

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

**DATE CRITICAL
Blue Sheet No. 20040100**

1. REQUESTED MOTION:

ACTION REQUESTED: Consider executing a development agreement with the owners and developers of the Coconut Point DRI that will govern mitigation of the transportation impacts of the DRI. Direct to second public hearing on February 24, 2004, at 9:30 a.m., or as soon thereafter as may be heard.

WHY ACTION IS NECESSARY: Florida Statutes requires at least two public hearings before a local government enters into a development agreement.

WHAT ACTION ACCOMPLISHES: Finalizes the terms and conditions applicable to mitigating the transportation impacts created by the Coconut Point DRI.

2. DEPARTMENTAL CATEGORY:

COMMISSION DISTRICT #

9:30

3. MEETING DATE:

02-10-2004

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:

(Specify)

- STATUTE 163.3220
- ORDINANCE
- ADMIN. CODE
- OTHER

9:30 a.m. or as soon thereafter as may be heard

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER**
- B. DEPARTMENT** County Attorney
- C. DIVISION** Land Use
- BY:** *Dawn Perry*
Dawn Perry Lehnert
Assistant County Attorney

7. BACKGROUND:

The Florida Legislature adopted the Florida Local Government Development Agreement Act to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic costs of development.

Lee County and the owners and developers of the Coconut Point DRI propose to enter into the attached development agreement. The agreement outlines the protocol for mitigating the transportation impacts created by the Coconut Point DRI.

Attachment: Draft Development Agreement for Coconut Point DRI

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		<i>JMC 1/27/04</i>	<i>OA</i>	<i>QM</i>	<i>RISK</i>	<i>GC</i>	<i>1-28-04</i>
					<i>1/27/04</i>	<i>1/27/04</i>	<i>1/27/04</i>	<i>1/27/04</i>	

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

CO. CLERK
LEE COUNTY FLA
CO. ADMIN.
1/27/04 3:50 PM

RECEIVED BY
COUNTY ADMIN.
1/27/04
3:40 PM SLT
COUNTY ADMIN
FORWARDED TO: *PL*
1/28/04
11:27

COPY

**COCONUT POINT DRI
DEVELOPMENT AGREEMENT**

The following Agreement is between EDWARD J. MCARDLE, Trustee of the Edward J. McArdle Trust under declaration dated January 6, 1992, whose address is c/o Tom Kelly, P.O. Box 64, St. Charles, IL 60174 ("McArdle"), SIMON PROPERTY GROUP, L.P., whose address is 115 West Washington Street, Indianapolis, Indiana 46204 and OAKBROOK PROPERTIES, INC., whose address is 24880 Burnt Pine Drive, #8, Bonita Springs, Florida 34134 (Simon and Oakbrook are collectively, "the Developer"); and LEE COUNTY, a political subdivision of the State of Florida, whose address is P.O. Box 398, Fort Myers, Florida 33902 ("County").

ARTICLE I. RECITALS

- A. This Agreement pertains to a project known as the Coconut Point Development of Regional Impact (DRI) approved by the Lee County Board of County Commissioners on October 21, 2002. The Coconut Point DRI Development Order ("DRI D.O.") authorizes the development of a total of 1.8 million square feet (gla) of retail uses, 1,000 multiple-family dwelling units, 200 assisted living facility units, 300,000 square feet of office uses and 600 hotel rooms in one phase. The development order contemplates buildout of the development parameters by December 31, 2006.
- B. The Transportation conditions set forth in the DRI D.O. approval provide the Developer with two mitigation options. Option 2 requires execution of a development agreement pursuant to Florida Statutes §163.3220 setting forth the details for payment of the proportionate share obligation intended to mitigate the project's traffic impacts based upon the development parameters approved in the DRI D.O.
- C. The terms set forth in this Agreement are to be defined consistent with the definitions set forth in the Lee County Comprehensive Plan (Lee Plan) and the Lee County Land Development Code (LDC). The plain meaning will control the definition of the words and terms not otherwise defined in those documents.
- D. Lee County conducted two public hearings prior to the adoption of this Agreement. Both public hearings were properly noticed by publication in the News Press and by mailed notice to the affected property owners in accordance with Florida Statutes §163.3225(2).

NOW, THEREFORE, for and in consideration of the terms set forth below, the parties agree as follows:

ARTICLE II. DESCRIPTION OF THE PROJECT

A. PROPERTY SUBJECT TO THIS AGREEMENT

The property subject to this Agreement is commonly known as Coconut Point DRI and is legally described in attached Exhibit A.

B. OWNERSHIP

Edward J. McArdle, Trustee, is the owner of the subject property. All references herein to "the Developer" are understood to mean Simon Property Group, L.P. and Oakbrook Properties, Inc., the Developers named in the DRI D.O., unless otherwise specifically stated.

C. FUTURE LAND USE DESIGNATION

The future land use designations applicable to the property are Wetlands and Urban Community.

D. ZONING DISTRICT DESIGNATION

The property was rezoned on October 21, 2002 by the Board of County Commissioners. The governing zoning resolution is Z-02-009. The zoning designation of the property is Mixed Use Planned Development (MPD).

E. DRI DEVELOPMENT ORDER

The property is subject to a Development of Regional Impact Development Order approved by the County Commission at a public hearing held on October 21, 2002. The Notice of Adoption of the DRI D.O. is recorded at OR Book 3849, Pages 835-838. The DRI D.O. is a public record on file with Lee County, Southwest Florida Regional Planning Council, and the Department of Community Affairs. (Case No. DRI 2000-00015 and DRI D.O. 09-2001-153.)

F. CONCEPTUAL MASTER PLAN

The parties agree that the master plan for the Coconut Point DRI development (Map H), attached as Exhibit B, is consistent with the Lee Plan. In addition, the parties find that the conceptual master plan is consistent with local land development regulations.

G. PARAMETERS OF DEVELOPMENT

The Coconut Point DRI D.O. approves the development of 1,000 multiple-family dwelling units, 200 assisted living facility units, 600 hotel rooms, 300,000 square feet of office uses (of which no more than 100,000 square feet may be medical office), and 1.8 million square feet (gla) of retail uses with buildout in 2006. The maximum building height in the project is 65 feet. The use and densities of the

project are summarized in attached Exhibit C.

H. PUBLIC FACILITIES

The Coconut Point DRI will receive water and sanitary sewer service from Bonita Springs Utilities. Fire control and rescue services will be provided by Estero Fire Protection and Rescue Service District.

I. RESERVATION, DEDICATION, OR CONVEYANCE OF LAND

1. *Traffic Mitigation.* All proposed reservations, dedications or conveyances of land for transportation mitigation purposes are identified in this Agreement under Satisfaction of Proportionate Share Obligation (Condition III.A).
2. *School Site.* The Developer is required by Condition J.1. of the DRI D.O. to provide a school site at least five acres in size and appropriately located to accommodate the growing school needs in southern Lee County.
3. *Fire District Site.* The Developer is required by Condition I.5. of the DRI D.O. to provide the Estero Fire Protection and Rescue Service District with a site of not less than one acre within the boundaries of the DRI.

J. REQUIRED DEVELOPMENT PERMITS AND ORDERS

The following development approvals have been granted for this project:

1. DRI D.O. #09-2001-153;
2. Zoning Resolution Z-02-009, serving to rezone the property to Mixed Use Planned Development (MPD) pursuant to Zoning Case #DCI-2001-0005; and
3. South Florida Water Management District permit #36-00288-S.

K. PROJECT PHASING

It is anticipated that the Coconut Point DRI will be constructed in one phase with project build out on December 31,2006.

ARTICLE III. TERMS OF THE AGREEMENT

A. SATISFACTION OF PROPORTIONATE SHARE OBLIGATION

1. General

- a. The project's proportionate share obligation is \$14,770,000. The proportionate share was derived from the project's transportation impacts based on the development parameters set forth in attached Exhibit C.
- b. A significant change in the assumed uses or mix of uses will require a re-evaluation of the DRI transportation impacts. A significant change is one that would increase the external project traffic by 5% or more or that would change the projected distribution and assignment of project traffic so as to result in a net increase in road miles of significantly and adversely impacted road links.
- c. If a reduction of the transportation mitigation is sought based upon modification of the approved development parameters, then a Notice of Proposed Change to the Coconut Point DRI D.O. must be filed by the entity seeking the reduction in accordance with the applicable Florida Statutes.

2. Payments

- a. *First Installment.* On or before December 31, 2003 or coincident with the issuance of the first building permit within Coconut Point DRI (excepting public uses mandated by the DRI D.O.), the Developer will pay Lee County \$6,270,000.
 - (1) The payment must be made in cash.
 - (2) Full payment entitles the Developer to obtain building permits for all non-retail uses and up to 400,000 square feet of retail uses within the DRI.
 - (3) Road impact fees paid by the Developer prior to the first cash payment will be offset against the second installment of the transportation proportionate share assessment.
- b. *Second Installment.* On or before December 31, 2004 or the issuance of the first building permit for retail uses over 400,000 square feet, whichever ever occurs first, the Developer will pay Lee County \$8,500,000. The payment may be in the form of cash or as offsets against the proportionate share as follows:
 - (1) *Completed land dedications.* Land dedications for the

individual segments described in Section III.A.3 that have been formally accepted by the Board of County Commissioners prior to the installment due date.

- (2) *Roads constructed and accepted for county maintenance.* Construction costs for road segments contemplated under section III.A.4 that are completed and formally accepted by the County prior to the installment due date.
- (3) *Road impact fee payments.* Road impact fees paid by the Developer in conjunction with building permits issued prior to payment of the first installment.
- (4) *Railroad right-of-way costs.* Costs attributable to a two lane right-of-way crossing for Sandy Lane Extension as contemplated by section III.A.4.g, including utility crossings, paid by either McArdle or the Developer and evidenced in a railroad crossing agreement approved by the Board prior to the installment due date.

c. Prior to payment of the first installment of the transportation proportionate share obligation, both McArdle and the Developer have the right to terminate this Development Agreement and utilize traffic mitigation Option 1 described in the DRI D.O. Written notice of this election must be provided to the County. The project will then be subject to the County's concurrency management regulations.

