



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.10.

8/22/2023

Subject:

Approval, Re: Donation of Utility Easement from Windward Sebastian Marina Owner, LLC for the benefit of Lift Station X-24 as part of the Save Our Indian River Lagoon Micco Zone A Septic to Sewer Conversion Project - District 3.

Fiscal Impact:

None

Dept/Office:

Public Works Department / Land Acquisition / Natural Resources Management Department/Utility Services Department

Requested Action:

It is requested that the Board of County Commissioners approve and accept the attached Utility Easement.

Summary Explanation and Background:

The subject property is located in Section 14, Township 30 South, Range 38 East, on the east side of Highway US 1 northeast of Daytona Boulevard in Micco.

Natural Resources Management Department is undertaking a project known as Micco Zone A Septic to Sewer Conversion Project, in conjunction with the Utility Services Department to help improve Indian River Lagoon water quality by reducing excess nitrogen loading the lagoon. The Micco Zone A septic to sewer project was included in the Save Our Indian River Lagoon Project Plan, as approved by the Board of County Commissioners. The owner donated the lift station parcel to the County, which was accepted by the Board on April 7, 2020. Windward Sebastian Marina Owner, LLC has agreed to donate the attached utility easement needed for the installation of a power pole to bring power to County lift station X-24.

The User Department approves this request.

This acquisition follows the policies and procedures as set forth in Administrative Order 37.

Clerk to the Board Instructions:



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

August 23, 2023

M E M O R A N D U M

TO: Marc Bernath, Public Works Director

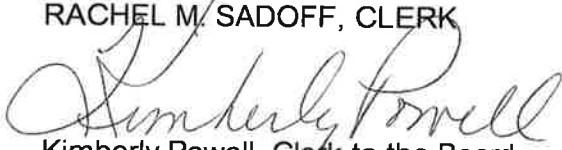
RE: Item F.10., Approval of Donation of Utility Easement from Windward Sebastian Marina Owner, LLC for the Benefit of Lift Station X-24 as Part of the Save Our Indian River Lagoon Micco Zone A Septic to Sewer Conversion Project

The Board of County Commissioners, in regular session on August 22, 2023, approved and accepted the donation of Utility Easement from Windward Sebastian Marina Owner, LLC for the benefit of Lift Station X-24 as part of the Save Our Indian River Lagoon Micco Zone A Septic to Sewer Conversion Project.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/tr

cc: Utility Services
Natural Resources Management

BOARD OF COUNTY COMMISSIONERS


AGENDA REVIEW SHEET

AGENDA: Donation of Utility Easement from Windward Sebastian Marina Owner, LLC for the benefit of Lift Station X-24 as part of the Save Our Indian River Lagoon Zone A Sebastian-Micco Septic to Sewer Conversion Project – District 3

AGENCY: Public Works Department / Land Acquisition

AGENCY CONTACT: Lisa J. Kruse, Land Acquisition Specialist

CONTACT PHONE: 321-350-8353

| | APPROVE | DISAPPROVE | DATE |
|--|--|------------|-----------------|
| LAND ACQUISITION Lucy Hamelers, Supervisor |  _____ | _____ | <u>8-1-2023</u> |
| COUNTY ATTORNEY Christine Schverak Assistant County Attorney | <u>cms</u> _____ | _____ | <u>8-1-2023</u> |

UTILITY EASEMENT

THIS INDENTURE, made this 28th day of February, 2023, between Windward Sebastian Marina Owner, LLC, a Delaware limited liability company, whose address is 2999 North East 191 Street, Suite 800, Aventura, Florida 33180, as the first party, and Brevard County, a political subdivision of the State of Florida, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940, as the second party, for the use and benefit of Brevard County, Florida.

