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after recording return to:  
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**AMENDED AND RESTATED EASEMENT,  
COST SHARING AND MAINTENANCE AGREEMENT**

**THIS AMENDED AND RESTATED EASEMENT, COST SHARING AND MAINTENANCE AGREEMENT** (this "Agreement") is made this 27th day of March, 2012, by and between Marbella on Cypress Condominiums Association, Inc., a Florida not for profit corporation ("Association") in favor of Royal Public Fort Myers II, LLC, an Illinois limited liability company ("Royal"), and is joined by Michael J. Henneman, as Termination Trustee ("Trustee") under that certain Conditional Plan of Partial Termination of Condominium recorded as instrument #2011000270234 of the public records of Lee County, Florida (the "Plan of Termination"). This Agreement amends and restates, in its entirety, that certain Easement Cost Sharing and Maintenance Agreement recorded as Instrument No. 2011000076674 of the Public Records of Lee County, Florida, pursuant to Paragraph 13 of such Agreement.

**RECITALS**

**WHEREAS**, the Association is the "Association" under that certain Declaration of Condominium of Marbella on Cypress Condominiums (the "Condominium") recorded as instrument number 2007000280596 of the Public Records of Lee County, Florida, as amended (the "Declaration"); and

**WHEREAS**, as of the date of the recording of this Agreement, the Condominium includes the real property described in Exhibit "A", attached hereto; and

**WHEREAS**, Royal and Trustee are the owners of the real property described in Exhibit "B", attached hereto (the "Excluded Land"), which property consists of (i) phases that have not been added (and may never be added) to the Condominium ("un-submitted Phases")(which is owned by Royal); and (ii) certain lands that have been removed from the Condominium (the "Terminated Lands") pursuant to the Plan of Termination (title of which is held by Trustee); and

**WHEREAS**, hereafter, any reference to Royal shall be deemed to include Trustee, as the context may permit; and

**WHEREAS**, the Common Elements and the Excluded Land are sometimes collectively referred to herein as the "Property", and the Association and Royal are each sometimes referred to herein as an "Owner" and collectively, as the "Owners".

**WHEREAS**, although Royal may exclude the un-submitted Phases from the Condominium for any reason, recent revisions to the FEMA flood map have created an even greater likelihood that certain portions (or all) of the Excluded Land may either not be developed or, if developed, will be developed in a manner that is different than originally contemplated by Royal; and

**WHEREAS**, Association acknowledges that Royal, as the owner of the Excluded Land, has certain rights with respect to and access to the future development thereof, and the Association desires to grant certain easements to Royal, for the purpose of clarifying and confirming the rights of Royal (and its successors in title) over the Common Elements, to ensure the continued and orderly operation and maintenance of the Condominium, and for other mutually beneficial purposes, as set forth more particularly herein; and

**WHEREAS**, under the terms of the Declaration, the Association has the power, without the joinder of any unit owner, to grant easements (including access easements) over any portion of the common elements of the Condominium as the Association shall deem necessary or desirable for the proper operation and maintenance of the Condominium; and

**WHEREAS**, the Association intends, by this instrument to grant certain easements over those portions of the common elements within the Condominium (the "Common Elements"); and

**WHEREAS**, Association and Royal desire to enter into this Agreement for the purpose of provide for certain easement and maintenance responsibilities, and also for the purpose of providing for the equitable sharing of costs related thereto;

**WHEREAS**, in consideration of the mutual covenants contained herein, the Association also desires to grant to Royal certain access and use rights with respect to the swimming pool and other common element amenities that may be located from time to time within the Condominium; and

**WHEREAS**, it is acknowledged that turn-over of control of the Association to members other than the Developer occurred prior to the date this Amended and Restated Easement, Cost Sharing and Maintenance Agreement was executed by Royal and the Association.

**NOW, THEREFORE**, in consideration of the premises and mutual covenants herein contained, Declarant and the other parties signing this instrument hereby declare that the Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth.

1. **Recitals**. The foregoing recitals are true and correct and hereby incorporated into this Agreement by reference.

2. **Access Easements; Signage**.

(a) **Grant of Easement to Association**. Royal hereby grants to Association a perpetual, non-exclusive easement over the real property described in Exhibit "C", attached hereto (the "Association's Access Easement"). The Association's Access Easement shall be for the following purposes: (i) use of the driveways located within the Association's Access Easement to provide passage by motor vehicles and pedestrians over the Excluded Land and for ingress and egress to and from the adjoining public right-of-ways or private roads; and (ii) pedestrian use of the sidewalks, walkways and ramps that may be located within the Association's Access Easement, and (iii) maintenance, repair and replacement of the Drainage Facilities and Utility Facilities, as described herein.

(b) **Grant of Access Easement to Royal**. Association hereby grants to Royal a perpetual, non-exclusive easement over the real property described in Exhibit "D", attached hereto (the "Royal's Access Easement"). Royal's Access Easement shall be for the following purposes: (i) use of the driveways located within Royal's Access Easement to provide passage by motor vehicles and pedestrians to the Excluded Land and for ingress and egress to and from the adjoining public right-of-ways or private roads. Royal's Access Easement shall include ingress and egress for construction, maintenance and service vehicles, as well as ingress and egress for prospective purchasers of residences that may be developed on the Excluded Land; and (ii) pedestrian use of the sidewalks, walkways and ramps that may be located within Royal's Access Easement; and (iii) maintenance, repair and replacement of the Drainage Facilities and Utility Facilities, as described herein. To the extent that a guard house and/or access gate is maintained at any entrance to the Condominium, all owners, family members, guests, tenants, licensee, contractors and invitees of all or any portion of the Excluded Land shall be provided with the same ingress and egress rights (i.e., subject to the same procedures in terms of an access code, window decal, etc.) as owners of residences within the Condominium.

(c) **Grant of Signage Easement to Royal**. Association hereby grants to Royal a perpetual, non-exclusive easement over the following portions of the Common Elements, for the purpose of installing, maintaining, repairing and/or replacing monument identification signage for the Excluded Land (including electrical service to such signage: See Exhibit "E", attached hereto. The Owner of the Excluded Land may also place temporary signage within the signage easement, for purposes of selling and

marketing the project that will eventually be developed on the Excluded Land.

(d) Other Terms. The Association's Access Easement and Royal's Access Easement are collectively referred to herein as the "Access Easement". If any portion of the Access Easement encompasses property that is utilized as dedicated parking spaces for vehicles, such parking spaces (wherever located from time to time) are excluded from the Access Easement. No Owner shall cause an obstruction in any manner which would prevent reasonable access, ingress or egress over the Access Easement. Subject to the foregoing, nothing contained in this Agreement shall prohibit the placement of landscaping, curbing or other improvements on the Property or additional development upon or use of the Property from time to time as deemed necessary by either party, state or local authority, or by applicable law, nor shall the foregoing prohibit the temporary closing or barricading of certain portions of the Access Easement as may be reasonably required from time to time (on a temporary basis) for the purpose of construction, maintenance and/or repair activities.

(e) Maintenance of Access Easement. Except as otherwise provided in this Agreement, the Owner of the Common Elements and the Excluded Land shall each be responsible for the maintenance, repair, and replacement, in keeping with all governmental permits and approvals, of the driveway, curb and any sidewalk improvements within the Access Easement to the extent such facilities are located on their respective portion of the Property. Each Owner shall keep the driveway, curb and drainage improvements located on its respective parcel in good condition and repair, which shall include maintaining the paved surfaces of the Access Easement in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use and durability; and, for placing, keeping in good repair and replacing any necessary and appropriate directional signs, lighting, markers and lines within said access and parking areas located on its respective parcel.

