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THIS INSTRUMENT PREPARED BY  
AND RETURN TO:  
Vivien N. Hastings, Esq.  
801 Laurel Oak Drive, Suite 500  
Naples, FL 33963

DocuSign Tax 24 1 70  
\$ \_\_\_\_\_ Public Tax 13.  
Lee County  
Mary Clark

DR2667 PG2450

GRANT OF CONSERVATION EASEMENT

THIS GRANT OF CONSERVATION EASEMENT is made this 19 day of October, 1995, by PELICAN LANDING COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation, whose address is: 5450 Coconut Road, Bonita Springs, Florida 33923, ("GRANTOR"), in favor of LEE COUNTY, FLORIDA, a political subdivision of the State of Florida, its successors and assigns ("GRANTEE").

WHEREAS, GRANTOR is the owner of certain lands situated in Lee County, known as Hickory Island Park; and

WHEREAS, the GRANTEE has approved the establishment of the Conservation Easement over a portion of Hickory Island Park (exclusive of the buildings and improvements) pursuant to the Lee County Development No. 90-10-003.00D and Section II.E.2 of the Lee County Development Order approving a Development of Regional Impact known as the Pelican Landing DRI, State DRI No. 1-9293-121, the Notice of Adoption which is recorded in Official Record Book 2545, Page 1082 of the Public Records of Lee County, Florida, as such development orders may be amended from time to time (hereinafter such development orders are collectively called "Development Orders"); and

WHEREAS, pursuant to such Development Orders, GRANTOR is granting a Conservation Easement over a portion of Hickory Island Park (hereinafter referred to as the "Property"), more specifically described in Exhibit "A" (legal descriptions and sketches) attached hereto and incorporated herein by reference; and

WHEREAS, the Property is a beach park for the use and benefit of GRANTOR's present and future members, and their guests and invitees.

WHEREAS, the Property is a barrier island and the boundaries and legal description of the Property may change from time to time due to natural causes such as storm events, erosion, etc.; and

WHEREAS, the definition of Property as used in this Conservation Easement shall mean the legal description and boundaries of the Property as they may change from time to time due to such acts of God; and

RECORD VERIFIED - CHARLIE GREEN, CLERK  
BY: MARY JO ROBINSON, D.C.

DR 667 PG 2451

NOW, THEREFORE, in consideration of the consent by Lee County of the issuance of the Development Orders, the receipt and sufficiency whereof are hereby acknowledged, there is created, declared and established and the GRANTOR does hereby grant, bargain and sell to the GRANTEE pursuant to Section 190.011, F.S. and Section 704.06, F.S., a non-exclusive, perpetual conservation easement upon the Property, which shall be subject to the terms and conditions set forth below and which shall run with the land and be binding upon the GRANTOR, GRANTEE, their successors and assigns (including without limitation, any subsequent purchasers of the Property, or any portion thereof) and shall remain in full force and effect forever.

GRANTOR and the GRANTEE agree that this Conservation Easement is subject to the following terms and conditions:

1. It is the purpose of this Conservation Easement to prevent any use of the Property that will significantly impair or interfere with the natural, scenic and ecological values of the Property, except for the activities authorized by this Conservation Easement. To carry out this purpose, the following rights are conveyed to the GRANTEE by this Conservation Easement:

A. To enter upon the Property at reasonable times to observe and inspect the Property and to enforce the rights granted herein upon prior notice to GRANTOR in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property by GRANTOR at the time of such entry; and

B. To enjoin any activity on or use of the Property that is inconsistent with the purpose of this Conservation Easement and to require GRANTOR to restore such areas or features of the Property that may be damaged by any inconsistent activity or use. However, the GRANTEE will restore any area or feature damaged by inconsistent activity or uses by the GRANTEE.

2. GRANTOR states the following uses and practices within the Property (though not an exhaustive recital of inconsistent uses and practices) are inconsistent with GRANTOR'S intent and the purpose of this Conservation Easement and are, therefore, prohibited by it:

A. Construction or placing of buildings, signs, billboards or advertising, utilities, or other structures and facilities, in, on or above the Property, except for such structures or facilities required or authorized by federal permits, state permits and Lee County development orders or this Conservation Easement, caution, safety, informational and education signs or other education displays;

B. Dumping or placing of soil or other substance or material as landfill, or dumping or placing trash, waste or unsightly or offensive materials;

C. Removal or destruction of native trees, shrubs, or other vegetation, except for trimming or removal of dead or diseased trees or removal of exotic nuisance vegetation authorized by the Development Orders or as has been or may be approved by the appropriate State, Federal and local regulatory agencies;

D. Excavation, dredging, or removal of loam, peat, sand, gravel, soil, rock, or other material substance in such a manner as to affect the surface;

E. Surface use (except for purposes that permit the land or water area to remain predominantly in its natural condition);

F. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish or wildlife habitat preservation;

G. Acts or uses detrimental to the retention of the land or water areas; and

H. Trimming of mangroves, except for purposes of dock access or as authorized by the Development Orders or as has been or may be approved by the appropriate State, Federal and local regulatory agencies.

