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**INSTR # 5065722**

**OR BK 03365 PG 0468**

This instrument prepared by:  
Daniel H. Cox, Esquire  
Young, van Assenderp, Varnadoe  
& Anderson, P.A.  
801 Laurel Oak Drive  
Naples, FL 34108

RECORDED 02/16/01 10:05 AM  
CHARLIE GREEN CLERK OF COURT  
LEE COUNTY  
RECORDING FEE 28.50  
DOC TAX PD(F.S. 201.02) 0.70  
DEPUTY CLERK C Keller

**GRANT OF EASEMENTS AND ASSIGNMENT OF DEDICATIONS**

THIS GRANT OF EASEMENTS AND ASSIGNMENT OF DEDICATIONS made this 21<sup>st</sup> day of JANUARY, 2000, between **WCI COMMUNITIES, INC.**, a Delaware corporation, successor by merger of Pelican Landing Communities, Inc. (formerly known as Westinghouse Bayside Communities, Inc.) (hereinafter referred to as "WCI"), joined by **BAYCREEK COMMUNITY DEVELOPMENT DISTRICT** an independent special district of the State of Florida established under Chapter 190 Florida Statutes (hereinafter referred to as "District"), whose address is 210 N. University Drive, Suite 301, Coral Springs, Florida 33071, and **PELICAN LANDING COMMUNITY ASSOCIATION, INC.**, a Florida not-for-profit corporation, whose address is 24830 Burnt Pine Drive, Bonita Springs, Florida 34134 (hereinafter referred to as "PLCA").

**WITNESSETH:**

**WHEREAS**, WCI executed dedications for road rights-of-way over certain property located in Pelican Landing, Lee County, Florida, in favor of the District by virtue of certain plat dedications, more particularly described as follows:

(1)

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1. That certain Dedication on the plat of Pelican Landing Unit Fourteen, according to the plat thereof recorded in Plat Book 53, Pages 35 through 46, inclusive, of the Public Records of Lee County, Florida, which reads as follows: "The road right-of-way of Pelican's Nest Drive (herein referred to as Tract "A") and Tracts "J", "K", "L" and "M" are hereby temporarily dedicated to the Pelican Landing Community Association, Inc., a Florida not-for-profit corporation, its successors and assigns (subject to easements set forth herein), for the benefit of its members, their tenants, invitees, licensees, mortgagees and employees, until such time as the Bay Creek Community Development District is established by Lee County Ordinance pursuant to Chapter 190, Florida Statutes, at which time Pelican Landing Community Association, Inc., shall convey and transfer by Quit-Claim Deed (subject to easements set forth herein) without consideration, this dedicated property to the Bay Creek Community Development District, its successors and assigns. Notwithstanding the foregoing, Westinghouse Bayside Communities, Inc. reserves for itself, its successors and assigns, employees and invitees, a perpetual right for ingress and egress on, over and across said Tract "A"; and

2. That certain Dedication on the plat of Pelican Landing Unit Seventeen, according to the plat thereof recorded in Plat Book 53, Pages 50 through 53, inclusive, of the Public Records of Lee County, Florida, which reads as follows: "The road right-of-way of Ridge Oak Drive (herein referred to as Tract "A"), and Tracts "B", and "C" are hereby temporarily dedicated to the Pelican Landing Community Association, Inc., a Florida not-for-profit corporation, its successors and assigns (subject to easements set forth herein), for the benefit of its members, their tenants, invites, licensees, mortgagees and employees, until such time as the Bay Creek Community Development District is established by Lee County Ordinance pursuant to Chapter 190 Florida Statutes, at which time Pelican Landing Community Association, Inc. shall convey and transfer by recorded instrument (subject to easements set forth herein), without consideration, this dedicated property to the Bay Creek Community Development District, its successors and assigns. Notwithstanding the foregoing, Westinghouse Bayside Communities, Inc. reserves for itself, its successors and assigns, employees and invitees, a perpetual right for ingress and egress, on, over and across said Tract "A"; (collectively referred to as the "Bay Creek ROW Dedications");

and

**WHEREAS**, WCI and the District, acknowledge that the Bay Creek ROW Dedications described above were intended to create easements in favor of the District to be held for the benefit of the members of the PLCA, their tenants, invitees, licensees, mortgagees and employees, and none other; and

**WHEREAS**, WCI, the District and the PLCA desire that the easements created by virtue of the Bay Creek ROW Dedications be assigned to the PLCA and held by the PLCA for the use and enjoyment of its members, their tenants, invitees, licensees, mortgagees and employees; and

**WHEREAS**, the assignment of the easements created by the dedications will not impair the use and enjoyment of the premises by the beneficial owners of the easements; and

**WHEREAS**, the assignment of the easements created by the dedications will not impair the special and peculiar benefits derived by the properties subject to the jurisdiction of the District from the activities of the District funded through the District's Bonds; and

**WHEREAS**, the assignment of the easements does not affect the proportionate share of the burdens imposed by the special assessments levied by the District, nor does it cause any person to pay a share of the assessments greater in magnitude than the benefits they receive, nor does it cause any person to pay a greater share of the assessments than those who are similarly situated; and

**WHEREAS**, WCI has granted a non-exclusive easement for purposes of ingress and egress, maintenance, repair and replacement of roads (including, but not limited to) pavement, curbing, sidewalks, drainage, landscaping, irrigation, lighting and signage improvements) over the roadways described in the Bay Creek ROW Dedications, in favor of the Bay Creek District, subject to a reservation in favor of WCI and the PLCA for ingress and egress on, over and across the lands described in said easement, recorded in O.R. 3120, Page 4128, of the Public Records of Lee County, Florida ("District Easement").

