


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

Blue Sheet No. 20061747

1. ACTION REQUESTED/PURPOSE: Accept Drainage Easements from Coconut Point Developers, LLC, Coconut Point-South Village Association, and Coconut Point-North Village Association, Inc., necessary to provide drainage facilities for Sandy Lane right-of-way located within the boundaries for the Coconut Point DRI.

2. WHAT ACTION ACCOMPLISHES: Provides the drainage easements to support Sandy Lane right-of-way as constructed. Acceptance of these easements is a necessary precursor to the property owners' intent to turn Sandy Lane over to the County for maintenance.

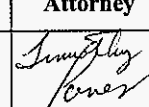
3. MANAGEMENT RECOMMENDATION:

4. Departmental Category: DOT		C12B	5. Meeting Date: 01-09-2007	
6. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify)		8. Request Initiated:	
	<input type="checkbox"/> Statute		Commissioner	
	<input type="checkbox"/> Ordinance		Department	
	<input type="checkbox"/> Admin. Code		Division	
	<input checked="" type="checkbox"/> Other		By: 	
		DRI DO & Development Agreement	Dawn E. Perry-Lehnert Assistant County Attorney	

9. Background: The Board approved the Coconut Point DRI Development Order on October 21, 2001 and the related Development Order Agreement on February 24, 2004. The documents required the developer to dedicate the land necessary to support construction of Sandy Lane from Corkscrew to the southern boundary of the DRI. The land for the 100-foot Sandy Lane right-of-way was accepted by the County in 2004.

As a basis for the County's acceptance of Sandy Lane (a/k/a Via Coconut Point) as constructed within the DRI boundary, the Developer is required to provide right-of-way drainage. As designed and constructed, the drainage for this portion of Sandy Lane is provided in and through the backbone surface water management system for the Coconut Point DRI. The attached easements provide Lee County with the necessary drainage and access rights to support Sandy Lane as constructed.

(continued on page 2)

10. Review for Scheduling:									
Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
					RK 12/22	OK 12/22	RK 12/22	12/22/06	12-27-06

11. Commission Action:

- ☐ Approved
☐ Deferred
☐ Denied
☐ Other

CO. ATTY.
FORWARDED TO:
County Admin
12/22/06 4:00pm

RECEIVED BY COUNTY ADMIN:
12/22/06 2:30
2:30 P.M.
COUNTY ADMIN FORWARDED TO:
12/22/06 -
P. Res 12:00

Blue Sheet #: 20061747
Page #: 2
Subject: Coconut Point DRI Drainage Easements

The proposed drainage easements are offered to the County in compliance with the Coconut Point DRI Development Agreement. No impact fee credits or proportionate share offset is due to the Grantors as a result of this transaction.

This request has been reviewed by Lee County DOT. Approval is recommended.

Attachments:
Copies of each easement

THIS INSTRUMENT PREPARED BY:

Rise A. Friedman, Esq.
Simon Property Group
225 W. Washington Street
Indianapolis, In. 46204

AFTER RECORDING RETURN TO:

Dawn E. Perry-Lehnert
Lee county Attorney's Office
Post Office Box 398
Fort Myers, Florida 33902

Strap No: 04-47-25-00-00001.0130
09-47-25-00-00001.0020

PERPETUAL DRAINAGE and ACCESS EASEMENT

This indenture is made this 12 day of December, 2006 between Coconut Point Developers, LLC., a Delaware limited liability company whose address is 225 W. Washington Street, Indianapolis, Indiana 46204; Coconut Point Area 2 Master Property Owners Association, a corporation not for profit incorporated under the laws of Florida, whose address is 225 West Washington Street, Indianapolis, Indiana 46204 (Grantors); and, Lee County, a political subdivision of the state of Florida, whose address is P. O. Box 398, Fort Myers, Florida 33902-0398 (Grantee) as follows:

For good and valuable consideration, receipt of which is hereby acknowledged, Grantors grant to Grantee, its successors and assigns, a perpetual drainage and access easement over that portion of the surface water management system within Coconut Point Area 2 and more particularly described in attached Exhibit A, along with an easement for ingress and egress over the roads and accessways necessary to maintain the surface water management system in the event this activity becomes necessary.

This Easement includes the right to use the water management system to convey water and accommodate water storage and flow in accordance with SFWMD (Permit #36-00288-S(MOD) as modified) requirements applicable to the improvements associated with Via Coconut Point. 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 water and storage required by SFWMD Permit. However, primary maintenance responsibility rests with Grantor.

