

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

Blue Sheet No. 20061600

**1. ACTION REQUESTED/PURPOSE:**

Enter into an interlocal agreement with the Laguna Lakes Community Development District pertaining to drainage.

**2. FUNDING SOURCE:** No funding required.

**3. WHAT ACTION ACCOMPLISHES:**

The interlocal agreement would allow for the storm water runoff from the Gladiolus Drive improvements to be directed into the Laguna Lakes Subdivision water management system. In exchange, the County will agree to an annual maintenance program for the outfall of the water management system. The agreement will save the County from having to purchase additional rights-of-way to accommodate storm water runoff associated with the planned improvements to Gladiolus Drive.

**4. MANAGEMENT RECOMMENDATION:** Approve and execute agreement.

**5. Departmental Category:** 09 **AQA** **6. Meeting Date:** MAR 13 2007

<b>7. Agenda:</b>	<b>8. Requirement/Purpose: (specify)</b>	<b>9. Request Initiated:</b>
<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Statute 163.01	<b>Commissioner</b> _____
<input checked="" type="checkbox"/> Administrative	<input type="checkbox"/> Ordinance	<b>Department</b> Transportation
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code	<b>Division</b> _____
<input type="checkbox"/> Public	<input type="checkbox"/> Other	<b>By:</b> Scott Gilbertson, Director
<input type="checkbox"/> Walk-On		

**10. Background:**

Lee County DOT is currently designing improvements to Gladiolus Drive that would expand the road from two to six lanes west of Winkler Road. During the early design phase, the developer of the Laguna Lakes RPD, Transeastern Laguna Lakes, LLC, granted certain drainage easements to the County, as well as dedicated additional drainage easements on the approved plat of the subdivision. The intent of these conveyances was that the storm water runoff from the Gladiolus Drive improvements would be directed into the Laguna Lakes drainage system. The easements provided at that time were to allow for the installation of drainage pipes prior to home construction.

Since then, there have been design changes that no longer necessitate the use of some of the drainage easements provided by the developer. The Laguna Lakes Community Development District (CDD), established by County ordinance in 2002, currently controls the Laguna Lakes water management system. The District has offered to provide additional easements over the Laguna Lakes water management system if the County would establish a maintenance schedule for the Laguna Lakes outfall to Hendry Creek (IDD Canals B-1 and B). In addition, the District requests a vacation of drainage easements the County no longer intends to use within the subdivision.

**11. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
2/19/07 <i>[Signature]</i>	N/A			<i>[Signature]</i> 2-21-07	RK 2/22	2/22/07	2/22/07	2/22/07	<i>[Signature]</i> 2-19-07

**12. Commission Action:**

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: *[Signature]*  
2/22 11:30 AM  
COUNTY ADMIN FORWARDED TO: *[Signature]*  
2/23/07 11:30 AM

Rec. by CoAtty  
2/22/07  
Time: 3:20 pm  
Admin 2/22/07 10:30

DOT is in favor of establishing the described maintenance program for the outfall, as well as assume responsibility for the required modifications to the Laguna Lakes South Florida Water Management District permits. DOT will also design modifications to ensure that the current level of service of the Laguna Lakes drainage system will not be adversely affected by the runoff from the Gladiolus Drive improvements.

It is the purpose of the Florida Interlocal Cooperation Act of 1969 to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and, thereby, to provide services and facilities in a manner that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

DOT recommends that the Board execute the proposed interlocal agreement that would accomplish the foregoing arrangement. The agreement will result in savings to the County because the purchase of additional rights-of-way will not be needed to accommodate the increased storm water runoff anticipated from the planned improvements to Gladiolus Drive.

Attachment: Interlocal Agreement

INTERLOCAL AGREEMENT  
BETWEEN  
LEE COUNTY AND THE  
LAGUNA LAKES COMMUNITY DEVELOPMENT DISTRICT  
REGARDING DRAINAGE

This interlocal agreement is made and entered into on 19 October 2006, by and between Lee County, a political subdivision and Charter County of the State of Florida, by its Board of County Commissioners, hereinafter referred to as the "County", with a mailing address of P. O. Box 398, Fort Myers, Florida 33902, and the Laguna Lakes Community Development District, a Uniform Community Development District established by County ordinance on December 2, 2002, pursuant to Florida Statutes, Chapter 190, by its Board of Supervisors, hereinafter referred to as the "District."