3. Notwithstanding anything to the contrary above, GRANTOR reserves to itself, its employees, agents, representatives and members, the right to implement and perform and maintain and repair, in perpetuity, all elements and all activities authorized or permitted under the Development Orders and this Conservation Easement, including without limitation, the following rights:

A. To construct, install, upkeep and maintain, in perpetuity, all structures and facilities as authorized by federal permits, state permits, and Lee County development orders, including without limitation, a dock, chickee huts, boardwalks, dune walk-overs or other controlled pedestrian access ways, marine/environmental/education signs (as described in 2 A. above), septic field and well, and walking paths.

B. To construct and install utility systems, inclusive of water, sewer, telephone and electric over, under and through the Property, subject to all applicable Federal, State and local regulatory approvals and permitting requirements.

C. All rights as owner of the Property, including the right of ingress and egress and the right to engage in all uses of the Property that are not expressly prohibited herein and which are not inconsistent with the purpose of this Conservation Easement.

D. To engage in other activities on the Property for conservation and preservation where required or approved by the requisite regulatory agencies.

4. GRANTOR shall pay all real property taxes and assessments levied by competent authority on the Property.

5. GRANTOR and GRANTEE agree that upon completion of the installation and construction of the facilities and structures authorized by the Development Orders, the GRANTOR shall be solely responsible, in perpetuity, for all maintenance and repair obligations, with respect to the Property under this Conservation Easement. GRANTOR will maintain and repair the Property, in perpetuity, as required by this Conservation Easement. GRANTEE shall have no maintenance, upkeep or repair responsibilities with respect to this Conservation Easement. Notwithstanding the foregoing, in the event the legal description of the Property changes from time to time due to natural elements (such as hurricanes, storm events) resulting in erosion or adjustments to the acreage or boundaries of the Property, GRANTOR shall have no obligation whatsoever to recreate or construct such Property or any portion thereof eroded or washed away by such act of God or catastrophic event, or to provide any such additional or other conservation area to replace any such loss.

6. GRANTEE, by acceptance of this Conservation Easement, agrees that in exercising its rights and obligations hereunder, GRANTEE shall not unreasonably interfere at any time with the rights of GRANTOR, its members, employees, agents and authorized representatives, or any other party requiring access to any of the Property over which this Conservation Easement is granted. This paragraph does not limit GRANTEE's rights to issue stop work orders and violation notices for violations of this Conservation Easement.

7. No right of access or use by the general public to any portion of the Property is conveyed by this Conservation Easement.

8. In the event it becomes necessary to enforce, judicially or otherwise, the terms and restrictions of this Conservation Easement, including without limitation, costs of suit, attorney's fees, and any cost of restoration necessitated by the violation of the terms of this Conservation Easement, then the prevailing party shall be entitled to reimbursement of all such costs. However, GRANTEE will not assume the cost of any restoration necessitated by the violation of the terms of this Conservation Easement, even if GRANTEE is not the prevailing party.

9. Enforcement of the terms and provisions of this Conservation Easement shall be at the reasonable discretion of GRANTEE and any forbearance on behalf of GRANTEE to exercise its rights hereunder in the event of any breach hereof by GRANTOR shall not be deemed or construed to be a waiver of GRANTEE'S rights hereunder in the event of any subsequent breach.

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10. GRANTEE will hold this Conservation Easement exclusively for conservation purposes and will not assign its rights and obligations under this Conservation Easement, except to an organization qualified to hold such interest under the applicable State and Federal laws and committed to holding this Conservation Easement exclusively for conservation purposes and subject to strict compliance with all terms and conditions hereof.

11. GRANTEE will use care while present on the Property for observation, maintenance, repair or otherwise and in no way interfere with the right of ingress or egress of GRANTOR, its members, or any other party requiring access to any of the Property over which this Conservation Easement is granted.

12. The ownership or attempted enforcement of rights held by GRANTEE does not subject GRANTEE to any liability for damage or injury that may be suffered by any person on the Property or as a result of the condition of the Property, unless such damage or injury is caused by the negligence or willful misconduct of GRANTEE, its agents or employees.

