

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

DATE CRITICAL
Blue Sheet No. 20030447

1. REQUESTED MOTION:

ACTION REQUESTED: Approve the proposed IDD Canal H-9 Realignment and Exchange between Alexander Phocas and Lee County providing for an exchange for a portion of IDD Canal H-9 for an easement over and across a portion of the proposed Oak Hammock development; adopt the Resolution of Exchange in accordance with F. S. 125.37; accept deeds for easement and fee grants from Alexander Phocas in accordance with the Agreement; execute the County Deed to a portion of the IDD Canal H-9 easement area; and authorize County staff to process the documents necessary to fully comply with the terms of the Agreement.

WHY ACTION IS NECESSARY: Board approval is necessary to enter into an agreement contemplating exchange of County property and to accept easements and execute deeds necessary to accomplish the transfer of the real property interest.

WHAT ACTION ACCOMPLISHES: Serves to allow construction of the Oak Hammock development while maintaining the County's existing drainage needs.

**2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #2**

A12A

3. MEETING DATE:

06-17-2003

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:
(Specify)**

- STATUTE 125.37
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT County Attorney
- C. DIVISION *[Signature]*
- BY: Joan C. Henry
Assistant County Attorney

7. BACKGROUND:

A portion of the IDD Canal H-9 located directly north of the Oak Hammock Parcel was previously vacated and a portion remains within the boundary of this parcel. The historical and existing stormwater runoff currently flows from IDD Canal H-9 east of the Oak Hammock Parcel into the proposed realignment and reconfiguration area which is known as part of the East Branch of Whiskey Creek (Brantley Road Ditch).

Continued on Page 2

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>[Signature]</i>	<i>OA</i>	<i>OM</i>	<i>RISK</i>	<i>GC</i>	<i>[Signature]</i>
					<i>5/21/03</i>	<i>5/21</i>	<i>6/12/03</i>	<i>5/21/03</i>	<i>5-21-03</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED BY
COUNTY ADMIN. *RK*
5-20-03
4:25
COUNTY ADMIN. *DS*
5/21 4:30

CO. ATTY.
FORWARDED
TO CO. ADMIN.
5/20/03 3:30p.M.

Blue Sheet #:

Page No.: 2

Subject: IDD Canal H-9 Realignment Agreement

The developer would like to develop the parcel in a manner that requires the proposed realignment and reconfiguration and also accommodates the existing flow of stormwater runoff.

County staff, including Development Services, Natural Resources and Transportation have reviewed this request and recommend approval.

Attachments:

1. IDD Canal H-9 Realignment and Exchange Agreement
2. Resolution of Exchange

THIS INSTRUMENT PREPARED BY:

Lee County Attorney's Office
Post Office Box 398
Fort Myers, Florida 33902

Strap No.: 14-45-24-00-00007.0060
15-45-24-00-00014.0040

IDD CANAL H-9 REALIGNMENT AND EXCHANGE AGREEMENT

This Agreement is entered into this _____ day of _____, 2003 between Alexander George Phocas, whose address is 25 Summit Street, Philadelphia, Pennsylvania 19118, (Owner); Hole Montes, Inc., a Florida Corporation, whose address is 950 Encore Way, Naples, Florida 34110, (Developer); and Lee County, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902 (County).

WHEREAS, Phocas is the fee simple owner of property located in Sections 14 and 15, Township 45 South, Range 24 East, Lee County, Florida and more specifically described in attached Exhibit "A" (Oak Hammock Parcel); and

WHEREAS, the Developer is the current contract purchaser of the Oak Hammock Parcel; and

WHEREAS, the County holds an easement interest in IDD Canal H-9 as described in the Lee County Public Records at Official Records Book 1529, Page 1225, the description of which is incorporated herein by reference; and

WHEREAS, a portion of the IDD Canal H-9 easement located directly north of the Oak Hammock Parcel was previously vacated; and

WHEREAS, the remaining portion of the vacated IDD Canal H-9 easement, as legally described and depicted in attached Exhibit "B", is located within the boundaries of the Oak Hammock Project; and

WHEREAS, IDD Canal H-9 east of the Oak Hammock Parcel currently serves as part of the drainage facilities necessary to accommodate stormwater runoff for the area; and

WHEREAS, the historical and existing stormwater runoff currently flows from IDD Canal H-9 east of the Oak Hammock Parcel into the proposed realignment and reconfiguration easement as depicted in the attached Exhibit "C" and know as part of the East Branch of Whiskey Creek (Brantley Road Ditch); and

WHEREAS, the Developer desires to develop the Oak Hammock Parcel in a manner that requires the proposed realignment and reconfiguration of the IDD Canal H-9 easement as depicted in attached Exhibit "C" and local development order application DOS2002-00165; and

WHEREAS, in order to facilitate the design of the Oak Hammock Parcel as proposed by the Developer and accommodate the existing stormwater runoff, the IDD Canal H-9 easement will require both realignment and relocation; and

WHEREAS, a principal purpose of this Agreement is to provide for an exchange of real property interests as allowed by and pursuant to Section 125.37, Florida Statutes (2002); and

WHEREAS, the purpose of this Agreement is to set forth the terms acceptable to the parties to accomplish both objectives; and

WHEREAS, the parties believe this Agreement will facilitate county drainage needs and adequately serve to protect the public interest.

NOW, THEREFORE, in consideration of the covenants contained in this Agreement, Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the parties do hereby agree as follows:

1. The recitals set forth above are true and correct and incorporated into this Agreement.

2. The purpose of the Agreement is to accommodate the realignment and relocation of the rights and capacity enjoyed by the County in the original configuration of the IDD Canal H-9 easement and provide realignment and relocation to accommodate the existing flow of stormwater runoff.