In accordance with provisions in Article III.A.4.f. of the Coconut Point DRI Development Agreement, the Developer has provided water storage, water quality, attenuation and pre-treatment of the drainage for Via Coconut Point (Sandy Lane). Accordingly, County, as Grantee, is responsible for contamination and pollution of the Coconut Point Area 2 water management system to the extent: (1) such contamination is proven to specifically emanate from activity under the County's control within County owned and maintained right-of-way outside the Coconut Point DRI boundary and flow through the easement area; and, (2) allowed by law

without waiver of sovereign immunity afforded under Florida Statutes §768-28. Grantor is responsible for contamination or pollution of the water management system which may emanate from the Coconut Point Area 2 property.

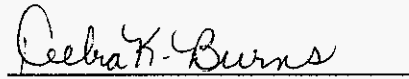
Grantor warrants that subject to existing easements, if any, for public highways, roads, railroads, laterals, ditches, pipelines and electrical transmission and/or distribution lines and telephone and cable television lines covering the land described above, Grantor is lawfully possessed of the land 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 record.

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

IN WITNESS of the above this instrument is executed.


Witness Signature

KEVIN C. HUMLER
Printed Name

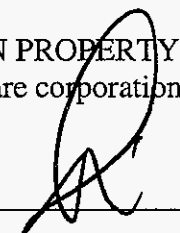

Witness Signature

Debra K. Burns
Printed Name

COCONUT POINT DEVELOPERS, LLC, a
Delaware limited liability company

By: SIMON PROPERTY GROUP, L.P., a
Delaware limited partnership, its managing
member

By: SIMON PROPERTY GROUP, INC., a
Delaware corporation, its general
partner

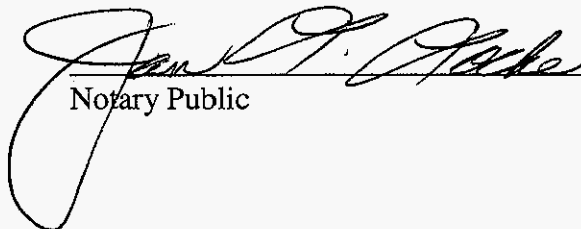
By: 
Name: David Simon
Title: Chief Executive Officer

STATE OF INDIANA
COUNTY OF MARION

The foregoing Perpetual Drainage and Access Easement was acknowledged before me on
December 11, 2006 by David Simon, CEO,
who is personally know to me.



JAN L. LOCKE
Comm. Exp. 10-22-2009
Res. of Johnson Co.


Notary Public

[Signature]
Witness Signature

MATTHEW W. BARGER
Printed Name

[Signature]
Witness Signature

MARC WOOD
Printed Name

COCONUT POINT AREA 2 MASTER PROPERTY
OWNERS ASSOCIATION, INC., a corporation not for
profit incorporated under the laws of the State of Florida

By: [Signature]
Name: J. David Anderson
Title: President

STATE OF FLORIDA
COUNTY OF LEE

The foregoing Perpetual Drainage and Access Easement was acknowledged before me on
12th of December, 2006 by DAVID ANDERSON,
who is personally know to me.



[Signature]
Notary Public

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chair

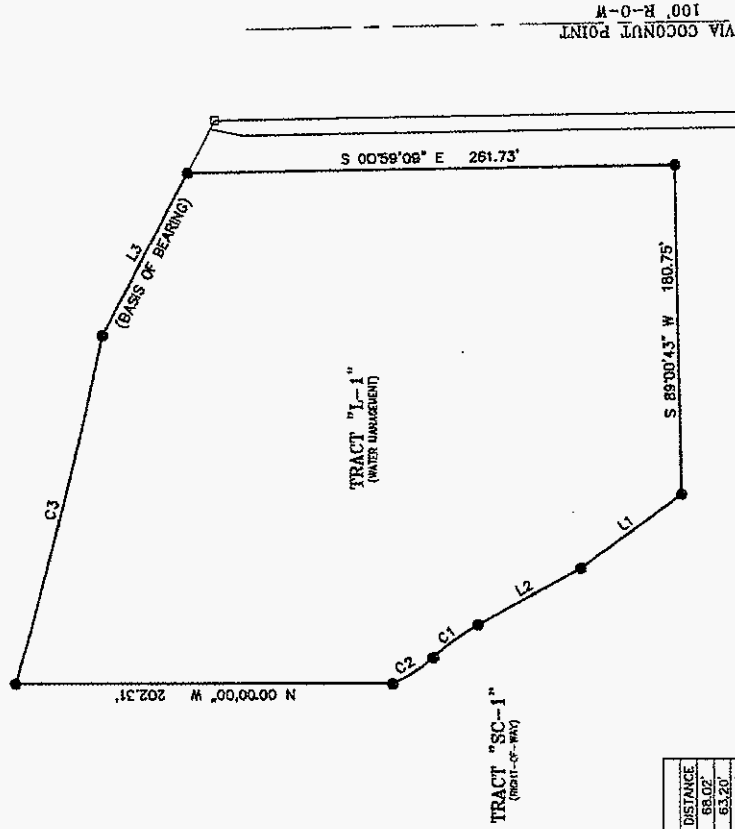
APPROVED AS TO FORM

BY: _____

GRAPHIC SCALE



(IN FEET)
1 inch = 80 ft.



