



ORDINANCE NO. 2002-27

ORDINANCE CREATING THE PELICAN BAY MUNICIPAL SERVICE TAXING AND BENEFIT UNIT; SETTING FORTH THE BOUNDARIES OF THE UNIT; DESIGNATING THE GOVERNING BODY OF THE UNIT; PROVIDING FOR PURPOSE AND POWERS; PROVIDING FOR ANNUAL ESTIMATES OF EXPENSES, TAXATION AND ASSESSMENT RATE; PROVIDING FOR TAX AND ASSESSMENT IMPOSITION AND COLLECTION; PROVIDING FOR THE CREATION OF THE PELICAN BAY MUNICIPAL SERVICE TAXING AND BENEFIT UNIT ADVISORY COMMITTEE; PROVIDING FOR COMPOSITION, NOMINATION AND APPOINTMENT; PROVIDING FOR TERMS OF OFFICE; PROVIDING FOR REMOVAL FROM OFFICE, FAILURE TO ATTEND MEETINGS; PROVIDING FOR OFFICERS, QUORUM, RULES OF PROCEDURE; PROVIDING FOR REIMBURSEMENT OF EXPENSES; PROVIDING FOR FUNCTIONS, POWERS AND DUTIES OF THE COMMITTEE; PROVIDING FOR THE DUTIES OF THE COUNTY MANAGER; PROVIDING FOR A REVIEW PROCESS; PROVIDING FOR OPPORTUNITY TO COMMENT PRIOR TO INITIAL IMPLEMENTATION OF USE OF TAXING OR ASSESSING AUTHORITY; PROVIDING FOR SUPERCESSION, REPEAL AND CONSOLIDATION OF PRIOR ORDINANCES, INCLUDING REPEAL OF ORDINANCE NO. 90-111, AS AMENDED, THE ORIGINAL 1990 ORDINANCE CREATING THE PELICAN BAY MUNICIPAL SERVICE TAXING AND BENEFIT UNIT, ORDINANCE NOS. 91-22, 98-113, 99-98, 2000-22, 2000-82 AND 2001-19 AND PROVIDING FOR SUPERCESSION, REPEAL AND CONSOLIDATION OF ORDINANCE NOS. 78-67, 80-53, 82-122, 85-9, 86-29 AND 88-35 RELATING TO STREET LIGHTING; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CONSTRUCTION; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:

SECTION ONE:                                    Creation of the Pelican Bay Municipal Service Taxing and Benefit Unit.

Pursuant to Chapter 125, Florida Statutes, and Collier County Ordinance No. 88-23, the Pelican Bay Municipal Service Taxing and Benefit Unit (hereinafter "Unit") is hereby created for the purpose of providing street lighting, water management, extraordinary law enforcement service and beautification, including but not limited to beautification of recreation facilities, sidewalk, street and median areas, identification markers, the maintenance of conservation or preserve areas and to finance the landscaping beautification of only that portion of U.S. 41 from Pine Ridge Road to Vanderbilt Beach Road. While repealing prior ordinances pertaining to the Unit, the purpose of this Ordinance is to adopt a new ordinance that consolidates said preexisting ordinances into one easily read and understood ordinance, with some modifications that express the will of the property owners within the Unit.

FILED  
JUN 3 3 32 PM '02  
CLERK OF COUNTY  
COLLIER COUNTY  
FLORIDA

SECTION TWO:                    Boundaries of the Unit.

The Pelican Bay Municipal Service Taxing and Benefit Unit is comprised of and includes those lands as described on the attached Exhibit "A" and as depicted on the map attached hereto as Exhibit "B".

SECTION THREE:                Governing Body.

The governing body of the Unit shall be ex-officio the Board of County Commissioners of Collier County, Florida.

SECTION FOUR:                Purpose; Powers.

The Unit is formed for the purpose of providing street lighting, water management, ambient noise management, extraordinary law enforcement service and beautification, including but not limited to beautification of recreation facilities, sidewalk, street and median areas, identification markers, the maintenance of conservation or preserve areas and to finance the landscaping beautification of only that portion of U.S. 41 from Pine Ridge Road to Vanderbilt Beach Road in the above-described taxing and benefit unit and to that end shall possess all the powers to do all things reasonably necessary to provide such services.

SECTION FIVE:                Annual Estimates of Expenses; Taxation & Assessment Rate.