3. During the initial development of the Oak Hammock Parcel the Developer will design a surface water management system (Oak Hammock System) that will accommodate:

- a. existing and future flow rates and volumes within IDD Canal H-9 and the East Branch of Whiskey Creek (Brantley Road Ditch) as depicted in Exhibit "C";
- b. the needs of the Oak Hammock Parcel.

The Owner or Developer, as applicable, will provide Lee County Department of Transportation (DOT) and the Lee County Division of Natural Resources Management (DNR) with the opportunity to review and comment on the design of the Oak Hammock

System during the development order review process to ensure that the design will result in a reasonable and viable alternative to the existing IDD Canal H-9 easement. The parties understand and agree that the Oak Hammock System must be designed and constructed in a manner capable of handling all flow rates and capacity originally intended to be accommodated by IDD Canal H-9. The parties also understand and agree that DOT and DNR retain final development approval authority with respect to replacement or relocation of the IDD Canal H-9 easement.

4. The County agrees not to unreasonably withhold approval of the Oak Hammock System.

5. During construction of the Oak Hammock System, the Developer agrees not to damage or otherwise suspend the function of IDD Canal H-9 and the East Branch of Whiskey Creek (Brantley Road Ditch).

6. The parties agree that in order for the Oak Hammock System to act as an acceptable replacement for the existing IDD Canal H-9 easement, the system must be designed to:

- a. accommodate the flow rates and capacity applicable to development of the Oak Hammock Parcel; and
- c. maintain the natural state of the East Branch of Whiskey Creek (Brantley Road Ditch) to provide a natural flowway;
- d. comply with all applicable South Florida Water Management District and Lee County Land Development Code (LDC) regulations.

7. Upon approval and execution of this Agreement by the County, the Owner of the Oak Hammock Parcel will execute, deliver and record a Perpetual Drainage and Access Easement (Easement) in favor of the County. A copy of this Easement is attached as Exhibit "D". This document has been reviewed and approved by the County staff.

This purpose of this Easement is to provide the County with a continuing right to maintain the East Branch of Whiskey Creek (Brantley Road Ditch) as depicted in Exhibit "C" that replaces IDD Canal H-9 easement, including necessary access rights, in the event the Owner/Developer or its successor fails to properly maintain the facility. This easement serves to establish upon development and construction of the Oak Hammock Parcel that the primary responsibility for maintenance of the East Branch of Whiskey Creek (Brantley Road Ditch) as depicted in Exhibit "C" belongs to the Owner/Developer, including but not limited to maintaining the easement in its natural state and the continual removal of invasive exotic vegetation. This maintenance will be at no cost to the County. However, the County is provided a continuing right to maintain the East Branch of Whiskey Creek (Brantley Road Ditch) as depicted in Exhibit "C" that replaces the IDD Canal H-9 easement, including necessary access rights, in the event the Owner/Developer or successor fails to properly maintain the facility. Should the Owner/Developer fail to maintain the facility and

County provide maintenance, the County may charge the Owner /Developer for performing the cost of this obligation.

Additionally, in the event the property is developed to include a maintenance entity such as a homeowner's association or a Community Development District (CDD) under Chapter 190, F.S., then the Owner/Developer must provide the County with written confirmation of the transfer to the maintenance entity (along with the entity's authority to accept the obligation) and its acceptance of, the permanent maintenance responsibility for the proper operation and function of the easement within the property described in Exhibit "A."

In conjunction with the review and approval of the Easement and prior to Board consideration of the Realignment Agreement, the Owner must submit assurance, acceptable to the County Attorney's Office, that the Owner holds sufficient right, title and interest to convey the subject easement. Assurance may take the form of either an attorney opinion of title, prepared in accordance with the standards for opinions promulgated by the Florida Bar, or title insurance. The purpose of this provision is to establish that the County will receive an interest in the Easement area superior to all rights and interests except that of the fee title holder.

8. The County has agreed to relinquish and exchange its rights in the existing IDD Canal H-9 easement area as described in the attached Exhibit "B" in part based upon the Owner's/Developer's agreement to maintain the East Branch of Whiskey Creek (Brantley Road Ditch) as depicted in Exhibit "C" contemplated by this Agreement.

9. This Agreement was considered by the Board of County Commissioners in accordance with the requirements of Section 125.37, F.S.. The Owner will be responsible for all recording costs and fees associated with this exchange (including but not limited to documentary stamps and costs of advertising required under Section 125.37, F.S.).

10. The parties understand and agree that no impact fee credits will be issued for the drainage improvements contemplated by this Agreement.

11. The parties understand and agree that any drainage facilities constructed or maintained in accordance with this Agreement must meet SFWMD and County regulatory permitting requirements.

12. The Developer agrees, at its sole expense, to repair, relocate or reconstruct any public utilities, including but not limited to, water, sewer, gas, electric, telephone and cable, affected by construction of the Oak Hammock System as contemplated under this Agreement.

13. The Developer is responsible for obtaining all required permits and approvals necessary to achieve compliance with applicable county, state and federal regulations.

14. This Agreement will be construed in accordance with the laws of the State of

Florida. The venue for any action arising from this Agreement lies in Lee County, Florida.