13. If any provision of this Conservation Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions and the application of such provision to persons or circumstances other than those as to which is found to be invalid, shall not be affected thereby.

14. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party hereto or successor-in-interest.

15. GRANTOR agrees that the terms, conditions, restrictions and purposes of this grant will be inserted by it in any subsequent deed or other legal instrument by which GRANTOR divests itself of any interest in the Property.

16. This Conservation Easement may be amended, altered, released or revoked only by written agreement among GRANTOR and GRANTEE.

TO HAVE AND TO HOLD unto GRANTEE, its successors-in-interest and assigns forever. The covenants, terms, conditions, restrictions and purposes imposed with this grant shall not only be binding upon GRANTOR but also its agents and assigns and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, GRANTOR has caused its President to set his hand on the day and year first above written.

Signed, sealed and delivered  
in the presence of:

PELICAN LANDING COMMUNITY  
ASSOCIATION, INC.

WITNESSES:

Robin Martin  
Print: Robin Martin

Carol A. Melby  
Print: CAROL A. MELBY

By: DLS  
Doug L. Schwartz  
President

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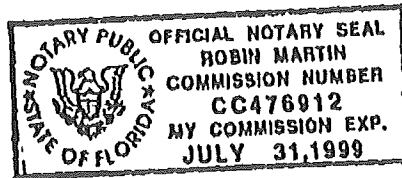
STATE OF FLORIDA  
COUNTY OF LEE

Before me personally appeared Doug L. Schwartz, as President  
of PELICAN LANDING COMMUNITY ASSOCIATION, INC., a Florida  
corporation, to me well known to be the person who executed the  
foregoing instrument, and acknowledged to and before me that he  
executed said instrument in the capacity and for the purposes  
therein expressed. He is personally known to me or produced  
n/a as identification.

Witness my hand and official seal this 19 day of  
October, 1995.

{SEAL}

Robin Martin  
Notary Public - State of Florida  
Print: \_\_\_\_\_  
My Comm. Expires: \_\_\_\_\_



ACKNOWLEDGMENT OF ACCEPTANCE OF CONSERVATION EASEMENT

The Board of Commissioners of Lee County hereby acknowledges acceptance of the foregoing Conservation Easement.

Attest:  
Charlie Green, Clerk

BOARD OF COMMISSIONERS OF  
LEE COUNTY, FLORIDA

By: *Sue S. Pierce*  
(Deputy Clerk)

*Douglas St. Cerny*, Chairman

Acceptance authorized by  
Board Action on  
December 20, 1995

Consent Agenda 11a

38302\_2.WP5

APPROVED AS TO FORM  
*Ann Marie Collins*  
OFFICE OF COUNTY ATTORNEY

DR2667 PG2456

# JOHNSON ENGINEERING, INC.

ENGINEERS, SURVEYORS AND ECOLOGISTS

FORT MYERS  
NAPLES  
FORT CHARLOTTE

September 29, 1995

2158 JOHNSON STREET  
TELEPHONE (941) 324-0046  
TELECOPIER (941) 334-3661  
POST OFFICE BOX 1550  
FORT MYERS, FLORIDA  
33902 1550

## DESCRIPTION

### PARCEL IN

SECTIONS 13 & 14, T. 47 S., R. 24 E.  
BIG HICKORY ISLAND, LEE COUNTY, FLORIDA

CARLE JOHNSON  
1911 1968

A tract or parcel of land lying in Government Lot 3, Section 13 and Government Lot 2, Section 24, Township 47 South, Range 24 East, Big Hickory Island, Lee County, Florida which tract or parcel is described as follows:

From the center of a turnaround on State Road No. 865 (Bonita Beach Road) being S.R.D. Station 19184.75 and N 24° 28' 41" W along the northern prolongation of said centerline of State Road No. 865 for 266.00 feet; thence run S 62° 26' 49" W for 98.40 feet; thence run N 27° 33' 11" W for 1863.42 feet; thence run N 20° 00' 41" W for 1403.30 feet; thence run N 65° 00' 00" E for 313.91 feet to the Point of Beginning.