For the purpose of carrying into effect and the administration of this Ordinance, the Board of County Commissioners shall annually, at the time required by general budgetary law, review and adopt an itemized estimate of the amount of money required to carry out the business of the Unit for the next fiscal year, which shall be from October 1 to and including September 30 following (the "Budget"). The proposed Budget shall be prepared in consultation with and reviewed by the Municipal Service Taxing and Benefit Unit Advisory Committee (the "Committee") prior to its consideration by the Board of County Commissioners and after review by the Committee, the budget shall be heard, considered and adopted by the Board of County Commissioners as provided for herein. The proposed Budget shall describe the purpose or purposes for which the moneys are required and the amount necessary to be raised by taxation and special assessment within the Unit. At the time and place for establishing the annual rate of taxation for County purposes, the Board of County Commissioners shall fix and cause to be levied on all property within the Unit subject to taxation or assessment a millage and assessment sufficient to meet the requirements of the Budget; provided, however, the total millage shall not exceed the millage authorized by law for municipal

service, taxing and benefit units.

**SECTION SIX:**                    **Tax and Assessment, Imposition and Collection.**

Taxes and assessments herein provided for shall be levied and assessed, imposed and collected in the same manner and form as provided for the levy and assessment and collection of general County taxes subject to the same fees for assessing and collecting as general County taxes in accordance with general law.

**SECTION SEVEN:**                **Creation of the Pelican Bay Municipal Service Taxing and Benefit Unit Advisory Committee.**

Concurrent with the passage of the Ordinance, an eleven (11) member advisory committee to be known as the Pelican Bay Municipal Service Taxing and Benefit Unit Advisory Committee is hereby created. Those individuals who are members of the Committee pursuant to Collier County Ordinance No. 90-111, as amended, as of the moment prior to the effective date of this Ordinance, shall continue on as members of the Committee until March 31<sup>st</sup> of the year in which their term would have expired as set forth in the prior ordinances, and shall continue to hold over and serve in that capacity until their position is filled as provided for in this Ordinance.

**SECTION EIGHT:**                **Composition, Nomination and Appointment**

A)     The Committee shall be representative of the residential, business and commercial interests and landowners in Pelican Bay. To that end, nine (9) of the Committee members shall be representative of the residential interests within the Unit and two (2) of the Committee members shall be representative of the commercial and business interests within the Unit.

Members of the Committee shall be appointed by and serve at the pleasure of the Board of County Commissioners pursuant to the procedure outlined herein. The nine (9) Committee members representative of the residential interests within the Unit shall be residents of and qualified electors within the Unit. The two (2) Committee members representative of the commercial/business/other interests shall be residents of and qualified electors in Collier County.

Appointment of members to the Committee shall be by resolution of the Board of County Commissioners, which resolution shall set forth the date of appointment and the term of office.

Any member of the Committee who ceases to meet the requisite qualifications during his or her term of office shall immediately advise the Board of County Commissioners in writing of such change in status. Upon the Board of County Commissioners receiving such notice, otherwise becoming aware of such vacancy, or if a vacancy occurs by any other process, the Board of County

Commissioners shall declare the position to be vacant and shall promptly consider filling the vacant position with a person meeting the requisite qualifications as outlined herein: i) who continues to desire to be appointed and ii) who, in the immediately preceding recommendatory balloting received the greatest number of votes among the unsuccessful candidates vying for the position (i.e. "Residential interest" or "Commercial/Business/Other interest") which has become vacant.

B) The terms and provisions of Section Six of Collier County Ordinance No. 2001-55, titled "PROCESS OF APPOINTMENT" shall not be applicable to appointment of members to the Unit.

C) Upon adoption of this Ordinance, all of the members of the Committee shall be appointed by, and all vacancies shall be filled by, the Board of County Commissioners, in the manner outlined herein, beginning with appointment to the Committee of members to fill expiring memberships .