WITNESSETH that the first party, in consideration of One Dollar (\$1.00) and other valuable consideration paid, the receipt of which is acknowledged, grants unto the second party, its successors and assigns, a perpetual easement commencing on the above date for the purposes of operating, constructing, reconstructing, reconfiguring, and maintaining public utilities, associated facilities and other allied uses pertaining thereto, over, under, upon, above, and through the following lands:

The land affected by the granting of the easement is located in Section 14, Township 30 South, Range 38 East, Brevard County, Florida, and being more particularly described as follows:

SEE LEGAL DESCRIPTION ATTACHED HERETO AS "EXHIBIT A"

Including the right of ingress and egress onto the easement area as may be necessary for the full use and enjoyment by the second party of its easement. The first party shall have full use and enjoyment of the easement area but shall not make any improvements within the easement area which will conflict or interfere with the easement granted herein. In the event the surface of any portion of the easement area is disturbed by the second party's exercise of any of its easement rights under this easement, such area shall be restored to the condition in which it existed as of the commencement of such activity. The second party acknowledges and agrees that the first party has not made any representations relating to the easement area and is accepting this easement and the easement area in its "as is" condition.

Both Parties agree that access to and use of the easement area is at its own risk. Each Party agrees it shall bear responsibility for any injury or loss caused by its agents, representative, officials, employees or volunteers (hereinafter "agents")

including when such agents are acting outside their jurisdiction. In agreeing to this provision, neither Party intends to waive any defense or limit of sovereign immunity or limits to damages to which it may be entitled under section 768.28, Florida Statutes, as that section may be amended from time to time, or as otherwise provided by law. Nothing herein shall be construed as consent by either Party to be sued by third parties in any matter arising out of any contract. The Parties acknowledge that specific consideration has been exchanged for this provision.

TO HAVE AND TO HOLD said easement unto Brevard County, a political subdivision of the State of Florida, and to its successors and/or assigns. The first party does 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.

(Signatures and Notary on next page)

Prepared by and return to: Lisa J. Kruse
Public Works Department, Land Acquisition
2725 Judge Fran Jamieson Way, A204, Viera, Florida 32940
A portion of Interest in Tax Parcel ID: 30-38-14-00-505

IN WITNESS WHEREOF, the first party has caused this easement to be executed,
the day and year first above written.

Signed, sealed and delivered in the presence of:

Nindiri Rivas

Witness

Nindiri Rivas

Print Name

Maria Amador

Witness

Maria Amador

Print Name

Windward Sebastian Marina
Owner, LLC, a Delaware limited
liability company

By:

Robert Finvarb, Manager

(Corporate Seal)

STATE OF Florida
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me by means of ☒ physical
presence or ☐ online notarization on this 28th day of February, 2023, by Robert
Finvarb, as Manager for Windward Sebastian Marina Owner, LLC, a Delaware
limited liability company. Is ☒ personally known or ☐ produced _____ as
identification.

Nindiri Rivas

Notary Signature

SEAL



Nindiri Rivas
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG946759
Expires 1/13/2024

LEGAL DESCRIPTION

PARCEL #800

PARENT PARCEL ID#: 30-38-14-00-505

PURPOSE: UTILITY EASEMENT

EXHIBIT "A"

SHEET 1 OF 3

NOT VALID WITHOUT SHEETS 2, 3 OF 3

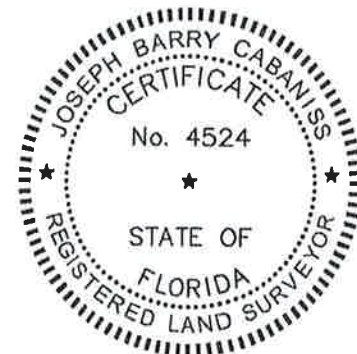
THIS IS NOT A SURVEY

DESCRIPTION PARCEL 800 UTILITY EASEMENT (BY SURVEYOR):