3. Land Dedication

a. *Acceptance Requirements*

- (1) Land dedications must meet the requirements set forth in LDC §2-275(3)(b). The County will require clear and unencumbered fee title. All submittal documents must be reviewed and approved by the County Attorney's office prior to acceptance.
- (2) Right-of-way dedicated within the boundaries of the DRI will be valued as of the day prior to the DRI and zoning approval (October 20, 2002). The entire DRI will be used as the parent tract for valuation purposes.
- (3) Right-of-way dedicated outside the DRI boundaries will be valued as of the date of the dedication. The parent tract for valuation purposes will be determined by consultation with Lee County Lands Division.
- (4) Land dedications will be considered an offset against the proportionate share obligation if made by the Developer prior

to the date the second proportionate share payment becomes due (ie., on or before December 31, 2004 or the issuance of the first building permit for retail uses over 400,000 square feet, which ever occurs first). Land dedications made by McArdle or a third party prior to the date the second installment is due may be considered either an offset against the Coconut Point DRI proportionate share obligation or a request for impact fee credits, at the grantor's option as declared at the time of application submittal. Land dedications accepted after the date the second installment is due will be issued impact fee credits, if eligible, in accordance with the LDC.

- (5) Public utilities may be constructed within the right-of-way dedicated to the County, subject to prior County approval. However, easements granted to facilitate construction of the utilities must be subordinated to the County interest prior to dedication of the right-of-way.

b. *Sandy Lane Segments.*

- (1) Williams Road to Pelican Colony Boulevard Extension
 - (a) 100' of right-of-way for the Sandy Lane Extension from Williams Road to Pelican Colony Boulevard Extension, consistent with attached Exhibit D, may be dedicated to Lee County.
 - (b) The County will issue impact fee credits or provide an offset against the proportionate share obligation, as appropriate, for 100% of the agreed upon appraised value of the 100' segment. The agreed upon appraised value is \$2,468, 872 (\$2.50 per sf; or, 22.671 acres x \$108,900 per acre).
 - (c) Dedication of right-of-way in excess of the 100' identified above, is not eligible for impact fee credit or an offset against the DRI proportionate share obligation.
- (2) Pelican Colony Boulevard Extension to the South Property Boundary
 - (a) 100' of right-of-way for the Sandy Lane Extension from Pelican Colony Boulevard Extension to the south DRI property boundary may be dedicated to Lee County, consistent with the alignment established in accordance with the Sandy Lane Corridor Alignment Study. Upon Board approval of the final alignment, the County will send written notice of the established alignment to

McArdle and the Developer.

- (b) The County anticipates that the alignment of this segment, will be set by the Board no later than October 1, 2004. If the County fails to set the alignment of this segment by October 1, 2004, then this segment may be dedicated consistent with the proposed alignment shown on Exhibit E, in order to facilitate a timely offset against the proportionate share obligation.
 - (c) The County will issue impact fee credits or provide an offset against the proportionate share obligation, as appropriate, for 100% of the agreed upon appraised value of the 100' segment identified in Exhibit E. The agreed upon appraised value is \$ 234,135 (\$2.50 per sf; or, 2.15 acres x \$108,900 per acre).
 - (d) Dedication of right-of-way in excess of the 100' identified above is not eligible for impact fee credits or an offset against the DRI proportionate share obligation.
- (3) Williams Road to Corkscrew Road
- (a) 100' of right-of-way for the extension of Sandy Lane between Williams Road and Corkscrew Road, consistent with attached Exhibit F, may be dedicated to Lee County.
 - (b) The County will issue impact fee credits or provide an offset against the proportionate share obligation, as appropriate, for 100% of the agreed upon appraised value of the 100' segment. The appraised value will be determined at the time the land is dedicated to the County.
 - (c) Dedication of right-of-way in excess of the 100' identified above is not eligible for impact fee credits or an offset against the DRI proportionate share obligation.

4. Design and Construction

- a. McArdle or the Developer may design and construct segments of Sandy Lane Extension from Pelican Colony Boulevard Extension to Williams Road and from Williams Road to Corkscrew Road. The project must be designed as a collector road within the right-of-way dedicated and accepted by the County. At the Developer's option the project may be designed as a four-lane road with an urban or suburban typical cross-section. Additional water management

facilities required outside the 100' right-of-way resulting from the Developer's design choice will be deemed site-related improvements. The design plans must conform to County standards and must be submitted to Lee County DOT staff for review and approval at the 30%, 60%, 90% and 100% stages. Design plans must be accompanied by an updated cost estimate based upon the current plan submittal. This cost estimate will be reviewed and approved by Lee County DOT. Site-related improvements must also be identified and quantified as part of the design estimates.

- b. The actual costs attributable to the design and construction of Sandy Lane Extension as a two-lane collector are eligible for offset against the proportionate share or issuance of impact fee credits. The actual costs will be established by Lee County DOT once the improvement is complete and offered for acceptance in accordance with LDC §2-275(3)(a).
- c. Actual cost will exclude site related improvements and improvements performed at the option of the Developer that are: (1) not part of the typical County road section; (2) not itemized as a listed pay item for a typical County road; or, (3) exceeds the quantities for listed pay items for a typical county road. All costs will be verified by Lee County. During the design phase, the Developer must provide cost estimates for review by County staff. At the Developer's specific request, DOT will identify the items included in the cost estimate or design plans that will not be eligible for offset or issuance of impact fee credits.
- d. *Wetland/Environmental Mitigation.* Wetland or environmental mitigation costs attributable to the design of a two-lane collector within 100' are eligible for impact fee credits or an offset against the proportionate share obligation if the costs satisfy the following criteria: (1) the costs are based upon a minimized area of environmental impact attributable to the standard typical section of a two-lane collector roadway permitted within 100' feet of right-of-way crossing identified jurisdictional areas; and (2) the costs do not include a "premium" attributable to additional right-of-way width, four-laning or construction of other impervious area within the DRI boundary. Mitigation costs that do not meet the stated criteria will be deemed site-related improvement costs and ineligible for impact fee credits or an offset against the proportionate share obligation.
- e. McArde or the Developer may design and construct a four-lane collector roadway on any or all of the Sandy Lane Extension segments described in Section III.A.4 above. However, costs attributable to the design or construction of the additional two lanes will be deemed site-related and ineligible for road impact fee credits or an offset against the proportionate share obligation. Credits or

offset for the eligible two lanes of construction will be determined follows:

The Developer will provide the County with the actual costs of the four-lane road. This documentation will include copies of the invoices for the work performed to complete the road and obtain acceptance for maintenance.

The Developer will be entitled to offset or for 60% of the actual verified costs of constructing the four-lane road. These costs will include design, permitting, drainage improvements and the railroad crossing. Offset or credit for environmental mitigation will be granted in accordance with subsection 4.d above. All site-related improvements and improvements performed at the option of the Developer that are not part of a typical County roadway are ineligible for offset or credit and may not be included in the verified cost total.

f. *Stormwater Management*

- (1) McArdle or the Developer will be responsible to provide the stormwater quality, attenuation and pre-treatment for the drainage associated with the design and construction of the two-lane Sandy Lane Extension facility from Williams Road to the southern property line, as permitted by SFWMD Permit #36-00288-S (MOD). The County believes the drainage for a two-lane Sandy Lane facility can be permitted within the 100' right-of-way dedication.
- (2) If during the design of the various segments of Sandy Lane Extension from Corkscrew to the southern boundary of the DRI, the County and developer agree that property outside the 100' right-of-way dedicated to the County is necessary to accommodate the surface water management attributable to a two-lane facility, then additional land may be dedicated to accommodate this need. Dedication of additional land will be eligible for impact fee credits in accordance with LDC §2-275(3)(b). An offset against the proportionate share obligation will be allowed only if the dedication is completed in accordance with Section III.A.3. The value of the land will be determined in accord with Section III.A.3.

g. *Railroad crossing.*

Lee County and the Developer will negotiate an agreement with Seminole Gulf Railroad for a four lane right-of-way and utility crossing between Williams Road and Corkscrew Road. This agreement will include the cost of the license to cross, construction, insurance, and maintenance of the equipment necessary for the railroad crossing.

5. Alternatives to Cash Payments

a. In lieu of all or a portion of the cash payments identified above, McArdle or the Developer may:

(1) as to the second installment of the transportation proportionate share:

(a) notify the County that no further building permits will be applied for beyond the level of development already paid for and mitigated; or

(b) establish entitlement to one of the eligible offsets against the cash payment identified in section III.A.2.b.; or

(c) enter into an escrow agreement pertaining to the construction costs for two lanes of Sandy Lane Extension meeting all provisions set forth in subsection III.A.5.b.

(2) adjust the development parameters for Coconut Point DRI in a manner that reduces the buildout transportation impacts and mitigation. This option will require the filing of a NOPC to the Coconut Point DRI D.O., a re-assessment of the DRI's impacts and proportionate share obligation, approval of a Development Order amendment and an amendment to this Development Agreement.

b. *Escrow Agreement Alternative.* The County agrees to accept escrowed funds to provide the Developer with the level of concurrency vesting applicable to full cash payment of the second installment of the proportionate share obligation under the following terms and conditions:

(1) The maximum total eligible amount of escrow funds is \$5,800,000. This amount is based upon the total amount of the second proportionate share installment minus the agreed upon appraised value of the right-of-way located inside the DRI boundary ($\$8,500,000 - 2,468,872 - 234,135 = \$5,797,102$). At the time the escrow account is established, The actual amount the County will accept for placement in the escrow account will be 60% of the most recently approved cost estimate submitted by the Developer in accordance with the design plan provisions found in Section III.A.4.a. If the escrow amount is less than the balance of the second proportionate share installment due, then the balance must be paid by the Developer in cash by December 31, 2004 or prior to the issuance of a building

permit for the 400,001st square foot of retail.

- (2) This alternative is available to the Developer **only** to the extent the land necessary for construction of the road segments, as designed in accordance with section III.A.4(a), and identified in Exhibits D, E and F have been dedicated and accepted by the County prior to the date the second installment is due. No estimated land costs will be accepted as part of the escrow agreement. If the Developer has not dedicated all of the land necessary to construct the proposed roadway segments that the Developer wishes to escrow funds for, an appropriate reduction in the amount eligible for escrow will be made by the County. (If additional land, which is eligible for issuance of an offset or impact fee credits under this agreement, is dedicated subsequent to the date the second installment is due, then impact fee credits will be issued for the land dedication and the corresponding road construction.)
- (3) The entire \$8,500,000 proportionate share installment must be paid to the County in cash on December 31, 2004 (or at the time the permit for the 400,001st sf of retail is issued), less appropriate offsets as set forth in III.A.2.b(1)-(4). An amount, up to \$5,800,000, based upon the approved estimated costs of constructing a four lane facility within the 100' right-of-way area dedicated to (ie. owned by) the County will be held in escrow. The balance of the cash paid as part of the second installment will be unencumbered funds. These unencumbered funds may be used by the County for appropriate County purposes in accordance with the terms of the DRI D.O.
- (4) If the Developer chooses to exercise this escrow agreement option, then a fully funded escrow account and fully executed escrow agreement, approved by the County Attorney's Office, must be in the County's possession by December 31, 2004 or prior to the issuance of a building permit for the 400,001st square foot of retail.
- (5) The County will be the escrow agent for the funds. The escrow funds will be placed in an interest bearing account established by the County. All interest earned will accrue to the County and may be used, as accrued, for appropriate County purposes. The Developer will not be entitled to claim any of the interest at the final accounting.
- (6) The funds will be held in escrow until the identified road segments that are the subject of the escrow agreement are fully constructed and turned over to the County for

maintenance.