LEGAL DESCRIPTION:

ALL OF TRACT L-1 COCONUT POINT AREA 2, ACCORDING TO THE PLAT THEREOF AS RECORDED IN INSTRUMENT NO. 2006000409925 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

NOTES:

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

BEARINGS SHOWN HEREON REFER TO THE NORTH EAST LINE OF TRACT L-1 COCONUT POINT AREA 2, ACCORDING TO THE PLAT THEREOF AS RECORDED IN INSTRUMENT NO. 2006000409925 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; AS BEING S.82°45'1"E.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY *[Signature]*
P.S.M. #5130
STATE OF FLORIDA

PROJECT NO.

97.079

REFERENCE NO.
TRACT L-1

SKETCH AND LEGAL DESCRIPTION

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

6202F Presidential Court
Ft. Myers, FL 33919
Phone: (239) 985-1200
Florida Certificate of
Authorization No. 1772

SEC-TWN-RGE: 9-47-25
DATE 10-27-06
DRAWN BY: J.R.D.
CHECKED BY: J.L.R.
DRAWING NO. E-235

LINE TABLE		CURVE TABLE	
LINE	DIRECTION	DELTA	CHORD
L1	N 38°48'43" W	30.51	N 35°17'18" W
L2	N 23°13'17" W	25.03	N 34°00'46" W
L3	S 62°45'51" E	186.77	S 76°14'50" E
C1	124.03	1437.57	30.51
C2	77.11	1840.57	25.03
C3	2859.28	412.26	186.77

CURVE	RADIUS	DELTA	CHORD	BEARING	LENGTH
C1	124.03	1437.57	30.51	N 35°17'18" W	30.51
C2	77.11	1840.57	25.03	N 34°00'46" W	25.03
C3	2859.28	412.26	186.77	S 76°14'50" E	186.77



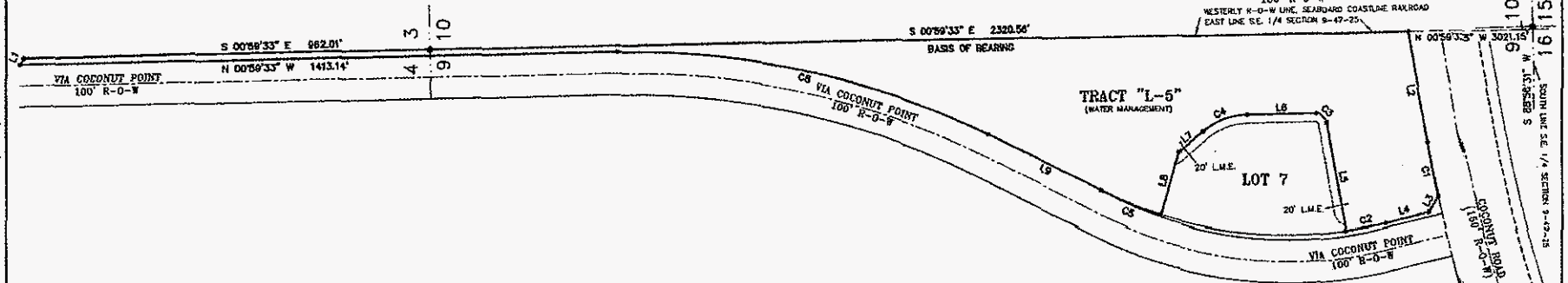
GRAPHIC SCALE



(IN FEET)

1 inch = 300 ft.

H:\1997\997079\DWG\2003140\SURVEY\SET\TRACT L-5.dwg Top: Made Nov 03, 2006 - 4:45pm Plotted by: Jerry R. Pelzmacher



LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	S 82°45'21" E	17.02'
L2	S 79°35'53" W	763.07'
L3	N 58°00'32" W	42.18'
L4	N 13°20'36" W	105.81'
L5	N 78°35'59" E	253.43'
L6	N 00°59'17" W	184.66'
L7	N 40°02'33" W	76.50'
L8	N 73°32'29" W	149.08'
L9	N 25°41'16" E	297.30'

CURVE TABLE					
CURVE	RADIUS	DELTA	CHORD	BEARING	LENGTH
C1	3175.00'	021°15'17"	125.86'	S 78°27'45" W	125.87'
C2	1017.11'	052°28'13"	95.48'	N 10°37'30" W	95.52'
C3	25.00'	80°35'16"	32.34'	N 39°18'21" E	35.15'
C4	198.42'	39°33'16"	111.25'	N 20°30'55" W	113.44'
C5	1017.11'	083°01'13"	150.82'	N 21°28'09" E	150.96'
C6	1953.89'	28°40'48"	901.64'	N 12°20'52" E	909.84'

