

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

Blue Sheet No. 20050691

**1. ACTION REQUESTED/PURPOSE:** Authorize the Chairman to execute a Conservation Easement to the South Florida Water Management District (SFWMD) in relation to new construction on the Sanibel Causeway.

**2. WHAT ACTION ACCOMPLISHES:** Sets aside certain lands in a conservation easement and complies with the County's permit issued by the SFWMD.

**3. MANAGEMENT RECOMMENDATION:** Approve

<b>4. Departmental Category:</b> 09 <i>C9C</i>				<b>5. Meeting Date:</b> <i>05-31-2005</i>	
<b>6. Agenda:</b>		<b>7. Requirement/Purpose: (specify)</b>		<b>8. Request Initiated:</b>	
<input checked="" type="checkbox"/>	Consent		Statute	Commissioner	
	Administrative		Ordinance	Department	Transportation
	Appeals		Admin. Code	Division	
	Public	<input checked="" type="checkbox"/>	Other	By:	Scott M. Gilbertson
	Walk-On		permit		

**9. Background:**

As a part of the County's permit for the Sanibel Causeway Project with the SFWMD, the County is required to place certain lands into a Conservation Easement. This easement is in compliance with F.S. § 704.06 and the lands not be used in any manner inconsistent with the terms of the Conservation Easement.

Attached is a draft Conservation Easement and a legal description of the lands to be conveyed under the easement.

**10. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
<i>[Signature]</i>	NA	NA		<i>[Signature]</i>	Analyst	Risk	Grants	Mgr.	<i>[Signature]</i> 5.17.05
					<i>RK 5/18</i>	<i>5/18/05</i>	<i>5/18/05</i>	<i>5/18/05</i>	

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

Rec. by CoAtty  
Date: *5/17/05*  
Time: *2:20*

RECEIVED BY  
COUNTY ADMIN:  
\_\_\_\_\_

Forwarded To:  
*[Signature]*  
*5/18/05*

COUNTY ADMIN  
FORWARDED TO:  
\_\_\_\_\_

Return recorded document to:  
South Florida Water Management District  
3301 Gun Club Road, MSC 4230  
West Palm Beach, FL 33406

**DEED OF CONSERVATION EASEMENT**

THIS DEED OF CONSERVATION EASEMENT is given this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Lee County ("Grantor") whose mailing address is P.O. Box 398, Fort Myers, FL. 33902

to the South Florida Water Management District ("Grantee"). As used herein, the term "Grantor" shall include any and all heirs, successors or assigns of the Grantor, and all subsequent owners of the "Property" (as hereinafter defined) and the term "Grantee" shall include any successor or assignee of Grantee.

WITNESS

WHEREAS, the Grantor is the owner of certain lands situated in Lee County, Florida, and more specifically described in Exhibit "A" attached hereto and incorporated herein ("Property"); and

WHEREAS, the Grantor desires to construct Sanibel Island Causeway Improvements-  
Name of project  
Roadway ("Project") at a site in Lee County, which is subject to the regulatory jurisdiction of South Florida Water Management District ("District"); and

WHEREAS, District Permit No. 36-05025-P ("Permit") authorizes certain activities which affect waters in or of the State of Florida; and

WHEREAS, this Permit requires that the Grantor preserve, enhance, restore and/or mitigate wetlands and/or uplands under the District's jurisdiction; and

WHEREAS, the Grantor, in consideration of the consent granted by the Permit, is agreeable to granting and securing to the Grantee a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes, over the Property.

NOW, THEREFORE, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, Grantor hereby grants, creates, and establishes a perpetual Conservation Easement for and in favor of the Grantee upon the Property which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

RECEIVED  
MAY 02 2005

The scope, nature, and character of this Conservation Easement shall be as follows:

1. Recitals. The recitals hereinabove set forth are true and correct and are hereby incorporated into and made a part of this Conservation Easement.

2. Purpose. It is the purpose of this Conservation Easement to retain land or water areas in their natural, vegetative, hydrologic, scenic, open, agricultural or wooded condition and to retain such areas as suitable habitat for fish, plants or wildlife. Those wetland and/or upland areas included in this Conservation Easement which are to be enhanced or created pursuant to the Permit shall be retained and maintained in the enhanced or created conditions required by the Permit.

To carry out this purpose, the following rights are conveyed to Grantee by this easement:

a. To enter upon the Property at reasonable times with any necessary equipment or vehicles to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor at the time of such entry; and

b. To enjoy any activity on or use of the Property that is inconsistent with this Conservation Easement and to enforce the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

3. Prohibited Uses. Except for restoration, creation, enhancement, maintenance and monitoring activities, or surface water management improvements, or other activities described herein that are permitted or required by the Permit, the following activities are prohibited in or on the easement area:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

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

c. Removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic or nuisance vegetation in accordance with a District approved maintenance plan;

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

e. Surface use except for purposes that permit the land or water area to remain in its natural or enhanced condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking and fencing;

g. Acts or uses detrimental to such aforementioned retention of land or water areas;

h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance.