WHEREAS, the Laguna Lakes CDD consists of 157 acres located in Section 33, Township 45 South, Range 24 East, on the southeast corner of Bass Road and Gladiolus Drive in Fort Myers; and,

WHEREAS, Lee County is in the process of designing improvements to Gladiolus Drive, adjacent to the Laguna Lakes Residential Planned Development (District property); and,

WHEREAS, in anticipation of the improvements, the developer, Transeastern Laguna Lakes, LLC granted a drainage easement to the County identified in Official Record Book 4206 at Page 2350; and,

WHEREAS, the Laguna Lakes Community Development District granted a drainage easement to the County identified in Official Record Book 4251 at Page 1669; and,

WHEREAS, Transeastern Laguna Lakes, LLC also dedicated easements on the approved plat (Plat Book 74, Pages 1 through 8) so that drainage pipes could be installed prior to the construction of homes in the event that the District was to grant the County an easement over the surface water management system for Laguna lakes; and,

WHEREAS, because of changes in the design in the planned road improvements, the County does not intend to use all the drainage easements granted and/or dedicated to it for this purpose; and,

WHEREAS, the Laguna Lakes Community Development District currently owns and operates the Laguna Lakes surface water management system; and,

WHEREAS, the District is willing to provide additional easements over portions of the Laguna Lakes surface water management system and allow modification of the

Laguna Lakes South Florida Water Management District General Permit No. 36-04104P if the County will agree to a maintenance schedule for the Laguna Lakes outfall to Hendry Creek; and,

WHEREAS, the District desires to vacate the drainage easements that the County does not plan to use, concurrently with the grant of alternate drainage easements by the District to the County; and,

WHEREAS, the County and the District are empowered pursuant to Florida Statutes, Section 163.01, to enter into interlocal agreements to coordinate common goals and purposes to their mutual advantage; and,

WHEREAS, the parties wish to enter into this interlocal agreement to effectuate their purposes.

NOW, THEREFORE, it is agreed as follows:

Section I - Purpose.

- A. The County and the District agree to enter into this interlocal agreement pertaining to the accommodation of drainage for the Gladiolus Drive improvements. The District agrees to accept storm water runoff from the improved Gladiolus Drive through the Laguna Lakes surface water management system subject to the provisions and conditions set forth in this agreement.

Section II - District Obligations.

- A. The District agrees to grant Lee County a Perpetual Drainage Easement ("Drainage Easement") over the property more particularly described in attached Exhibit "A", which property is intended to describe certain aspects of the surface water management system of the Laguna Lakes RPD property, identified in the South Florida Water Management District General Permit No. 36-04104P. The form of the Drainage Easement to be granted to the County is attached as Exhibit "B". The District shall execute the Drainage Easement upon the vacation of the easements, as set forth in Paragraphs III (b) and (c).
- B. The Drainage Easement will grant Lee County the right to use the Laguna Lakes surface water management system to convey and accommodate water storage in accordance with South Florida Water Management District permits applicable to the improvements associated with the widening of Gladiolus Drive.
- C. The District agrees to retain primary responsibility for the maintenance of the surface water management system within the Laguna Lakes RPD in perpetuity. The Drainage Easement will grant the County the right to enter the District's property to maintain the water management system if the District fails to maintain

the system properly.

Section III. County Obligations.

