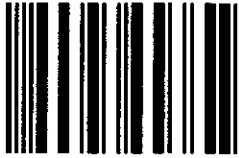
12. Amount of Documentary Stamp Tax \$, , , , , .
 13. If no tax is due in number 12, is deed exempt from Documentary Stamp Tax under s. 201.02(6), Florida Statutes? YES / NO

Under penalties of perjury, I declare that I have read the foregoing return and that the facts stated in it are true. If prepared by someone other than the taxpayer, his/her declaration is based on all information of which he/she has any knowledge.
 Signature of Grantor or Grantee or Agent _____ Date **5/27/04**

WARNING: FAILURE TO FILE THIS RETURN OR ALTERNATIVE FORM APPROVED BY THE DEPARTMENT OF REVENUE SHALL RESULT IN A PENALTY OF \$25.00 IN ADDITION TO ANY OTHER PENALTY IMPOSED BY THE REVENUE LAW OF FLORIDA.

To be completed by the Clerk of the Circuit Court's Office	Clerks Date Stamp
This copy to Property Appraiser O. R. Book and Page Number and File Number <input type="text"/> Date Recorded <input type="text"/> / <input type="text"/> / <input type="text"/> Month Day Year	

This copy to Property Appraiser



FLORIDA DEPARTMENT OF REVENUE
RETURN FOR TRANSFERS OF INTEREST IN REAL PROPERTY
 (PLEASE READ INSTRUCTIONS BEFORE COMPLETING)



FDOR10240300
 DR-219
 R. 07/98

Enter numbers as shown below.

If typing, enter numbers as shown below.

0 1 2 3 4 5 6 7 8 9

0123456789

17452500000030000

1. Parcel Identification Number
 (If Parcel ID not available
 please call County Property
 Appraiser's Office) →

2. Mark (x) all
 that apply Multi-parcel
 transaction? →

Transaction is a split
 or cutout from
 another parcel? →

Property was improved
 with building(s) at time
 of sale/transfer? →

3. Grantor (Seller): **EASEMENT DONATION BY: PORTOFINO-FT MYERS LP (C/O HEARTHSTONE)**

Last First MI Corporate Name (if applicable)
55 FRANCISCO ST-#700 SAN FRANCISCO CA 94133 (4152491500)

Mailing Address City State Zip Code Phone No.
RICK DIAZ, P.E., UTIL. DIR. FOR LEE CO. BOARD OF COUNTY COMMISSION

4. Grantee (Buyer): Last First MI Corporate Name (if applicable)
P. O. BOX 398 FT. MYERS FL 33902 (2394798181)

Mailing Address City State Zip Code Phone No.

5. Date of Sale/Transfer Sale/Transfer Price Property Located In County Code
 \$. 0 0 46
 Month Day Year (Round to the nearest dollar.)

6. Type of Document Contract/Agreement for Deed Other 7. Are any mortgages on the property? If "Yes", YES NO
 outstanding mortgage balance: \$. 0 0
 (Round to the nearest dollar.)

8. To the best of your knowledge, were there unusual circumstances or conditions to the sale/transfer such as: Forced sale by court order? Foreclosure pending? Distress Sale? Title defects? Corrective Deed? Mineral rights? YES NO
 Sale of a partial or undivided interest? Related to seller by blood or marriage.

9. Was the sale/transfer financed? YES NO If "Yes", please indicate type or types of financing:

Conventional Seller Provided Agreement or Contract for Deed Other

10. Property Type: Residential Commercial Industrial Agricultural Institutional/Miscellaneous Government Vacant Acreage Timeshare
 Mark (x) all that apply

11. To the best of your knowledge, was personal property included in the sale/transfer? If "Yes", please state the amount attributable to the personal property. (Round to the nearest dollar.) YES NO \$. 0 0

12. Amount of Documentary Stamp Tax \$ 0.00

13. If no tax is due in number 12, is deed exempt from Documentary Stamp Tax under s. 201.02(6), Florida Statutes? YES NO

Under penalties of perjury, I declare that I have read the foregoing return and that the facts stated in it are true. If prepared by someone other than the taxpayer, his/her declaration is based on all information of which he/her has any knowledge.

Signature of Grantor or Grantee or Agent _____ Date **5/27/04**

WARNING: FAILURE TO FILE THIS RETURN OR ALTERNATIVE FORM APPROVED BY THE DEPARTMENT OF REVENUE SHALL RESULT IN A PENALTY OF \$25.00 IN ADDITION TO ANY OTHER PENALTY IMPOSED BY THE REVENUE LAW OF FLORIDA.

To be completed by the Clerk of the Circuit Court's Office	Clerks Date Stamp
This copy to Department of Revenue	
O. R. Book and Page Number and File Number	
Date Recorded	
Month Day Year	

This copy to Department of Revenue

COPY

TO: LEE COUNTY FINANCE DEPARTMENT

FROM: UTILITIES ENGINEERING
(Department)

BS 20040167-UTL

SUE GULLEDGE

A. AUTHORIZATION:

This transmittal authorizes the UTIL. ENGINEERING office to incur expenses for filing/records against:

Purchase Order # N/A for CYPRESS POINT project. EASEMENT: PORTOFINO-FT MYERS LP
ACCOUNT NO. OD5360748700.504930

ORIGINAL EASEMENT TO MINUTES AFTER RECORDING,
WITH COPY TO SUE GULLEDGE, UTILITIES

Sue Gulledge
SUE GULLEDGE Signature Authorization

B. SERVICE RECEIVED:

RECORDING EASEMENT

O. R. COPIES

PLAT COPIES

CASE #/INDEX FEE

DESCRIPTION OF SERVICE RECORDING

AMOUNT OF FEE INCURRED \$

(date)

(DEPUTY CLERK)

(CUSTOMER) (DEPT.)

THIS FORM GOES TO CASHIER WITH REGULAR RECEIPT ATTACHED

C. INVOICE INFORMATION: (FOR CLERK'S DEPARTMENT ONLY)

REC'D

ENTERED

CUST. # 500283

INV. #

PLEASE REMIT TO: Clerk's Accounting
P.O. BOX 2396
FORT MYERS, FLORIDA 33902-2396
White - FINANCE Yellow - DEPT FISCAL OFFICER Pink - CLERK'S OFFICE