- (7) As part of the maintenance acceptance process for each identified segment, the Developer will provide the County with an as-built survey, certification from the engineer that construction is in accordance with approved permits, documentation as to the actual cost of construction and other items required by LDC §2-275 and Lee County Administrative Code 11-7. These costs will be reviewed by DOT and an escrow cash "refund" will be given to the Developer in the amount approved by DOT in this final accounting, up to the total amount of the original escrow. If construction is completed by the Developer that is otherwise eligible for credit under this Agreement, then impact fee credits for this balance over the original escrow amount will be issued.

No interim draw down of the escrow account balance will be allowed for construction of any of the individual roadway segments, or portions thereof, described in Section III.A.4. There will be only one distribution of funds at the final accounting done in conjunction with, or subsequent to, acceptance of each of the identified road segments for maintenance.

- (8) The road construction subject to the escrow agreement must be completed in accordance with approved permits by December 31, 2006. No extensions will be permitted. If construction is not complete by December 31, 2006, then the escrow funds will be considered released and eligible for use by the County as though the escrow encumbrance never existed.
- (9) If the Developer enters into the escrow agreement and fails to begin construction by May 1, 2005, then the escrow funds will be considered released and eligible for use by the County as though the escrow encumbrance never existed.
- (10) If the Developer begins construction in a timely fashion, but fails to diligently pursue completion of the facility, then the escrow funds will be considered released and eligible for use by the County as though the escrow encumbrance never existed.

6. Credits

Offsets against the proportionate share obligation will only be provided for capital improvement projects that are identified as eligible for offset in this Agreement. Capital improvements include right-of-way, design, permitting

and construction.

7. Impact Fee Payments

- a. The payment of the proportionate share in accordance with this Agreement addresses the project's impacts on the transportation network, and is in lieu of the payment of road impact fees on a building permit by building permit basis. Accordingly, no builder or contractor within Coconut Point DRI is obligated to pay road impact fees, except for building permits obtained prior to the effective date of this Agreement.
- b. After the first installment of the proportionate share assessment is received, building permits (other than for the Estero Fire District) applied for within Coconut Point will not be issued until the County receives notarized documentation from McArdle or the Developer stating credits have been granted to the applicant consistent with the sample statement attached as Exhibit G. Lee County will issue building permits for the type and amount of development authorized in the documentation.
- c. McArdle or the Developer may assign the benefit of this Agreement to a third party. Assignments must be in writing, with two witnesses, and notarized. Written evidence of assignment must be provided to Lee County. Specifically, it is understood that only McArdle, the Developer or their designees, are permitted to proceed through the building permit process without paying impact fees.

8. Failure to Comply with the Requirements

Failure, by McArdle or the Developer, to comply with the terms of this Agreement after written notice and an opportunity to cure the non-compliance, will be deemed a material default of this Agreement and result in the loss of concurrency vesting for the balance of the DRI development. The project may proceed with development in accordance with transportation mitigation option one under the Coconut Point DRI D.O.

B. COUNTY RESPONSIBILITIES

1. Cash Payments

- a. Upon receipt of the first proportionate share installment, the County will transfer \$2,184,000.00 to the City of Bonita Springs in accordance with the interlocal agreement attached as Exhibit H. This amount represents the full payment and responsibility due from the County to the City with respect to mitigation of the traffic impacts created by this development. These funds will be transmitted with the understanding that the City must use them towards the necessary and identified

improvements to Old US 41 between Rosemary Drive and the intersection of Old US 41 and US 41 and Pelican Landing Boulevard.

- b. Lee County agrees that all proportionate share payments will be used exclusively for the design, engineering, land acquisition, construction and other related capital costs necessary for the completion of the road improvements set forth in Section II.D.1 of the Coconut Point DRI D.O. adopted by the Board on October 21, 2002.

If the above improvements are constructed (all or in part) using other funds and portions of the Coconut Point DRI payments remain, then the parties agree that Lee County may use the remaining funds to make improvements to roadways that will directly benefit the development.

- c. The parties acknowledge and agree that a properly established uniform community development district may fund all or any portion of the road improvements identified in the DRI D.O. in accordance with the terms of this agreement. All provisions set forth in this Agreement as to the Developer's rights and obligations will be applicable to contributions, payments and dedications made by a community development district to discharge the obligations identified in this Agreement or the Coconut Point DRI D.O.

2. Concurrency

If the transportation mitigation is provided in accordance with III.A.2 of this Agreement, then Coconut Point DRI will be deemed concurrent as to transportation through December 31, 2006 for the build-out level set forth in Exhibit C or for the life of any concurrency certificate issued prior to December 31, 2006, whichever is later, unless otherwise extended in accord with the DRI D.O.

3. Impact Fee Payments

This Agreement exempts Coconut Point from the Roads Impact Fee Provision in accordance LDC §2-274(a)(7).

ARTICLE IV. OTHER PROVISIONS

A. EFFECT OF AGREEMENT

Failure of this Development Agreement to address a particular permit, condition, term or restriction, does not relieve McArdle or the Developer of the necessity to comply with the law governing those permitting requirements, conditions, terms or restrictions.

The terms of this Development Agreement may not supersede the procedural requirements of State law under Florida Statutes §§380.06 and 163.3220 *et seq.*

B. DURATION OF AGREEMENT

1. General

This Agreement is effective upon execution of all parties and continues in force until December 31, 2012. It may only be terminated, amended, or extended as provided herein.

2. Future Extensions of Agreement Contemplated

This Agreement is executed in order to satisfy the concurrency requirements of the DRI through its buildout. Florida Statutes §163.3229 currently limits a Development Agreement to a maximum term of ten years. The Development Agreement may be extended by mutual consent of the governing body, the Developer and McArdle, subject to a public hearing in accordance with Florida Statutes §163.3225.

If McArdle and the Developer have fully complied with the terms of this Agreement upon the termination date, and Lee County has not yet performed its obligations on the termination date, Lee County is obligated to perform in accordance with the terms of the Agreement as though it had not expired.

C. AMENDMENT OF AGREEMENT

This Agreement may be amended or canceled by mutual consent of the parties or by their assigns. If State or Federal laws are enacted after the execution of this Agreement that are applicable to, and preclude the parties' compliance with the terms of the Development Agreement, then the Agreement will be modified or revoked as necessary to comply with the relevant State or Federal laws after a public hearing. Any amendment must comply with the applicable provisions of Florida Statutes.

D. TIME EXTENSIONS

Except as otherwise provided herein, extensions applicable to the time for

performance of any time-certain commitment in this Agreement may be granted, provided the time extensions comply with the terms of Florida Statutes §380.06.

E. ANNUAL REVIEW

This Agreement will be reviewed annually by Lee County, the Developer and McArdle, commencing one year after its effective date, as follows:

1. Initiation of Review

Annual review will be initiated by McArdle or the Developer through submittal of the Annual Monitoring Report to the Lee County Director of Community Development. The first Annual Monitoring Report is due one year after the acceptance of this Development Agreement by Lee County and will analyze peak season conditions.

2. Review Process

The Director of Community Development must commence the review upon receipt of the Annual Report and complete it within 30 calendar days.

3. Compliance Determination

If the Director of Community Development finds and determines that McArdle and the Developer have complied in good faith with the terms and conditions of the Agreement during the period under review, then the review will be concluded by written notice to McArdle and the Developer as to this conclusive determination.

4. Breach of Agreement; Public Hearings Required to Revoke or Modify

If the Director of Community Development makes a preliminary finding that there has been a failure to comply with the terms of this Agreement, then the Director will provide written notice identifying the failure to McArdle and the Developer. McArdle and the Developer will have a reasonable time (90 days) to resolve the alleged non-compliance. If McArdle and the Developer refuse or fail to address the non-compliance, or if McArdle or the Developer disagrees with the findings of the Director of Community Development, then the finding, and any written response provided by the Developer or McArdle will be referred to the Lee County Board of County Commissioners. The County Commission will conduct a public hearing, at which McArdle and the Developer may demonstrate good faith compliance with the terms of the Agreement. The County will provide reasonable notice (30 days) of the date and time of the public hearing. If the County Commission concludes, based upon competent substantial evidence submitted during the public hearing, that McArdle or the Developer has not complied in good faith with the terms and conditions of the Agreement during the period under review, then the County Commission may revoke the Agreement.

F. NOTICES

Notices required under the terms of this Agreement will be sent to Lee County, Oakbrook Properties, Inc., and Edward McArdle, Trustee, at the addresses identified above. All notices to Simon Property Group, L.P., will be sent to Simon Property Group, L.P., Attention: Thomas J. Schneider, Executive Vice-President, with a copy to Simon Property Group, L.P., Attention: James S. Barkley, General Counsel, at the address identified above. Any party changing their address during the effectiveness of this Agreement must provide written notice to the remaining parties within 30 days of the change.

G. REVOCATION OR TERMINATION OF AGREEMENT

This Agreement terminates upon the first to occur of the following events:

1. Revocation of the Agreement by the County Commission as provided in IV.E.4. above; or
2. Revocation, abandonment or termination of the Development Order approving the project; or
3. Final buildout or declared buildout of the project, provided all monies or credits have been paid;
4. Mutual consent of the parties; or
5. If prior to the payment of the first installment of the transportation proportionate share, the Developer elects to implement traffic mitigation Option 1 of the DRI D.O.

H. SEVERABILITY

In the event that any part, term, or provision of this Agreement is found by a court of competent jurisdiction to be illegal, the validity of the remaining portions and provisions will not be affected and the rights and obligations of the parties will be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be invalid.

I. BINDING EFFECT

All terms, conditions, responsibilities, duties, promises and obligations of the parties are binding upon the parties, their successors and assigns.

