

**CITY OF SANIBEL**

**RESOLUTION 11-104**

RESOLUTION ACCEPTING A PERPETUAL UTILITY EASEMENT, AND BILL OF SALE AND AFFIDAVIT OF NO LIEN, FOR AN EXTENSION OF AN EXISTING SEWER COLLECTION SYSTEM LOCATED AT FULGUR STREET AND MIDDLE GULF DRIVE FOR BEACHWALK OF SANIBEL F/K/A MIDDLE GULF DRIVE 5 SUBDIVISION; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, Hearthstone Properties, Inc. has extended the gravity sewer collection system in the public right-of-way of Fulgur Street and Middle Gulf Drive and between Lot "C" and Lot "B" of Beachwalk of Sanibel, f/ka Middle Gulf Drive 5 Subdivision; and

**WHEREAS**, the collection system has met the requirements for acceptance by the City of Sanibel; and

**WHEREAS**, the acquisition of the collection will be of no cost to the city;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Sanibel:

Section 1. The Perpetual Utility Easement, and Bill of Sale and Affidavit of No Lien, for sanitary sewer utility purposes for the Sanibel Sewer System, copies of which are attached hereto and incorporated herein are hereby accepted, and the City Clerk is authorized to record the originals of the said documents in the Official Records of Lee County, Florida.

Section 2. Effective date.

This Resolution shall take effect immediately upon adoption.

**DULY PASSED AND ENACTED** by the Council of the City of Sanibel, this **6th** day of **December**, 2011.

**AUTHENTICATION:**

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Kevin Ruane, Mayor

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Pamela Smith, City Clerk

**APPROVED AS TO FORM:** \_\_\_\_\_  
Kenneth B. Cuyler, City Attorney      Date \_\_\_\_\_

Vote of Council members:

Ruane      \_\_\_\_\_  
Denham      \_\_\_\_\_  
Congress      \_\_\_\_\_  
Harrity      \_\_\_\_\_  
Jennings      \_\_\_\_\_

Date filed with City Clerk: \_\_\_\_\_

This Instrument Was Prepared By and Return To:

Kenneth B. Cuyler  
CITY OF SANIBEL  
800 Dunlop Road  
Sanibel, Florida 33957

Parcel Strap #30-46-22-T2-00309.001A  
30-46-22-T2-00309.001B  
30-46-22-T2-00309.001C

**PERPETUAL UTILITY EASEMENT**

**THIS INDENTURE**, made this 4 day of NOVEMBER, 2011 by and between **Hearthstone Properties, Inc., a corporation existing under the laws of the State of Ohio**, (hereinafter referred to as "Grantor(s)"), and the **City of Sanibel, a Florida municipal corporation**, located in Lee County, Florida (hereinafter referred to as "Grantee"), the mailing address of which is 800 Dunlop Road, Sanibel, Florida, 33957.

**WITNESSETH**, that the Grantor(s), for and in consideration, the receipt and sufficiency of which is hereby acknowledged, do(es) hereby grant and convey to the Grantee, its successor and assigns, a perpetual easement to use, operate, construct, install, maintain, repair, replace, renew and extend a wastewater collection, transmission, and reclaimed water system (as more particularly hereinafter described, the "System") on, over, under and across the following described land, or so much there of as is owned by the Grantor, situate, lying and being in the City of Sanibel, Lee County, Florida, to-wit:

The property is described and shown on **Exhibit A**  
attached hereto and made a part hereof

For the purposes hereof, the term "System" includes, without limitation, all manholes, pipes, lines, valves, service connections and other public wastewater collection, transmission, pump station and reclaimed water facilities.

This Easement includes a reasonable right of ingress and egress, vehicular and pedestrian, for the purposes of using, operating, constructing, installing, maintaining, repairing, replacing, renewing and extending the System on, over and across the adjacent and nearby properties of the Grantor(s), including specifically, without limitation, all such portions of the Grantor(s)'s property constituting a roadway. In all cases, the Grantee shall have and retain title to the System.

This Easement includes, without limitation, the easement and right to trim and remove roots, trees, shrubs, bushes, plants, fences and other improvements and obstructions on and under the surface of the Easement Area and to keep same clear of any obstructions from time to time. Grantee shall, from time to time, repair damage to pavement, shell, curbs, vegetation, sod, and other amenities occurring as a result of any exercise by Grantee of its easement and other rights hereunder.