A PARCEL OF LAND BEING A PORTION OF LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 9546, PAGE 599, LYING IN GOVERNMENT LOT 6, SECTION 14, TOWNSHIP 30 SOUTH, RANGE 38 EAST, BREVARD COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCE AT THE NORTHWEST CORNER OF SAID LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 9546, PAGE 599, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1 (STATE ROAD NO. 5) PER STATE ROAD DEPARTMENT RIGHT-OF-WAY MAPS SECTION NO. 7001-275; THENCE SOUTH 24°40'06" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1, A DISTANCE OF 147.11 FEET TO THE POINT-OF-BEGINNING OF THE FOLLOWING DESCRIBED PARCEL; THENCE NORTH 65°18'55" EAST A DISTANCE OF 30.00 FEET; THENCE SOUTH 24°40'06" EAST A DISTANCE OF 10.00 FEET; THENCE SOUTH 65°18'55" WEST A DISTANCE OF 30.00 FEET TO A POINT ON THE AFORESAID EAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1, THENCE NORTH 24°40'06" WEST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 10.00 FEET TO THE POINT-OF-BEGINNING.

CONTAINING 300 SQUARE FEET (0.01 ACRES) MORE OR LESS AND BEING SUBJECT TO ANY EASEMENTS AND OR RIGHTS-OF-WAYS OF RECORD AND THE FINDINGS OF A VALID SURVEY.



NOTES:

- 1.) SEE SHEET 2 OF 3 FOR SKETCH OF DESCRIPTION.
- 2.) SEE SHEET 3 OF 3 FOR LEGEND, ADDITIONAL NOTES AND ADDITIONAL REVISIONS, IF ANY.

CERTIFICATE:

I HEREBY CERTIFY THAT THE SKETCH AND DESCRIPTION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT IT MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17.05 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

PREPARED FOR AND CERTIFIED TO:
**THE BREVARD COUNTY BOARD OF
COUNTY COMMISSIONERS**

[Signature]
JOSEPH BARRY CABANISS, P.L.S.
FLORIDA SURVEYOR'S CERTIFICATE NO.:
DRMP, INC. CERTIFICATE NO.:
NOT VALID UNLESS SIGNED AND SEALED

2/1/23
DATE
4524
2648

PREPARED BY:



100 PARNELL STREET • MERRITT ISLAND, FLORIDA 32963
PH. NO.: (321) 453-0010

| | | | |
|------------------|----------------------------------|-------------------------|-------------------------|
| DRAWN BY: JCC | CHECKED BY: JBC | PROJECT NO. 21-0538.005 | SECTION 14 |
| DATE: 2022-10-21 | DRAWING: 21-0538.005-SK03.DWG | REVISIONS | TOWNSHIP 30 SOUTH |
| | | DATE | RANGE 38 EAST |
| | | 01/03/22 | BREVARD COUNTY COMMENTS |
| | | 01/18/23 | BREVARD COUNTY COMMENTS |

SKETCH OF DESCRIPTION

EXHIBIT "A"