4. Grantor's Reserved Rights. Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and which are not inconsistent with any District rule, criteria, permit and the intent and purposes of this Conservation Easement.

5. No Dedication. No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement.

6. Grantee's Liability. Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the Property.

7. Acts Beyond Grantor's Control. Nothing contained in this instrument shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in any portion of the Property other than Conservation Areas specified in Permit No. 36-05025-P, that result from natural causes beyond Grantor's control, and not initiated by the Grantor, including but not limited to fire, flood, storm and earth movement. Should any Conservation Area be injured or changed from natural causes, including but not limited to fire, flood, storm and earth movement, the Grantor shall be provided notice and a reasonable opportunity to restore the affected Conservation Area to a condition that satisfies the permit requirements prior to the Grantee bringing any action for noncompliance with the Permit.

8. Property Taxes. Grantor shall keep the payment of taxes and assessments on the Easement Parcel current and shall not allow any lien on the Easement Parcel superior to this Easement. In the event Grantor fails to extinguish or obtain a subordination of such lien, in addition to any other remedy, the Grantee may, but shall not be obligated to, elect to pay the lien on behalf of the Grantor and Grantor shall reimburse Grantee for the amount paid by the Grantee, together with Grantee's reasonable attorney's fees and costs, with interest at the maximum rate allowed by law, no later than thirty days after such payment. In the event the Grantor does not so reimburse the Grantee, the debt owed to Grantee shall constitute a lien against the Easement Parcel which shall automatically relate back to the recording date of this Easement. Grantee may foreclose this lien on the Easement Parcel in the manner provided for mortgages on real property.

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

10. Assignment. Grantee will hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

11. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this

Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

12. Terms and Restrictions. Grantor shall insert the terms and restrictions of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Property.

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

14. Modifications. This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Lee County.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Property.

Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said Property in fee simple; that the Property is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; and all mortgages and liens have been subordinated to this Conservation Easement; and that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends the title to the Conservation Easement hereby conveyed against the lawful claims of all persons whomsoever.

ATTEST:

CHARLIE GREEN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

LEE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY  
COMMISSIONERS

By: \_\_\_\_\_  
Chairman

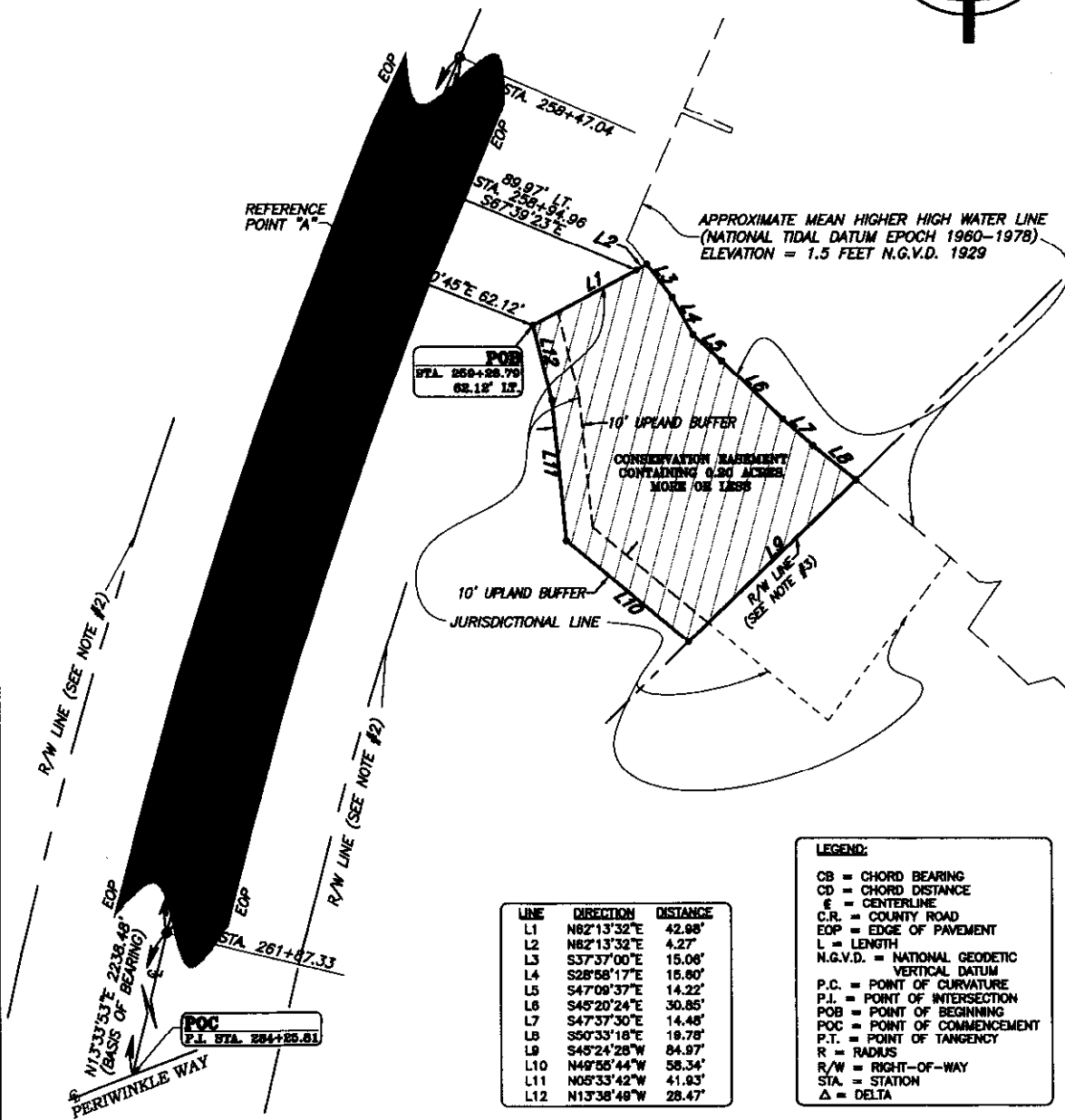
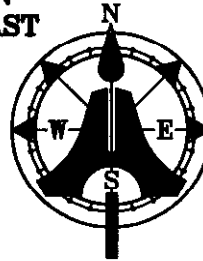
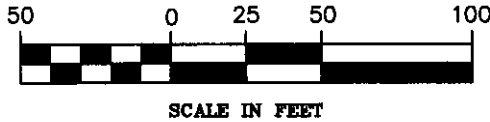
APPROVED AS TO FORM:

By: \_\_\_\_\_  
Office of County Attorney

**EXHIBIT "A"**

[DESCRIPTION OF PROPERTY]

**A LEGAL DESCRIPTION AND SKETCH LOCATED IN  
SECTION 20, TOWNSHIP 46 SOUTH, RANGE 23 EAST  
LEE COUNTY, FLORIDA**



**LEGEND:**

CB = CHORD BEARING  
 CD = CHORD DISTANCE  
 CL = CENTERLINE  
 C.R. = COUNTY ROAD  
 EOP = EDGE OF PAVEMENT  
 L = LENGTH  
 N.G.V.D. = NATIONAL GEODETIC VERTICAL DATUM  
 P.C. = POINT OF CURVATURE  
 P.I. = POINT OF INTERSECTION  
 POB = POINT OF BEGINNING  
 POC = POINT OF COMMENCEMENT  
 P.T. = POINT OF TANGENCY  
 R = RADIUS  
 R/W = RIGHT-OF-WAY  
 STA. = STATION  
 Δ = DELTA

LINE	DIRECTION	DISTANCE
L1	N82°13'32"E	42.98'
L2	N82°13'32"E	4.27'
L3	S37°37'00"E	15.06'
L4	S28°58'17"E	15.60'
L5	S47°09'37"E	14.22'
L6	S45°20'24"E	30.85'
L7	S47°37'30"E	14.48'
L8	S50°33'18"E	19.78'
L9	S45°24'28"W	84.97'
L10	N49°55'44"W	58.34'
L11	N05°33'42"W	41.93'
L12	N13°38'49"W	28.47'

**NOTE:**

1.) BEARINGS BASED UPON THE CENTERLINE OF SANIBEL CAUSEWAY BOULEVARD (C.R. 867) BETWEEN P.I. STA. 284+25.61 & P.C. STA. 261+87.33, HAVING A BEARING OF N13°33'53"E, PER SAN CARLOS BAY CROSSING RIGHT-OF-WAY MAP, PREPARED BY CARL E. JOHNSON, DATED SEPTEMBER 1981.

2.) R/W LINE IS BASED UPON THE SAN CARLOS BAY CROSSING RIGHT-OF-WAY MAPS, PREPARED BY CARL E. JOHNSON, DATED SEPTEMBER 1981.

3.) R/W LINE IS BASED UPON THE SAN CARLOS BAY CROSSING RIGHT-OF-WAY MAPS, PREPARED BY CARIBBEAN ENGINEERS & R.H. MATTS & ASSOCS. FOR COUNTY COMMISSIONERS DATED 8/26/81

**G1**

R = 1909.77'  
 L = 340.30'  
 Δ = 10°12'34"  
 CB = N18°40'36"E  
 CD = 339.85'

**G2**

R = 1909.77'  
 L = 82.02'  
 Δ = 2°27'10"  
 CB = N22°33'18"E  
 CD = 61.75'

**G3**

R = 1909.77'  
 L = 258.28'  
 Δ = 7°45'24"  
 CB = N17°27'01"E  
 CD = 258.34'

PREPARED BY:  
 AIM ENGINEERING & SURVEYING, INC.