(f) Allocation of Maintenance Costs. Except as otherwise provided, each Owner shall bear its own costs for the maintenance, repair and replacement obligations outlined in this Section 2. It is acknowledged, however, that the Owners may elect from time to time (and in their sole discretion), to enter into a joint service, maintenance and or repair contract with one or more vendors, for the purpose of taking advantage of economies of scale and for providing for uniform maintenance and upkeep of the roadway, curb and drainage improvements located in the Access Easement.

(g) Agreement to Join in Plat. Association acknowledges that the City of Ft. Myers (the "City") may require Royal and Trustee (and/or their successors in title) to cause all (or a portion) of the Excluded Lands to be platted (hereafter, the "Plat"). In conjunction therewith, the City may also require that such Plat include the internal spine road that serves the Condominium Property and Excluded Lands (as generally described and depicted on Exhibit's "C" and "D", attached hereto) and adjacent common areas. The Association agrees that, upon request of Royal or Trustee (or their successor in title), the Association shall join in such Plat to the extent the Association's

joinder is required due to the Plat actually containing lands that are included in the Condominium Property. However, Association shall not be responsible for any costs or expenses associated with the preparation of the Plat. Royal and Trustee may seek specific performance of the Association's obligation to join in and execute the Plat.

### 3. Utility Easements.

(a) Grant of Easement to Association. Royal hereby grants and conveys to the Association, a perpetual, non-exclusive utility easement over, the real property described in Exhibit "C", attached hereto (the "Association's Utility Easement") to use, install, tap-in to, connect to, maintain, repair, and replace any and all underground water, sewer, irrigation system lines of whatever type, irrigation wells, potable water wells and treatment equipment, and other utility facilities, of whatever kind or nature, now or hereafter located by Association.

(b) Grant of Easement to Royal. The Association hereby grants and conveys to Royal, a perpetual, non-exclusive utility easement (the "Royal's Utility Easement") on, over, under and across the Common Elements (including, without limitation, the portion of the Common Elements described in Exhibits "A" and "F", attached hereto, but excluding any portion of the of the Common Elements on which vertical improvements are or will be installed) to use, install, tap-in to, connect to, maintain, repair, and replace any and all underground water, sewer, electric, gas, fiber-optic, cable television, communication facilities, water sprinkler system lines of whatever type, irrigation wells, and other utility facilities, of whatever kind or nature ("Utility Facilities") now or hereafter located by Royal. Provided, however, that if the development of the Excluded Land results in the need (as determined by the applicable governmental authority or utility provider) for any utility facilities to be expanded, capacities increased, or service levels otherwise upgraded, then the respective owners of the Excluded Land shall be responsible for the costs and expenses of upgrading such facilities, wherever such facilities may be located.

(c) Other Terms. The Association's Utility Easement and Royal's Utility Easement are collectively referred to herein as the "Utility Easement". If any Owner desires to install, connect to, maintain, repair and/or replace any Utility Facilities within the other Owner's property, the installing Owner shall give at least ten (10) days notice to the other Owner, shall obtain all applicable permits and approvals, shall construct such facilities in a good and workmanlike manner, and shall in such construction use reasonable effort to avoid disrupting utility service to the other Owner's property. In any such case, the Owner causing such utility work to be performed shall, upon completion, restore and repair any damage caused to the pavement or landscaping of the other Owner's property as a result of such work. Each Owner shall be permitted to utilize the area of the Utility Easement in any manner whatsoever so long as such use does not unreasonably interfere with the use of the Utility Easement granted herein. It is the intent that all utility lines and other facilities connected to or serving the same be installed underground; however, it is acknowledged that certain portions of such facilities (including certain valves, meters and /or pumps) may, but their

nature, design and customary use in the industry, need to be located above ground, and such above-ground facilities shall not be deemed to be prohibited hereby.

(d) **Maintenance of Utility Facilities.** Except as otherwise provided in this Agreement, the Association shall be responsible for the maintenance, repair, and replacement (in keeping with all governmental permits and approvals) of (i) the Utility Facilities located within the Common Elements, and (ii) any Utility facilities located on the Excluded Land but only serving the Condominium. Except as otherwise provided in this Agreement, Royal shall be responsible for the maintenance, repair, and replacement (in keeping with all governmental permits and approvals) of (i) the Utility Facilities located within the Excluded Land (excluding, however, any of such facilities to the extent that they only serve the Condominium), and (ii) any Utility facilities located on the Common Elements but only serving the Excluded Land. Maintenance of the Utility Facilities shall be as needed to keep the same in good repair and in operating condition. Other utility equipment and facilities serving the Property, which are not addressed by this Section and which may be located on the Property from time to time, shall be maintained, repaired, and replaced by the Owner of the Property upon which said equipment and facilities are located.

(e) **Allocation of Maintenance Costs.** Except as otherwise provided, each Owner shall bear its own costs for the maintenance, repair and replacement obligations outlined in this Section.

#### **4. Drainage Easement.**

(a) **Grant of Mutual Easement.** The Property has been developed with a master surface water management and drainage system by which surface water run-off is generally collected, treated and then conveyed across the Excluded Lands and Common Elements into the lakes and/or retention areas located within the Condominium. The Association and Royal hereby grant to each other and establish a perpetual, non-exclusive, reciprocal drainage easement (the "Drainage Easement") over, under across and through any drainage pipes, ditches, culverts and/or drainage and water management facilities, of whatever kind and nature, that are now or hereafter constructed on the Property and required or approved by governmental authority ("Drainage Facilities") to provide for the management and drainage of surface water run-off for the Property (including the Condominium), in accordance with the applicable South Florida Water Management District Environmental Resource Permit for Surface Water Management, as the same may be amended from time to time (the "SWM Permit"). An Owner's use of the Drainage Easement shall not unreasonably affect another Owner's Parcel and shall not unreasonably interfere with development, construction or operation of another Owner's business or improvements.

(b) **Use of Drainage Easement.** The Drainage Easement is intended to allow only the drainage and discharge of natural, storm water run-off, in accordance with the SWM Permit. Neither an Owner, nor a tenant, franchisee, or affiliate of an Owner now or hereafter occupying the Property may discharge onto any portion of the

Property or into any Drainage Facilities, any hazardous or toxic substance, material, chemical, pollutant, contaminant or waste, as those terms are defined by any federal, state or local law, regulation, order, permit, ordinance or other requirement, relating to protection of human health, safety and environment, all as may be amended from time to time, including, without limitation, petroleum or any derivative thereof.