- A. The County agrees to annually maintain the existing former Iona Drainage District (IDD) Canals B-1 and B from Gladiolus Drive to Hendry Creek. IDD Canals B-1 and B serve as the primary outfall for the Laguna Lakes water management system to ensure that the increased stormwater discharged into the Laguna Lakes surface water management system does not adversely affect the system.
- B. County staff will initiate a petition to vacate existing drainage easements that the County does not intend to use in the future located within Laguna Lakes described in OR Book 4206 at Page 2350, OR Book 4251 at Page 1669, and Plat Book 74 at Page 4 in lots numbers 45, 46, 87, and 88.
- C. The County will process the petition to vacate the drainage easements described in paragraph III.B. All costs associated with County's processing of the petition to vacate, including, but not limited to, any application fees, will be borne by County. If the Board of Commissioners for Lee County, Florida, denies the petition to vacate the existing drainage easements set forth above, this Agreement will terminate and be of no further force and effect.
- D. The County agrees to modify the existing Laguna Lakes South Florida Water Management District General Permit No. 36-04104P and design the necessary modifications to the surface water management system to ensure that there will be no adverse effect on the current level of service. All permit applications shall be provided to the District prior to submittal to the South Florida Water Management District. Furthermore, copies of all correspondence between the County and the South Florida Water Management District shall be immediately provided to the District to the addresses provided in this Agreement.
- E. Pursuant to the terms and limitations of Florida Statutes, §768.28, the County shall indemnify and hold harmless the District for any and all liability incurred by the District as a result of the County's discharge of storm water into the Laguna Lakes surface water management system or the County's failure to maintain the outfall as provided in Section III.A. This indemnification includes any liability incurred as a result of water quality violations that arise from the County's storm water discharged into the system.

Section IV. Filing.

- A. The inter-local agreement and subsequent amendments thereto will be filed with the Lee County Clerk of the Circuit Court, Minutes Department.

Section V. Notices.

A. Notices and other documentation permitted or required to be delivered pursuant to this interlocal agreement will be delivered to the County and the District at the following addresses:

1. Chairman of the Board of the Lee County Commissioners  
P. O. Box 398  
Fort Myers, FL 33902-0398

With a copy to:

David Owen, County Attorney  
2115 Second Street  
P. O. Box 398  
Fort Myers, FL 33902-0398

2. Laguna Lakes Community Development District Board of Supervisors  
Andy Mendenhall, District Manager  
c/o Severn Trent Services, Inc.  
10300 NW 11<sup>th</sup> Manor  
Coral Springs, FL 33071

With a copy to:

Andrew Cohen, District Attorney  
1820 Ringling Blvd.  
Sarasota, Florida 34236

Carl A. Barraco, P.E., President, District Engineer  
Barraco & Associates, Inc.  
P. O. Drawer 2800  
Fort Myers, FL 33902-2800

Section VI. Hold Harmless.

A. The parties agree that by execution of this agreement neither party has waived the statutory defense of sovereign immunity or agreed to increase the limits of liability provided for by Florida Statutes. In addition, the parties agree that with the exception of § III E, this agreement will not be construed to constitute agreement by either party to indemnify the other party for the other party's own negligent, willful, or intentional acts or omissions.

Section VII. Term of Agreement.

- A. This agreement will begin upon execution by all parties and will continue in effect unless terminated by either party upon 180 days written notice in accordance with Section VIII.

Section VIII. Termination.

- A. Failure of the County or the District to materially comply with any provision of this agreement will be a material breach. Under those circumstances, this agreement will be terminated at the discretion of either party. In the event of material breach, the parties must provide written Notice of Breach to the other party via certified mail.
- B. Either party may terminate this agreement for cause by providing 180 days written notice to the other party.
- C. Should this Agreement be terminated, County shall immediately execute and record a termination of the Drainage Easement granted over the Laguna Lakes surface water management system pursuant to this Agreement

Section IX. Waiver or Modification.

- A. This agreement constitutes the entire agreement between the County and the District concerning the subject matter hereof, and the agreement may not be amended, waived, or rescinded, except in writing executed by both parties. No waiver of any provision here or on any occasion will be a waiver for any other purpose or affect the enforcement of this agreement or its terms in the future. Modifications to the agreement will be memorialized in the form of a written amendment adopted with the same formality as the original interlocal agreement.

Section X. Severability.

- A. If any provision or part thereof contained in this agreement is held unconstitutional, invalid or unenforceable by a court of competent jurisdiction, the remainder of the agreement, or portions thereof, will be deemed severable and will not be affected by such termination, and will remain in full force and effect.