LEGAL DESCRIPTION:

ALL OF TRACT L-5 COCONUT POINT AREA 2, ACCORDING TO THE PLAT THEREOF AS RECORDED IN INSTRUMENT NO. 2006000409925 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

NOTES:

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

BEARINGS SHOWN HEREON REFER TO THE EAST LINE OF TRACT L-5, COCONUT POINT AREA 2 ACCORDING TO THE PLAT THEREOF AS RECORDED IN INSTRUMENT NO. 2006000409925 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY JERRY L. PEZLMACHER

P.S.M. #6130
STATE OF FLORIDA

* NOT A SURVEY *

SEC-TWN-RGE:	
9-47-25	
DRAWN BY:	DATE
J.R.D.	10-27-06
CHECKED BY:	DRAWING NO.
J.L.R.	E-236



6202F Presidential Court
Fl. Myers, FL 33919
Phone: (239) 985-1200
Florida Certificate of
Authorization No.1772

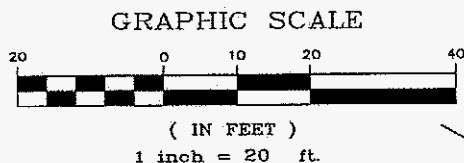
NOT VALID WITHOUT
THE SIGNATURE AND
THE ORIGINAL RAISED
SEAL OF A FLORIDA
LICENSED SURVEYOR
AND MAPPER.

SKETCH AND LEGAL DESCRIPTION

PROJECT NO.
97.079
REFERENCE NO.
TRACT L-5

Exhibit A

H:\1997\19970701\DW\20031160\SKETCHES\DE\20 DE.dwg Tab: Model Dec 05, 2006 - 11:43am Plotted by: janderfence



TRACT "L-1"
(WATER MANAGEMENT)

LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	S 11°24'55" W	18.29'
L2	S 00°59'33" E	22.58'
L3	S 00°59'33" E	20.00'
L4	S 88°59'45" W	19.84'
L5	N 00°59'09" W	20.00'
L6	N 88°59'45" E	19.84'

LEGEND

POC POINT OF COMMENCEMENT
POB POINT OF BEGINNING

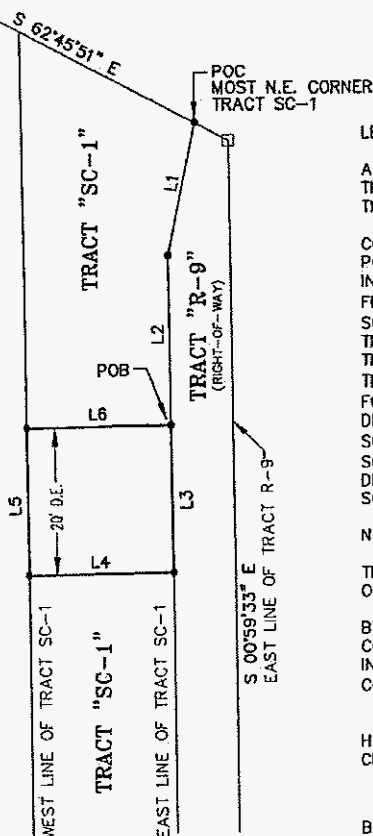
REVISED: CORRECTED LEGAL 12/04/06 JLR
REVISED: BOUNDARY AND LEGAL 12/05/06 JRD

SEC-TWN-RGE:	
9-47-25	
DRAWN BY:	DATE
J.R.O.	10-27-06
CHECKED BY:	DRAWING NO.
J.L.R.	E-239



6202F Presidential Court
Ft. Myers, FL. 33919
Phone: (239) 985-1200
Florida Certificate of
Authorization No.1772

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



* NOT A SURVEY *

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF TRACT SC-1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN INSTRUMENT NO. 2006000409925 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

COMMENCE AT THE MOST NORTHEASTERLY CORNER OF TRACT SC-1 COCONUT POINT AREA 2, ACCORDING TO THE PLAT THEREOF AS RECORDED IN INSTRUMENT NO. 2006000409925 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA. THENCE RUN S.11°24'55"W., ALONG THE EAST LINE OF SAID TRACT SC-1 FOR A DISTANCE OF 18.29 FEET; THENCE RUN S.00°59'33"E., ALONG THE EAST LINE OF SAID TRACT SC-1 FOR A DISTANCE OF 22.58 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S.00°59'33"E., ALONG THE EAST LINE OF SAID TRACT SC-1 FOR A DISTANCE OF 20.00 FEET; THENCE RUN S.88°59'45"W., FOR A DISTANCE OF 19.84 FEET TO A POINT ON THE WEST LINE OF SAID TRACT SC-1; THENCE RUN N.00°59'09"W., ALONG THE WEST LINE OF SAID TRACT SC-1 FOR A DISTANCE OF 20.00 FEET; THENCE RUN N.88°59'45"E., FOR A DISTANCE OF 19.84 FEET TO THE POINT OF BEGINNING; CONTAINING 396.698 SQUARE FEET MORE OR LESS.