(c) Other Terms. An Owner may not take any action that unreasonably interferes with the Drainage Facilities from time to time located on said Owner's parcel or prevents or materially impairs use of the drainage systems for the Common Elements or the Excluded Land for more than a reasonably temporary period of time. It is acknowledged that Royal is the permittee under the SWM Permit, and that the Permit applies to all of the property described in Exhibits "A" and "B", attached hereto. The Association agrees that Royal shall have the right (without the prior consent of the Association and without the joinder of the Association) to apply for and obtain modifications to the SWM Permit, to the extent deemed necessary or advisable in conjunction with the future development of the Excluded Land. Without limiting the generality of the foregoing, Royal may seek to bifurcate the SWM Permit, to the extent such bifurcation is deemed necessary or warranted by Royal or by the South Florida Water Management District. Only upon the completion of the vertical development of the Excluded Land (or at an earlier date selected by Royal), Royal shall transfer the SWM Permit to the Association, and the Association shall accept such transfer. As of the date of this Agreement, Royal anticipates that the Excluded Land may be developed without necessitating a modification to the SWM Permit. However, to the extent that a modification to the SWM Permit is deemed necessary by the South Florida Water Management District, and the consent, joinder, or execution of any other governmental form is needed or requested by the South Florida Water Management District in order to effectuate such amendment, then the Association shall, by no later than five (5) days after written request of Royal, promptly join in and execute such documents and deliver the same to Royal and/or the South Florida Water Management District. Royal shall have the right to seek specific performance of the Association's obligations under this Paragraph 4(c), it being acknowledged by the Association that specific performance may be the only adequate remedy at law available to Royal (or its successors and assigns) in the event the Association fails or refuses to comply with its agreement to cooperate as set forth, above.

(d) Maintenance of Drainage Facilities. The Association shall be responsible for the maintenance, repair, and replacement (in accordance with all applicable permits and approvals), of the Drainage Facilities located within the Drainage Easement, wherever located. Maintenance of the Drainage Facilities shall be as needed to keep the same in good repair and in operating condition and to ensure the same are able to handle the storm water flow permitted to drain through the master storm water drainage system as allowed by the SWM Permit.

(e) Allocation of Maintenance Costs. Although incurred by the Association, the costs for maintenance, repair and replacement of the Drainage Facilities shall be allocated between the Association and Royal in accordance with their

respective Pro-Rata Share (defined, below), and subject to sub-paragraphs 8(b) and (c), below. Collection of allocated costs shall be pursuant to Section 8 below.

(f) Pro-Rata Share; Annual Adjustment. For purposes of this Agreement, each Owner's Pro-Rata Share of any shared costs or expense reimbursable hereunder, shall be calculated as of September 1<sup>st</sup> of each year (and such calculation shall then go into effect as of January 1<sup>st</sup> of the following calendar year); each Owner's Pro-Rata Share shall be a fraction, the numerator of which is the total number of condominium units constructed (as evidenced by a certificate of occupancy) within the Condominium or Excluded Land (as applicable) as of September 1<sup>st</sup> of each calendar year, and the denominator of which is the total number of condominium units constructed (as evidenced by a certificate of occupancy) within the Condominium Property and Excluded Land, as of September 1<sup>st</sup> of each calendar year.

(g) Proviso. Nothing herein shall prohibit Royal from submitting any portion or all of the lands described in Exhibit "B" to the Condominium, if Royal is otherwise permitted to do so under the terms of the Declaration and applicable law. If any lands described in Exhibit "B" are, in fact, submitted to the Condominium, then thereafter, such submitted lands shall, for purposes of this Agreement, be considered a part of the lands described in Exhibit "A", and shall be deemed automatically removed from Exhibit "B" and the definition of "Excluded Land" hereunder.

5. Sharing of Recreational Facilities. All or any portion of the Excluded Land may be developed as one or more separate condominiums or subdivisions and Royal may provide for separate condominium and or homeowners associations to operate or manage one or more of such separate projects (each, and collectively, a "Future Complex"). Unless limited by the governing documents for a particular Future Complex, the Association agrees that all unit owners, lessees and guests in any Future Complex shall have and are hereby granted a perpetual nonexclusive license (subject to suspension as provided herein) for the use of any recreational or common facilities constructed within the Common Elements of the Condominium, subject to the following conditions of use:

(a) All such uses must abide by all nondiscriminatory rules and regulations promulgated by the Board of Directors of the Association; and

(b) The unit owner in any Future Complex must pay an annual use fee to the Association, as established by the Board of Directors of the Association. The use fee shall be based on the Pro-Rata Share (calculated in accordance with Section 4, above) of the expenses incurred by the Association in insuring, maintaining, operating, repairing and/or replacing such shared recreational and other common facilities. The fee will be established on an annual basis and shall be due and payable in such a manner as the Board of Directors of the Association determines. The requirement to pay the annual use fee does not apply to any members of the Association.



(c) If an owner in any Future Complex fails to abide by the rules and regulations promulgated by the Board of Directors of the Association or to pay its annual use fee to the Association, then such unit owner's license to use said recreational common facilities shall be suspended unless and until such owner (or his or hers successors in title) pay all such past due use fees and agree to comply with all rules and regulations then in effect.

(d) The association(s) established to operate a Future Complex shall be responsible for collecting all amounts due under this Agreement and allocable to the units (whether condominium units or single family lots) located within such Future Complex and remitting such amounts to the Association.

**6. Benefit and Use; Certain Right and Responsibilities to be Exercised by a Successor Entity.**

(a) The easements and rights granted hereby in favor of the Association shall also inure to the benefit of each member of the Association (and such members successor in title), and their respective families, guests, tenants, licensees, vendors and contractors.

(b) The easements and rights granted hereby in favor of Royal shall also inure to the benefit of its purchasers, tenants, licensees, vendors and contractors.

(c) The maintenance, repair and replacement obligations, as well as the cost-sharing obligations of Royal may be assigned by Royal to one or more entities hereafter created for the purpose of developing, governing and operating a Future Complex (an "Express Assignee") and, in such event, such Express Assignee (and only such Express Assignee) shall be an Owner hereunder, and the entity responsible for the maintenance, repair and replacement obligations, as well as the cost-sharing obligations of Royal hereunder, as well as for exercising any notice, consent and/or approval rights of Royal hereunder and upon such express Assignment, Royal shall be released from any further obligations hereunder. It is the intent that once one (or more) Future Complex's are developed on the Excluded Land, then the Association(s) established to maintain such Future Complex('s) shall each be deemed an "Owner" hereunder.

**7. Other Maintenance Obligations/Cost Allocations.**

(a) **Maintenance of Lakes, Wetlands and Conservation Areas** The Association shall be responsible for the maintenance and repair of the lakes ("Lakes"), Conservation Areas, Preserve Areas and wetlands located within the Condominium and/or within the Excluded Land, in accordance with state and local governmental permits, approvals, laws, ordinances, rules and regulations.

(b) **Maintenance of Frontage Landscape Buffer Areas.** The Association shall be responsible for the maintenance and repair of the landscape and hardscape buffer areas located along the west boundary of the Common Elements and

adjacent to Six Mile Cypress Parkway.

(c) Maintenance of Well Facilities. The Association shall be responsible for the maintenance, repair and/or replacement of the irrigation well located within the Common Elements of the Condominium and serving the irrigation system that serves the Property, in accordance with state and local governmental permits, approvals, laws, ordinances, rules and regulations. Additionally, the Association shall be responsible for any maintenance, reporting, monitoring, filing or other requirements set forth in the consumptive use/water use permit issued by the South Florida Water Management District.

(d) Maintenance of Gatehouse. The Association shall maintain, repair and replace the gatehouse and/or automatic entry gate facilities located within the Access Easement at the entrance to the Property from Six Mile Cypress Parkway.

(e) Maintenance of Lift Station. The Association shall maintain the sewage lift station located within the Common Elements of the Condominium and serving the sewer system that serves the Property.