*Bob L. Potter* 5/13/05  
 BOB L. POTTER, P.S.M. DATE  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA CERTIFICATE NO. 5688

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

**AIM Engineering & Surveying, Inc.**

5300 LEE BLVD.  
 P.O. BOX 1235  
 LEHIGH ACRES  
 FLORIDA 33970  
 (239) 332-4569  
 FX: (239) 332-8734

THIS IS NOT A SURVEY

SHEET 1 OF 2

PROJECT NUMBER: 03-8410	DESCRIPTION: LEGAL DESCRIPTION AND SKETCH OF A CONSERVATION EASEMENT
DRAWN BY: DA	CLIENT: U.R.S. CORPORATION
DATE: 4/13/05	SEC-TWP-RGE S20-T46S-R23E
FILE: CONSV EASE.DWG	COUNTY: LEE COUNTY





**A LEGAL DESCRIPTION AND SKETCH LOCATED IN  
SECTION 20, TOWNSHIP 46 SOUTH, RANGE 23 EAST  
LEE COUNTY, FLORIDA**

**LEGAL DESCRIPTION:**

A TRACT OF LAND LOCATED IN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 23 EAST, & BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE CENTERLINE OF PERIWINKLE WAY AND THE CENTERLINE OF SANIBEL CAUSEWAY BOULEVARD (C.R. 867) AT SURVEY BASELINE STATION 284+25.81 ON THE SANIBEL CAUSEWAY SURVEY BASELINE; THENCE N13°33'53"E ALONG SAID CENTERLINE, A DISTANCE OF 2238.48 FEET TO A POINT OF CURVATURE AT STATION 261+87.33; THENCE ALONG A TANGENTIAL CURVE TO THE RIGHT, HAVING A RADIUS OF 1909.77 FEET, A LENGTH OF 258.28 FEET; A DELTA OF 7°45'24", A CHORD BEARING OF N17°27'01"E, AND A CHORD DISTANCE OF 258.34 FEET TO REFERENCE POINT "A", FROM SAID REFERENCE POINT "A" THE POINT OF TANGENCY AT STATION 258+47.04 BEARS ALONG A TANGENTIAL CURVE TO THE RIGHT, HAVING A RADIUS OF 1909.77, A LENGTH OF 82.02', A DELTA OF 2°27'10", A CHORD BEARING OF N22°33'18"E, AND A CHORD DISTANCE OF 81.75'; THENCE FROM SAID REFERENCE POINT "A", LEAVING SAID CENTERLINE S68°26'12"E, A DISTANCE OF 62.12 FEET TO THE POINT OF BEGINNING, BEING 62.12 FEET LEFT OF SURVEY BASELINE STATION 259+28.79.

THENCE N62°13'32"E, FOR A DISTANCE OF 42.98 FEET; THENCE N62°13'32"E, FOR A DISTANCE OF 4.26 FEET; THENCE S37°37'00"E, FOR A DISTANCE OF 15.06 FEET; THENCE S28°58'17"E, FOR A DISTANCE OF 15.60 FEET; THENCE S47°09'37"E, FOR A DISTANCE OF 14.22 FEET; THENCE S45°20'24"E, FOR A DISTANCE OF 30.85 FEET; THENCE S47°37'30"E, FOR A DISTANCE OF 14.48 FEET; THENCE S50°33'18"E, FOR A DISTANCE OF 19.78 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SANIBEL CAUSEWAY BOULEVARD, PER RIGHT-OF-WAY MAP PREPARED BY CARL E. JOHNSON, SEPTEMBER 1961; THENCE ALONG SAID RIGHT-OF-WAY LINE S45°24'28"W, FOR A DISTANCE OF 84.97 FEET; THENCE N49°55'44"W, FOR A DISTANCE OF 58.34 FEET; THENCE N05°33'42"W, FOR A DISTANCE OF 51.93 FEET; THENCE N13°38'49"W, FOR A DISTANCE OF 28.47 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.20 ACRES, MORE OR LESS.



PROJECT NUMBER: 03-8410	DESCRIPTION: LEGAL DESCRIPTION AND SKETCH OF A CONSERVATION EASEMENT		
DRAWN BY: DA	CLIENT: U.R.S. CORPORATION		
DATE: 4/13/05	SEC-TWP-RGE S20-T4BS-R23E	FILE: CONSV EASE.DWG	COUNTY: LEE COUNTY