IN WITNESS WHEREOF, the County and the District have executed this interlocal agreement on the day, month, and year first written above.

ATTEST:  
CHARLIE GREEN, CLERK

Board of County Commissioners  
of Lee County, Florida

By: \_\_\_\_\_  
Deputy Clerk

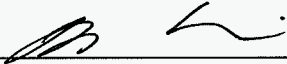
By: \_\_\_\_\_  
Robert P. Janes  
Chair

Approved as to form:

By: \_\_\_\_\_  
Robert D. Spickerman  
Lee County Attorney's Office



Witnesses:

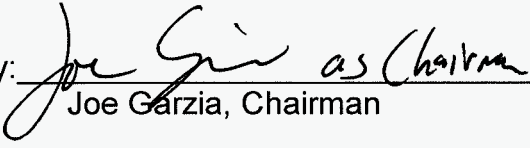
  
Signature

MIKE ROWE  
Printed Name

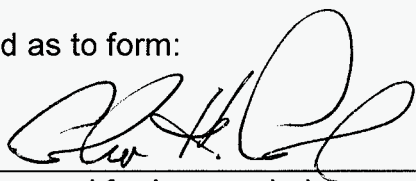
  
Signature

PAUL NEIGHBORS  
Printed Name


Board of Supervisors, Laguna Lakes  
Community Development District

By:   
Joe Garzia, Chairman

Approved as to form:

By:   
Counsel for Laguna Lakes  
Community Development District

ATTEST:

By:   
Jonathan Busa, District Secretary

This Instrument Prepared by:

Lee County Attorney's Office  
Post Office Box 398  
Fort Myers, Florida 33902-0398

STRAP Number:

This Space for Recording

### **PERPETUAL DRAINAGE EASEMENT**

This indenture is made this 19 day of OCTOBER 2006, between the Laguna Lakes Community Development District, a Uniform Community Development District established by County ordinance on December 2, 2002, pursuant to Florida Statutes, Chapter 190, by its Board of Supervisors (Grantor), and Lee County, a political subdivision of the State of Florida, Post Office Box 398, Fort Myers, Florida 33902-0398 (Grantee), and states as follows:

For good and valuable consideration, receipt of which is hereby acknowledged, Grantor grants to Grantee, its successors and assigns, a perpetual drainage easement over that portion of the surface water management system on the Laguna Lakes Residential Planned Development identified in South Florida Water Management District (SFWMD) General Permit and Stormwater Discharge Certification No. 36-04104P, more particularly described in attached Exhibit "A."

This easement includes the right to use the water management system to store water quality volumes in accordance with the SFWMD requirements applicable to the improvements associated with Gladiolus Drive Improvement Project CIP # 4083. Grantee has the right and authority to maintain the water management system within the easement area, including the right to enter upon Grantor's lands, in the event the Grantor fails to properly maintain the system so that it will continuously accommodate the off-site water volume storage required by the Gladiolus Drive Improvement Project. The primary responsibility for maintaining the water management system lies with the Grantor.

Grantor warrants that subject to existing easements, if any, for public highways, roads, railroads, laterals, ditches, pipelines, and electrical transmission and/or distribution lines and telephone and cable television lines covering the land described above, Grantor is lawfully possessed of the land and has good and lawful right and power to convey, and that the property is free and clear of all liens and encumbrances except as recorded in the public records.

This easement is binding on the parties, their successors, and assigns.

**DESCRIPTION**

Parcels in  
Section 33, Township 45 South, Range 24 East  
Lee County, Florida

Tracts or parcels of land being known and designated as Tracts "A", "B", "C", "D", "E" and "G" and the Drainage Easement and/or Lake Access Easements falling on either side of the property line for Lots 10, 11, 45, 46, 54, 55, 70, 71, 87, 88, 114, 115, 134, 135, 174, 175, 183, 184, 208, 209, 222, 223, 286, 287, 350, 351, 370, and 371 as shown on the record plat of Laguna Lakes, a subdivision lying in Section 33, Township 45 South, Range 24 East, Lee County, Florida, as recorded in Plat Book 74, Page 1, Lee County Records, together with two Perpetual Drainage and Access Easements as recorded in Official Record Book 4206, Page 2350, Lee County Records.