(f) Allocation of Costs. The costs and expenses incurred by the Association in fulfilling its obligations under this Section 7 shall be allocated between the Association and Royal in accordance with their respective Pro-Rata Share (as defined in Section 4 (e)-(f), above), but subject to sub-paragraphs 8 (b) and (c), below. Collection of allocated costs shall be pursuant to Section 8, below.

(g) Repair of Damage caused by Negligent Owner; Construction Deposit. Any non-routine repairs necessitated by the intentional or negligent act or omission of an Owner (the "Responsible Owner") or such Owner's contractors or agents shall be the sole cost and expense of such Responsible Owner, and to the extent that any other Owner incurs costs and expenses regarding such repair work, the Responsible Owner shall reimburse such other Owner(s) by no later than fifteen (15) days after receiving written demand therefor (which demand shall include a copy of a paid receipt or other documentation evidencing the repair costs incurred by the non-Responsible Owner) and, if the Responsible Owner fails or refuses to timely reimburse the non-Responsible Owner, then the non-Responsible Owner shall have the right to record a claim of lien subject to and in accordance with paragraph 8(c), below. In addition, prior to commencing construction of any building on any portion of the Excluded Lands, the Owner causing such construction to occur shall first deposit with the Association a construction damage deposit in the amount of \$2,500.00 (the "Damage Deposit"). The Damage Deposit shall be held by the Association to ensure compliance with the obligations of this Paragraph 8(g); however, the Construction Deposit shall not be construed to limit the actual liability of a Responsible Owner hereunder, if the cost of any respective damage exceeds the amount of the deposit. Upon completion of the construction activities of such Owner, and provided that such Owner does not owe the Association any reimbursement for damage caused to the Association's property, the Association shall promptly refund the Damage Deposit to

such Owner.

8. **Payment of Allocated Costs; Cooperation with Annual Budgeting.**

(a) Any maintenance, repair or replacement of any facility or area described herein for which such costs are allocated among the Association and the Owner of the Excluded Land shall be reimbursed in the manner provided herein. The party providing such maintenance, repair or replacement ("Billing Party") shall provide the Owner of the other Parcel ("Non-Billing Party") with a detailed billing statement for such action within thirty (30) days after completion. The Non-Billing Party shall remit payment to the Billing Party within thirty (30) days after the receipt of such bill from the Billing Party. However, with respect to recurring expenses that are a part of the Billing Party's annual operating budget, such expenses shall be billed to the other party and payable by the other party, in advance, on a quarterly basis (unless otherwise agreed to by the parties). If any such bill is not paid within said thirty (30) days, then (a) the amount of such invoice together with interest thereon at the lesser of eighteen percent per annum (18%) or the maximum interest rate allowed by law shall constitute a lien on the Non-Billing Party's Property (which may be recorded and enforced in accordance with and subject to the provisions set forth in Paragraph 9, below, unless and until paid; and (b) the Billing Party may bring legal action against the Non-Billing Party for the delinquent amount and the costs and reasonable attorney's fees of any such action will be added to the amount owed and shall be recoverable in the event the Billing Party prevails in any such action. The Non-Billing Party expressly acknowledges that Billing Party has the right and power to bring all actions against the Non-Billing Party in law or equity for the collection of the delinquent amounts as a debt. Notwithstanding the generality of the foregoing, the Association and Royal shall cooperate and work in good faith with each other, particularly with respect to recurring expenses, so that the Association and Royal are each provided with the ability to budget for recurring expenses, so that they may be collected and remitted to the respective party in an orderly and recurring fashion.

(b) Notwithstanding any provision in this Agreement to the contrary, it is agreed (effective on and after January 1, 2012) that Royal's financial obligations under this Agreement shall in no event be less than Four Thousand Five Hundred and 00/100 Dollars (\$4,500.00) per month (the "Contribution Floor") (plus the obligations set forth in sub-paragraph 8 (c), below), regardless of when any residential units are developed on any portion of the Excluded Lands. It is the purpose and intent of this Section 8(b) that, commencing on January 1, 2012, the Association shall receive an amount not less than the Contribution Floor (paid in advance on a quarterly basis), from Royal or Royal's successors in title. If the Excluded Land is sold to more than one (1) person then Royal and such third-party may, by recorded supplement to this Agreement which need only be signed by Royal and such third-party, apportion the liability for the Contribution Floor in any manner deemed acceptable to Royal and such third-party(s). In addition, until such time as the actual financial liability of Royal (or its successors in title) hereunder exceeds the Contribution Floor, any funds collected by the Association may (after being applied to expenses that are subject to this cost-sharing agreement) be

utilized by the Association for any purpose.

(c) Notwithstanding any provision herein to the contrary, it is agreed that until such time as there are at least forty eight (48) residential units built (as evidenced by a certificate of occupancy) on the Excluded Lands, the Owner of the Excluded Lands shall be obligated to reimburse the Association for fifty percent (50%) of the costs and expenses incurred by the Association in maintaining, monitoring and (if necessary) repairing or otherwise restoring: (i) any lakes located within the Common Elements of the Condominium, and (ii) any wetland and/or preserve areas located within the Common Elements of the Condominium (collectively, the "Special Costs"). The obligations under this Paragraph 8(c) are in addition to the obligation to pay the Contribution Floor under Paragraph 8(b), above. Until such time as 48 units have been built on the Excluded Lands, the Association shall maintain separate books and records evidencing such Special Costs, and shall make such records available for inspection and review by the Owner of the Excluded Land, upon written request.

9. **Right to Record Claim of Lien.** If any financial obligation is not paid by no later than thirty (30) days after the Billing Party invoices the Non-Billing Party, then the Billing Party may, at any time thereafter (and subject to the terms and conditions set forth, below), record a lien against the Non-Billing Party's Property in the Public Records of Lee County, Florida, and bring an action to foreclose the lien in a like manner as a foreclosure of a mortgage on real property and/or a suit on the personal obligation against the delinquent Owner(s)

- (a) Liens for such delinquent obligations shall be recorded in the Public Records of Lee County, Florida, and shall be prior to and superior to the creation of any homestead status on the property and any liens, mortgages or other encumbrances recorded after the respective claim of lien; however, any claim of lien recorded pursuant to this Agreement, shall be subordinate to the lien of any first mortgage encumbering the respective lien property, unless the claim of lien is recorded prior to such mortgage.
- (b) A claim of lien recorded pursuant to this Paragraph 8 shall secure not only amounts due from the owner of the lien property as of the date that the claim of lien is recorded, but shall also be deemed to secure all subsequent amounts that may become due and payable hereunder (and allocable to the lien property) subsequent to the recording of such claim of lien, and there shall also be added to the amount of such lien the cost of any such action (including reasonable attorneys' fees), and in the event a judgment is obtained, such judgment shall include interest on the amount due as above provided and reasonable attorneys' fees to be fixed by the court, together with costs of the action.
- (c) Each new association established to govern a Future Complex (each, a "Future Complex Association") shall be responsible for the

collection of the share of costs due under this Agreement from time to time and attributable to the units within such Future Complex, and remitting such payment(s) to the Association. If, for any or no reason, a Future Complex Association remits less than the full amount due to the Association hereunder, and in conjunction with such remittance, certifies to the Association those unit owners within such Future Complex that have not paid their share of assessments to the respective Future Complex Association (thereby enabling such Future Complex Association to remit such owner's share of costs hereunder to the Association), then the lien that the Association may record hereunder as a result of such non-payment shall only be recorded against the unit(s) owned by the non-paying unit owner(s) within the respective Future Complex.