J. RECORDATION IN PUBLIC RECORDS AND EFFECTIVE DATE

In accordance with Florida Statutes §163.3239, the County will record this Development Agreement with the Clerk of the Circuit Court promptly after the Chairman's signature, but in no event later than 14 days after its execution. The

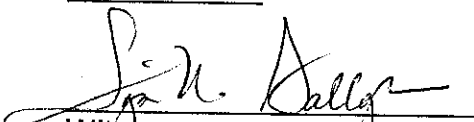
County will submit a copy of the recorded agreement to the Department of Community Affairs. This Development Agreement is not effective until it is properly recorded in the public records of Lee County and until 30 days after receipt by the Department of Community Affairs.

K. ENFORCEMENT


The following persons or agencies may file an action for injunctive relief in the Twentieth Judicial Circuit Court to enforce the terms of this Development Agreement or to challenge compliance of the Agreement with the provisions of the Florida Local Government Development Agreement Act :


- Any party;
- Any aggrieved party;
- Any adversely affected person as defined in Florida Statutes §163.3215(2);
- or
- The Florida Department of Community Affairs.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on


Witness

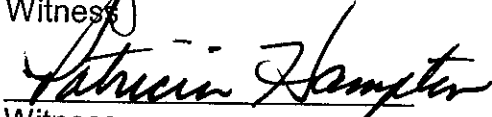
Edward J. McArdle, Trustee of
the Edward J. McArdle Trust under declaration
dated January 6, 1992.


Witness

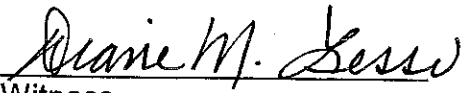
By: 
Edward J. McArdle, Trustee


Witness

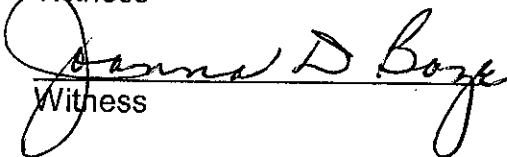
Simon Property Group, L.P.


Witness

By: 
David Simon, CEO


Witness

Oakbrook Properties, Inc.


Witness

By: 
Ron Dillion, Vice President

ATTEST:

LEE COUNTY BOARD OF
COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Chairman

Approved as to form:

Dawn E. Perry-Lehnert
Assistant County Attorney

Exhibits

- A- Legal description and sketch of entire DRI boundary
- B- Coconut Point DRI Map H
- C- Development Parameters and Phasing Schedule
- D- Proposed Sandy Lane Alignment within DRI boundary (Williams Road to Pelican Colony Boulevard)
 - D-1 Williams to Coconut Road
 - D-2 Coconut Road to Pelican Colony Boulevard
- E-Proposed Sandy Lane Alignment within DRI boundary (Pelican Colony Boulevard to south DRI boundary)
- F-Proposed Sandy Lane Alignment outside DRI boundary-(Williams to Corkscrew)
 - F-1 Williams Road to west boundary of Railroad Crossing right-of-way
 - F-2 East boundary of Railroad Crossing right-of-way to Corkscrew Road
- G-Impact Fee use authorization forms
 - G-1 Authorization to Obtain a Residential Building Permit Without the Payment of Road Impact Fees (sample)
 - G-2 Authorization to Obtain Non-residential Building Permit Without the Payment of Road Impact Fees (sample)
- H-Interlocal Agreement between Lee County and the City of Bonita Springs



LEGAL DESCRIPTION

A PORTION OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY, AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 1,733.04 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HWY. NO. 41 (FLORIDA STATE ROAD NO. 45), A 200.00 FOOT RIGHT-OF-WAY; THENCE RUN N.10°32'05"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 971.33 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 5,605.39 FEET, THROUGH A CENTRAL ANGLE OF 04°03'11", SUBTENDED BY A CHORD OF 396.43 FEET AT A BEARING OF N.08°30'30"W., FOR A DISTANCE OF 396.52 FEET TO THE END OF SAID CURVE; THENCE RUN N.88°07'51"E. FOR A DISTANCE OF 747.22 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE EASTERLY, WHOSE RADIUS POINT BEARS N.82°31'42"E., A DISTANCE OF 3,909.60 FEET THEREFROM; THENCE RUN NORTHERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,909.60 FEET, THROUGH A CENTRAL ANGLE OF 08°29'31", SUBTENDED BY A CHORD OF 578.92 FEET AT A BEARING OF N.03°13'32"W., FOR A DISTANCE OF 579.45 FEET TO THE END OF SAID CURVE; THENCE RUN N.00°15'56"W., FOR A DISTANCE OF 583.09 FEET; THENCE RUN N.00°15'56"W., FOR A DISTANCE OF 47.04 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY, THE SAME BEING A POINT ON A CIRCULAR CURVE, CONCAVE NORTHERLY, WHOSE RADIUS POINT BEARS N.10°26'58"W., A DISTANCE OF 2,025.00 FEET THEREFROM; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,025.00 FEET, THROUGH A CENTRAL ANGLE OF 09°12'27", SUBTENDED BY A CHORD OF 325.07 FEET AT A BEARING OF N.74°56'48"E., FOR A DISTANCE OF 325.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.70°20'35"E., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,025.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", SUBTENDED BY A CHORD OF 487.89 FEET AT A BEARING OF N.74°58'07"E., FOR A DISTANCE OF 488.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.79°35'39"E., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 238.23 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN S.00°59'47"E., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,869.10 FEET TO THE POINT OF BEGINNING; CONTAINING 95.885 ACRES, MORE OR LESS.

AND

A PORTION OF SECTIONS 3, 4, 9, AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE

SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 3,021.15 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,320.56 FEET TO A POINT ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,692.32 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 47 SOUTH, RANGE 25 EAST; THENCE RUN N.00°56'59"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,590.78 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY, ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 5,641.38 FEET, THROUGH A CENTRAL ANGLE OF 09°31'27", SUBTENDED BY A CHORD OF 936.68 FEET AT A BEARING OF N.05°42'42"W., FOR A DISTANCE OF 937.76 FEET TO THE END OF SAID CURVE; THENCE RUN N.10°28'26"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 98.54 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WILLIAMS ROAD, A 100.00 FOOT RIGHT-OF-WAY; THENCE RUN S.88°20'53"W., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,029.70 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN WESTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 7,050.00 FEET, THROUGH A CENTRAL ANGLE OF 03°00'00", SUBTENDED BY A CHORD OF 369.09 FEET AT A BEARING OF S.89°50'53"W., FOR A DISTANCE OF 369.14 FEET TO THE END OF SAID CURVE; THENCE RUN N.88°39'07"W., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 674.92 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HWY. NO. 41 (FLORIDA STATE ROAD NO. 45), A 200.00 FOOT RIGHT-OF-WAY; THENCE RUN S.04°52'41"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,901.57 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN SOUTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,725.19 FEET, THROUGH A CENTRAL ANGLE OF 11°32'50", SUBTENDED BY A CHORD OF 548.30 FEET AT A BEARING OF S.00°53'44"E., FOR A DISTANCE OF 549.23 FEET TO THE END OF SAID CURVE; THENCE RUN S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 225.81 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE CONTINUE S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,710.61 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE CONTINUE S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 626.03 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN SOUTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 11,584.73 FEET, THROUGH A CENTRAL ANGLE OF 06°24'13", SUBTENDED BY A CHORD OF 1,294.08 FEET AT A BEARING OF S.03°28'03"E., FOR A DISTANCE OF 1,294.76 FEET TO THE END OF SAID CURVE; THENCE RUN S.00°15'56"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 274.74 FEET; THENCE RUN S.46°02'16"E., FOR A DISTANCE OF 577.44 FEET; THENCE RUN S.01°57'26"E. FOR A DISTANCE OF 25.19 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY; THENCE RUN N.88°02'34"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 32.80 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1,875.00 FEET, THROUGH A CENTRAL ANGLE OF 17°41'59", SUBTENDED BY A CHORD OF 576.92 FEET AT A BEARING OF N.79°11'34"E., FOR A DISTANCE OF 579.22 FEET TO THE END OF SAID

CURVE; THENCE RUN N.70°20'35"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,175.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", SUBTENDED BY A CHORD OF 512.09 FEET AT A BEARING OF N.74°58'07"E., FOR A DISTANCE OF 512.65 FEET TO THE END OF SAID CURVE; THENCE RUN N.79°35'39"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 263.08 FEET TO THE POINT OF BEGINNING; CONTAINING 386.536 ACRES, MORE OR LESS.

NOTES:

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


TOTAL PROPERTY AREA: 482.421 ACRES, MORE OR LESS.

INFORMATION RELATING TO BOUNDARY DATA OF SECTIONS 3, 4, 9 AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, TOGETHER WITH THE LOCATION OF THE US HIGHWAY #41 RIGHT-OF-WAY, WAS OBTAINED FROM A SURVEY OF THE SWEETWATER RANCH PREPARED BY DENI ASSOCIATES HAVING ORDER NUMBER 8409031, DATED 9/14/84. INFORMATION RELATING TO THE LOCATION OF COCONUT ROAD AND ADJOINING EXCEPTED PARCELS WAS OBTAINED FROM PROPERTY DESCRIPTIONS PROVIDED BY CLIENT.

BEARINGS REFER TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING S.88°56'17"W.

HOLE, MONTES, INC.