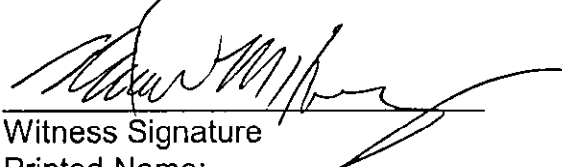
15. The parties agree that the rights and obligations provided to the Owner under this Agreement are freely assignable to a purchaser for value. The Developer joins in the execution of this Agreement to evidence his consent to the terms and conditions herein as the contract purchaser, and agrees to succeed to all the obligations of Owner hereunder upon purchase of subject property, whereas Owner will be under no further obligations to any party under this Agreement.

16. This Agreement, including all exhibits, constitutes the entire agreement of the parties and may be modified only by a written instrument executed with the same formality.

17. This exchange must be completed with all necessary documents recorded in the Public Records of Lee County on or before June 30, 2003, otherwise this Agreement will terminate and be of no further force and effect.

18. The County hereby authorizes the Chairman of the Board of County Commissioners, or his designee to accept and execute all documents on behalf of the County and to do all other things prudent and necessary to effectuate the terms of this Agreement and the exchange of real property interests contemplated herein.

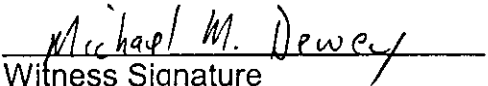
19. This Agreement is binding upon and inures to the benefit of the parties, their successors and assigns.



Witness Signature
Printed Name:



ALEXANDER GEORGE PHOCAS



Witness Signature
Printed Name:

STATE OF Pennsylvania
COUNTY OF Philadelphia

The foregoing Agreement was acknowledged before me this 7th day of May by Alexander George Phocas. He is personally known to me or has produced the following identification _____.

Notary Public


Notarial Seal
Carol A. Dlugoski, Notary Public
City Of Philadelphia, Philadelphia County
My Commission Expires Nov. 18, 2006
Member, Pennsylvania Association Of Notaries

HOLE MONTES, INC.
a Florida Corporation

By: _____

NED DEWHIRST

Shirley A. Martin

Witness Signature

Printed Name: SHIRLEY A. MARTIN

Jared K. Harrison

Witness Signature

Printed Name: JARED K. HARRISON

STATE OF FLORIDA
COUNTY OF LEE

The foregoing Agreement was acknowledged before me this 12th day of May, 2003 by NED E. DEWHIRST as Sr. V.P./Principal of Hole Montes, Inc., a Florida Corporation, on behalf of the corporation. He/she is (personally known to me) or has produced the following identification x x x.



Kristin G. Cannestra
MY COMMISSION # CC869723 EXPIRES
October 22, 2003
BONDED THRU TROY FARN INSURANCE, INC.

Kristin G. Cannestra
Notary Public

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of County Attorney

Attachments:

- Exhibit A - Legal Description of Oak Hammock Parcel
- Exhibit B - Legal Description and Sketch of Existing IDD Canal H-9 easement
- Exhibit C - Proposed "realignment" of IDD Canal H-9 Easement
- Exhibit D - Perpetual Drainage Easement

HM PROJECT #2002053
08/16/2002
REF. DWG. #A-1453

THIS LAND IS DESCRIBED AS FOLLOWS:

TRACT OR PARCEL OF LAND LYING IN THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 15 AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, WHICH IS DESCRIBED AS FOLLOWS:

FROM THE NORTHWEST CORNER OF TRACT "A", EXECUTIVE PARK, A SUBDIVISION, AS RECORDED IN PLAT BOOK 30, PAGE 47, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°55'58" WEST ALONG THE EAST RIGHT-OF-WAY (40 FEET FROM CENTERLINE) OF WHISKEY CREEK DRIVE FOR 534.69 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°07'11" EAST ALONG THE 1/4 SECTION LINE OF SECTION 15 FOR 356.13 FEET TO THE SECTION LINE COMMON WITH SAID SECTION 15 AND 14; THENCE NORTH 88°54'22" EAST ALONG THE 1/4 SECTION LINE OF SECTION 14 FOR 350 FEET, MORE OR LESS, TO THE CENTERLINE OF THE EAST BRANCH OF WHISKEY CREEK (BRANTLEY ROAD DITCH); THENCE SOUTHWESTERLY ALONG SAID CENTERLINE FOR 795 FEET, MORE OR LESS; THENCE SOUTH 0°55'58" EAST ALONG A LINE PARALLEL TO AND 165.0 FEET EAST OF AS MEASURED 90° TO SAID EAST RIGHT-OF-WAY, FOR 10 FEET, MORE OR LESS; THENCE NORTH 47°32'25" WEST ALONG THE APPROXIMATE CENTERLINE OF SAID CREEK FOR 50.41 FEET; THENCE SOUTH 77°51'24" WEST FOR 130.87 FEET; THENCE NORTH 0°55'58" WEST ALONG SAID EAST RIGHT-OF-WAY FOR 311.19 FEET TO THE POINT OF BEGINNING.

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

BEARINGS REFER TO THE NORTH LINE OF THE SOUTHEAST 1/4 OF SECTION 15, TOWNSHIP 45 SOUTH, RANGE 24 EAST, COLLIER COUNTY, FLORIDA, AS BEING N.89°07'11"E.