- (d) By no later than 10 days after written request, each Owner shall provide a written estoppel letter to the requesting party confirming whether or not there are currently any amounts due hereunder from such requesting Owner to the other Owner. In the case of a sale or conveyance of a single condominium unit located within the Excluded Land, the Association shall be obligated to provide an estoppel letter applicable to such specific unit that is being sold, conveyed (or financed) provided that (a) the Association has, in fact, been paid all amounts due hereunder, as of the date of such request, from the respective Additional Condominium Association, OR (b) the Association has received less than the full amounts due hereunder, as of the date of such request, but has also received sufficient certifications from the respective Additional Condominium Association to enable the Association to verify whether or not the owner of the respective unit (to which the requested estoppel pertains) has paid their share of the amounts due hereunder to the Additional Condominium Association for remittance to the Association, and such funds have, in fact, been remitted by the Additional Condominium Association to the Association).

10. **Corrective Action**. If any Owner (the "Breaching Party") fails to perform in a timely manner any maintenance obligation imposed by this Agreement, or otherwise breaches that Owner's obligations under this Agreement, then the other Owner ("Aggrieved Party") shall be entitled to notify the Breaching Party in writing specifying the deficiencies and the action required in order to eliminate the breach. Except in the event of an emergency as hereafter provided, the Breaching Party shall have a period of fifteen (15) days after receipt of said written notice in which to correct the alleged deficiencies, or such longer period of time, not exceeding sixty (60) days, as may reasonably be necessary if the deficiency is not reasonably susceptible to cure within said fifteen (15) day period and provided that the Breaching Party commences corrective action within ten (10) days after receipt of said written notice from the Aggrieved Party and thereafter diligently pursues corrective action to completion in a

diligent and continuous manner. If the Breaching Party fails to commence and diligently pursue and complete the required corrective action as hereinabove set forth, then the Breaching Party shall be in default of this Agreement and the Aggrieved Party shall have, and the Breaching Party hereby grants and conveys, in addition to all other available rights and remedies, the right and authority and easement for such purposes on the part of the Aggrieved Party and such Aggrieved Party's employees, contractors and subcontractors to enter upon the property and improvements owned by the Breaching Party in order to perform appropriate corrective action to eliminate the deficiencies specified in the written notice from the Aggrieved Party. All costs incurred by the Aggrieved Party shall be paid by the Breaching Party to the Aggrieved Party. Notwithstanding the foregoing, in the event of any emergency affecting any facility described hereunder which the Aggrieved Party reasonably believes poses an immediate threat of damage or injury to person or property or poses a substantial risk of interference with essential services, the Aggrieved Party may enter upon the property of the Breaching Party, and may take such corrective action and expend a reasonable amount of money to prevent or abate such damage or injury or to avoid or abate such interference; provided that (i) the Aggrieved Party shall attempt to give the Breaching Party such prior notice as is practicable under the circumstances (which notice may be oral); and (ii) the Aggrieved Party shall take only such steps as are reasonably necessary in order to prevent such damage or injury or interference with essential services.

11. **Books and Records.** Any Owner responsible hereunder for maintenance of any facility described herein shall keep complete, accurate and reasonably detailed books and records of each and every item of cost or expense paid or incurred for maintenance of the applicable facilities that are the subject of this Agreement, and shall maintain separate budgets as well as separate bank accounts with respect to costs and expenses that are subject to contribution from other Owners pursuant to this Agreement. Each Owner shall make such books and records available at reasonable times, upon prior written notice during normal business hours for inspection, review and copying by each Owner and its designated representatives, including accountants and attorneys. Each Owner shall keep and maintain all such books and records for a period of at least three (3) years from the end of the year to which they apply.

12. **Construction Liens.** No Owner shall permit any construction or other liens to be filed against any portion of the other Owner(s) Property in connection with the exercise of any easement rights herein granted. In the event any such lien is filed, the Owner who permitted, caused or allowed such lien to be placed shall have thirty (30) days after receipt of written notice of the lien to have the lien satisfied, released, or transferred to bond. If the lien is not satisfied, released, or transferred to bond within such thirty (30) day period, the Owner of the affected Parcel shall have the right, but not the obligation, to cause such lien to be satisfied, or released, or transferred to bond, and the Owner who placed the lien shall pay on demand all of the affected Owner's costs in connection therewith (including, without limitation, attorneys' fees and other costs of collection) together with interest thereon at the lesser of eighteen percent per annum (18%) or the maximum interest rate allowed by law accruing from and after the date of

such expenditure until receipt of full payment therefor by the Owner of the affected Parcel.

13. **Restrictive Covenant Regarding Terminated Lands.** Those portions of the Excluded Lands consisting of the Terminated Lands shall be subject to the following development restrictions regarding density:

- A. That portion of the Terminated Lands consisting of former Building #2 of the Condominium may only be developed with a twelve (12) unit, 2-story structure, that is similar to the building originally planned for such land. The Association shall have the right to review and approve the plans for such building, with respect to height and appearance, to ensure that such building is similar to adjacent structures existing as of the effective date of this Agreement. However, the Association agrees that such building may be modified by the future developer thereof for the purpose of updating the floor plans of the units to be located therein and for the purpose of including elevators in such building. The Association shall, by no later than thirty (30) days after receiving a request to approve architectural plans for the building to be located on the portion of the Terminated Lands consisting of former Building #2 of the Condominium, grant such written approval or notify the person seeking approval of the Association's reasonable disapproval sighting the grounds therefore, and if such response is not made by they Association within such thirty (30) day period, then the plans and specifications shall automatically be deemed approved.
- B. Subject to Paragraph 16, below, that portion of the Terminated Lands consisting of former Building #6 of the Condominium may be developed with the construction of a building that is substantially different (in both height and appearance) than the other buildings constructed in the Condominium as of the date hereof, and such building may contain up to eighteen (18) units. Without limiting the generality of the foregoing, such building may be modified by the future developer thereof for the purpose of updating the floor plans of the units and adding elevators to such buildings.
- C. Subject to paragraph 16, below, that portion of the Terminated Lands consisting of former Building #23 of the Condominium may be developed with the construction of a building that is substantially different (in both height and appearance) than the other buildings constructed in the Condominium as of the date hereof, and such building may contain up to eighteen (18) units. Without limiting the generality of the foregoing, such building may be modified by the future developer thereof for the purpose of updating the floor plans of the units and adding elevators to such buildings.

- D. The Association acknowledges that it shall have no architectural or approval rights with respect to any portion of the Terminated Lands other than that portion consisting of former Building #2 of the Condominium.

14. Density Restriction and **Restrictive Covenant With Respect to Those Portions of the Excluded Lands consisting of the un-submitted Phases; Leasing Restrictions.** It is agreed that those portions of the Excluded Lands consisting of the un-submitted Phases may be developed with buildings that are substantially different (in both height and appearance) than the buildings constructed in the Condominium as of the date of this Agreement, and that such lands may include up to (but no more than) two hundred fifty eight (258) dwelling units (for purposes of clarity, the foregoing two hundred fifty eight (258) unity density cap pertains solely to the un-submitted Phases, as defined on Page 1 of this Agreement, and that such density cap number is in addition to the units that may eventually be developed on the Terminated Lands). The foregoing density restriction shall be a covenant running with the un-submitted Phases and shall be binding upon Royal's successors in title. In addition, apartments are prohibited on the un-submitted Phases; however, it is agreed that any future developer of one or more condominiums on the un-Submitted Phases may include a rental program related to such condominium(s), at such developer's sole discretion. However, such rentals must comply with the following guidelines: (a) only entire residential units may be leased, (b) no unit may be leased more than 12 times in any calendar year, (c) each lease term must be for a minimum of 30 days, and (d) no subleasing or assigning of rights by a lessee shall be allowed.

