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| Meeting Date |
| 09/19/2017 |



| AGENDA | |
|----------|----------|
| Section | Consent |
| Item No. | II. A. 8 |

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

| | |
|--------------|---|
| SUBJECT: | Approval Re: Acceptance of Temporary Construction Easement for Construction Related to the J-02 Lift Station (CVS Store at Fay Boulevard and US Highway 1) - District 1. (Fiscal Impact: None) |
| DEPT/OFFICE: | Public Works Department / Land Acquisition Section / Utility Services Department |

Requested Action:

It is requested that the Board of County Commissioners accept and authorize staff to record the Temporary Construction Easement.

Summary Explanation & Background:

The subject property is located in Section 18, Township 23 South, Range 36 East.

Utility Services has plans for constructing a new lift station within an easement over a portion of the CVS store property located near the intersection of Fay Boulevard and US 1 in the Cocoa area. The new lift station will: replace an existing lift station that is over 47 years old, bring it up to current operational standards, and reduce safety risks to County staff. CVS as the Tenant, and Brian C. Malk, Trustee of the Brian C. Malk Trust dated February 3, 1981, as to an undivided 36% tenancy-in-common interest and Victoria Land Partners, L.P., a California Limited Partnership, as to an undivided 64% tenancy-in-common interest hereinafter collectively called the Owners, have executed the Perpetual Lift Station Easement for the construction and continued maintenance of the J-02 Lift Station.

Additionally, the Tenant / Owners have executed a Temporary Construction Easement for use related to the construction of the facility. Once accepted by the Board and recorded, the duration of the Temporary Construction Easement will be 18 (eighteen) months.

Fiscal impact: FY 2016-2017: No impact
FY 2017-2018: No impact

Clerk to the Board Instructions: Forward the Board approval memo to Department.

Exhibits Attached: Copy of executed Temporary Construction Easement, Location Map, Property Fact Sheet

| | | | | | | | |
|---|--|-----|--------------------------|---|--------------------------|----|--------------------------|
| Contract / Agreement (If attached): Reviewed by County Attorney | | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | PR | <input type="checkbox"/> |
| County Manager Frank Abbate | Assistant County Manager John P. Denninghoff | | | Department Director / Extension Andrew J. Holmes, PE (Interim) / 52707 | | | |
| | Interim Assistant County Manager Jim Liesenfelt | | | Jim Helmer / 52091 | | | |

BOARD OF COUNTY COMMISSIONERS

AGENDA: CVS SITE (Lift Station J - 02) TEMPORARY CONSTRUCTION
EASEMENT-DISTRICT 1

AGENCY: PUBLIC WORKS DEPARTMENT / LAND ACQUISITION SECTION/
UTILITY SERVICES DEPARTMENT

AGENCY CONTACT: DAN JONES LAND ACQUISITION SUPERVISOR

CONTACT PHONE: 321-690-6847 (5-2726)

REVIEW

| | APPROVE | DISAPPROVE | DATE |
|---|------------|------------|------------------|
| LAND ACQUISITION Dan Jones, Supervisor | <u>DPJ</u> | _____ | <u>8/22/17</u> |
| COUNTY ATTORNEY Eden Bentley Deputy County Attorney | <u>EB</u> | _____ | <u>8/23/17</u> |
| PUBLIC WORKS Andrew J. Holmes, P.E., Director | <u>AJH</u> | _____ | <u>8/31/2017</u> |
| UTILITY SERVICES Jim Helmer, Director | <u>JH</u> | _____ | <u>8/28/17</u> |

AGENDA DUE DATE: September 5, 2017 for the September 19, 2017 Board meeting

IF ANY REVIEWING OFFICE HAS QUESTIONS OR CONCERNS REGARDING THIS PACKAGE, PLEASE ADVISE AGENCY CONTACT IMMEDIATELY.

PLEASE CALL DEBBIE CRUZ AT 690-6847 (5-6847) WHEN READY TO BE PICKED UP.

THANK YOU.



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

September 20, 2017

M E M O R A N D U M

TO: Andrew Holmes, Interim Public Works Department Director Attn: Dan Jones

RE: Item II.A.8., Acceptance of Temporary Construction Easement for Construction Related to the J-02 Lift Station (CVS Store at Fay Boulevard and U.S. Highway 1)

The Board of County Commissioners, in regular session on September 19, 2017, accepted the Temporary Construction Easement for construction related to the J-02 Lift Station (CVS Store at Fay Boulevard and U.S. Highway 1).