CERTIFICATE OF AUTHORIZATION LB #1772

BY  P.S.M. #6130
JERRY L. RIEFELMACHER STATE OF FLORIDA

Development Parameters and Phasing Schedule

		<u>Buildout</u>
Regional Retail Commercial	1,450,000* sq. ft.	2006
Community Retail	350,000* sq. ft.	2006
Office	300,000** sq. ft.	2006
Hotel	600 Rooms	2006
Residential, Multi-family	1000 du	2006
Assisted Living Facility	200 units	2006

* Gross Leasable Area

**Up to 100,000 sq. ft., may be medical office

EXHIBIT C



HM PROJECT #1997.079
12/24/2003
REF. DWG. #B-4345-1
Page 1 of 2

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF SECTIONS 4 AND 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 3021.15 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY AS DESCRIBED IN O.R. BOOK 3090 AT PAGE 727 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S.79°35'39"W., ALONG THE SAID NORTHERLY RIGHT-OF-WAY, FOR A DISTANCE OF 263.08 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHERLY; THENCE RUN WESTERLY ALONG THE SAID NORTHERLY RIGHT-OF-WAY AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 3,175.00 FEET, THROUGH A CENTRAL ANGLE OF 03°00'18", SUBTENDED BY A CHORD OF 166.50 FEET AT A BEARING OF S.78°05'30"W., FOR A DISTANCE OF 166.52 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED AND A POINT OF COMPOUND CURVE, CONCAVE SOUTHERLY; THENCE RUN WESTERLY, ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 3,175.00 FEET, THROUGH A CENTRAL ANGLE OF 01°48'18", SUBTENDED BY A CHORD OF 100.01 FEET AT A BEARING OF S.75°41'12"W., FOR A DISTANCE OF 100.02 FEET ; THENCE RUN N.13°20'36"W., FOR A DISTANCE OF 151.24 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,040.00 FEET, THROUGH A CENTRAL ANGLE OF 39°01'52", SUBTENDED BY A CHORD OF 694.85 FEET AT A BEARING OF N.06°10'20"E., FOR A DISTANCE OF 708.47 FEET TO THE END OF SAID CURVE; THENCE RUN N.25°41'16"E., FOR A DISTANCE OF 340.33 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1,857.41 FEET, THROUGH A CENTRAL ANGLE OF 26°41'03", SUBTENDED BY A CHORD OF 857.25 FEET AT A BEARING OF N.12°20'44"E., FOR A DISTANCE OF 865.04 FEET TO THE END OF SAID CURVE; THENCE RUN N.00°59'47"W., FOR A DISTANCE OF 3,135.73 FEET; THENCE RUN N.00°57'22"W., FOR A DISTANCE OF 516.27 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,355.06 FEET, THROUGH A CENTRAL ANGLE OF 29°56'43", SUBTENDED BY A CHORD OF 1,216.89 FEET AT A BEARING OF N.15°55'43"W., FOR A DISTANCE OF 1,230.85 FEET TO THE END OF SAID CURVE; THENCE RUN N.30°54'05"W., FOR A DISTANCE OF 300.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,050.00 FEET, THROUGH A CENTRAL ANGLE OF 29°14'58", SUBTENDED BY A CHORD OF 530.22 FEET AT A BEARING OF N.16°16'36"W., FOR A DISTANCE OF 536.02 FEET TO THE END OF SAID CURVE; THENCE RUN N.01°39'07"W., FOR A DISTANCE OF 150.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF WILLIAMS ROAD, A 100.00 FOOT RIGHT-OF-WAY; THENCE RUN N.88°20'53"E ALONG SAID SOUTH RIGHT-OF-WAY LINE, FOR A DISTANCE OF 100.00 FEET; THENCE RUN S.01°39'07"E., FOR A DISTANCE OF 150.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN

HM PROJECT #1997.079

12/24/2003

REF. DWG. #B-4345-1

Page 2 of 2

SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 950.00 FEET, THROUGH A CENTRAL ANGLE OF 29°14'58", SUBTENDED BY A CHORD OF 479.72 FEET AT A BEARING OF S.16°16'36"E., FOR A DISTANCE OF 484.97 FEET TO THE END OF SAID CURVE; THENCE RUN S.30°54'05"E., FOR A DISTANCE OF 300.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 2,455.06 FEET, THROUGH A CENTRAL ANGLE OF 29°56'43", SUBTENDED BY A CHORD OF 1,268.56 FEET AT A BEARING OF S.15°55'43"E., FOR A DISTANCE OF 1,283.12 FEET TO THE END OF SAID CURVE; THENCE RUN S.00°57'22"E., FOR A DISTANCE OF 516.27 FEET; THENCE RUN S.00°59'47"E., FOR A DISTANCE OF 3,135.73 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,957.41 FEET, THROUGH A CENTRAL ANGLE OF 26°41'03", SUBTENDED BY A CHORD OF 903.40 FEET AT A BEARING OF S.12°20'44"W., FOR A DISTANCE OF 911.62 FEET TO THE END OF SAID CURVE; THENCE RUN S.25°41'16"W., FOR A DISTANCE OF 340.33 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 940.00 FEET, THROUGH A CENTRAL ANGLE OF 39°01'52", SUBTENDED BY A CHORD OF 628.04 FEET AT A BEARING OF S.06°10'20"W., FOR A DISTANCE OF 640.35 FEET TO THE END OF SAID CURVE; THENCE RUN S.13°20'36"E., FOR A DISTANCE OF 149.54 FEET TO THE POINT OF BEGINNING; CONTAINING 18.188 ACRES, MORE OR LESS.

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

BEARINGS SHOWN HEREON REFER TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING S.88°56'17"W.

HOLE MONTES, INC.

CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY



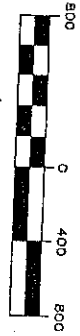
JERRY W. RIFFELMACHER

P.S.M. #6130

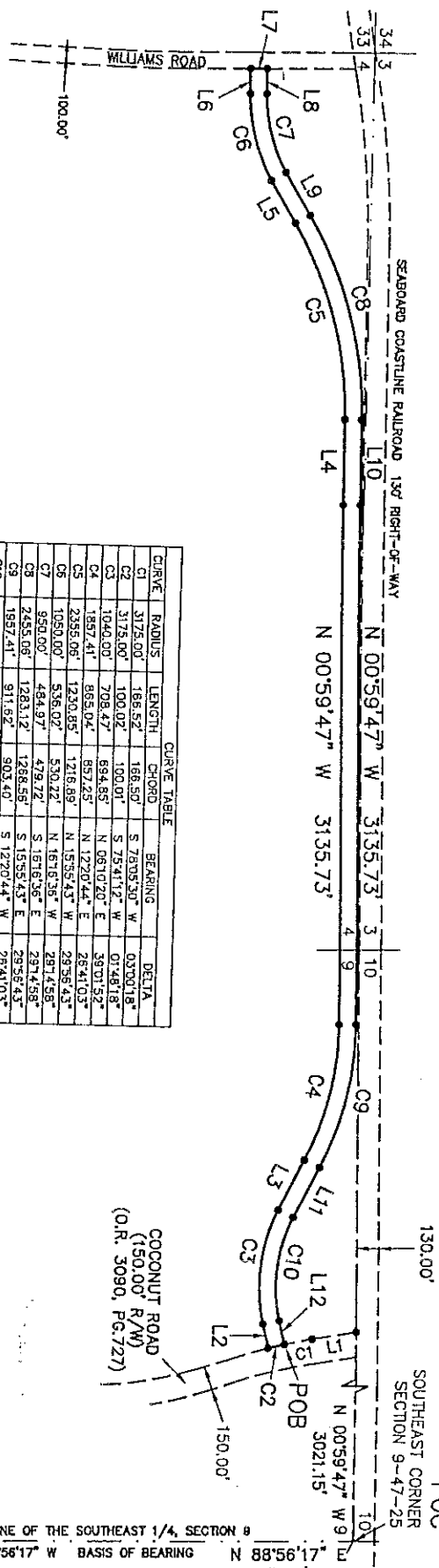
STATE OF FLORIDA



GRAPHIC SCALE



LINE	DIRECTION	DISTANCE
L1	S 79°35'39" W	263.08'
L2	N 13°20'36" W	151.24'
L3	N 25°41'16" E	340.33'
L4	N 00°57'22" W	516.27'
L5	N 30°34'05" W	300.00'
L6	N 01°39'07" W	150.00'
L7	N 88°20'53" E	100.00'
L8	S 01°39'07" E	150.00'
L9	S 30°54'05" E	300.00'
L10	S 00°57'22" E	516.27'
L11	S 25°41'16" W	340.33'
L12	S 13°20'36" E	151.24'



CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	3175.00'	166.52'	166.50'	S 78°03'30" W	03°00'18"
C2	3175.00'	100.02'	100.01'	S 75°41'12" W	01°48'18"
C3	1049.00'	708.47'	708.45'	N 08°10'20" E	39°01'52"
C4	897.41'	865.04'	865.04'	N 12°20'44" E	28°41'03"
C5	2395.05'	1230.85'	1230.85'	N 15°55'43" W	29°35'43"
C6	1050.00'	536.02'	530.22'	N 16°16'36" W	28°14'58"
C7	950.00'	484.97'	479.72'	S 15°18'36" E	29°14'58"
C8	2455.06'	1283.12'	1268.59'	S 15°55'43" E	29°56'43"
C9	1957.41'	911.62'	903.40'	S 12°20'44" W	28°41'03"
C10	840.00'	640.35'	628.04'	S 09°10'20" W	39°01'52"

SOUTH LINE OF THE SOUTHEAST 1/4, SECTION 9
S 88°56'17" W BASIS OF BEARING N 88°56'17" W
5.89'

LEGEND
POC POINT OF COMMENCEMENT
POB POINT OF BEGINNING

DRAWN BY: TH/AM	DATE: 7/03	<p>HOLE MONTES ENGINEERS PLANNERS SURVEYORS</p> <p>950 Encore Way Naples, FL 34110 Phone: (941) 254-2000 Florida Certificate of Authorization No. 1772</p>	<p>NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.</p>	<p>SKETCH TO ACCOMPANY A LEGAL DESCRIPTION</p>	PROJECT NO. 97.079
CHECKED BY: JLR	DRAWING NO. B-4345-1				REFERENCE NO. RDSL-2