All appointments of members to the Committee shall be at the sole and complete discretion of the Board of County Commissioners. Provided however, that the Board of County Commissioners will take into consideration and give great weight to the recommendations of the property owners within the Unit, utilizing the process outlined herein. Beginning with the second Tuesday in December, 2002, and each second Tuesday in December thereafter, the Board of County Commissioners shall publicly announce and advertise all current vacancy(ies) on the Committee as of that date and shall request that applications be submitted to the Board of County Commissioners to fill the expired term(s). All such applications shall be submitted in writing to the Board of County Commissioners no later than 28 days after said announcement as determined by the postmark on mailed applications and the time stamp on hand delivered applications. The name(s) of all appropriately qualified individuals timely submitted to the Board of County Commissioners shall be considered nominees for appointment to fill said expired term(s). The Board of County Commissioners shall then publish said list of nominees and the positions on the Committee for which they have been nominated (i.e., for the "residential interests" or for the "commercial/business/other interests") and deliver a conformed copy thereof to the Clerk of Courts (the "Clerk").

The Clerk shall cause the name of each nominee as reported and published by the Board of County Commissioners to be included on the mail ballot, which ballot shall be mailed to all of the

non-governmental property owners of the class (i.e. "Residential or Commercial/Business/Other") corresponding with the class for which the balloting is occurring ("Residential or Commercial/Business/Other") within the Unit no less than thirty (30) days prior to the balloting date. Said balloting date being set by the Board of County Commissioners.

E) i. One (1) indivisible vote may be cast for each parcel in the Unit regardless of the number of persons who have an ownership interest in the property or the manner in which title is held by them, with each discrete parcel being those as listed by the Property Appraiser of Collier County and as approved by resolution of the Board of County Commissioners. Commercial/Business/Other owners cast ballots only for "Commercial/Business/Other interest" positions and Residential owners cast ballots only for "Residential interest" positions. Only one ballot shall be counted for each parcel. If multiple ballots are cast for the same parcel by owners of record, all ballots for that parcel will be deemed invalid. It is not the responsibility of the Clerk or the County Attorney to determine or select the ballot to be counted wherein multiple ballots for a parcel are cast as described herein.

ii. For purposes of determining record title owners of property entitled to cast ballots, the listed record title owners of property as evidenced by the Collier County Property Appraiser's tax rolls as of sixty (60) days prior to the balloting date shall be utilized and deemed conclusive. Not less than forty-five (45) days prior to the balloting date, the Property Appraiser shall provide the Clerk and the Board of County Commissioners with the list of all parcels within the Unit, each parcel's identification number, the names of the property owners and their addresses, with said list designating each parcel as either residential/commercial/other (based upon the Property Appraiser's classification system).

iii. The mail ballots shall be cast directly with the Clerk. At the place and time stated in the notice of the balloting published by the Board of County Commissioners, the Clerk, with the assistance of the County Attorney's Office, shall open and count the ballots, which have been returned to the Clerk as of the date and time stated in such notice of balloting, in a manner which the Clerk deems advisable and not inconsistent with the provisions of this Ordinance. Any member of the public shall be entitled to attend and observe. The determination of the Clerk and the County Attorney of validity of any ballot shall be final.

iv. The nominee(s) receiving a plurality of the ballots cast in each category of

membership shall be deemed the successful nominee(s) and their name(s) shall be reported and forwarded to the Board of County Commissioners. The Board of County Commissioners shall then, at their next regularly scheduled meeting, make the necessary appointments to fill said positions.

F) The cost of the nomination and balloting process shall be borne by the Board of County Commissioners.

SECTION NINE:                    Terms of Office.

In 2002, of the four (4) terms which are expiring: i) two (2) positions shall be filled with persons representative of the residential interests who shall each be appointed for a four (4) year term; and ii) two (2) positions shall be filled with persons representative of the commercial/business/other interests, wherein one (1) person will be appointed for a four (4) year term and one (1) person appointed for a two (2) year term. Thereafter, each appointment or reappointment shall be for a term of four (4) years. Each new term of appointment will begin on the date of appointment and expire on March 31<sup>st</sup>.

A member of the Committee may be reappointed by the Board of County Commissioners without limitations. Appointments to fill any vacancies on the Committee shall be for the remainder of the unexpired term of office.

SECTION TEN:                    Removal From Office; Failure to Attend Meetings.

A) Any member of the Committee may be removed from office by a majority vote of the Board of County Commissioners.

B) Notwithstanding the provisions of Collier County Ordinance No. 2001-55 as to attendance, if any member of the Committee fails to attend two (2) consecutive Committee meetings without a satisfactory excuse, as determined by the committee, or if a member is absent from more than one-half of the Committee's meetings in a given fiscal year, the Committee shall declare the member's seat to be vacant and the vacancy shall be filled by the Board of County Commissioners in conformance with this Ordinance.