**Together with:**

A tract or parcel of land lying in Section 33, Township 45 South, Range 24 East, Lee County, Florida, said tract or parcel being more particularly described as follows:

Commencing at a the Northwest corner of Tract "G" as shown on the record plat for "Laguna Lakes", recorded in Plat Book 74, Page 1 Lee County Records, run N88°56'23"E along the northerly line of said tract for 120.75 feet to a point of curvature; thence run easterly along an arc of curve to the right of radius 100.00 feet (delta 02°07'30") (chord bearing S89°59'52"E)(chord 3.71 feet) for 3.71 feet to the **Point of Beginning**;

From said **Point of Beginning** run N10°01'27"E along a non-tangent line for 174.12 feet to a point on a non-tangent curve; thence run easterly along an arc of curve to the right of radius 470.50 feet (delta 09°17'18") (chord bearing S76°14'42"E) (chord 76.19 feet) for 76.27 feet; thence run N05°44'44"E along a non tangent line for 135.66 feet; thence run N84°15'16"W for 184.88 feet to a point of curvature; thence run northwesterly along an arc of curve to the right of radius 30.00 feet (delta 68°51'27") (chord bearing N49°00'25"W) (chord 33.92 feet) for 36.05 feet to a point of tangency; thence run N14°34'42"W for 69.71 feet to a point of curvature; thence run northeasterly along an arc of curve to the right of radius 30.00 feet (delta 103°30'09") (chord bearing N37°10'23"E)(chord 47.12 feet) for 54.19 feet to a point of tangency; thence run N88°55'27"E for 433.97 feet to a point of curvature; thence run southeasterly along an arc of curve to the right of radius 30.00 feet (delta 90°00'00") (chord bearing S46°04'33"E)(chord 42.43 feet) for 47.12 feet to a point of tangency; thence run S01°04'33"E for 228.68 feet to a point of curvature; thence run southwesterly along an arc of curve to the right of radius 30.00 feet (delta 129°43'02") (chord bearing S63°46'58"W)(chord 54.32 feet) for 67.92 feet to a point of tangency; thence run N51°21'31"W for 186.58 feet to a point of curvature;

**cont. on next page**

Post Office Drawer 2800 • Fort Myers, FL 33902  
Phone (239) 461-3170 • Fax (239) 461-3169

thence run westerly along an arc of curve to the left of radius 25.00 feet (delta 32°53'45") (chord bearing N67°48'23"W)(chord 14.16 feet) for 14.35 feet to a point of tangency; thence run N84°15'16"W for 42.87 feet; thence run S05°44'44"W for 187.42 feet to a point on a non-tangent curve; thence run westerly along an arc of curve to the left of radius 425.50 feet (delta 11°31'23") (chord bearing N73°12'15"W) (chord 85.43 feet) for 85.58 feet; thence run S10°01'27"W along a non-tangent line for 127.90 feet to an intersection with the Northerly of said Tract "G" and a point on a non-tangent curve; thence run westerly along an arc of curve to the left of radius 100.00 feet (delta 08°37'51") (chord bearing N84°37'12"W) (chord 15.05 feet) for 15.06 feet to the POINT OF BEGINNING.

Containing 2.20 acres, more or less.

Bearings shown are for the record plat of Laguna Lakes as recorded in Plat Book 74, Page 1, Lee County Records, and are based on the northerly line of Tract "G" to bear N88°56'23"E.