EXHIBIT "A"

OAK HAMMOCK PARCEL

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 15 AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF TRACT "A", EXECUTIVE PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 30, PAGE 47, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THE SAME BEING A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF WHISKEY CREEK DRIVE AN 80.00 FOOT RIGHT-OF-WAY, AS SHOWN IN WHISKEY CREEK CLUB ESTATES UNIT SEVEN, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 32 AT PAGES 5 THROUGH 7 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.00°55'58"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 501.69 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N.00°55'58"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 33.00 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF SECTION 15, TOWNSHIP 45 SOUTH, RANGE 24 EAST; THENCE RUN N.89°07'11"E., ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 15, FOR A DISTANCE OF 356.13 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 24 EAST; THENCE RUN N.88°54'22"E., ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 14, FOR A DISTANCE OF 369.37 FEET TO A POINT IN THE CENTERLINE OF THE EAST BRANCH OF WHISKEY CREEK (BRANTLEY ROAD DITCH); THENCE RUN S.74°34'15"W., ALONG THE CENTERLINE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 2.00 FEET; THENCE RUN S.61°13'41"W., ALONG THE CENTERLINE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 9.40 FEET; THENCE RUN S.57°16'22"W., ALONG THE CENTERLINE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 5.68 FEET; THENCE RUN S.10°17'13"W., ALONG THE CENTERLINE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 4.37 FEET; THENCE RUN S.17°49'15"W., ALONG THE CENTERLINE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 10.11 FEET; THENCE RUN S.10°03'01"W, ALONG THE CENTERLINE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 11.52 FEET TO A POINT ON A LINE 33.00 FEET SOUTHERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 14, THENCE RUN S.88°54'22"W., PARALLEL; WITH THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 14, FOR A DISTANCE OF 347.96 FEET TO A POINT ON A LINE 33.00 FEET SOUTHERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 14, THENCE RUN S.89°07'11"W., PARALLEL TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 14, FOR A DISTANCE OF 356.18 FEET TO THE POINT OF BEGINNING, CONTAINING 0.538 ACRE MORE OR LESS.

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

BEARINGS REFER TO THE NORTH LINE OF THE SOUTHEAST 1/4 OF SECTION 15 TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS BEING N.89°07'11"E.

EXHIBIT "B"

IDD CANAL



LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 15 AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF TRACT "A", EXECUTIVE PARK ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 30 AT PAGE 47 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THE SAME BEING A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF WHISKEY CREEK DRIVE, AN 80.00 FOOT RIGHT-OF-WAY, AS THE SAME IS SHOWN ON WHISKEY CREEK CLUB ESTATES UNIT SEVEN ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 32 AT PAGES 5 THROUGH 7 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA ; THENCE RUN N.00°55'58"W., ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID WHISKEY CREEK DRIVE, FOR A DISTANCE OF 253.12 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N.00°55'58"W., ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID WHISKEY CREEK DRIVE, FOR A DISTANCE OF 30.52 FEET; THENCE RUN S.55°56'07"E., FOR A DISTANCE OF 27.40 FEET; THENCE RUN N.81°35'11"E., FOR A DISTANCE OF 5.08 FEET, THENCE RUN S.80°40'05"E., FOR A DISTANCE OF 10.15 FEET; THENCE RUN N.78°48'15"E., FOR A DISTANCE OF 6.32 FEET; THENCE RUN N.68°34'18"E., FOR A DISTANCE OF 23.17 FEET; THENCE RUN N.65°23'52"E., FOR A DISTANCE OF 22.48 FEET; THENCE RUN N.86°32'36"E., FOR A DISTANCE OF 33.22 FEET; THENCE RUN S.76°33'15"E., FOR A DISTANCE OF 30.38 FEET; THENCE RUN S.53°10'41"E., FOR A DISTANCE OF 22.33 FEET; THENCE RUN S.55°23'51"E., FOR A DISTANCE OF 9.12 FEET; THENCE RUN S.49°05'56"E., FOR A DISTANCE OF 25.35 FEET; THENCE RUN S.48°57'19"E., FOR A DISTANCE OF 19.91 FEET; THENCE RUN S.54°50'08"E., FOR A DISTANCE OF 19.03 FEET; THENCE RUN S.37°16'06"E., FOR A DISTANCE OF 37.95 FEET; THENCE RUN S.23°21'28"E., FOR A DISTANCE OF 2.97 FEET; THENCE RUN N.76°22'17"E., FOR A DISTANCE OF 1.23 FEET; THENCE RUN N.62°29'06"E., FOR A DISTANCE OF 12.61 FEET; THENCE RUN N.50°16'21"E., FOR A DISTANCE OF 9.91 FEET; THENCE RUN N.40°04'07"E., FOR A DISTANCE OF 11.70 FEET; THENCE RUN N.38°42'56"E., FOR A DISTANCE OF 17.91 FEET; THENCE RUN N.35°04'41"E., FOR A DISTANCE OF 20.51 FEET; THENCE RUN N.70°48'20"E., FOR A DISTANCE OF 26.27 FEET; THENCE RUN N.84°28'15"E., FOR A DISTANCE OF 24.40 FEET; THENCE RUN N.79°04'27"E., FOR A DISTANCE OF 8.94 FEET; THENCE RUN N.37°14'02"E., FOR A DISTANCE OF 9.64 FEET; THENCE RUN N.29°17'18"E., FOR A DISTANCE OF 11.98 FEET; THENCE RUN N.24°04'15"E., FOR A DISTANCE OF 26.21 FEET; THENCE RUN N.47°16'59"E., FOR A DISTANCE OF 31.32 FEET; THENCE RUN N.56°45'22"E., FOR A DISTANCE OF 19.56 FEET; THENCE RUN N.39°59'35"E., FOR A DISTANCE OF 22.08 FEET; THENCE RUN N.29°12'49"E., FOR A DISTANCE OF 16.65 FEET; THENCE RUN N.24°09'05"E., FOR A DISTANCE OF 27.71 FEET; THENCE RUN N.19°34'30"E., FOR A DISTANCE OF 29.32 FEET; THENCE RUN N.41°00'00"E., FOR A DISTANCE OF 44.23 FEET; THENCE RUN N.42°33'36"E., FOR A DISTANCE OF 37.66 FEET; THENCE RUN N.53°01'28"E., FOR A DISTANCE OF 32.41 FEET; THENCE RUN N.47°35'23"E., FOR A DISTANCE OF 26.95 FEET; THENCE RUN N.70°34'43"E., FOR A DISTANCE OF 37.24 FEET; THENCE RUN S.81°46'29"E., FOR A DISTANCE OF 36.61 FEET; THENCE RUN S.63°29'07"E., FOR A DISTANCE OF 30.17 FEET; THENCE RUN S.65°26'35"E., FOR A DISTANCE OF 4.73 FEET; THENCE RUN N.03°02'14"E., FOR A DISTANCE OF 2.63 FEET; THENCE RUN N.12°49'39"E., FOR A DISTANCE OF 29.25 FEET; THENCE RUN N.03°58'01"E., FOR A DISTANCE OF 12.13 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; THENCE RUN N.88°54'22"E., ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 14, FOR A DISTANCE OF 26.55 FEET TO A POINT ON THE NORTHERLY EDGE OF THE EAST BRANCH OF WHISKEY CREEK (BRANTLEY ROAD DITCH); THENCE RUN S.22°07'51"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 1.54 FEET; THENCE RUN S.25°31'07"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 2.62 FEET; THENCE RUN S.03°58'01"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY

CREEK, FOR A DISTANCE OF 12.51 FEET; THENCE RUN S.12°49'39"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 29.05 FEET; THENCE RUN S.03°02'14"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 19.34 FEET; THENCE RUN S.59°18'09"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 10.45 FEET; THENCE RUN S.83°57'53"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 8.52 FEET; THENCE RUN S.87°38'14"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 8.20 FEET; THENCE RUN N.65°26'35"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 14.72 FEET; THENCE RUN N.63°29'07"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 26.57 FEET; THENCE RUN N.81°46'29"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 26.44 FEET; THENCE RUN S.70°34'43"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 26.01 FEET; THENCE RUN S.47°35'23"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 23.05 FEET; THENCE RUN S.53°01'28"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 31.31 FEET; THENCE RUN S.42°33'36"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 35.03 FEET; THENCE RUN S.41°00'00"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 39.16 FEET; THENCE RUN S.19°34'30"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 25.59 FEET; THENCE RUN S.24°09'05"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 29.81 FEET; THENCE RUN S.29°12'49"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 20.11 FEET; THENCE RUN S.39°59'35"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 28.12 FEET; THENCE RUN S.56°45'22"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 21.17 FEET; THENCE RUN S.47°16'59"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 24.11 FEET; THENCE RUN S.24°04'15"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 22.21 FEET; THENCE RUN S.29°17'18"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 14.85 FEET; THENCE RUN S.37°14'02"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 18.62 FEET; THENCE RUN S.62°52'17"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 5.54 FEET; THENCE RUN S.79°04'27"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 16.08 FEET; THENCE RUN S.84°28'15"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 22.58 FEET; THENCE RUN S.70°48'20"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 15.22 FEET; THENCE RUN S.35°04'41"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 13.25 FEET; THENCE RUN S.38°42'56"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 18.99 FEET; THENCE RUN S.40°04'07"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 14.22 FEET; THENCE RUN S.50°16'21"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 14.82 FEET; THENCE RUN S.62°29'06"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 18.33 FEET; THENCE RUN S.76°22'17"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 17.35 FEET; THENCE RUN S.87°15'19"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 6.10 FEET; THENCE RUN N.41°01'06"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 7.16 FEET; THENCE RUN N.23°21'28"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 13.37 FEET; THENCE RUN N.37°16'06"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF

WHISKEY CREEK, FOR A DISTANCE OF 31.03 FEET; THENCE RUN N.54°50'08"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 16.45 FEET; THENCE RUN N.48°57'19"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 21.17 FEET; THENCE RUN N.49°05'56"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 23.95 FEET; THENCE RUN N.55°23'51"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 8.23 FEET; THENCE RUN N.53°10'41"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 17.64 FEET; THENCE RUN N.76°33'15"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 21.49 FEET; THENCE RUN S.86°32'36"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 24.83 FEET; THENCE RUN S.65°23'52"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 18.51 FEET; THENCE RUN S.68°34'18"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 26.10 FEET; THENCE RUN S.78°48'15"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 13.08 FEET; THENCE RUN N.80°40'05"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 10.77 FEET; THENCE RUN S.81°35'11"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 10.89 FEET; THENCE RUN N.55°56'07"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 19.61 FEET TO THE POINT OF BEGINNING; CONTAINING 0.542 ACRE, MORE OR LESS.

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

BEARINGS REFER TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS BEING N.88°54'22"E.

THE NORTHERLY EDGE AND THE CENTERLINE (THE SOUTHERLY BOUNDARY LINE OF SUBJECT PROPERTY) OF THE EAST BRANCH OF WHISKEY CREEK (BRANTLEY ROAD DITCH) WAS ESTABLISHED BY FIELD MEASUREMENT OF THE NORTHERLY AND SOUTHERLY WATERS EDGE ON 05/28/02.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY *Jerry L. Riffelmacher* P.S.M. #6130
JERRY L. RIFFELMACHER STATE OF FLORIDA

THIS INSTRUMENT PREPARED BY:

Joan C. Henry, Assistant County Attorney
Lee County Attorney's Office
Post Office Box 398
Fort Myers, Florida 33902

Strap No.: 14-45-24-00-00007.0060
15-45-24-00-00014.0040

PERPETUAL DRAINAGE and ACCESS EASEMENT

This indenture is made this _____ day of _____, 2003 between Alexander George Phocas, whose address is 25 Summit Street, Philadelphia, Pennsylvania 19118, (Grantor) and Lee County, a political subdivision of the State of Florida, whose address is P.O. Box 398, Fort Myers, Florida 33902 (Grantee) as follows:

For good and valuable consideration, receipt of which is hereby acknowledged, Grantor grants to Grantee, its successors and assigns, a perpetual drainage and access easement over that portion of the surface water management system on the Oak Hammock Parcel as referred to in the IDD Canal H-9 Realignment and Exchange Agreement dated _____ and more particularly described in attached Exhibit "A".