15. **Contingency.** This Agreement is entered into and recorded in conjunction with the adoption of a Conditional Plan of Partial Termination of the Condominium, which Plan has been recorded in the Public Records of Lee County prior to or concurrently with the recording of this Agreement (the "Plan of Termination"). Royal's (and its successors in title) obligations under Paragraphs 8(b), above and Paragraph 16, below, shall be subject to and contingent upon the Plan of Termination not being contested or, if contested, being upheld by a court of law, so that the Terminated Lands (as identified in the Plan of Termination) are, in fact, removed from the Condominium. If the Plan is successfully challenged, then this Agreement shall nevertheless remain in full force and effect (except for Royal's (and its successors in title) obligations under Paragraphs 8(b), above and Paragraph 16, below).

16. **Future One-Time Payment.** The following one-time lump sum payment set forth in Paragraphs 16.A. and B., below, are in addition to the recurring cost sharing obligations set forth elsewhere in this Agreement.

- A. Upon the issuance of a certificate of occupancy for any residential building that may eventually be constructed on any portion of the Excluded Lands, the owner/developer thereof shall, by no later than forty-five (45) days thereafter, pay to the Association a one-time lump sum payment equal to: \$500.00 x the number of actual residential



units included in such building. (for example, if a future building contains 18 units, then the developer of such building shall be required to make a one-time payment to the Association in the amount of \$9,000.00, pursuant to this Paragraph 15A).

- B. The owner(s) of the Excluded Lands subject to Paragraph 15(A), above shall have the right to pre-pay such lump sum payments to the Association. In addition, upon the payment to the Association of each of the lump sum payments required by this Paragraph 15, the Association shall provide a receipt to the respective payor, in recordable form, which receipt shall reference this Agreement.

17. **Term.** This Agreement shall become effective upon its recordation in the Public Records of Lee County, Florida, and shall run with the land, regardless whether specifically mentioned in any subsequent deed or conveyance of all or a part of the Property and shall be binding on all persons subsequently acquiring all or a part of the Property and any tenant thereof. This Agreement shall have a term of fifty (50) years from the date of recordation in the Public Records of Lee County, after which time this Agreement shall be automatically renewed and extended for successive periods of ten (10) years each, unless at least one (1) year prior to the termination of such fifty (50) year term or any such ten (10) year extension thereof there is recorded in the Public Records of Lee County, an instrument signed by all Owners agreeing to terminate this Agreement, upon which event this Agreement shall be terminated upon the expiration of the fifty (50) year term or the ten (10) year extension during which such instrument of termination is recorded.

18. **Amendment.** Except as otherwise provided herein, this Agreement may be amended or modified only by an instrument signed by the a majority of the Owners. No amendment shall become effective prior to a duly executed and acknowledged copy being recorded in the Public Records of Lee County, Florida.

19.. **Notice.** All notices to be given pursuant to this Agreement shall be sent by United States certified or registered mail, postage prepaid, return receipt requested, or overnight courier delivery service maintaining receipt and delivery records, and shall be deemed given when placed in the mail or deposited with such overnight courier service and addressed to the principal office of the intended recipient (as maintained with the secretary of the state of incorporation of such recipient), with a copy to such recipient's registered agent.

20. **Enforcement.** In the event of any violation or threatened violation by an Owner, resident, tenant or occupant of Common Elements or Excluded Land of any of the terms, covenants and conditions of this Agreement, the Owner of any of said parcels or portion thereof shall have the right, but not the obligation, to enjoin such violation or threatened violation in a court of competent jurisdiction in Lee County, Florida. The right of injunction shall be in addition to any and all other remedies under

statute, at law or in equity or under this Agreement, including, without limitation, specific performance of this Agreement.

21. **Miscellaneous.**

(a) **Negation of Partnership.** None of the terms or provisions of this Agreement create a partnership between or among the Owners in their respective businesses or otherwise, or constitute the Owners as joint venturers or members of any joint enterprise.

(b) **Force Majeure.** If completion of performance of any act is delayed by reason of acts of God, war, civil commotion, acts of government (other than arising out of a failure or breach of an obligation, representation or warranty by the Owner), riots, strikes, picketing, or other labor disputes, damage to work in progress by casualty, or by other cause beyond the reasonable control of an Owner (financial inability, imprudent management and negligence excepted), then the specified time for performance shall be extended by the amount of the delay actually so caused.

(c) **Time.** Time is of the essence of this Agreement and each and every provision hereof.

(d) **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Florida.

(e) **Attorneys' Fees.** In the event of any dispute arising out of this Agreement, the prevailing Owner shall be entitled to recover reasonable attorneys' fees and costs from the non-prevailing Owner, whether incurred out of court or in litigation, including fees and costs incurred for representation on appeals, and expert witness fees and paralegal assistance.

(f) **Severability.** Invalidation of any term or provision of this Agreement, by judgment or court order, shall not affect any of the other provisions hereof, which shall remain in full force and effect.

(g) **Interpretation.** Unless the context otherwise requires, the use of the singular shall include the plural and vice versa. The headings used herein are for convenience only and shall not be given any weight in interpreting or construing the substantive provisions hereof.

(h) **Exhibits.** All exhibits referenced herein and attached hereto are incorporated in this Agreement by this reference.

22. **Successors.** The restrictions, covenants, conditions and easements declared created and granted hereby shall be restrictions, covenants, conditions and easements running with the land, and shall inure to the benefit of, and the binding on the owners of the Property, their respective successors in title, and to the guests,

tenants, licensees and invitees of such future owners and all persons claiming under them.

23. **Agreement Not Subject to Cancellation.** This Amended and Restated Easement, Cost Sharing and Maintenance Agreement has been approved by the necessary vote of non-developer unit owners, post-turnover, and, consequently, is not voidable under Florida Statutes Section 718.302.

24. **Trustee signing only for purposes of submitting Terminated Lands to these Covenants.** The parties hereto acknowledge and agree that the Trustee is joining in this Agreement for the sole purpose of submitting the Terminated Lands to the terms and conditions hereof. It is agreed that any financial obligations and/or maintenance or repair obligations that Trustee would otherwise be required to comply with as a result of being an "Owner" hereunder shall, instead, be performed by Royal until such time as the Terminated Lands are conveyed to a third party other than Royal, at which point in time such obligations shall thereafter become the obligations of the new record owner(s) of the Terminated Lands and their successors in title.

**IN WITNESS WHEREOF**, this Agreement has been signed by the Owners as of the day and year first set forth above.

[signatures on following pages]



WITNESSES:

Karen C. Stevenson

Witness # 1

Print Name: Karen C. Stevenson

Michael J. Henneman

Michael J. Henneman, Termination Trustee

Melody L. Maybin

Witness # 2

Print Name: Melody L. Maybin

STATE OF FL  
COUNTY OF Collier

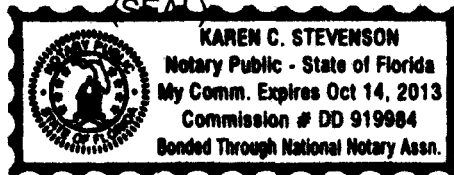
Sworn to and acknowledged before me this 12 day of March, 2012, Michael J. Henneman, as Termination Trustee. He is personally known to me or  who produced \_\_\_\_\_ as identification.