Grantor(s) covenant(s) that Grantor(s) is/are lawfully seized and possessed of the Easement Area, having good and lawful right and power to sell and convey said easement and, subject to existing easements and mortgages recorded in the Public Records of Lee County, Florida. Grantor(s) will forever warrant and defend the title and terms of this Easement and the quiet possession thereof against all claims and demands of all others.

This Easement Agreement shall be binding upon, and inure to the benefit of, the Grantor(s) and Grantee and their respective heirs, personal representatives, successors and assigns. It is specifically understood that Grantee may assign and transfer this Easement to another party which hereafter owns and/or operates the System and that such assignment or transfer shall not be deemed to terminate or impair the easement and other rights granted herein.

IN WITNESS WHEREOF, the Grantor(s) has set his/her/their hand and seal on the day and year first above written.

Witnesses:

HEARTHSTONE PROPERTIES, INC.

x Kelly N. Palmer  
1<sup>st</sup> Witness

BY: [Signature]  
Kenneth J. Colter, Vice President

Kelly N. Palmer  
Print Name

x Tracy Walters  
2<sup>nd</sup> Witness

[Signature]  
Print Name

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STATE OF FLORIDA )

COUNTY OF LEE )

The following instrument was acknowledged before me this 4<sup>th</sup> day of November, 2011 by Kenneth Colter, V.P., Grantor(s).

He/She/They're personally known to me or have produced

\_\_\_\_\_ as identification.

[Signature]  
Print Name: Rhonda A. Henning

Notary Public - State of Florida

Commission No.: DD 968413

My Commission Expires: 4/7/2014

(SEAL)



RHONDA A. HENNING  
MY COMMISSION # DD 968413  
EXPIRES: April 7, 2014  
Bonded Thru Budget Notary Services