NOTES:

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

BEARINGS SHOWN HEREON REFER TO THE NORTHEAST LINE OF TRACT SC-1 COCONUT POINT AREA 2, ACCORDING TO THE PLAT THEREOF AS RECORDED IN INSTRUMENT NO. 2006000409925 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA. AS BEING S.62°45'51"E.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY JERRY L. RIFFELMACHER

P.S.M. #6130
STATE OF FLORIDA

SKETCH AND LEGAL DESCRIPTION

PROJECT NO.
03.116
REFERENCE NO.
20 D.E.

PREPARED BY:

Richard G. Cherry, Esquire
Cherry & Edgar, P.A.
8409 North Military Trail, Suite 123
Palm Beach Gardens, FL 33410

RETURN TO:

Dawn E. Perry-Lehnert, Esquire
Assistant County Attorney
Lee County
2115 Second Street
Fort Meyers, FL 33901

PARTIAL ASSIGNMENT OF DRAINAGE EASEMENT
WITHIN COCONUT POINT AREA 1

THIS PARTIAL ASSIGNMENT OF EASEMENT is made and entered this 11th day of December, 2006, by and between COCONUT POINT-NORTH VILLAGE ASSOCIATION, INC., a Florida not-for-profit corporation ("Association"), and LEE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA ("County"), with an address of P.O. Box 398, Ft. Myers, Florida 33902.

RECITALS:

R-1 Association is the owner and holder of perpetual non-exclusive easements over that portion of the drainage/surface water management system located within the area known as Coconut Point Area 1 ("Area 1") of the Coconut Point DRI and legally described as set forth on the face of the Plat of Coconut Point – Area 1 recorded at Plat Book 83, Page 1, of the Public Records of Lee County, Florida, a copy of the Plat Key Map is attached hereto as Exhibit "R-1". The Association is also the fee simple title holder of the Lakes (as hereinafter defined).

R-2 Reference is made to that certain Plat of COCONUT POINT – AREA 1 (the "Plat") as recorded in Plat Book 83, Page 1, of the Public Records of Lee County, Florida, which dedicates to Association, its successors and assigns, certain water management areas identified as Tracts L-1, L-2, L-3, L-4, L-5, L-6, L-7 and L-8 (the "Lakes"), as well as lake maintenance easements, drainage easements and road rights-of-way as shown thereon for the purpose of construction, operation and maintenance access. The Lakes were subsequently conveyed to the Association by Quit-Claim Deed recorded October 17, 2005 under Instrument #2005000073813, Public Records of Lee County, Florida. Reference is also made to that certain Declaration of Covenants for Coconut Point North Village (the "Declaration") recorded June 1, 2004, in Official Record

Book 4318, Page 4704, as amended by Amendment to Declaration (the "Amendment") recorded in Official Record Book 4417, Page 1480, and re-recorded in Official Record Book 4475, Page 28, Public Records of Lee County, Florida, which Declaration and Amendment grant to the Association certain easement rights.

R-3 Article IV, Section 3 of the Declaration and the Amendment also impose responsibility on the Association for maintenance and operation of the surface water management system including all lakes, flowways, swales, lake aeration systems, pipes, culverts and other improvements necessary to provide surface water management for the Properties (as described in the Declaration), including all of such items located within drainage easements dedicated to the Association, all of which are deemed Common Areas.

R-4 County is the owner of and the entity responsible for the maintenance of Via Coconut Point (formerly known as Sandy Lane Extension), which is a public right-of-way running through the Coconut Point DRI. This right-of-way was constructed by the Coconut Point DRI Developer. Prior to acceptance of the right-of-way for maintenance by the County, the Developer is required, under established County procedure, to identify the drainage facilities serving the right-of-way. If these facilities are located outside the County owned right-of-way area, the Developer is required to provide the necessary drainage easements to accommodate drainage of the right-of-way facility as constructed. Accordingly, the Association agrees to (1) partially assign its easement rights as described in the Plat Dedication, the Declaration and its Amendments, to the County; (2) allow the drainage for Via Coconut Point as permitted by the County and SFWMD to be routed through the surface water management system for Coconut Point Area 1; and (3) grant the County the right to maintain the surface water management system to provide for the continued integrity of public right-of-way in the event this becomes necessary.

R-5 This Agreement serves to partially satisfy the developer's obligation under the Coconut Point DRI Development Agreement executed on February 24, 2004, to provide surface water management drainage for Sandy Lane.