Karen C. Stevenson

Notary Public

KAREN C. STEVENSON

Print Name



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**WITNESSES:**

Marbella On Cypress Condominiums Association, Inc.,  
a Florida non profit corporation

M H DaBruno  
Witness # 1  
Print Name: M H DABRUZZI

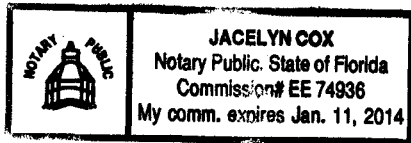
By: Harry Apolito  
Harry Apolito, President

Frank Gauchioso  
Witness # 2  
Print Name: Frank Gauchioso

STATE OF Florida  
COUNTY OF Lee

Sworn to and acknowledged before me this 5 day of MARCH, 2012 by Harry Apolito as President of Marbella On Cypress Condominiums Association, Inc., a Florida non profit corporation, on behalf of the corporation. He/she is personally known to me or X who produced Driver license of New York as identification.

Jacelyn Cox  
Notary Public  
Jacelyn Cox  
Print Name



(SEAL)

Index of Exhibits

- Exhibit "A" – Phases 1 and 2 of Condominium Lands, less the Terminated Lands
- Exhibit "B" – Excluded Land
- Exhibit "C" – Legal and Sketch of Street in Excluded Land
- Exhibit "D" – Legal and Sketch of Street in Phases 1 and 2
- Exhibit "E" – Signage Easement Area
- Exhibit "F" – Legal and Sketch from existing FPL easement in Phases 1 and 2

**Exhibit "A"**

[Phases 1 and 2 of Marbella on Cypress Condominiums, less and except the Terminated Lands]

**DESCRIPTION**  
**MARBELLA ON CYPRESS CONDOMINIUMS, PHASE 1**  
 Parcel in  
 Section 4, Township 45 South, Range 25 East  
 City of Fort Myers, Lee County, Florida

A tract or parcel of land lying in the Northeast Quarter (NE 1/4) of the Northeast Quarter (1/4) of Section 4, Township 45 South, Range 25 East, City of Fort Myers, Lee County, Florida said tract or parcel of land being more particularly described as follows:

Beginning at the Northeast Corner of said Section 4 run S00°43'26"E along the East line of the Northeast quarter (NE 1/4) of said Section 4 for 517.13 feet; thence run S24°58'42"W for 779.60 feet; thence run S62°55'22"W for 135.32 feet; thence run N07°27'43"E for 65.02 feet to a point on a non-tangent curve; thence run northwesterly along an arc of curve to the right of radius 53.00 feet (delta 61°59'48") (chord bearing N23°32'11"W) (chord 54.59 feet) for 57.35 feet to a point of tangency; thence run N07°27'43"E for 164.55 feet to a point of curvature; thence run northerly along an arc of curve to the right of radius 150.00 feet (delta 08°01'41") (chord bearing N11°28'33"E)(chord 21.00 feet) for 21.02 feet to a point of tangency; thence run N15°29'24"E for 724.48 feet; thence run N74°27'24"W for 14.24 feet; thence run N15°32'36"E for 176.29 feet; thence run N01°24'31"W for 76.42 feet; thence run N74°30'36"W for 91.76 feet; thence run S89°08'48"W for 30.83 feet to a point of curvature; thence run southwesterly along an arc of curve to the left of radius 20.00 feet (delta 73°39'25") (chord bearing S52°19'06"W)(chord 23.98 feet) for 25.71 feet to a point of tangency; thence run S15°29'24"W for 62.06 feet to a point of curvature; thence run southwesterly along an arc of curve to the right of radius 13.00 feet (delta 90°00'00") (chord bearing S60°29'24"W)(chord 18.38 feet) for 20.42 feet to a point of tangency; thence run N74°30'36"W for 242.90 feet to a point of curvature; thence run southwesterly along an arc of curve to the left of radius 12.00 feet (delta 81°03'37") (chord bearing S64°57'35"W)(chord 15.60 feet) for 16.98 feet to a point of tangency; thence run S24°25'47"W for 61.67 feet; thence run S15°29'24"W for 148.94 feet; thence run S74°30'36"E for 213.14 feet; thence run S15°32'09"W for 172.30 feet; thence run N74°30'36"W for 310.46 feet; thence run S15°29'24"W for 285.00 feet; thence run S74°30'36"E for 308.35 feet; thence run S13°35'17"W for 370.00 feet; thence run S89°06'09"W for 99.48 feet; thence run S86°53'53"W for 97.92 feet; thence run S89°06'09"W for 183.60 feet; thence run N00°01'21"W for 211.59 feet; thence run N04°10'31"E for 332.41 feet; thence run N86°05'41"W for 115.14 feet; thence run N03°54'19"E for 124.09 feet; thence run N86°23'09"W for 110.54 feet to a point on a non-tangent curve and an intersection with the Easterly right of way line of Six Mile Cypress Parkway (250 feet wide);

**AND (see next page)**

**DESCRIPTION (Cont.)**

thence run northerly along said Easterly right of way line and along an arc of curve to the left of radius 2,989.79 feet (delta 07°54'11") (chord bearing N09°24'18"E) (chord 412.07 feet) for 412.39 feet to an intersection with the North line of said Section 4; thence run N89°08'48"E along said North line for 1,202.20 feet to the POINT OF BEGINNING.  
Containing 18.550 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based the North line of the Northeast Quarter (NE 1/4) of said Section 4 to bear S89°08'48"W.

**DESCRIPTION**

**MARBELLA ON CYPRESS CONDOMINIUMS, PHASE 2**  
Parcel in  
Section 4, Township 45 South, Range 25 East  
City of Fort Myers, Lee County, Florida

A tract or parcel of land lying in the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of Section 4, Township 45 South, Range 25 East, City of Fort Myers, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at the Northeast Corner of said Section 4 run S89°08'48"W along the North line of said Section 4 for 1,202.20 feet to a point on a non-tangent curve and an intersection with the Easterly right of way line of Six Mile Cypress Parkway (250 feet wide) ; thence run southerly along said Easterly right of way line and along an arc of curve to the right of radius 2,989.79 feet (delta 07°54'11") (chord bearing S09°24'18"W) (chord 412.07 feet) for 412.39 feet to the POINT OF BEGINNING

From said Point of Beginning run S86°23'09"E for 110.54 feet; thence run S03°54'19"W for 124.09 feet; thence run S86°05'41"E for 115.14 feet; thence run S04°10'31"W for 332.41 feet; thence run S00°01'21"E for 275.60 feet; thence run S89°06'09"W for 63.46 feet; thence run S00°53'51"E for 36.00 feet; thence run S89°06'09"W for 29.95 feet; thence run S00°49'29"E for 128.77 feet; thence run S89°06'09"W for 140.89 feet; thence run N00°36'28"W for 739.66 feet to a point on a non-tangent curve and an intersection with said Easterly right of way line of Six Mile Cypress Parkway (250 feet wide); thence run northerly along said Easterly right of way line and along an arc of curve to the left of radius 2,989.79 feet (delta 03°27'53") (chord bearing N15°05'20"E) (chord 180.77 feet) for 180.80 feet to the POINT OF BEGINNING.