### And Together with:

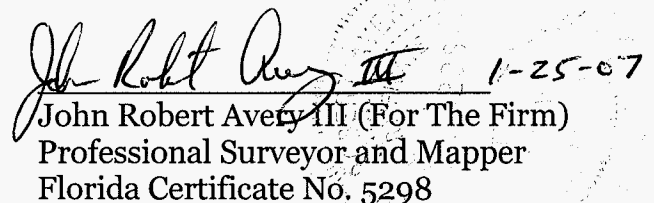
A tract or parcel of land lying in Section 33, Township 45 South, Range 24 East, Lee County, Florida, said tract or parcel being more particularly described as follows:

Commencing at a the Northeast corner of Tract "B" as shown on the record plat for "Laguna Lakes", recorded in Plat Book 74, Page 1 Lee County Records run S01°05'20"E along the East line of said tract for 238.97 feet to the **Point of Beginning**;


From said **Point of Beginning** run N88°53'21"E for 114.95 feet across Tracts "L" & "M" of said plat to an intersection with the West line of Tract "N" of said plat and the Former Iona Drainage District Canal B-1, as recorded in Official Record Book 1264, Page 2142, Lee County Records; thence run S01°06'34"E along said West line for 15.00 feet; thence run S88°53'21"W for 114.95 feet to an intersection with the East line of said tract ; thence run N01°05'20"W along said East line for 15.00 feet to the **Point of Beginning**.


Containing 1,724 square feet, more or less.

Bearings shown are for the record plat of Laguna Lakes as recorded in Plat Book 74, Page 1, Lee County Records, and are based on the Easterly line of Tract "B" to bear S01°05'20"E.

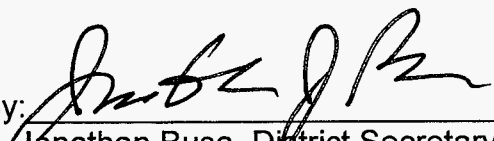
  
John Robert Avery III (For The Firm)  
Professional Surveyor and Mapper  
Florida Certificate No. 5298

Witnesses:

  
Signature  
MIKE ROWE  
Printed Name

  
Signature  
PAUL NEIGHBORS  
Printed Name

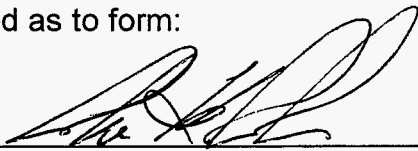
ATTEST:

By:   
Jonathan Busa, District Secretary

Board of Supervisors, Laguna Lakes  
Community Development District

By:   
Joe Garzia, Chairman

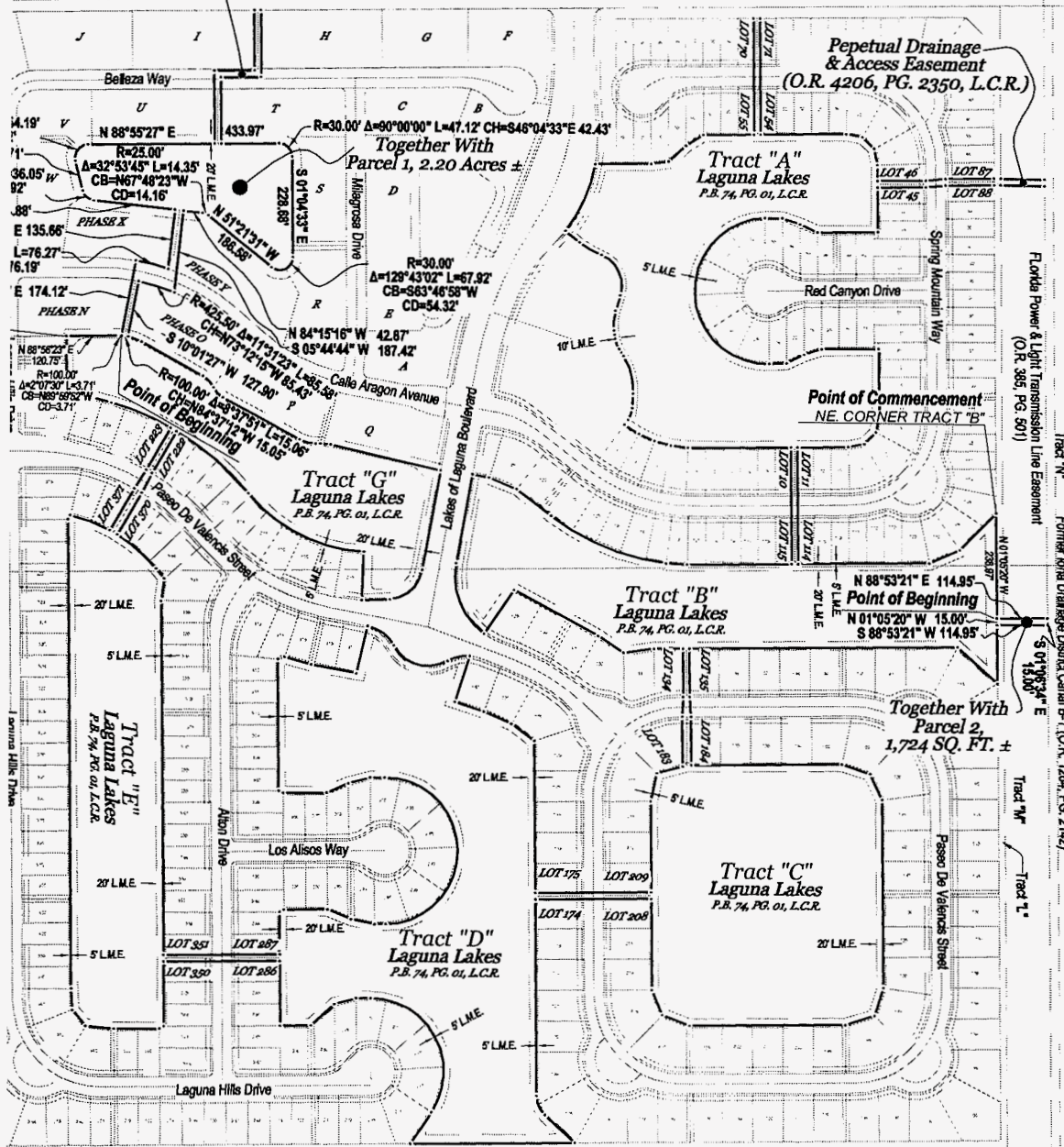
Approved as to form:

By:   
Counsel for Laguna Lakes  
Community Development District

Perpetual Drainage  
& Access Easement  
(O.R. 4206, PG. 2350, L.C.R.)

Gladiolus Drive

Perpetual Drainage  
& Access Easement  
(O.R. 4206, PG. 2350, L.C.R.)



# Barraco

and Associates, Inc.

CIVIL ENGINEERING - LAND SURVEYING  
LAND PLANNING - LANDSCAPE DESIGN

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POST OFFICE DRAWER 2800  
FORT MYERS, FLORIDA 33902-2800  
PHONE (238) 481-5170  
FAX (238) 481-5169

FLORIDA CERTIFICATE OF AUTHORIZATION  
ENGINEERING 7865 - SURVEYING LB-8948

PREPARED FOR

PROJECT DESCRIPTION

## LAGUNA LAKES

PLAT BOOK 74, PAGE 1-4,  
LEE COUNTY RECORDS  
SECTION 33  
TOWNSHIP 45 SOUTH  
RANGE 24 EAST  
LEE COUNTY, FLORIDA

PROJECT SURVEYOR



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

FILE NAME: 21835SK01.DWG  
LAYOUT: LAYOUT1  
LOCATION: J:\21835SK01\SURVEY\HD03KET04  
PLOT DATE: THU 1-25-2007 12:27 PM  
PLOT BY: JOHN AVERY

DRAWING DATA

SURVEY DATE: 01/14/2007  
DRAWN BY: BWH  
CHECKED BY: JRA  
SCALE: AS NOTED  
FIELD BOOK:

PLAN REVISIONS

STRAP NUMBERS

SKETCH TO  
ACCOMPANY  
DESCRIPTION

PROJECT / FILE NO: 21835  
33-455-24E  
SHEET NUMBER:  
3 OF 3

IN WITNESS WHEREOF, the County and the District have executed this interlocal agreement on the day, month, and year first written above.

ATTEST:  
CHARLIE GREEN, CLERK

Board of County Commissioners  
of Lee County, Florida

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Robert P. Janes  
Chair

Approved as to form:

By: \_\_\_\_\_  
Robert D. Spickerman  
Lee County Attorney's Office