* NOT A SURVEY *

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W. ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN N.00°59'47"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2869.10 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY AS DESCRIBED IN O.R. BOOK 3090 AT PAGE 727 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S.79°35'39"W., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, FOR A DISTANCE OF 238.23 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHERLY; THENCE RUN WESTERLY ALONG THE SAID SOUTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 3,025.00 FEET, THROUGH A CENTRAL ANGLE OF 03°00'30", SUBTENDED BY A CHORD OF 158.81 FEET AT A BEARING OF S.78°05'24"W., FOR A DISTANCE OF 158.83 FEET TO THE END OF SAID CURVE AND THE SAME BEING THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN S.13°20'36"E., FOR A DISTANCE OF 150.47 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,060.00 FEET, THROUGH A CENTRAL ANGLE OF 27°07'29", SUBTENDED BY A CHORD OF 497.15 FEET AT A BEARING OF S.00°13'08"W., FOR A DISTANCE OF 501.82 FEET TO THE END OF SAID CURVE; THENCE RUN S.13°46'53"W., FOR A DISTANCE OF 300.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 940.00 FEET, THROUGH A CENTRAL ANGLE OF 38°08'12", SUBTENDED BY A CHORD OF 614.19 FEET AT A BEARING OF S.05°17'13"E., FOR A DISTANCE OF 625.67 FEET TO THE END OF SAID CURVE; THENCE RUN S.24°21'19"E., FOR A DISTANCE OF 366.00 FEET; THENCE RUN S.65°38'41"W., FOR A DISTANCE OF 100.00 FEET; THENCE RUN N.24°21'19"W., FOR A DISTANCE OF 366.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,040.00 FEET, THROUGH A CENTRAL ANGLE OF 38°08'12", SUBTENDED BY A CHORD OF 679.53 FEET AT A BEARING OF N.05°17'13"W., FOR A DISTANCE OF 692.24 FEET TO THE END OF SAID CURVE; THENCE RUN N.13°46'53"E., FOR A DISTANCE OF 300.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 960.00 FEET, THROUGH A CENTRAL ANGLE OF 27°07'29", SUBTENDED BY A CHORD OF 450.25 FEET AT A BEARING OF N.00°13'08"E., FOR A DISTANCE OF 454.48 FEET TO THE END OF SAID CURVE; THENCE RUN N.13°20'36"W., FOR A DISTANCE OF 148.70 FEET TO A POINT ON THE SAID SOUTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD AND TO A POINT ON A CIRCULAR CURVE, CONCAVE SOUTHERLY, WHOSE RADIUS POINT BEARS S.15°18'31"E., A DISTANCE OF 3,025.00 FEET THEREFROM; THENCE RUN EASTERLY ALONG THE SAID SOUTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,025.00 FEET, THROUGH A CENTRAL ANGLE OF 01°53'40", SUBTENDED BY A CHORD OF 100.02 FEET AT A BEARING OF

HM PROJECT #1997.079

8/5/2003

REF. DWG. #B-4344

Page 2 of 2

N.75°38'19"E., FOR A DISTANCE OF 100.02 FEET TO THE POINT OF BEGINNING; CONTAINING 4.483 ACRES, MORE OR LESS.

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

BEARINGS SHOWN HEREON REFER TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING S.88°56'17"W.

HOLE MONTES, INC.

CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY


JERRY L. RIFFELMACHER

P.S.M. #6130

STATE OF FLORIDA



GRAPHIC SCALE

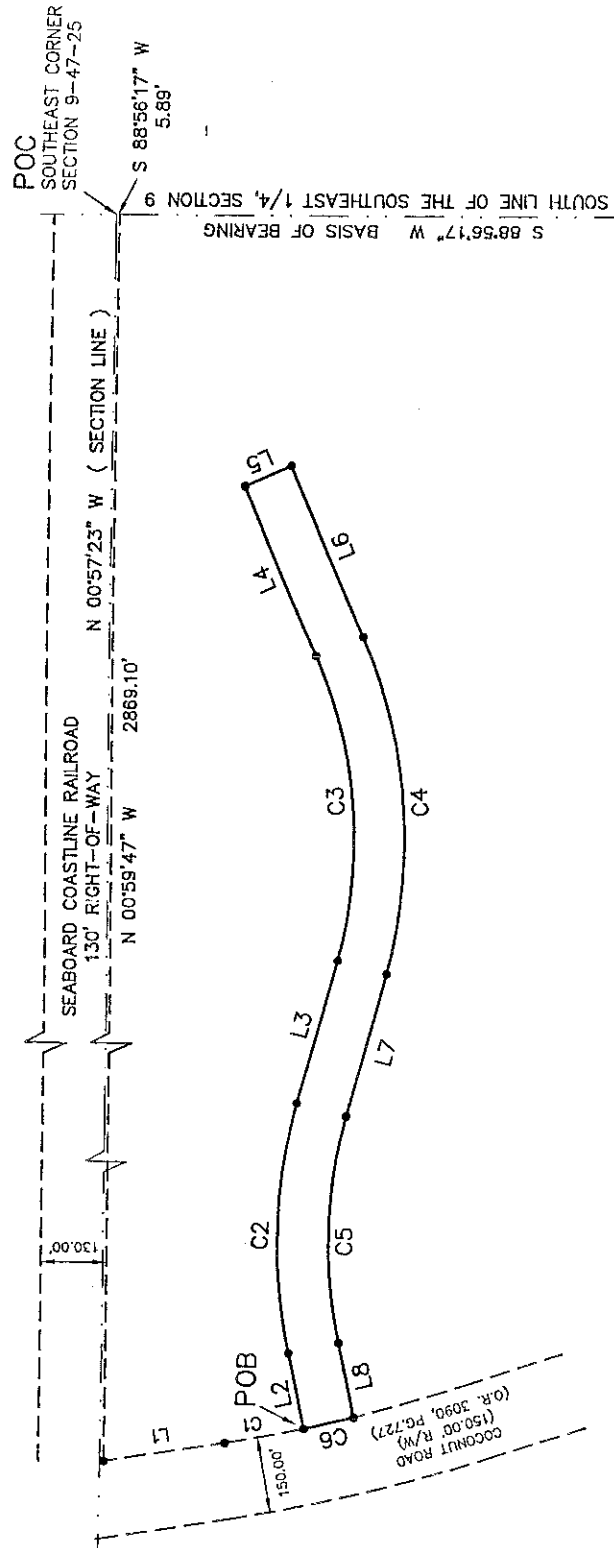


(IN FEET)

1 inch = 300 ft.

LINE	DIRECTION	DISTANCE
L1	S 78°36'38" W	238.23'
L2	S 13°20'36" E	150.47'
L3	S 13°48'53" W	300.00'
L4	S 24°21'19" E	388.00'
L5	S 65°38'41" W	100.00'
L6	N 24°21'19" W	368.00'
L7	N 13°48'53" E	300.00'
L8	N 13°20'36" W	148.70'

CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	3025.00'	188.83'	158.81'	S 78°05'24" W	03°00'30"
C2	1060.00'	501.82'	497.15'	S 00°13'08" W	27°07'28"
C3	940.00'	825.87'	614.19'	S 08°17'13" E	38°08'12"
C4	1040.00'	692.24'	879.53'	N 05°17'13" W	38°08'12"
C5	860.00'	454.48'	450.25'	N 00°13'08" E	27°07'28"
C6	3025.00'	100.02'	100.02'	N 73°38'18" E	01°53'40"



LEGEND

POC POINT OF COMMENCEMENT
POB POINT OF BEGINNING

PARTY CHIEF:	DATE
DRAWN BY:	DATE
CHECKED BY:	DRAWING NO.
JLR	B-4344



950 Encore Way
Naples, FL 34110
Phone: (941) 254-2000
Florida Certificate of
Licensed Surveyor
Authorization No. 1772
AND MAPPER.

* NOT A SURVEY *

SKETCH TO ACCOMPANY
A LEGAL DESCRIPTION

PROJECT NO.
97.079
REFERENCE NO.
RDSL-1

HM PROJECT #1997.079
10/28/2003
REF. DWG. #B-4439
Page 1 of 1

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 20.96 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 100.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE WESTERLY, WHOSE RADIUS POINT BEARS S.89°00'18"W., A DISTANCE OF 1,656.91 FEET THEREFROM; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1,656.91 FEET, THROUGH A CENTRAL ANGLE OF 23°21'38", SUBTENDED BY A CHORD OF 670.88 FEET AT A BEARING OF N.12°40'30"W., FOR A DISTANCE OF 675.55 FEET TO THE END OF SAID CURVE; THENCE RUN N.24°21'19"W., FOR A DISTANCE OF 240.73 FEET; THENCE RUN N.65°38'41"E., FOR A DISTANCE OF 100.00 FEET; THENCE RUN S.24°21'19"E., FOR A DISTANCE OF 240.73 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,756.91 FEET, THROUGH A CENTRAL ANGLE OF 23°21'24", SUBTENDED BY A CHORD OF 711.25 FEET AT A BEARING OF S.12°40'37"E., FOR A DISTANCE OF 716.20 FEET TO THE POINT OF BEGINNING; CONTAINING 2.150 ACRES, MORE OR LESS.

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

BEARINGS SHOWN HEREON REFER TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING S.88°56'17"W.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

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

EXHIBIT E
PAGE 1 OF 2

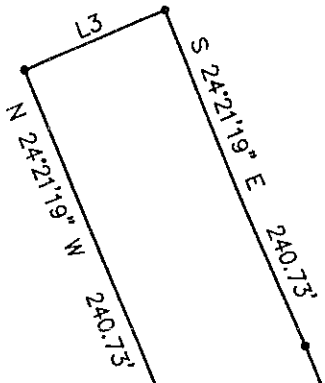
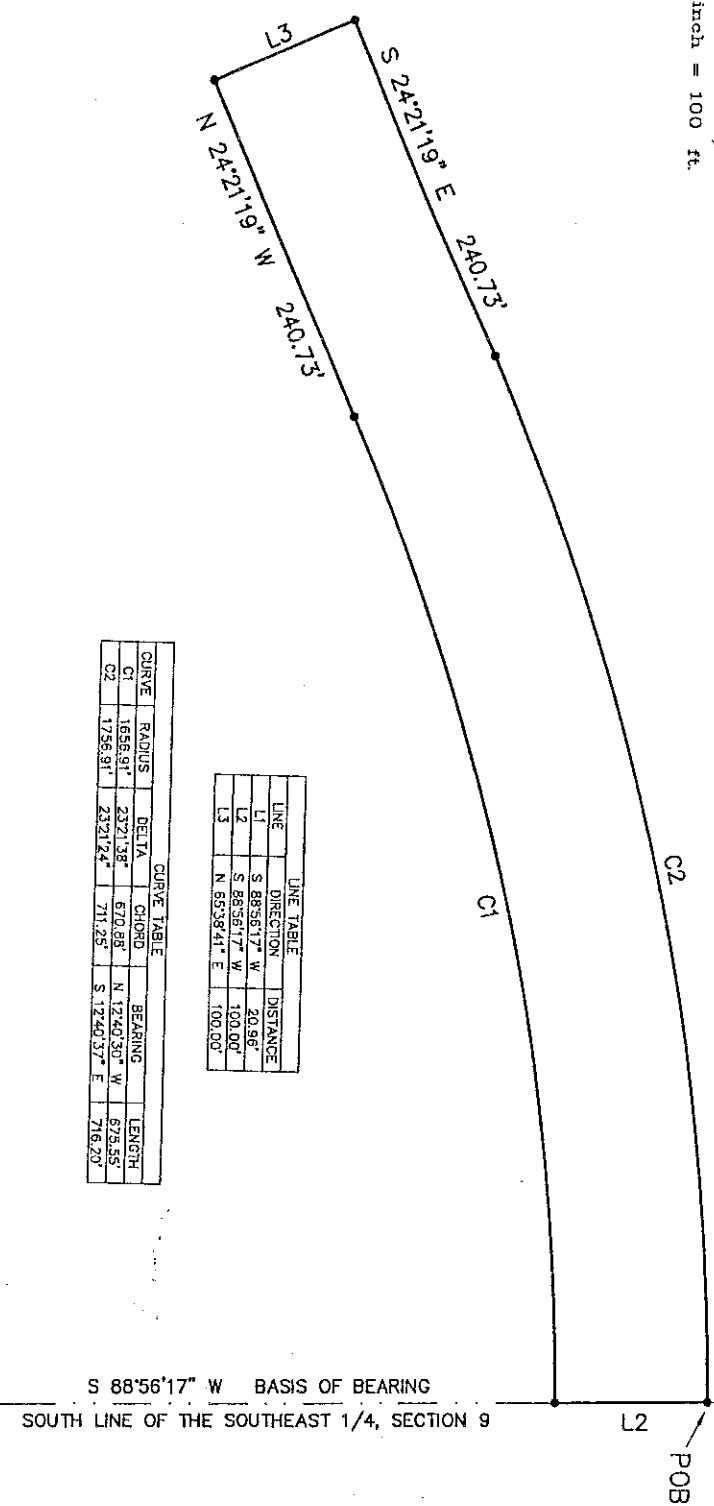


GRAPHIC SCALE
(IN FEET)
1 inch = 100 ft.