SECTION ELEVEN:                    Officers; Quorum; Rules of Procedure.

A) At its earliest opportunity, the membership of the Committee shall elect a chairman and vice chairman from among the members. Officers' terms shall be for one (1) year, with eligibility for re-election.

B) The presence of six (6) or more members shall constitute a quorum of the Committee

necessary to take action and transact business. In addition, an affirmative vote of a majority of the members present shall be necessary in order to take action, except that an affirmative vote of seven (7) or more members present shall be required to recommend the Budget for the Unit to the Board of County Commissioners.

C) The Committee shall, by majority vote of the entire membership, adopt rules of procedure for the transaction of business of the committee and shall keep a detailed record of meetings, resolutions, findings and determinations.

SECTION TWELVE:            Reimbursement of Expenses.

Members of the Committee shall serve without compensation, but shall be entitled to receive reimbursement for expenses reasonably incurred in the performance of their duties upon prior approval of the Board of County Commissioners.

SECTION THIRTEEN:        Functions, Powers and Duties of the Committee.

The functions, powers and duties of the Committee shall be as follows, and shall be carried out consistent with the provisions of the Memorandum of Understanding/ Letter of Understanding referenced herein:

A) With the assistance of the County Manager, provide input to the Board of County Commissioners in carrying out the purposes of the Pelican Bay Municipal Service Taxing and Benefit Unit as set forth in this Ordinance.

B) Upon any decision by the Board of County Commissioners to dissolve, merge or otherwise change or discontinue the functions or services provided by the Pelican Bay Improvement District, the Committee shall be prepared to and shall aid, assist and provide input to the County Manager and the Board of County Commissioners, within the time frame requested, in effectuating a smooth and expeditious transfer of street lighting, water management and beautification services, responsibilities and obligations to the Unit.

C) With the assistance of the County Manager, to prepare and recommend to the Board of County Commissioners an itemized Budget of the amount of money required to carry out the business of the Unit for the next fiscal year.

D) The Committee shall recommend work programs and priorities to the Board of County Commissioners in accordance with the adopted Budget or Budget amendments which may be adopted by the Board of County Commissioners in accordance with law. The execution of work

programs shall be under the direct supervision and responsibility of the County Manager with the assistance of the Committee and County staff in accordance with the Memorandum of Agreement/Letter of Understanding. Said work may be performed under contract (in accordance with law and County policy) or by County forces.

E) To enter into a Memorandum of Agreement/Letter of Understanding with the Board of County Commissioners, and with the County Manager, wherein the parties outline that the intent in the operation of the Unit is to allow the Committee to exercise decision and control of the day to day operational affairs of the Unit to the maximum extent allowed by law, unless and except when there is some overriding governmental reason to do otherwise.

**SECTION FOURTEEN: Duties of the County Manager.**

The duties of the County Manager or his designee shall be:

A) To administer the activities of the Unit in accordance with the Memorandum of Agreement/Letter of Understanding, and the established policies of the Board of County Commissioners, subject to the terms of this Ordinance.

B) To assist the Committee performing its functions as defined by this Ordinance including the preparation of the proposed annual Budget.

C) Provide periodic written reports to the Committee and the Board of County Commissioners on the activities of the Unit and its finances.

D) To require any contract manager or employee manager of the Unit to report directly to the County Manager.

**SECTION FIFTEEN: Review Process.**

This Ordinance shall be reviewed once every four (4) years, in accordance with the procedures contained in Collier County Ordinance No. 2001-55.

**SECTION SIXTEEN: Opportunity to Comment Prior to Initial Implementation or Use of the Unit's Taxing and Assessment Authority.**

Prior to adopting the Budget for the Unit and implementing any taxing or assessment authority under this Unit, the Board of County Commissioners shall hold a public hearing upon reasonable notice in a local newspaper of general circulation. At such public hearing the Board of County Commissioners will consider the Budget recommended by the Advisory Committee and provide the public the opportunity to comment on the proposed Budget and the implementation or use of the Unit's taxing and assessment authority.



SECTION SEVENTEEN: Supercession, Repeal and Consolidation of Prior Ordinances.