NOW THEREFORE, in consideration of the premises as well as the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Association grant to County, its successors and assigns, a non-exclusive perpetual drainage easement over that portion of the drainage/surface water management system located within Area 1, including lakes, dedicated drainage easements (DE) and lake maintenance easements (LME), as depicted on the Plat of Coconut Point Area 1 recorded at Plat Book 83, Page 1, along with an easement for ingress and egress over the roads and accessways

necessary to maintain the surface water management system in the event this activity becomes necessary. Association also grants to the County the right and authority to convey water and accommodate water storage and flow for the benefit of Via Coconut Point in accordance with the requirements of SFWMD Permit #36-00288-S, as modified. Although the Association is the entity primarily responsible for maintaining the water management system, Association hereby grants to County the right and authority, but not the obligation, to maintain the water management system within the easement area, including the right to enter upon Association lands, in the event the Association fails to properly maintain the water management system so that it will continuously accommodate the water and storage required by County and SFWMD Permit approvals.

2. In accordance with provision II.C. of the Coconut Point DRI Development Order, the Declarant (as defined in the Declaration) has provided water storage, water quality, attenuation and pre-treatment of the drainage for Area 1 as platted. County is responsible for contamination and pollution of the water management system located within Area 1 to the extent: (a) such contamination is proven to specifically emanate from activity under the County's control within County owned and maintained right-of-way outside the Coconut Point DRI boundary and flow through the easement area; and, (b) allowed by law without waiver of sovereign immunity afforded under Florida Statutes Section 768.28. Association is responsible for contamination or pollution of the water management system that may emanate from other property located within Area 1.

3. Association 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, Association is lawfully possessed of the Lakes and of the above-described easement estates and has good and lawful right and power to partially assign such rights, and that the property is free and clear of all liens and encumbrances except as recorded in the Public Records.

4. This Easement runs with the land and is binding on the parties, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

Witnesses:

Jean Ryan
JEAN RYAN
(Print Name)

William W Cain
WILLIAM W CAIN
(Print Name)

COCONUT POINT-NORTH VILLAGE
ASSOCIATION, INC., a Florida
not-for-profit corporation

By: *Rodney A. Welty*
Name: Rodney A. Welty
Title: Vice-President

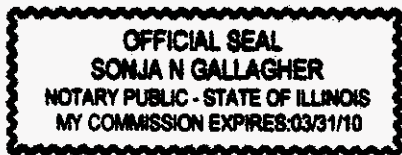
STATE OF Illinois

COUNTY OF Kane

The foregoing instrument was acknowledged before me this 11th day of December, 2006, by Rodney A. Welty, as Vice-President of COCONUT POINT-NORTH VILLAGE ASSOCIATION, INC., a Florida not-for-profit corporation, who (☒) is personally known to me, or (☐) has produced _____ as identification.

Sonja N. Gallagher
Notary Public

My Commission Expires:



ATTEST:

CHARLIE GREEN, CLERK

By: _____
Deputy Clerk

BOARD OF COUNTY
COMMISSIONERS OF LEE COUNTY,
FLORIDA

By: _____
Chairman

APPROVED AS TO FORM:

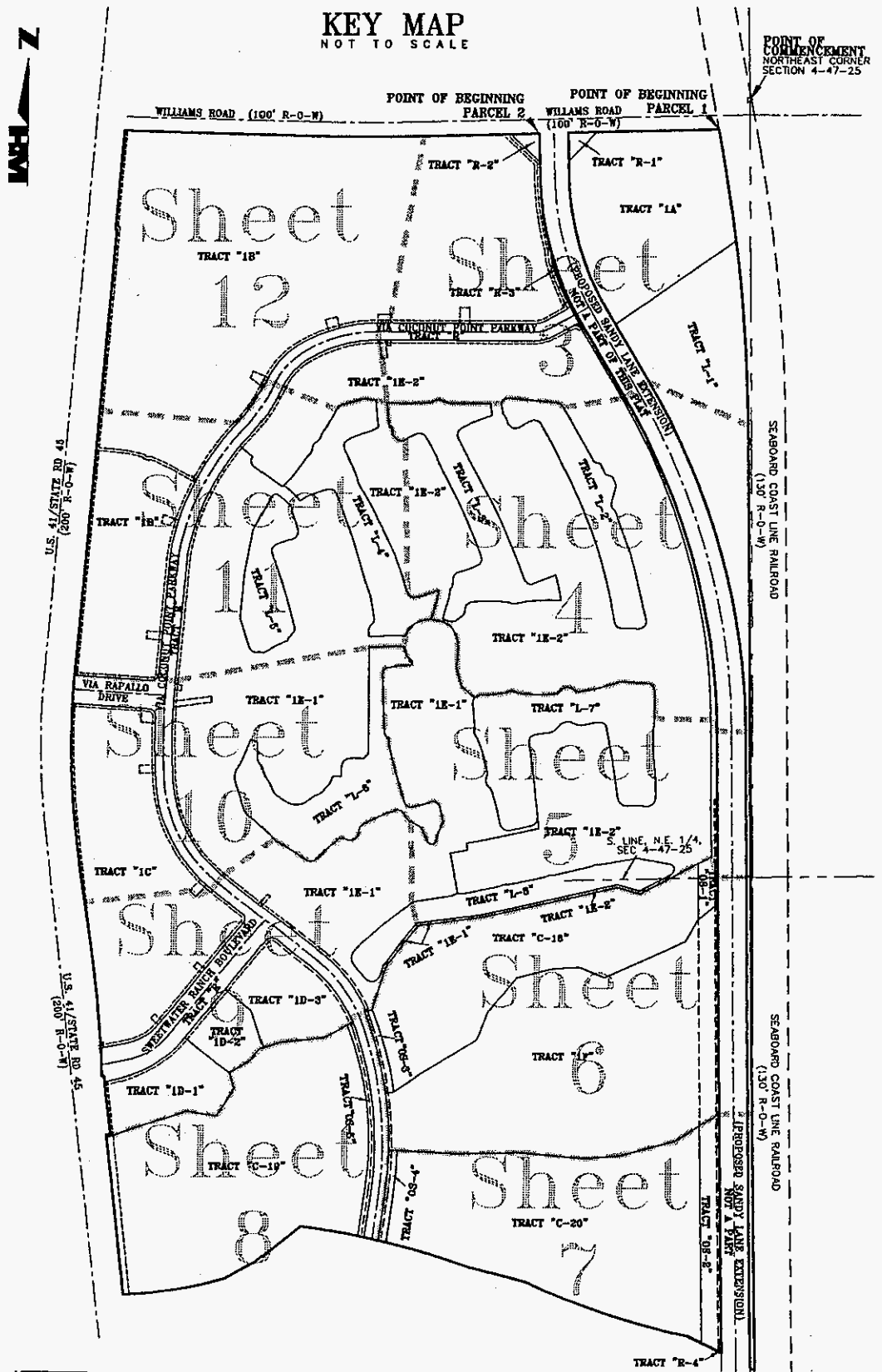
By: _____
Dawn E. Perry-Lehnert
Office of County Attorney

Attachments:

Exhibit "R-1" - Key Map of Plat of Coconut Point – Area 1

EXHIBIT " B-1 "

KEY MAP
NOT TO SCALE



PREPARED BY:

Richard G. Cherry, Esquire
Cherry & Edgar, P.A.
8409 North Military Trail, Suite 123
Palm Beach Gardens, FL 33410

RETURN TO:

Dawn E. Perry Lehnert, Esq.
Assistant County Attorney
Lee County
2115 Second Street
Fort Myers, FL 33901

PARTIAL ASSIGNMENT OF DRAINAGE EASEMENT
WITHIN COCONUT POINT AREA 3

THIS PARTIAL ASSIGNMENT OF EASEMENT is made and entered this 11th day of December, 2006, by and between COCONUT POINT-SOUTH VILLAGE ASSOCIATION, INC., a Florida not-for-profit corporation ("Association"), and LEE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA ("County"), with an address of P. O. Box 398, Ft. Myers, Florida 33902.

RECITALS:

R-1 Association is the owner and holder of perpetual non-exclusive easements over that portion of the drainage/surface water management system located within the area known as Coconut Point Area 3 ("Area 3") of the Coconut Point DRI and legally described as set forth on the face of the Plat of Coconut Point – Area 3 recorded in Instrument Number 2006000470844, of the Public Records of Lee County, Florida, a copy of the Plat Key Map is attached hereto as Exhibit "R-1".

R-2 Reference is made to that certain Plat of COCONUT POINT – AREA 3 (the "Plat") as recorded in Instrument Number 2006000470844, of the Public Records of Lee County, Florida, which dedicates to Association, its successors and assigns, certain water management areas identified as Lake Tracts '6-1', '6-2', '6-3', '6-4', '6-5', '6-6', '6-7' and '6-8' as perpetual water management easements, as well as lake maintenance easements, drainage easements and road rights-of-way as shown thereon for the purpose of construction, operation and maintenance access. Reference is also made to that certain Declaration of Covenants for Coconut Point-South Village (the "Declaration") recorded August 12, 2005, in Official Record Book 4844, Page 1851, as amended by Amendment(s) to Declaration (collectively, "Amendment") recorded in Instrument #2006000397162 and in Instrument #2006000456645,

which Declaration and Amendment grant to the Association certain easement rights.

R-3 Article IV, Section 3 and Article XV of the Declaration deems the surface water management system, including all improvements, a Common Area and grants to the Association responsibility for maintenance and operation of the surface water management system.