SHEET 2 OF 3

NOT VALID WITHOUT SHEETS 1, 3 OF 3

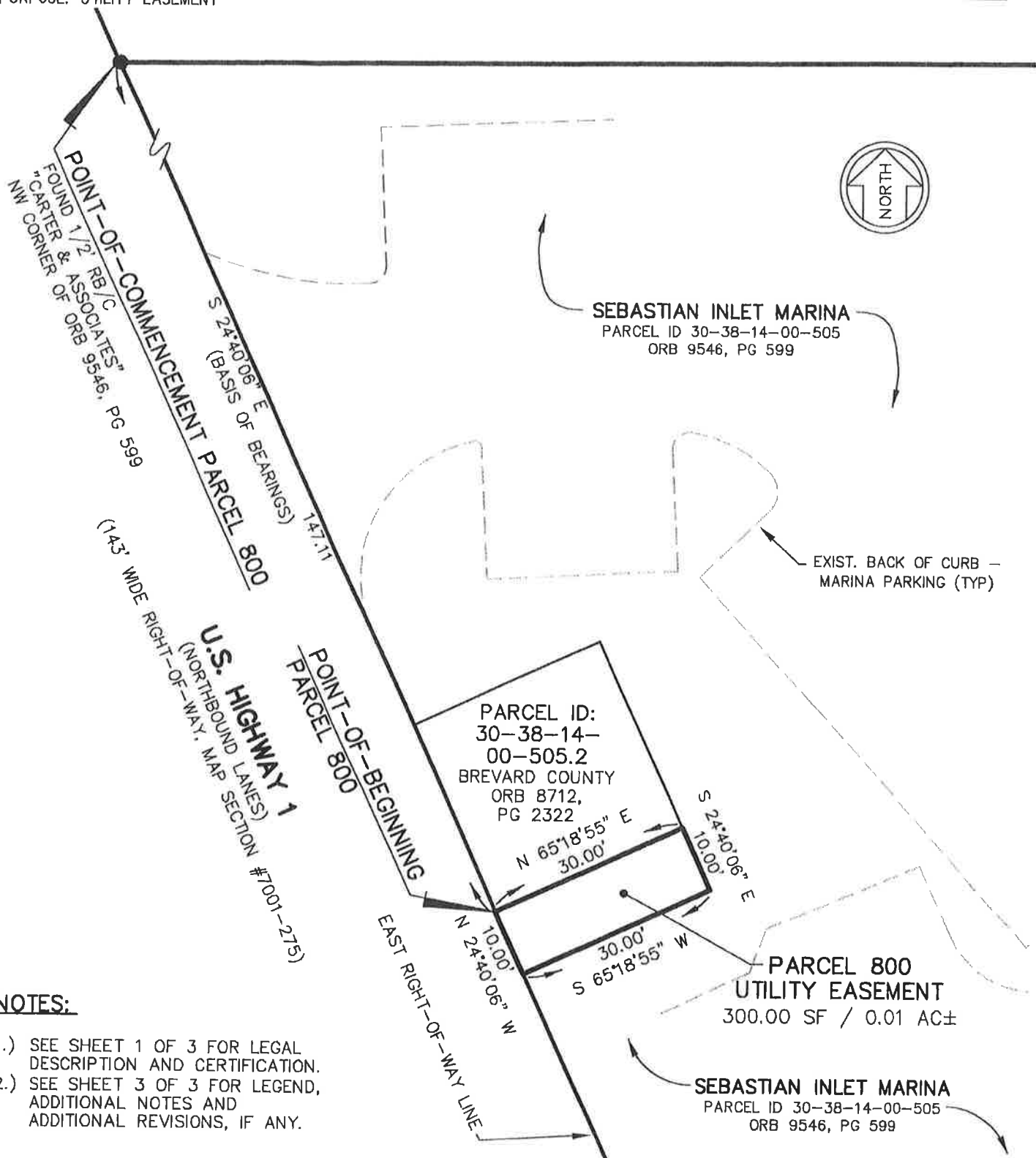
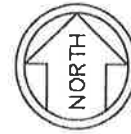
THIS IS NOT A SURVEY

PARCEL #800

PARENT PARCEL ID#: 30-38-14-00-505

PURPOSE: UTILITY EASEMENT

PELICAN BAY COMMUNITIES LLC
PARCEL ID: 30-38-14-00-525
ORB 5848, PG 7702



NOTES:

- 1.) SEE SHEET 1 OF 3 FOR LEGAL DESCRIPTION AND CERTIFICATION.
- 2.) SEE SHEET 3 OF 3 FOR LEGEND, ADDITIONAL NOTES AND ADDITIONAL REVISIONS, IF ANY.