Upon recordation of the Temporary Construction Easement, please provide a copy to this Office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

for Donna Scott
Tammy Rowe, Deputy Clerk
/ds

cc: Assistant County Manager Denninghoff
Utility Services Director
Asset Management

Recorded
↓

TEMPORARY CONSTRUCTION EASEMENT

For and in consideration of the benefits accruing to MNG II, LP, a California limited partnership, as to an undivided 36% interest, and Midtown National Group, LP a California limited partnership, formerly known as Victoria Land Partners, L.P., a California limited partnership, as to an undivided 64% interest, as tenants-in common, collectively called OWNERS, Whose address is 9171 Towne Centre Drive, Suite 335, San Diego, California 92122 do hereby give, grant, bargain and release to the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter called COUNTY, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940, a temporary easement on that portion of the lands of the Owners being described as follows:

See Attached Legal Descriptions

For purposes related to the construction of a sanitary lift station to be located on the adjacent property described in that certain Perpetual Lift Station Easement in favor of Brevard County, Dated February 23, 2016. It is that the construction is to be undertaken by Brevard County Florida.

The first party does hereby covenant with the second party that it is lawfully seized and possessed of the lands above described and that it has a good and lawful right to convey it or any part thereof.

THIS EASEMENT shall expire 30 (thirty) days after the completion of the Project or 18 (eighteen) months after recording the Agreement, whichever occurs first.

Dated this the 22 day of August, 2017.

Signed, sealed and delivered in the presence of:

Owner:

[Signature]
(Witness #1):

KIMLY TIPPAKORN
(Type or Print Name)

[Signature]
(Witness #2)

CATHY NAVARRO
(Type or Print Name)

MNG II, LP
a California limited partnership

By: MNG Management, LLC
a California limited liability company
Its: General Partner

[Signature]
By: Daron Young
Its: Manager

FLORIDA LAW REQUIRES EXECUTION OF DOCUMENT BEFORE TWO WITNESSES AND NOTARY PUBLIC

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

CFN 2017195874, OR BK 7986 PAGE 1951.
Recorded 09/22/2017 at 09:13 AM, Scott Ellis, Clerk of Courts,
Brevard County
Pgs: 4

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On August 22, 2017, before me, Shirley Monroy, Notary Public, personally appeared Daron Young, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]
Notary Public in and for said County and State



Notary and additional signatures on following page-

[Signature]
(Witness #1):

KIMLY TIPPAKORN
(Type or Print Name)

[Signature]
(Witness #2):

CATHY NAVARRO
(Type or Print Name)

Midtown National Group, LP, formerly known as Victoria Land Partners, L.P.
a California limited partnership

By: MNG Management, LLC
a California limited liability company
Its: General Partner

By: [Signature]
Daron Young
Its: Manager

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WITNESS my hand and official seal.



[Signature]
Notary Public in and for
said County and State

BCC Agenda Item # IIA.8
Date: 09/19/2017

LEGAL DESCRIPTION

SECTION 18, TOWNSHIP 23 S., RANGE 36 E
PARENT PARCEL ID # 23-36-18-50-00371.0-0003.00

PURPOSE: TEMPORARY CONSTRUCTION EASEMENT

EXHIBIT B
SHEET 1 OF 2
NOT VALID WITHOUT
SHEET 2 OF 2

LEGAL DESCRIPTION: TEMPORARY CONSTRUCTION EASEMENT PARCEL L 701, BY SURVEYOR:

A PORTION OF THE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 6095, PAGES 1909 THROUGH 1914 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND BEING PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT LYING ON THE WESTERLY LINE OF LOT 5, BLOCK 371 AS SHOWN ON THE REPLAT OF BLOCK 17 PORT ST. JOHN UNIT ONE AS RECORDED IN PLAT BOOK 16, PAGE 104 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, WHICH IS ALSO THE POINT OF BEGINNING OF THE PARENT TRACT OF THE LANDS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 6095, PAGES 1909 THROUGH 1914, SAID POINT LYING 55.00 FEET NORTHWESTERLY OF THE SOUTHWEST CORNER OF SAID LOT 5 AND SAID POINT ALSO BEING THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 25.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS S67°47'35"W; THENCE ALONG THE BOUNDARIES OF SAID BLOCK 371, THE FOLLOWING TWO COURSES AND DISTANCES: THENCE NORTHWESTERLY, NORTHERLY AND NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°00'00", A DISTANCE 39.27 FEET; THENCE N67°47'35"E, ALONG THE NORTHERLY LINE OF BLOCK 371 AND WEST AVENUE (PORTION NOW VACATED), A DISTANCE OF 249.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N67°47'35"E, A DISTANCE OF 15.00 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE NORTHEASTERLY, EASTERLY AND SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°00'00", A DISTANCE OF 39.27 FEET TO THE POINT OF TANGENCY AND SAID POINT LYING ON THE NORTHWESTERLY PROLONGATION OF THE EASTERLY BOUNDARY LINE OF TRACT "B" AS SHOWN ON THE PLAT OF PORT ST. JOHN UNIT ONE AS RECORDED IN PLAT BOOK 13, PAGES 126 THROUGH 130 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S22°12'25"E ALONG SAID EASTERLY BOUNDARY OF TRACT "B", AND ITS NORTHWESTERLY PROLONGATION, AND WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1, A DISTANCE OF 18.00 FEET; THENCE S67°47'35"W, A DISTANCE OF 40.00 FEET; THENCE N22°12'25"W, A DISTANCE OF 43.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1585.88 SQUARE FEET MORE OR LESS AND SUBJECT TO ANY EASEMENTS AND/OR RIGHTS OF WAY OF RECORD.