R-4 County is the owner of and the entity responsible for the maintenance of Via Coconut Point (formerly known as Sandy Lane Extension), which is a public right-of-way running through the Coconut Point DRI. This right-of-way was constructed by the Coconut Point DRI Developer. Prior to acceptance of the right-of-way for maintenance by the County, the Developer is required, under established County procedure, to identify the drainage facilities serving the right-of-way. If these facilities are located outside the County owned right-of-way area, the Developer is required to provide the necessary drainage easements to accommodate drainage of the right-of-way facility as constructed. Accordingly, the Association agrees to (1) partially assign its easements rights as described in the Plat Dedication, the Declaration and its Amendments, to the County; (2) allow the drainage for Via Coconut Point as permitted by the County and SFWMD to be routed through the surface water management system for Coconut Point Area 3; and (3) grant to County the right to maintain the surface water management system to provide for the continued integrity of public right-of-way in the event this becomes necessary.

R-5 This Agreement serves to partially satisfy the Developer's obligation under the Coconut Point DRI Development Agreement executed on February 24, 2004, to provide surface water management drainage for Sandy Lane.

NOW THEREFORE, in consideration of the premises as well as the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Association grants to County, its successors and assigns, a non-exclusive perpetual drainage easement over that portion of the drainage/surface water management system located within Area 3, including lakes, dedicated drainage easements (DE) and lake maintenance easements (LME), as depicted on the Plat of Coconut Point Area 3 recorded in Instrument Number 2006000470844, along with an easement for ingress and egress over the roads and accessways necessary to maintain the surface water management system in the event this activity becomes necessary. Association also grants to the County the right and authority to convey water and accommodate water storage and flow for the benefit of Via Coconut Point in accordance with the requirements of SFWMD (Permit #36-00288-S as modified). Although the Association is the entity primarily responsible for maintaining the

water management system, Association hereby grants to County the right and authority to maintain the water management system within the easement area, including the right to enter upon Association's lands in the event the Association fails to properly maintain the system so that it will continuously accommodate the water and storage required by County and SFWMD Permit approvals.

2. In accordance with provision II.C. of the Coconut Point DRI Development Order, the Developer (as defined in the Declaration) has provided water storage, water quality, attenuation and pre-treatment of the drainage for Area 3 as platted. Accordingly, County is responsible for contamination and pollution of the Coconut Point water management system located within Area 3 to the extent: (a) such contamination is proven to specifically emanate from activity under the County's control within County owned and maintained right-of-way outside the Coconut Point DRI boundary and flow through the easement area; and, (b) allowed by law without waiver of sovereign immunity afforded under Florida Statutes Section 768.28. Association is responsible for contamination or pollution of the water management system that may emanate from other property located within Area 3.

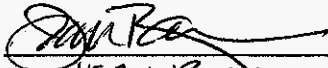
3. Association warrants that, subject to existing easements, if any, for public highways, roads, railroads, laterals, ditches, pipelines and electrical transmission and/or distribution lines and telephone and cable television lines covering the land described above, Association is lawfully possessed of the above-described easement estates and has good and lawful right and power to partially assign such rights, and that the property is free and clear of all liens and encumbrances except as recorded in the Public Records.


4. This Easement runs with the land and is binding on the parties and their successors and assigns.

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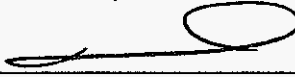
IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

Witnesses:


JEAN RYARI
(Print Name)

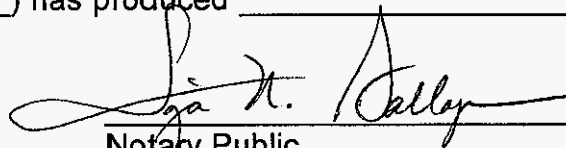

WILLIAM W. CAIN
(Print Name)

COCONUT POINT-SOUTH VILLAGE
ASSOCIATION, INC., a Florida
not-for-profit corporation

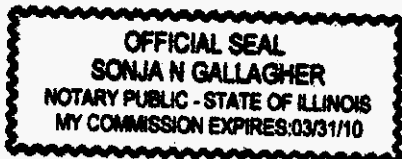
By: 
Name: Rodney A. Welty
Title: Vice-President

STATE OF Illinois
COUNTY OF Kane

The foregoing instrument was acknowledged before me this 11th day of December, 2006, by Rodney A. Welty, as Vice-President of COCONUT POINT-SOUTH VILLAGE ASSOCIATION, INC., a Florida not-for-profit corporation, who (☒) is personally known to me, or (☐) has produced _____ as identification.


Notary Public

My Commission Expires:



ATTEST:

CHARLIE GREEN, CLERK

By: _____
Deputy Clerk

BOARD OF COUNTY
COMMISSIONERS OF LEE COUNTY,
FLORIDA

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Dawn E. Perry-Lehnert
Office of County Attorney

Attachments:

Exhibit "R-1" - Key Map of Plat of Coconut Point – Area 3

EXHIBIT " B-1 "

KEY MAP
NOT TO SCALE