From said Point of Beginning run N 18° 55' 11" W for 97.51 feet; thence run N 22° 26' 23" W for 100.53 feet; thence run N 23° 09' 50" W for 100.14 feet; thence run N 14° 51' 19" W for 73.01 feet; thence run N 27° 40' 10" W for 88.01 feet; thence run N 29° 33' 57" W for 46.01 feet; thence run N 22° 14' 53" W for 47.27 feet; thence run N 20° 39' 23" W for 46.98 feet; thence run N 11° 15' 38" W for 29.80 feet; thence run N 26° 10' 46" W for 46.87 feet; thence run N 09° 09' 45" W for 48.26 feet; thence run N 17° 35' 56" W for 46.04 feet; thence run N 12° 49' 07" W for 50.04 feet; thence run N 29° 20' 48" W for 69.12 feet; thence run N 20° 48' 58" W for 63.82 feet; thence run N 79° 23' 51" W for 133.37 feet to a point designated as "A"; thence continue N 79° 23' 51" W for 178 feet more or less to an intersection with the Approximate Mean High Water Line of the Gulf of Mexico; thence run Northerly and Northeasterly along said waters for 1140 feet, more or less to a western prolongation of the south line of lands described in Official Record Book 198 at page 188 of the public records of Lee County, Florida; thence run along said prolongation for 259 feet, more or less; thence run along said south line, along the arc of a curve to the right of radius 12000.00 feet for 783 feet, more or less; thence run along an eastern prolongation of said south line for 55 feet, more or less to an intersection with the Waters of New Pass; thence run Southerly, Easterly, Southwesterly and Southerly along said waters for 4080 feet, more or less to an intersection with a line bearing N 65° 00' 00" E and passing through the Point of Beginning; thence run S 65° 00' 00" W for 181 feet more or less to the Point of Beginning.

CHAIRMAN  
ARCHIE T. GRANT, JR.

PRESIDENT  
FORREST H. BANKS

JOSEPH W. EBNER  
STEVEN K. MORRISON  
ANDREW D. TILTON  
JEFFREY C. COONER  
CARL A. BARRACO  
KENTON R. KEILING  
W. DAVID KEY, JR.  
W. BRITT POMEROY  
DAN W. DICKEY  
KEVIN M. WINTER  
GARY R. BULL

ASSOCIATES  
GEORGE J. KALAL  
STEPHEN W. ADAMS  
PATRICIA H. NEWTON

CONSULTANT  
LESTER L. BULSON

EXHIBIT "A"

DR2667 PG2457

OK'D LAS  
OCT 3 1995



PARCEL IN  
SECTIONS 13 & 14, T. 47 S., R. 24 E.  
September 29, 1995  
Page 2

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AND

From said Point of Beginning run S 13° 03' 59" E for 94.16 feet; thence run S 19° 13' 48" E for 50.64 feet; thence run S 04° 34' 15" E for 54.63 feet; thence run S 24° 53' 12" E for 50.09 feet; thence run S 27° 10' 29" E for 50.01 feet; thence run S 31° 01' 44" E for 42.51 feet to an intersection with the south line of lands described in Official Record Book 2246 at page 4413 of the Lee County Records; thence run N 65° 00' 00" E along said south line for 134 feet more or less to the waters of Estero Bay; thence Northerly along said waters for 358 feet, more or less to an intersection with a line bearing N 65° 00' 00" E and passing through the Point of Beginning; thence run S 65° 00' 00" W for 181 feet, more or less to the Point of Beginning.

LESS AND EXCEPT

From said Point "A" run N 79° 23' 51" W for 78.74 feet; thence run N 20° 06' 22" W for 490.66 feet; thence run N 09° 46' 28" W for 305.16 feet; thence run S 67° 41' 41" E for 622.86 feet; thence run S 08° 17' 57" E for 98.10 feet; thence run S 11° 52' 41" E for 88.14 feet; thence run S 47° 10' 42" W for 72.03 feet; thence run S 86° 56' 47" E for 30.19 feet; thence run S 26° 05' 57" W for 55.58 feet; thence run S 74° 37' 56" E for 54 feet more or less to an intersection with the Approximate Mean High Water Line of New Pass; thence run southwesterly along said waters for 44 feet more or less to an intersection with a line bearing S 51° 30' 21" W; thence run along said line for 85 feet more or less; thence run S 38° 55' 03" W for 37.17 feet; thence run S 49° 45' 43" W for 32.44 feet; thence run S 08° 40' 21" E for 42.60 feet; thence run S 75° 56' 26" W for 213.37 feet to said Point "A".

Containing: 34.80 acres, more or less.

LESS 6.80 acres, more or less Exception area

Totaling 28.00 acres, more or less, net Conservation Easement.

Bearings hereinabove mentioned are Plane Coordinate from the Florida West Zone.

*Mark G. Wentzel*

MARK G. WENTZEL (For The Firm)  
Professional Land Surveyor  
Florida Certification No. 5247



OK'D L.A.S.  
OCT 3 1995