**NOW THEREFORE**, in consideration of the premises, and other good and valuable consideration given one to the other, the receipt and sufficiency of which is hereby conclusively acknowledged, the parties hereto agree as follows:

- A. The above recitals are true and correct and are hereby incorporated by reference.
- B. Easement to Bay Creek District. WCI does hereby grant a non-exclusive easement over, across, under and above the tract of land more particularly described in Exhibit "A" attached hereto and hereby incorporated by reference, for purposes of ingress and egress, maintenance, repair and replacement of roads (including, but not limited to, pavement, curbing, sidewalks and drainage), landscaping, irrigation, lighting and signage improvements within the said tract of land.
- C. District Easement. The District Easement is hereby ratified and confirmed and shall continue in full force and effect.
- D. Easement to PLCA. WCI does hereby grant a non-exclusive easement over, across, under and above the roadways described in the Bay Creek ROW Dedications to the PLCA for the use and enjoyment of its members, their tenants, invitees, licensees, mortgagees and employees.
- E. Assignment of Dedications to PLCA. The District, subject to the continued existence of the District Easement which is hereby ratified, does hereby assign, transfer and quitclaim to the PLCA, for the benefit, use and enjoyment of its Members, their tenants, invitees, licensees, mortgagees and employees, and does release any interest that the District has in the land described in the Bay Creek ROW Dedications as such Bay Creek ROW Dedications relate to roadway and roadway improvements.
- F. Acceptance of Assignment. The PLCA does hereby accept the assignment of the District's interest in the above described Bay Creek ROW Dedications, and by

acceptance of the Assignment does hereby agree to indemnify and save the District, its officers, employees, and agents harmless from any and all claims, liability, and causes of action to the extent same arise out of the negligent performance of the PLCA, its contractors, employees, agents and subcontractors, of the PLCA's responsibilities pertaining to the Bay Creek ROW Dedications. PLCA shall pay all claims and losses in connection with such claims, and shall defend all suits including appellate proceedings, and shall pay all costs, judgments and attorney's fees which may issue on such judgments, or which may be incurred by the District in connection with any such claim.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their duly authorized agents.

Signed, sealed and delivered  
in our presence

WCI COMMUNITIES, INC., a Delaware  
corporation

Laurely Stealy  
Print Name: LAURELY STEALY

By: Vivien N. Hastings  
Vivien N. Hastings  
Senior Vice President

Melanie Scire  
Print Name: MELANIE SCIRE

Joined By:

BAYCREEK COMMUNITY DEVELOPMENT  
DISTRICT

Attest:

James Ward

By: Suzann H. Watts  
Its: Chair person

Accepted by:

PELICAN LANDING COMMUNITY  
ASSOCIATION, INC., a Florida corporation  
not-for-profit

Laurely Stealy  
Print Name: LAURELY STEALY  
Melanie Scire  
Print Name: MELANIE SCIRE

By: Kenneth W. Hayden  
Print Name: Kenneth W. Hayden

STATE OF FLORIDA  
COUNTY OF LEE

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared Vivien N. Hastings, as Senior Vice President of WCI Communities, Inc., a Delaware corporation, on behalf of the corporation. She is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 29 day of JUNE, 2000.

Laurel Y. Sitterly  
NOTARY PUBLIC LAUREL Y. SITTERLY

My Commission Expires:



~~STATE OF FLORIDA  
COUNTY OF~~

~~I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared \_\_\_\_\_ and \_\_\_\_\_ and Secretary of the Baycreek Community Development District, an independent special district of the State of Florida established under Chapter 190 Florida Statutes, to me known to be the persons described in and who executed the foregoing instrument and acknowledged before me that they executed the same.~~

~~WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_ day of \_\_\_\_\_, 2000.~~

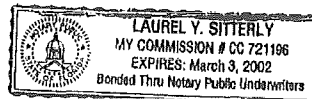
~~\_\_\_\_\_  
Printed Name  
My Commission Expires:~~

STATE OF FLORIDA  
COUNTY OF LEE

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared KENNETH HAYDEN, as President of Pelican Landing Community Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 25 day of JANUARY, 2000.

Laurel Y. Sitterly  
NOTARY PUBLIC  
LAUREL Y. SITTERLY  
My Commission Expires:



STATE OF FLORIDA  
COUNTY OF Lee

On this 28<sup>th</sup> day of December, 2000, before me, the undersigned notary public, personally appeared Susan Watts, Chairperson of the Bay Creek Community Development District, to me will known and known to me to be the person who executed the foregoing instrument, and acknowledged to and before me that they executed said instrument in the capacities and for the purposes therein expressed. She [] is personally known to me or [] produced \_\_\_\_\_ as identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Carol A. Styers  
Notary Public  
Carol A. STYERS  
Printed Name

My Commission Expires: 1-15-02



STATE OF FLORIDA  
COUNTY OF Bloward

On this 8<sup>th</sup> day of January, 2000, before me, the undersigned notary public, personally appeared James P. Ward, Secretary of the Bay Creek Community Development District, to me will known and known to me to be the person who executed the foregoing instrument, and acknowledged to and before me that they executed said instrument in the capacities and for the purposes therein expressed. He is [] personally known to me or [] produced \_\_\_\_\_ as identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Katherine V. Selchan  
Notary Public  
Katherine V. Selchan  
Printed Name

My Commission Expires: December 22, 2002



All of Tract "A" (Ridge Oak Drive), Pelican Landing Unit Seventeen, according to the plat thereof recorded in Plat Book 53, Pages 50 through 53, inclusive, of the Public Records of Lee County, Florida.

EXHIBIT "A"