PREPARED BY:



100 PARNELL STREET • MERRITT ISLAND, FLORIDA 32953
PH. NO.: (321) 453-0010

SCALE:

1"=20'

PROJECT NO.:

21-0538.005

SECTION 14

TOWNSHIP 30 SOUTH

RANGE 38 EAST

NOTES & LEGEND

EXHIBIT "A"

PARCEL #800

SHEET 3 OF 3

NOT VALID WITHOUT SHEETS 1, 2 OF 3

PARENT PARCEL ID#: 30-38-14-00-505

PURPOSE: UTILITY EASEMENT

THIS IS NOT A SURVEY

LEGEND:

| | | | |
|------|----------------------------|-------|-------------------------|
| FND | FOUND | R/W | RIGHT-OF-WAY |
| COR | CORNER | CCR | CERTIFIED CORNER RECORD |
| RB/C | REBAR WITH SURVEYOR'S CAP | W/ | WITH |
| CM | CONCRETE MONUMENT | CL | CENTERLINE |
| ORB | OFFICIAL RECORDS BOOK | —V— | GRAPHICS NOT TO SCALE |
| PB | PLAT BOOK | (NTS) | NOT TO SCALE |
| DB | DEED BOOK | (NIC) | NOT INCLUDED |
| PG | PAGE | SEC. | SECTION |
| PC | POINT-OF-CURVATURE | TWP. | TOWNSHIP |
| PRC | POINT-OF-REVERSE CURVATURE | RNG. | RANGE |
| PT | POINT-OF-TANGENCY | (TYP) | TYPICAL |

NOTES:

1. THIS IS NOT A BOUNDARY SURVEY.
2. SEE SHEET 1 OF 3 FOR DESCRIPTION AND CERTIFICATION.
3. SEE SHEET 2 OF 3 FOR SKETCH OF DESCRIPTION.
4. THIS SKETCH AND DESCRIPTION IS BASED ON A SURVEY BY CARTER ASSOCIATES, INC., PROJECT No. 15-240S, DATED FEBRUARY 2015. THE BASIS OF BEARINGS IS THE EAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY No. 1, BEING S 24°40'06" E, AN ASSUMED BEARING.
5. PURSUANT TO AN O&E REPORT BY NEW REVELATION, INC. DATED 12/05/22 FILE NO. 22-1541 THE FOLLOWING ITEMS WERE REVIEWED BY THE SURVEYOR:
 1. O.R. BOOK 1143, PAGE 199—DOES NOT ENCUMBER THE SITE.
 2. O.R. BOOK 5209, PAGE 491—DOES NOT ENCUMBER SUBJECT SITE.
 3. O.R. BOOK 5732, PAGE 8793—SIDEWALK ASSESSMENT AGREEMENT BLANKET IN NATURE COVERS ENTIRE SITE—NOT SHOWN.
 4. O.R. BOOK 5793, PAGE 6521—DOES NOT ENCUMBER SUBJECT SITE.
 5. O.R. BOOK 5858, PAGE 715—DOES NOT ENCUMBER SUBJECT SITE.
6. THIS SKETCH AND DESCRIPTION WAS PREPARED FOR THE EXCLUSIVE USE OF THE PARTIES LISTED BELOW; COPIES ARE VALID ONLY WHEN BEARING THE SURVEYOR'S ORIGINAL SIGNATURE AND SEAL OR VERIFIED ELECTRONIC SIGNATURE AND SEAL.
7. THIS SKETCH AND DESCRIPTION CERTIFIED CORRECT TO
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

PREPARED BY:



100 PARNELL STREET • MERRITT ISLAND, FLORIDA 32953
PH. NO.: (321) 453-0010

SCALE: N/A

PROJECT NO.:
21-0538.005

SECTION 14
TOWNSHIP 30 SOUTH
RANGE 38 EAST

LOCATION MAP

Section 14, Township 30 South, Range 38 East - District 3

PROPERTY LOCATION: The east side of Highway US 1 northeast of Daytona Boulevard in Micco.

OWNERS NAME(S): Windward Sebastian Marina Owner, LLC