This Easement includes the right to use the stormwater management system to convey stormwater runoff and surface water in accordance with SFWMD and Lee County requirements applicable to the improvements associated development of the Oak Hammock Parcel and flowing from the existing IDD Canal H-9. Grantee has the right and authority to maintain the stormwater 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.

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

Exhibit D

that the property is free and clear of all liens and encumbrances except as recorded in the public records.

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

IN WITNESS of the above this instrument is executed.

Witness Signature

Alexander George Phocas

Printed Name

Witness Signature

Printed Name

STATE OF _____
COUNTY OF _____

The foregoing Agreement was acknowledged before me this __ day of _____, 2003 by Alexander George Phocas. He is personally known to me or has produced the following identification _____.

Notary Public

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of County Attorney

Attachments:
Exhibit A - Legal Description and Sketch of Easement Area

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 15 AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF TRACT "A", EXECUTIVE PARK ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 30 AT PAGE 47 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THE SAME BEING A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF WHISKEY CREEK DRIVE, AN 80.00 FOOT RIGHT-OF-WAY, AS THE SAME IS SHOWN ON WHISKEY CREEK CLUB ESTATES UNIT SEVEN ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 32 AT PAGES 5 THROUGH 7 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA ; THENCE RUN N.00°55'58"W., ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID WHISKEY CREEK DRIVE, FOR A DISTANCE OF 253.12 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED;-THENCE CONTINUE N.00°55'58"W., ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID WHISKEY CREEK DRIVE, FOR A DISTANCE OF 30.52 FEET; THENCE RUN S.55°56'07"E., FOR A DISTANCE OF 27.40 FEET; THENCE RUN N.81°35'11"E., FOR A DISTANCE OF 5.08 FEET, THENCE RUN S.80°40'05"E., FOR A DISTANCE OF 10.15 FEET; THENCE RUN N.78°48'15"E., FOR A DISTANCE OF 6.32 FEET; THENCE RUN N.68°34'18"E., FOR A DISTANCE OF 23.17 FEET; THENCE RUN N.65°23'52"E., FOR A DISTANCE OF 22.48 FEET; THENCE RUN N.86°32'36"E., FOR A DISTANCE OF 33.22 FEET; THENCE RUN S.76°33'15"E., FOR A DISTANCE OF 30.38 FEET; THENCE RUN S.53°10'41"E., FOR A DISTANCE OF 22.33 FEET; THENCE RUN S.55°23'51"E., FOR A DISTANCE OF 9.12 FEET; THENCE RUN S.49°05'56"E., FOR A DISTANCE OF 25.35 FEET; THENCE RUN S.48°57'19"E., FOR A DISTANCE OF 19.91 FEET; THENCE RUN S.54°50'08"E., FOR A DISTANCE OF 19.03 FEET; THENCE RUN S.37°16'06"E., FOR A DISTANCE OF 37.95 FEET; THENCE RUN S.23°21'28"E., FOR A DISTANCE OF 2.97 FEET; THENCE RUN N.76°22'17"E., FOR A DISTANCE OF 1.23 FEET; THENCE RUN N.62°29'06"E., FOR A DISTANCE OF 12.61 FEET; THENCE RUN N.50°16'21"E., FOR A DISTANCE OF 9.91 FEET; THENCE RUN N.40°04'07"E., FOR A DISTANCE OF 11.70 FEET; THENCE RUN N.38°42'56"E., FOR A DISTANCE OF 17.91 FEET; THENCE RUN N.35°04'41"E., FOR A DISTANCE OF 20.51 FEET; THENCE RUN N.70°48'20"E., FOR A DISTANCE OF 26.27 FEET; THENCE RUN N.84°28'15"E., FOR A DISTANCE OF 24.40 FEET; THENCE RUN N.79°04'27"E., FOR A DISTANCE OF 8.94 FEET; THENCE RUN N.37°14'02"E., FOR A DISTANCE OF 9.64 FEET; THENCE RUN N.29°17'18"E., FOR A DISTANCE OF 11.98 FEET; THENCE RUN N.24°04'15"E., FOR A DISTANCE OF 26.21 FEET; THENCE RUN N.47°16'59"E., FOR A DISTANCE OF 31.32 FEET; THENCE RUN N.56°45'22"E., FOR A DISTANCE OF 19.56 FEET; THENCE RUN N.39°59'35"E., FOR A DISTANCE OF 22.08 FEET; THENCE RUN N.29°12'49"E., FOR A DISTANCE OF 16.65 FEET; THENCE RUN N.24°09'05"E., FOR A DISTANCE OF 27.71 FEET; THENCE RUN N.19°34'30"E., FOR A DISTANCE OF 29.32 FEET; THENCE RUN N.41°00'00"E., FOR A DISTANCE OF 44.23 FEET; THENCE RUN N.42°33'36"E., FOR A DISTANCE OF 37.66 FEET; THENCE RUN N.53°01'28"E., FOR A DISTANCE OF 32.41 FEET; THENCE RUN N.47°35'23"E., FOR A DISTANCE OF 26.95 FEET; THENCE RUN N.70°34'43"E., FOR A DISTANCE OF 37.24 FEET; THENCE RUN S.81°46'29"E., FOR A DISTANCE OF 36.61 FEET; THENCE RUN S.63°29'07"E., FOR A DISTANCE OF 30.17 FEET; THENCE RUN S.65°26'35"E., FOR A DISTANCE OF 4.73 FEET; THENCE RUN N.03°02'14"E., FOR A DISTANCE OF 2.63 FEET; THENCE RUN N.12°49'39"E., FOR A DISTANCE OF 29.25 FEET; THENCE RUN N.03°58'01"E., FOR A DISTANCE OF 12.13 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; THENCE RUN N.88°54'22"E., ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 14, FOR A DISTANCE OF 26.55 FEET TO A POINT ON THE NORTHERLY EDGE OF THE EAST BRANCH OF WHISKEY CREEK (BRANTLEY ROAD DITCH); THENCE RUN S.22°07'51"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 1.54 FEET; THENCE RUN S.25°31'07"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 2.62 FEET; THENCE RUN S.03°58'01"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY

CREEK, FOR A DISTANCE OF 12.51 FEET; THENCE RUN S.12°49'39"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 29.05 FEET; THENCE RUN S.03°02'14"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 19.34 FEET; THENCE RUN S.59°18'09"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 10.45 FEET; THENCE RUN S.83°57'53"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 8.52 FEET; THENCE RUN S.87°38'14"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 8.20 FEET; THENCE RUN N.65°26'35"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 14.72 FEET; THENCE RUN N.63°29'07"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 26.57 FEET; THENCE RUN N.81°46'29"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 26.44 FEET; THENCE RUN S.70°34'43"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 26.01 FEET; THENCE RUN S.47°35'23"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 23.05 FEET; THENCE RUN S.53°01'28"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 31.31 FEET; THENCE RUN S.42°33'36"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 35.03 FEET; THENCE RUN S.41°00'00"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 39.16 FEET; THENCE RUN S.19°34'30"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 25.59 FEET; THENCE RUN S.24°09'05"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 29.81 FEET; THENCE RUN S.29°12'49"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 20.11 FEET; THENCE RUN S.39°59'35"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 28.12 FEET; THENCE RUN S.56°45'22"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 21.17 FEET; THENCE RUN S.47°16'59"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 24.11 FEET; THENCE RUN S.24°04'15"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 22.21 FEET; THENCE RUN S.29°17'18"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 14.85 FEET; THENCE RUN S.37°14'02"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 18.62 FEET; THENCE RUN S.62°52'17"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 5.54 FEET; THENCE RUN S.79°04'27"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 16.08 FEET; THENCE RUN S.84°28'15"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 22.58 FEET; THENCE RUN S.70°48'20"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 15.22 FEET; THENCE RUN S.35°04'41"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 13.25 FEET; THENCE RUN S.38°42'56"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 18.99 FEET; THENCE RUN S.40°04'07"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 14.22 FEET; THENCE RUN S.50°16'21"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 14.82 FEET; THENCE RUN S.62°29'06"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 18.33 FEET; THENCE RUN S.76°22'17"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 17.35 FEET; THENCE RUN S.87°15'19"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 6.10 FEET; THENCE RUN N.41°01'06"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 7.16 FEET; THENCE RUN N.23°21'28"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 13.37 FEET; THENCE RUN N.37°16'06"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF

WHISKEY CREEK, FOR A DISTANCE OF 31.03 FEET; THENCE RUN N.54°50'08"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 16.45 FEET; THENCE RUN N.48°57'19"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 21.17 FEET; THENCE RUN N.49°05'56"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 23.95 FEET; THENCE RUN N.55°23'51"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 8.23 FEET; THENCE RUN N.53°10'41"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 17.64 FEET; THENCE RUN N.76°33'15"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 21.49 FEET; THENCE RUN S.86°32'36"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 24.83 FEET; THENCE RUN S.65°23'52"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 18.51 FEET; THENCE RUN S.68°34'18"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 26.10 FEET; THENCE RUN S.78°48'15"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 13.08 FEET; THENCE RUN N.80°40'05"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 10.77 FEET; THENCE RUN S.81°35'11"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 10.89 FEET; THENCE RUN N.55°56'07"W., ALONG THE NORTHERLY EDGE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 19.61 FEET TO THE POINT OF BEGINNING; CONTAINING 0.542 ACRE, MORE OR LESS.

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

BEARINGS REFER TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS BEING N.88°54'22"E.

THE NORTHERLY EDGE AND THE CENTERLINE (THE SOUTHERLY BOUNDARY LINE OF SUBJECT PROPERTY) OF THE EAST BRANCH OF WHISKEY CREEK (BRANTLEY ROAD DITCH) WAS ESTABLISHED BY FIELD MEASUREMENT OF THE NORTHERLY AND SOUTHERLY WATERS EDGE ON 05/28/02.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY *Jerry L. Riffelmacher* P.S.M. #6130
JERRY L. RIFFELMACHER STATE OF FLORIDA

RESOLUTION OF EXCHANGE

WHEREAS, Alexander George Phocas, as Owner and Hole Montes, Inc., a Florida Corporation, as the Developer of a project known as Oak Hammock desire to exchange a portion of the IDD Canal H-9 Easement held by the County for an easement over, across and through the stormwater management system for the Oak Hammock project; and