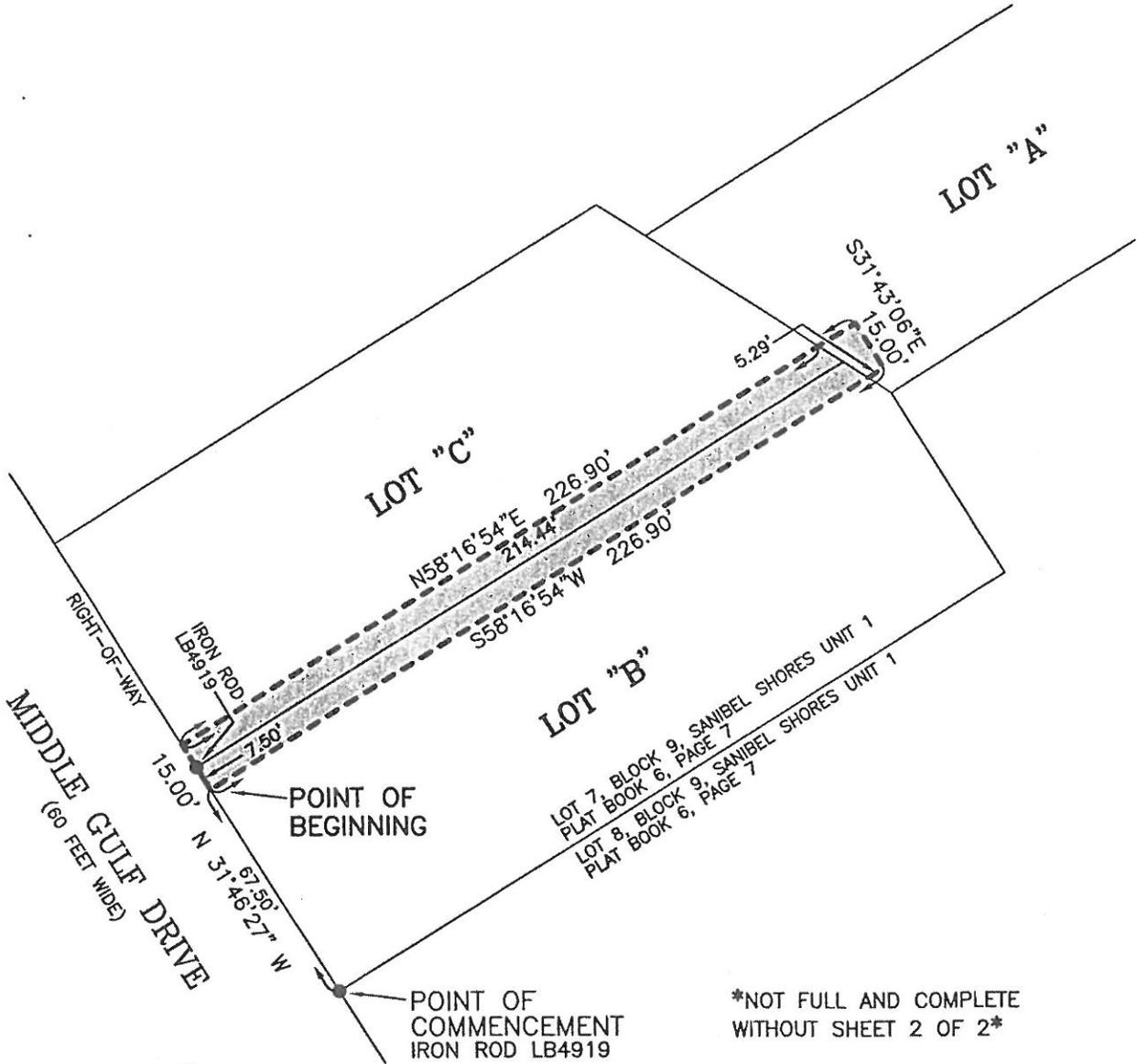
# SKETCH OF DESCRIPTION

## A UTILITY EASEMENT

OVER AND ACROSS A PORTION OF LOT "A", LOT "B" AND LOT "C",  
MIDDLE GULF 5 SUBDIVISION

A MINOR SUBDIVISION RECORDED IN INFORMATION BOOK 2, PAGE 41  
INSTRUMENT NUMBER 6760948

LYING IN SECTION 30, TOWNSHIP 46 SOUTH, RANGE 23 EAST  
CITY OF SANIBEL, LEE COUNTY, FLORIDA



LOT 7, BLOCK 9, SANIBEL SHORES UNIT 1  
PLAT BOOK 6, PAGE 7  
LOT 8, BLOCK 9, SANIBEL SHORES UNIT 1  
PLAT BOOK 6, PAGE 7

\*NOT FULL AND COMPLETE  
WITHOUT SHEET 2 OF 2\*

**\*NOT A SURVEY\***



*(Signature)*  
**JOSEPH L. LUTZ**  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA CERTIFICATION LS 3375  
 (FOR THE FIRM)

	<b>Bean, Whitaker, Lutz &amp; Kareh, Inc.</b> CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS 13041 MCGREGOR BLVD., SUITE 1, FORT MYERS, FL 33919 (239) 481-1331 AUTHORIZATION NUMBER: EB4919 AND LB4919		
	DRAFTING BY: J.A.H.	DATE OF DRAWING 10-07-2011	SCALE: 1"=50'
	PROJECT NUMBER: 41410	SHEET NUMBER: 1 OF 2	DRAWING FILE NAME SK41410_EASEMENT.DWG

# DESCRIPTION

OF

## A UTILITY EASEMENT

OVER AND ACROSS A PORTION OF LOT "A", LOT "B" AND LOT "C",  
MIDDLE GULF 5 SUBDIVISION

A MINOR SUBDIVISION RECORDED IN INFORMATION BOOK 2, PAGE 41

INSTRUMENT NUMBER 6760948

LYING IN SECTION 30, TOWNSHIP 46 SOUTH, RANGE 23 EAST

CITY OF SANIBEL, LEE COUNTY, FLORIDA

A UTILITY EASEMENT over and across a portion of Lot A, Lot B, and Lot C, MIDDLE GULF 5 SUBDIVISION, according to the Minor Subdivision Plat recorded in Informational Book 2, Page 41, of the Public Records of Lee County, Florida, being a portion Lots 6, 7, and 21, Block 9, Sanibel Shores Unit 1, according to the plat thereof recorded in Plat Book 6, Page 7, Public Records of Lee County, Florida, and further described as follows:

A UTILITY EASEMENT situated in the State of Florida, County of Lee, City of Sanibel, in Section 30, Township 46 South, Range 23 East, being a part of Lots 6, 7, and 21, Block 9, SANIBEL SHORES UNIT 1, according to the Map or Plat thereof on file, recorded in the office of the Clerk of the Circuit Court, Lee County, Florida, in Plat Book 6, page 7. Commencing at an iron rod labeled LB 4919 marking the most southerly corner of Lot 7, Block 9, SANIBEL SHORES UNIT 1; thence N31°46'27"W along the easterly right-of-way line of Middle Gulf Drive (60 feet wide) for 67.50 feet to the POINT OF BEGINNING; thence continue N31°46'27"W along said right-of-way line, passing through an iron rod labeled LB 4919 marking the common corner of said Lot B and Lot C at 7.50 feet, for 15.00 feet; thence N58°16'54"E, passing through an intersection with the common line of Lot C and Lot A at 214.44 feet, for 226.90 feet; thence S31°43'06"E for 15.00 feet; thence S58°16'54"W, passing through an intersection with the common line of lot A and Lot B at 5.29 feet, for 226.90 feet to the POINT OF BEGINNING.

Said tract or parcel of land contains 3,404 square feet (0.08 acres), more or less.

Bearings are based on the easterly line of Middle Gulf Drive as bearing N31°46'27"W.

\*NOT FULL AND COMPLETE  
WITHOUT SHEET 1 OF 2\*

<b>Bean, Whitaker, Lutz &amp; Kareh, Inc.</b> CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS 13041 MCGREGOR BLVD., SUITE 1, FORT MYERS, FL 33919 (239) 481-1331 AUTHORIZATION NUMBER: EB4919 AND LB4919		
DRAFTING BY: J.A.H.	DATE OF DRAWING 10-07-2011	DRAWING FILE NAME SK41410_EASEMENT.DWG
PROJECT NUMBER: 41410	SHEET NUMBER: 2 OF 2	

**BILL OF SALE AND  
AFFIDAVIT OF NO LIEN**

KNOW ALL MEN BY THESE PRESENTS, that **HEARTHSTONE PROPERTIES, INC., an Ohio Corporation**, the owners of the wastewater collection facilities constructed in the public utility easements and road rights-of-way, located on Middle Gulf Drive and Fulgur Street and the public utility easement between lots B and C, Middle Gulf 5 Subdivision, a/k/a Beachwalk of Sanibel Subdivision, party of the first part, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) lawful money of the United States, to it paid by the **City of Sanibel, a Florida Municipal Corporation**, party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, transferred and delivered and by these presents does grant, bargain, sell, transfer and deliver unto the said party of the second part, its successors and assigns, the following goods and chattels:

The wastewater collection system and appurtenances all in road right-of-way and public utility easements including the following assets:

ITEM	Size	Quantity	Unit
Manhole	4'	3	Each
Sewer Gravity	8"	423	Feet
Sewer Lateral	6"	198	Feet
Clean-Out	6"	5	Each
Valve	8"	1	Each

TO HAVE AND TO HOLD the same unto the said party of the second part, its successors and assigns forever.

AND, **HEARTHSTONE PROPERTIES, INC. an Ohio Corporation**, for itself and its heirs, executors, and administrators, covenants to and with the said party of the second part, its successors and assigns, that it is the lawful owner of the said goods and chattels; that they are free of all encumbrances; that all suppliers, material men, laborers and contractors involved in the construction of wastewater facilities at the above location have been paid in full and that no liens or claims exist with regard to said wastewater facilities; that it has good right to sell the same aforesaid; and that it will warrant and defend the sale of said property, goods and chattels hereby made, unto the said party of the second part, its successors and assigns against the lawful claims and demands of all persons whomsoever.

IN WITNESS WHEREOF, the undersigned officer has hereunto set his/her hand and seal this 3<sup>rd</sup> day of NOVEMBER, 2011.

Witnesses

Sandra P. Carrist  
1<sup>st</sup> Witness

Kelly N. Palmer  
2<sup>nd</sup> Witness

**HEARTHSTONE PROPERTIES, INC.**

BY: Kenneth J. Colter

Kenneth J. Colter  
Print Name

TITLE: Vice-President

STATE OF FLORIDA )

COUNTY OF LEE )

The following instrument was acknowledged before me this 3<sup>rd</sup> day of October, 2011 by Kenneth J. Colter, Grantor(s). He/She/They're personally known to me or have produced N/A as identification.



Rhonda A. Henning  
Print Name: Rhonda A. Henning  
Notary Public - State of Florida