SEABOARD COASTLINE RAILROAD
130' RIGHT-OF-WAY

N 00°57'23" W (SECTION LINE)

130.00'



LINE	DIRECTION	DISTANCE
L1	S 88°56'17" W	20.96'
L2	S 88°56'17" W	100.00'
L3	N 85°58'41" E	100.00'

CURVE	RADIUS	DELTA	CHORD	BEARING	LENGTH
C1	1656.91'	23°21'38"	670.88'	N 12°40'30" W	675.55'
C2	1756.91'	23°21'24"	711.25'	S 12°40'37" E	716.20'

*** NOT A SURVEY ***

SEC-TNN-RGE: 9 - 47 - 25
DRAWN BY: TH
CHECKED BY: JLR
DATE: 10/03
DRAWING NO.: B-4439



950 Encore Way
Naples, FL 34110
Phone: (941) 254-2000
Florida Certificate of
Authorization No. 1772

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

SKETCH TO ACCOMPANY A LEGAL DESCRIPTION

PROJECT NO.: 97.079
REFERENCE NO.: ROSL-5



HM PROJECT #1997.079
8/5/2003
REF. DWG. #B-4346
Page 1 of 1

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF SECTION 33, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 33, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA THE SAME BEING A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF WILLIAMS ROAD, A 100.00 FOOT RIGHT-OF-WAY; THENCE RUN S.88°20'53"W. ALONG THE SOUTH LINE OF THE SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 637.29 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S.88°20'53"W. ALONG THE SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 100.00 FEET; THENCE RUN N.01°39'07"W., FOR A DISTANCE OF 331.60 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHEASTERLY; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 767.31 FEET, THROUGH A CENTRAL ANGLE OF 61°23'46", SUBTENDED BY A CHORD OF 783.44 FEET AT A BEARING OF N.29°02'46"E., FOR A DISTANCE OF 822.22 FEET TO THE END OF SAID CURVE; THENCE RUN N.59°44'39"E., FOR A DISTANCE OF 58.35 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD; THENCE RUN S.10°28'11"E., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 106.27 FEET; THENCE RUN S.59°44'39"W., FOR A DISTANCE OF 22.38 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHEASTERLY; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 667.31 FEET, THROUGH A CENTRAL ANGLE OF 61°23'46", SUBTENDED BY A CHORD OF 681.34 FEET AT A BEARING OF S.29°02'46"W., FOR A DISTANCE OF 715.06 FEET TO THE END OF SAID CURVE; THENCE RUN S.01°39'07"E., FOR A DISTANCE OF 331.60 FEET TO THE POINT OF BEGINNING; CONTAINING 2.619 ACRES, MORE OR LESS.

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

BEARINGS SHOWN HEREON REFER TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING S.88°20'53"W.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

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

GRAPHIC SCALE



(IN FEET)
1 inch = 100 ft.



WESTERLY RIGHT-OF-WAY LINE OF SEABOARD COASTLINE RAILROAD 130' RIGHT-OF-WAY

L3 L4

POC
SOUTHEAST CORNER
SECTION 33

LINE	DIRECTION	DISTANCE
L1	S 88°20'53" W	100.00'
L2	N 59°44'39" E	58.35'
L3	S 10°28'11" E	106.27'
L4	S 59°44'39" W	22.38'

CURVE	RADIUS	LENGTH	CHORD	BEARINGS	DELTA
C1	767.31'	822.72'	783.44'	N 29°02'46" E	61°23'46"
C2	657.31'	715.06'	681.34'	S 29°02'46" W	61°23'46"

C2
C1

POB
S 01°39'07" E 331.60'

N 01°39'07" W 331.60'

100.00'

S 88°20'53" W 637.29'
SOUTHLINE OF THE SOUTHEAST 1/4, SECTION 33
BASIS OF BEARING
WILLIAMS ROAD
(100' RIGHT-OF-WAY)

LEGEND

POC POINT OF COMMENCEMENT
POB POINT OF BEGINNING

PARTY CHIEF:	DATE
DRAWN BY:	DATE
CHECKED BY:	DRAWING NO.
JLR	B-4346



950 Encore Way
Naples, FL 34110
Phone: (941) 254-2000
Florida Certificate of
Authorization No. 1772
ENGINEERS - PLANNERS - SURVEYORS

* NOT A SURVEY *

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

SKETCH TO ACCOMPANY
A LEGAL DESCRIPTION

PROJECT NO.
97.079
REFERENCE NO.
RDSL-3

U:\1997\1997079\RDSL-3.dwg Tab: Model Aug 05, 2003 - 4:41pm Plotted by: TomHouser



950 Encore Way • Naples, Florida 34110 • Phone: 239.254.2000 • Fax: 239.254.2075

HM PROJECT #1997.079
11/20/2003
REF. DWG. #B-4347-1
Page 1 of 1

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF SECTIONS 33 AND 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 33, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN N.01°10'39"W., ALONG THE EAST LINE OF SAID SECTION 33, FOR A DISTANCE OF 35.06 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT WIDE RIGHT-OF-WAY; THENCE RUN N.10°28'11"W. ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 970.73 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N.10°28'11"W. ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 106.27 FEET; THENCE RUN N.59°44'39"E., FOR A DISTANCE OF 53.64 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 666.00 FEET, THROUGH A CENTRAL ANGLE OF 84°45'18", SUBTENDED BY A CHORD OF 897.79 FEET AT A BEARING OF N.17°22'00"E., FOR A DISTANCE OF 985.18 FEET TO THE END OF SAID CURVE; THENCE RUN N.25°00'39"W., FOR A DISTANCE OF 178.36 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,600.00 FEET, THROUGH A CENTRAL ANGLE OF 23°49'21", SUBTENDED BY A CHORD OF 660.47 FEET AT A BEARING OF N.13°05'59"W., FOR A DISTANCE OF 665.25 FEET TO A POINT LYING 50.00 FEET EASTERLY OF AS MEASURED AT RIGHT ANGLES TO THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33; THENCE RUN N.01°11'18"W., PARALLEL WITH THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33, FOR A DISTANCE OF 1,084.31 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF CORKSCREW ROAD; THENCE RUN N.89°34'27"E., ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID CORKSCREW ROAD, FOR A DISTANCE OF 50.00 FEET TO A POINT ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33; THENCE RUN N.89°36'56"E., ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID CORKSCREW ROAD, FOR A DISTANCE OF 50.00 FEET TO A POINT LYING 50.00 FEET EASTERLY OF AS MEASURED AT RIGHT ANGLES TO THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33; THENCE RUN S.01°11'18"E., PARALLEL TO THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33, FOR A DISTANCE OF 1,082.94 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1,500.00 FEET, THROUGH A CENTRAL ANGLE OF 23°49'21", SUBTENDED BY A CHORD OF 619.19 FEET AT A BEARING OF S.13°05'59"E., FOR A DISTANCE OF 623.67 FEET TO THE END OF SAID CURVE; THENCE RUN S.25°00'39"E., FOR A DISTANCE OF 178.36 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 766.00 FEET, THROUGH A CENTRAL ANGLE OF 84°45'18", SUBTENDED BY A CHORD OF 1,032.59 FEET AT A BEARING OF S.17°22'00"W., FOR A DISTANCE OF 1,133.11 FEET TO THE END OF SAID CURVE; THENCE RUN S.59°44'39"W., FOR A DISTANCE OF 89.61 FEET TO THE POINT OF BEGINNING; CONTAINING 6.973 ACRES, MORE OR LESS.

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

BEARINGS SHOWN HEREON REFER TO THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING N.01°10'39"W.

HOLE MONTES, INC.

CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

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

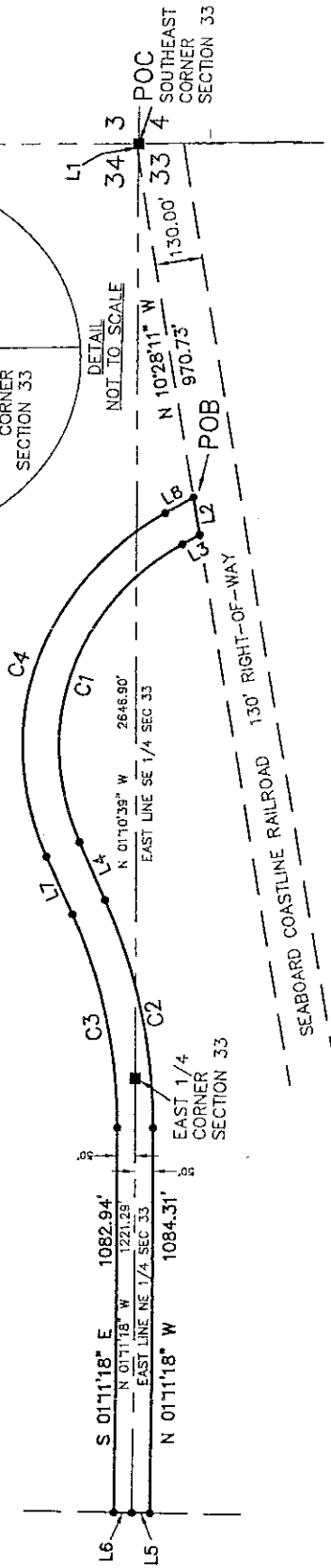
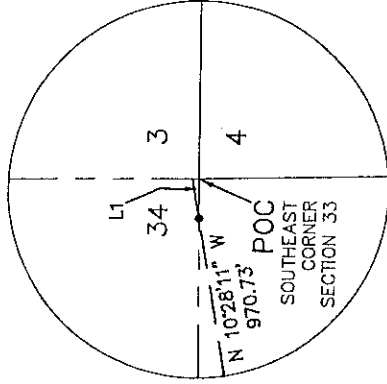
EXHIBIT F-2
(Page 1 of 2)



GRAPHIC SCALE



(IN FEET)
1 inch = 400 ft.