A) Collier County Ordinances Nos. 90-111, 91-22, 98-113, 99-98, 2000-22, 2000-82, and 2001-9 are hereby repealed in their entirety.

B) Collier County Ordinances No. 78-67, 80-53, 82-122, 85-9, 86-29, and 88-35 are hereby superseded and repealed to the extent same are either inconsistent or not harmonious with this Ordinance and consolidated with the Unit for the purposes of providing street lighting.

SECTION EIGHTEEN: Conflict and Severability.

In the event this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION NINETEEN: Construction.

This Ordinance shall be liberally construed to effectuate its public purpose.

SECTION TWENTY: Inclusion in Code of Laws and Ordinances.

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinance may be numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

SECTION TWENTY-ONE: Effective Date.

This Ordinance shall become effective upon filing with the Department of State of the State of Florida.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier

County, Florida, this 28th day of May, 2002.

ATTEST: **Attest as to Chairman's signature only.**  
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA

BY: [Signature]  
JAMES N. COLETTA, CHAIRMAN

[Signature]  
By [Signature], D.C.

Approved as to form and legal sufficiency:

[Signature]  
David C. Weigel

County Attorney's office filed with the Secretary of State's Office the 3rd day of JUNE, 2002 and acknowledgement of that filing received this 14th day of JUNE, 2002

By [Signature], D.C.  
Deputy Clerk

EXHIBIT A

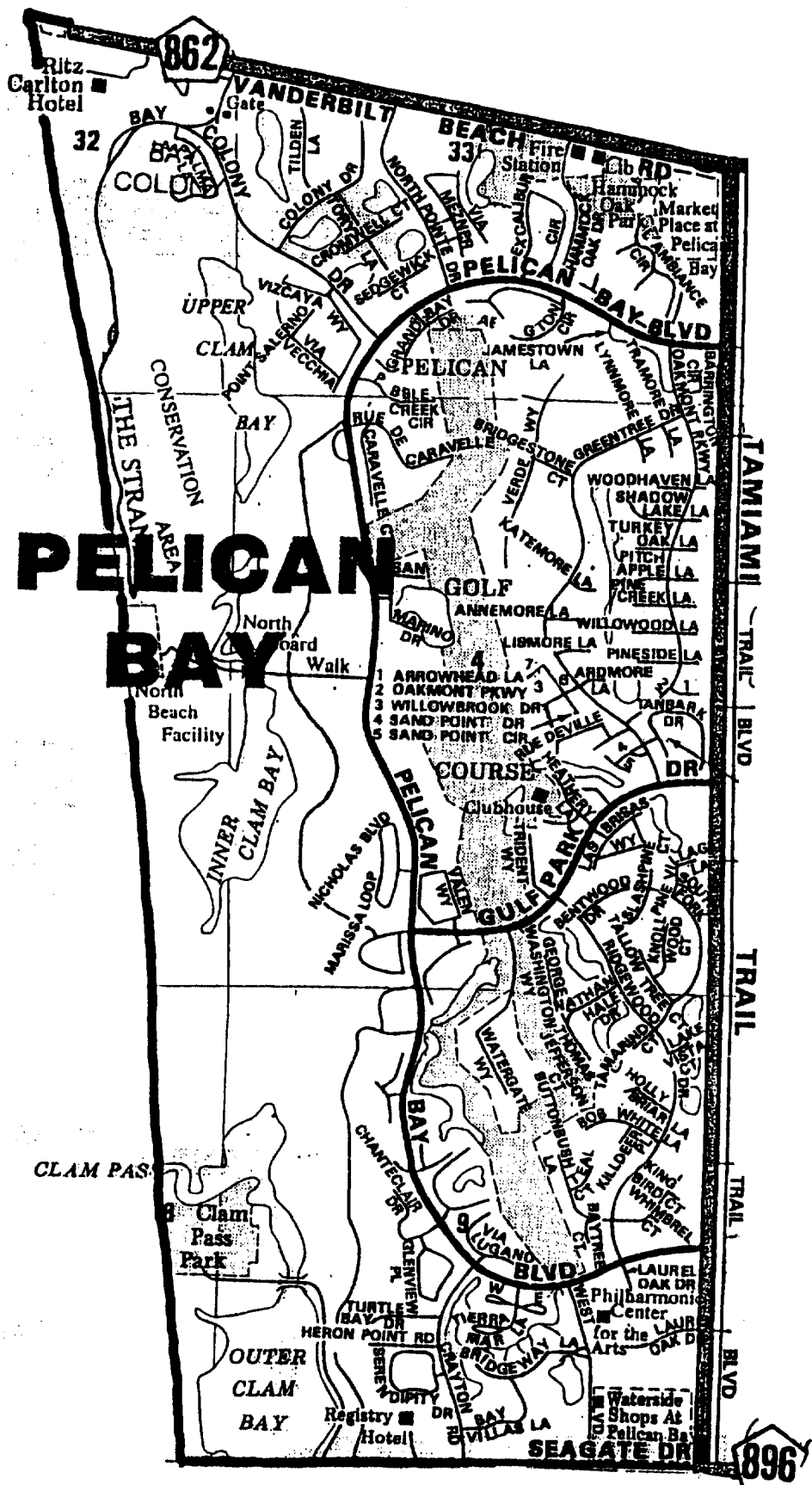
The Pelican Bay Services District is comprised of and includes those lands described as follows:

A tract of land being in portions of Sections 32 and 33, Township 48 South, Range 25 East; together with portions of Sections 4, 5, 8 and 9, Township 49 South, Range 25 East, Collier County, Florida, being one and the same as the lands encompassed by the Pelican Bay Improvement District, the perimeter boundary of same more particularly described as follows:

Commencing at the Southeast corner of said Section 33; thence South 89 degrees 59 minutes 50 seconds West along the South line of Section 33 a distance of 150.02 feet to a point on the West right-of-way line of U.S. 41 (State Road 45), said point also being the Point of Beginning; thence Southerly along the West right-of-way line of said U. S. 41 (State Road 45) the following courses: South 00 degrees 58 minutes 36 seconds East a distance of 2.49 feet; thence South 00 degrees 55 minutes 41 seconds East a distance of 3218.29 feet; thence South 01 degrees 00 minutes 29 seconds East a distance of

3218.56 feet; thence South 00 degrees 59 minutes 03 seconds East a distance of 2626.21 feet; thence South 01 degrees 00 minutes 18 seconds East a distance of 2555.75 feet to a point on the North right-of-way line of Pine Road as recorded in D.B. 50, Page 490, among the Public Records of said Collier County; thence departing said U.S. 41 (State Road 45) South 89 degrees 09 minutes 45 seconds West along said North right-of-way line a distance of 2662.61 feet; thence South 00 degrees 51 minutes 44 seconds East a distance of 70.00 feet to a point on the North line of Seagate Unit 1 as recorded in Plat Book 3, Page 85 among said Public Records; thence South 89 degrees 09 minutes 45 seconds West along said North line of Seagate Unit 1 and the South line of said Section 9 a distance of 2496.67 feet to the Southwest corner of said Section 9; thence continue South 89 degrees 09 minutes 45 seconds West a distance of 225 feet more or less to a point on the mean high water line established May 15, 1968; thence a Northwesterly direction along said mean high water line a distance 15716 feet more or less; thence departing said mean high water line South 80 degrees 29 minutes 30 seconds East and along the Southerly line of Vanderbilt Beach Road (State Road 862) as recorded in D.B. 15, Page 121 among said Public Records a distance of 7385 feet more or less to a point on said West right-of-way line of U. S. 41 (State Road 45); thence South 00 degrees 58 minutes 36 seconds East along said West right-of-way line a distance of 2574.36 feet to the Point of Beginning.

**Exhibit B**



STATE OF FLORIDA)

COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true copy of:

ORDINANCE NO. 2000-82

Which was adopted by the Board of County Commissioners on the 28th day of November, 2000, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 7th day of December, 2000.

DWIGHT E. BROCK  
Clerk of Courts and Clerk  
Ex-officio to Board of  
County Commissioners

*Ellie Hoffman*

By: Ellie Hoffman,  
Deputy Clerk



STATE OF FLORIDA)

COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

ORDINANCE 2002-27

Which was adopted by the Board of County Commissioners on the 28th day of May, 2002, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 29th day of May, 2002.

DWIGHT E. BROCK  
Clerk of Courts and Clerk  
Ex-officio to Board of  
County Commissioners

*Ellie Hoffman*

By: Ellie Hoffman,  
Deputy Clerk