WHEREAS, the Board of County Commissioners entered into the IDD Canal H-9 realignment agreement on _____; and

WHEREAS, based upon the terms of this agreement, County staff has determined a portion of the IDD Canal H-9 easement area will not be necessary for County purposes; and

WHEREAS, this exchange would provide the County with adequate drainage and access rights to serve the needs of the parent parcel and the remaining IDD Canal H-9; and

WHEREAS, an exchange is of mutual benefit to the Owner, Developer and the public; and

WHEREAS, the proposed exchange was advertised and approved after full consideration by the Board of County Commissioners.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS that:

1. An exchange will be accomplished by the execution and recording of documents as indicated below:

- a. County deed to Alexander George Phocas for a portion of the IDD Canal H-9 easement area, more particularly described in the attached Exhibit "A".
 - b. Perpetual Drainage and Access Easement from Alexander George Phocas to Lee County, a political subdivision of the State of Florida, for an easement for drainage and access purposes over the Oak Hammock project, more particularly described in the attached Exhibit "B".
2. Lee County staff has the authority to take all action necessary to complete the exchange and to close the transaction. The Chairman may execute the necessary documents on behalf of the Board.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and, being put to a vote, the vote was as follows:

ROBERT P. JANES
DOUGLAS R. ST. CERNY
RAY JUDAH
ANDREW W. COY
JOHN E. ALBION

DULY PASSED AND ADOPTED this _____ day of _____, 2003.

ATTEST
CHARLIE GREEN, CLERK

By: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Chairman

APPROVED AS TO FORM

By: _____
Office of the County Attorney

This Instrument Prepared by:

Joan C. Henry, Assistant County Attorney
Lee County Attorney's Office
Post Office Box 398
Fort Myers, FL 33902-0398

THIS SPACE FOR RECORDING

COUNTY DEED

THIS DEED, executed this ___ day of _____, 2002, by LEE COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398 Grantor, to ALEXANDER GEORGE PHOCAS, whose address is 25 Summit Street, Philadelphia, Pennsylvania 19118, Grantee.

Grantor, for and in consideration of the sum of Ten (\$10.00) Dollars to it in hand paid by Grantee, receipt whereof is hereby acknowledged, has granted, bargained and sold to Grantee, its heirs and assigns forever, the following described land, lying and being in Lee County, Florida:

See Attached Exhibit "A"

In accordance with Florida Statutes §270.11, the COUNTY hereby reserves an undivided three-fourths interest in, and title in and to an undivided three-fourths interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the subject land and an undivided one-half interest in all the petroleum that is or may be in, on, or under the subject land with the privilege to mine and develop each interest. Provided, however, the right of entry with respect to any interest in phosphate, minerals, metals or petroleum reserved in favor of the County is hereby released if the subject parcel being conveyed is or has always been a contiguous tract of less than 20 acres in the aggregate under the same ownership.

This grant conveys only the interest of the County and its Board of County Commissioners in the property herein described, and is not to be deemed to warrant the title or to represent any state of facts concerning the same.

IN WITNESS WHEREOF Grantor has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairman or Vice Chairman of said Board, the day and year aforesaid.

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____

By: _____

Deputy Clerk

Chairman

APPROVED AS TO LEGAL FORM:

Office of County Attorney

EXHIBIT "A"

DRAFT

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 15 AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF TRACT "A", EXECUTIVE PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 30, PAGE 47, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THE SAME BEING A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF WHISKEY CREEK DRIVE AN 80.00 FOOT RIGHT-OF-WAY, AS SHOWN IN WHISKEY CREEK CLUB ESTATES UNIT SEVEN, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 32 AT PAGES 5 THROUGH 7 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.00°55'58"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 501.69 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N.00°55'58"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 33.00 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF SECTION 15, TOWNSHIP 45 SOUTH, RANGE 24 EAST; THENCE RUN N.89°07'11"E., ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 15, FOR A DISTANCE OF 356.13 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 24 EAST; THENCE RUN N.88°54'22"E., ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 14, FOR A DISTANCE OF 369.37 FEET TO A POINT IN THE CENTERLINE OF THE EAST BRANCH OF WHISKEY CREEK (BRANTLEY ROAD DITCH); THENCE RUN S.74°34'15"W., ALONG THE CENTERLINE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 2.00 FEET; THENCE RUN S.61°13'41"W., ALONG THE CENTERLINE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 9.40 FEET; THENCE RUN S.57°16'22"W., ALONG THE CENTERLINE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 5.68 FEET; THENCE RUN S.10°17'13"W., ALONG THE CENTERLINE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 4.37 FEET; THENCE RUN S.17°49'15"W., ALONG THE CENTERLINE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 10.11 FEET; THENCE RUN S.10°03'01"W, ALONG THE CENTERLINE OF SAID EAST BRANCH OF WHISKEY CREEK, FOR A DISTANCE OF 11.52 FEET TO A POINT ON A LINE 33.00 FEET SOUTHERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 14, THENCE RUN S.88°54'22"W., PARALLEL; WITH THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 14, FOR A DISTANCE OF 347.96 FEET TO A POINT ON A LINE 33.00 FEET SOUTHERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 14, THENCE RUN S.89°07'11"W., PARALLEL TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 14, FOR A DISTANCE OF 356.18 FEET TO THE POINT OF BEGINNING, CONTAINING 0.538 ACRE MORE OR LESS.

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

BEARINGS REFER TO THE NORTH LINE OF THE SOUTHEAST 1/4 OF SECTION 15 TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS BEING N.89°07'11"E.

IDD CANAL