LINE	DIRECTION	DISTANCE
L1	N 01°10'39" W	35.06'
L2	N 10°28'11" W	106.27'
L3	N 59°44'39" E	53.64'
L4	N 25°00'39" W	178.36'
L5	N 89°34'27" E	50.00'
L6	N 89°36'56" E	50.00'
L7	S 25°00'39" E	178.36'
L8	S 59°44'39" W	89.61'

CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	666.00'	985.18'	897.79'	N 17°22'00" E	84°45'18"
C2	1600.00'	665.25'	660.47'	N 13°05'59" W	23°49'21"
C3	1500.00'	623.67'	619.19'	S 13°05'59" E	23°49'21"
C4	786.00'	1123.11'	1032.59'	S 17°22'00" W	84°45'18"

LEGEND

POC POINT OF COMMENCEMENT
POB POINT OF BEGINNING

PARTY CHIEF:	DATE:
DRAWN BY:	DATE:
CHECKED BY:	DATE:
JLE	B-4347-1



950 Encore Way
Naples, FL 34110
Phone: (941) 254-2000
Florida Certificate of
Licensed Surveyor
Authorization No. 1772

*** NOT A SURVEY ***

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

SKETCH TO ACCOMPANY
A LEGAL DESCRIPTION

PROJECT NO.

97.079

REFERENCE NO.
RDSL-4-1

COCONUT POINT DRI

AUTHORIZATION TO OBTAIN A RESIDENTIAL BUILDING PERMIT
WITHOUT THE PAYMENT OF ROAD IMPACT FEES
(SAMPLE)

The XYZ Corporation is hereby authorized by _____ to obtain a total of _____ residential building permits in Tract _____ of the Coconut Point DRI as identified below. The subject residential lots are legally described in attached Exhibit A. Compliance with the terms and conditions of the Coconut Point DRI Development Order and Development Agreement provides mitigation of the traffic impacts and "exemption" from the payment of road impact fees, which the Developer has a right to assign by execution of this authorization.

In accordance with the Coconut Point DRI Development Agreement, this document authorizes the following number and types of units to be permitted without the individual payment of impact fees. Units in excess of the amount authorized about will require additional assignment of the Developer's rights prior to obtaining a permit to construct units without the payment of road impact fees.

- ____ Single-family
- ____ Multi-family
- ____ Two-family attached
- ____ Town House
- ____ Other:

Developer's Representative

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this _____ day of _____, 20 ____ by _____ who is personally known to me or has produced _____ as identification.

Notary Public

(SEAL)

Print Name

Commission Expiration Date

EXHIBIT G-1

COCONUT POINT DRI

**AUTHORIZATION TO OBTAIN NON-RESIDENTIAL BUILDING PERMIT
WITHOUT THE PAYMENT OF ROAD IMPACT FEES
(SAMPLE)**

The XYZ Corporation is hereby authorized by _____ to obtain a building permit for non-residential square footage in Tract _____ of the Coconut Point DRI as identified below. A legal description of the subject parcel is attached as Exhibit A. Compliance with the terms and conditions of the Coconut Point DRI Development Order and Development Agreement provides mitigation of the traffic impacts and "exemption" from the payment of road impact fees, which the Developer has a right to assign by execution of this authorization.

In accordance with the Coconut Point DRI Development Agreement, this document authorizes _____ square footage to be permitted without the individual payment of impact fees. Square footage in excess of the amount authorized about will require additional assignment of the Developer's rights prior to issuance of a building permit without the payment of road impact fees.

The square footage is for:

- _____ sq. ft. Office area
- _____ sq. ft. Medical Office
- _____ sq. ft. General Retail
- _____ sq. ft. Mail Retail EXHIBIT G-2
- _____ sq. ft. Other: _____

Developer's Representative

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this _____ day of _____, 20 _____ by _____ who is personally known to me or has produced _____ as identification.

Notary Public

(SEAL)

Print Name

Commission Expiration Date

EXHIBIT G-2

**INTERLOCAL AGREEMENT CONCERNING PROPORTIONATE
SHARE PAYMENTS AND CROSS-JURISDICTIONAL
IMPACTS ATTRIBUTABLE TO ADOPTION OF
THE COCONUT POINT DRI**

This Interlocal Agreement is made between Lee County, a political subdivision of the State of Florida (County) and the City of Bonita Springs, a municipal corporation in the State of Florida (City).

WHEREAS, F.S. §163.01 provides the City and County with the power and authority to enter into an Interlocal Agreement for the mutual benefit of the citizens within each jurisdiction; and

WHEREAS, the Coconut Point Development of Regional Impact was approved by the Board of County Commissioners on October 21, 2002; and

WHEREAS, the traffic projections for Coconut Point DRI indicate significant and adverse impacts on a number of roads within the County, including some within the City of Bonita Springs' boundaries; and

WHEREAS, the City has determined that acceptance of a proportionate share payment will adequately mitigate the impacts from development of Coconut Point DRI within the City boundaries; and

WHEREAS, the City and County desire to set forth the manner in which the proportionate share payment will be received and used in accordance with F.S. Ch. 380 and FAC. Rule 9J-2.045; and

WHEREAS, the City and County find entering into this Interlocal Agreement serves the public interest and benefit.

NOW, THEREFORE, the parties agree as follows:

1. Recitals. The recitals are true and correct and incorporated herein.
2. Purpose. The purpose of this Interlocal Agreement is to set forth the obligations of the parties with respect to mitigation of cross-jurisdictional impacts created by the approval and development of the Coconut Point DRI. This agreement is intended to be an attachment to and part of the Coconut Point DRI Development Agreement executed subsequent to the Coconut Point DRI development order approval. This agreement will be incorporated

into the Coconut Point DRI Development Order as part of the next NOPC submittal filed by the Developer.

3. Authority. The parties each represent that the execution and delivery of this Interlocal Agreement is duly authorized by all appropriate actions of the respective governing body and constitutes a legal, valid and binding obligation of the respective party.
4. Sandy Lane Extension Corridor Alignment Study. The County agreed to provide funds to conduct the Corridor study for Sandy Lane Extension. Board of County Commissioner direction and approval for expenditure for up to \$250,000.00 was granted in July, 2002. The County agrees to provide a copy of the Study to the City upon receipt.

Neither party is obligated to expend additional funds with respect to Sandy Lane under this Interlocal Agreement.

5. Old U.S. 41 Improvements. The City agrees to accept \$2.184 million as full mitigation for the impacts created by development of Coconut Point DRI. This amount represents the estimated proportionate share as determined and agreed by both parties. Under the terms of the DRI Development Order the County will receive proportionate share payments directly from the developer. Within 30 days of receiving the first cash installment or proportionate share payment for the Regional Retail Center from the developer, the County will transmit \$2.184 million to the City. Once this amount is transmitted, the City and County agree no further funds will be due from the County for impacts attributable to development of the Coconut Point DRI as approved by the County in October 2002.

The funds transmitted to the City must be used towards the necessary and identified improvements to Old U.S. 41 between Rosemary Drive and the intersection of Old U.S. 41 with U.S. 41 and Pelican Landing Boulevard. This roadway is under the City's jurisdiction and as such constitutes an improvement over which the City has control and authority.

6. State Roads within the City. The Coconut Point DRI development order identifies a number of impacted state roads within the City. Proposed improvements to mitigate these projects are set forth in the text of the DRI development order and included in the developer's proportionate share payment. The parties agree these improvements, unless otherwise provided for in this Agreement, will be addressed by the County or the Florida Department of Transportation at the appropriate time based upon availability of necessary funds.

7. Intersection Improvements. The City agrees to accept \$138,000.00, as full mitigation for the impacts of the Coconut Point DRI to the following intersections:
- a. Old U.S. 41 @ Bonita Beach Road
 - b. Old U.S. 41 @ Dean Street
 - c. Old U.S. 41 @ Terry Street

These funds will be provided to the City within thirty (30) days of the County's receipt of the first cash installment or proportionate share payment for the Regional Retail Center is received from the developer. No additional funds will be provided to the City for the purpose of completing these improvements.

8. Transfer of Funds. The City understands and agrees the County has no obligation to transfer the funds unless and until the proportionate share cash payment contemplated by the DRI development order is actually made by the developer. The City also understands and agrees that any adjustment to 2002 dollars, as contemplated by the DRI Development Order, will be provided to the City only if this adjustment is required by the County or requested by the Developer prior to payment of the first proportionate share installment.
9. Venue. This Interlocal Agreement is governed by the laws of the State of Florida. Any action to enforce the terms of this Agreement will be brought in a court of competent jurisdiction in Lee County, Florida.
10. Amendment. This Agreement may be amended only by a written document executed with the same formality.
11. Effective Date. This Agreement becomes effective on the date it is fully executed by both parties.
12. Termination. This Agreement terminates upon the City's receipt of the payments contemplated under Paragraphs 5 and 7 and the setting of the Sandy Lane Alignment between Pelican Colony Boulevard and the southern DRI boundary line, or on December 31, 2006, whichever is earlier.
13. Liability. The parties agree that execution of this Agreement does not serve to waive the sovereign immunity of either party or serve to increase the limits of liability provided in F.S. §768.28.

IN WITNESS OF THE ABOVE, the City and County execute this Agreement on the dates indicated.

ATTEST

By: *Sharon J. G...*
Clerk

CITY OF BONITA SPRINGS

By: *Paul D. ...*
Mayor

Date:

APPROVED AS TO FORM:

By: *[Signature]*
Office of the City Attorney

ATTEST:
CHARLIE GREEN, CLERK

By: *[Signature]*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: *[Signature]*
Chairman

Date:

APPROVED AS TO FORM:

By: *[Signature]*
Dawn E. Perry-Lehnert
Office of the County Attorney