SURVEYOR'S NOTES:

1. THIS IS NOT A BOUNDARY SURVEY.
2. BEARINGS DEPICTED HEREON ARE BASED ON THE NORTHERLY LINE OF BLOCK 371 & WEST AVENUE (PORTION NOW VACATED), PORT ST. JOHN UNIT ONE AS RECORDED IN PLAT BOOK 16, PAGE 104 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, HAVING A BEARING OF N67°47'35"E (RECORD PLAT).
3. SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.
4. THIS DESCRIPTION WAS PREPARED WITH THE BENEFIT OF B&B TITLE SERVICES, INC. OWNERSHIP AND ENCUMBRANCE CERTIFICATE, CUSTOMER FILE NO. 14-15TD-J-02 LIFT STATION PROJECT.
5. SKETCH DOES NOT WARRANT TITLE.
6. THIS SKETCH WAS PREPARED FOR THE EXCLUSIVE USE OF THE CLIENT (S) SHOWN HEREON; COPIES ARE VALID ONLY WHEN SIGNED, DATED AND EMBOSSED WITH THE SURVEYOR'S SEAL.

MAP OF LEGAL DESCRIPTION PREPARED FOR AND
CERTIFIED TO: THE BREVARD COUNTY BOARD OF
COUNTY COMMISSIONERS

DAVID J. KUGELMANN, PLS NO. 5117
NOT VALID UNLESS SIGNED AND SEALED

KUGELMANN LAND SURVEYING, INC.

30 NORTH TROPICAL TRAIL, SUITE B
MERRITT ISLAND, FLORIDA 32953
L.B. NO. 6575 - PHONE (321) 459-0930

DRAWN BY: DJK

CHECKED BY: DJK

DRAWING NO. 2014072

SECTION 18

DATE: 2-17-15

SHEET 1 OF 2

REVISIONS _____

TOWNSHIP 23 SOUTH

RANGE 36 EAST



Dana Blickley, CFA
Brevard County Property Appraiser

Location Map – CVS Lift Station



North Government Complex
400 South St, 5th Floor
Titusville, FL 32780
Phone: (321) 264-6700
Fax: (321) 264-6954

Merritt Island Services Complex
2576 N Courtenay Pkwy
Merritt Island, FL 32953
Phone: (321) 454-8620
Fax: (321) 454-8618

Viera Government Center
2725 Judge Fran Jamieson Wy
Viera, FL 32940
Phone: (321) 690-6880
Fax: (321) 690-6883

South Services Complex
1815 Samo Rd
Melbourne, FL 32936
Phone: (321) 255-4440
Fax: (321) 255-4439

Palm Bay Service Complex
450 Cogan Dr, SE
Palm Bay, FL 32909
Phone: (321) 952-4574
Fax: (321) 952-4573

Document content intended for assessment purposes only. Not a survey. Map layers may not precisely align. Other disclaimers apply.

Printed Wednesday, November 4, 2015 at 10:05 AM. www.bcpao.us

PROPERTY FACT SHEET

PROJECT: CVS / J-02 Lift Station Easement

OWNER: Malk Trust and Victoria Land Partners, L.P.

TENANT: CVS store # 3709-02

PARCEL LOCATION: 1185 Fay Blvd., Cocoa, Florida 32927

PARCEL SIZE: 1.62 Acre (per Property Appraiser site)

EASEMENT AREA: Perpetual Ease – 1,600 square feet
TCE – 1,585.88 square feet

ZONING: BU-1Commercial – Fast Food Restaurant

IMPROVEMENTS: 13,050 sqft drug store building

TOPOGRAPHY: Level with road grade, no wetlands indicated

FLOOD ZONE: X (outside 500-year flood)

TAX PARCEL ID#: 23-36-18-50-00371.0-0003.00

MARKET VALUE: \$1,325,000.00 (2014 Assessment)
(Property Appraiser's Records)

PUBLIC UTILITIES: All utilities

PROPERTY TRANSACTION: Purchase date: 12/26/2009
(Clerk of the Court Records) Sale amount: \$3,000,000.00 (OR Book 6095, Page 1909)