Containing 4.35 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based the North line of the Northeast Quarter (NE 1/4) of said Section 4 to bear S89°08'48"W.



**LESS AND EXCEPT THE TERMINATED LANDS, BEING THE FOLLOWING 3 PARCELS HEREAFTER IDENTIFIED AS PARCEL "A", PARCEL "B" AND PARCEL "C".**

**PARCEL "A"**

Parcel in  
Section 4, Township 45 South, Range 25 East  
City of Fort Myers, Lee County, Florida

A tract or parcel of land lying in Phase 2 of "Marbella on Cypress", A Condominium, recorded in Instrument No. 2007000280596, of the Public Records of Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at the Northeast Corner of said Section 4 run S89°08'48"W along the North line of said Section 4 for 1,256.40 feet; thence run S00°51'12"E for 406.98 feet to an intersection with the Northerly line of Phase 2 of said condominium and the POINT OF BEGINNING.

From said Point of Beginning run S86°23'09"E along said Northerly line for 91.30 feet; thence run S03°54'19"W along the Easterly line of said Phase 2 and the southerly extension thereof for 297.09 feet; thence run N86°05'41"W for 89.92 feet; thence run N03°38'18"E for 296.63 feet to the POINT OF BEGINNING.

Containing 0.62 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based the North line of the Northeast Quarter (NE 1/4) of said Section 4 to bear S89°08'48"W.

**PARCEL "B"**

Parcel in  
Section 4, Township 45 South, Range 25 East  
City of Fort Myers, Lee County, Florida

A tract or parcel of land lying in Phase 2 of "Marbella on Cypress", A Condominium, recorded in Instrument No. 2007000280596, of the Public Records of Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at the Northeast Corner of said Section 4 run S89°08'48"W along the North line of said Section 4 for 1,297.73 feet; thence run S00°51'12"E for 1,005.54 feet to the POINT OF BEGINNING.

From said Point of Beginning run N89°10'31"E for 90.38 feet; thence run S00°49'29"E for 292.12 feet; thence run S89°10'31"W for 90.38 feet; thence run N00°49'29"W for 292.12 feet to the POINT OF BEGINNING.

Containing 0.61 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based the North line of the Northeast Quarter (NE 1/4) of said Section 4 to bear S89°08'48"W.

**PARCEL "C"**

Parcel in  
Section 4, Township 45 South, Range 25 East  
City of Fort Myers, Lee County, Florida

A tract or parcel of land lying in Phase 1 of "Marbella on Cypress", A Condominium, recorded in Instrument No. 2007000280596, of the Public Records of Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at the Northeast Corner of said Section 4 run S89°08'48"W along the North line of said Section 4 for 668.06 feet; thence run S00°51'12"E for 142.24 feet an intersection with the Easterly line of Phase 1 of said condominium and the POINT OF BEGINNING.

From said Point of Beginning run S15°29'24"W along said Easterly line for 90.91 feet; thence run N74°30'36"W for 24.87 feet; thence run N88°37'19"W for 174.40 feet; thence run N00°51'12"W for 90.65 feet; thence run N89°08'48"E for 125.30 feet to a point of curvature; thence run Easterly along an arc of a curve to the right of radius 290.00 feet (delta 19°50'12") (chord bearing S80°56'06"E) (chord 99.90 feet) for 100.40 feet to the POINT OF BEGINNING.

Containing 0.45 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based the North line of the Northeast Quarter (NE 1/4) of said Section 4 to bear S89°08'48"W.

\*\*\*\*\* END OF EXHIBIT "A" \*\*\*\*\*

**Exhibit "B"**

**[Excluded Land]**

**[the Excluded Land consists of: Phases 3, 4 and 5 of Marbella on Cypress Condominiums (which Phases have not been submitted to the Condominium), PLUS the Terminated Lands].**

**DESCRIPTION**

**MARBELLA ON CYPRESS CONDOMINIUMS, PHASE 3 (NOT SUBMITTED)**

**Parcel in**

**Section 4, Township 45 South, Range 25 East**

**City of Fort Myers, Lee County, Florida**

**A tract or parcel of land lying in the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of Section 4, Township 45 South, Range 25 East, City of Fort Myers, Lee County, Florida, said tract or parcel of land being more particularly described as follows:**

**Commencing at the Northeast Corner of said Section 4 run S00°43'26"E along the East line of said Section 4 for 517.13 feet; thence run S24°58'42"W for 779.60 feet; thence run S62°55'22"W for 135.32 feet to the POINT OF BEGINNING.**

**From said Point of Beginning run S62°55'22"W for 89.90 feet to an intersection with the South line of the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of said Section 4; thence run S89°06'09"W along said South line for 644.61 feet; thence run N00°49'29"W for 128.77 feet; thence run N89°06'09"E for 29.95 feet; thence run N00°53'51"W for 36.00 feet; thence run N89°06'09"E for 63.46 feet; thence run N00°01'21"W for 64.01 feet; thence run N89°06'09"E for 183.60 feet; thence run N86°53'53"E for 97.92 feet; thence run N89°06'09"E for 99.48 feet; thence run N13°35'17"E for 332.17 feet; thence run S76°24'43"E for 94.84 feet; thence run S15°29'24"W for 75.55 feet; thence run S74°13'27"E for 142.42 feet; thence run S15°29'24"W for 82.76 feet to a point of curvature; thence run southerly along an arc of curve to the left of radius 150.00 feet (delta 08°01'41") (chord bearing S11°28'33"W)(chord 21.00 feet) for 21.02 feet to a point of tangency; thence run S07°27'43"W for 164.55 feet to a point of curvature; thence run southeasterly along an arc of curve to the left of radius 53.00 feet (delta 61°59'48") (chord bearing S23°32'11"E)(chord 54.59 feet) for 57.35 feet ; thence run S07°27'43"W for 65.02 feet to the POINT OF BEGINNING.**

**Containing 5.01 acres, more or less.**

**Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based the North line of the Northeast Quarter (NE 1/4) of said Section 4 to bear S89°08'48"W.**

**AND (see next page)**

**DESCRIPTION**  
**MARBELLA ON CYPRESS CONDOMINIUMS, PHASE 4** (NOT SUBMITTED)  
Parcel in  
Section 4, Township 45 South, Range 25 East  
City of Fort Myers, Lee County, Florida

A tract or parcel of land lying in the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of Section 4, Township 45 South, Range 25 East, City of Fort Myers, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at the Northeast Corner of said Section 4 run  $S00^{\circ}43'26''E$  along the East line of said Section 4 for 517.13 feet; thence run  $S72^{\circ}41'08''W$  for 352.26 feet to the POINT OF BEGINNING.

From said Point of Beginning run  $S15^{\circ}29'24''W$  for 296.19 feet; thence run  $N74^{\circ}13'27''W$  for 142.42 feet; thence run  $N15^{\circ}29'24''E$  for 75.55 feet; thence run  $N76^{\circ}24'43''W$  for 94.84 feet; thence run  $N13^{\circ}35'17''E$  for 37.82 feet; thence run  $N74^{\circ}30'36''W$  for 308.35 feet; thence run  $N15^{\circ}29'24''E$  for 285.00 feet; thence run  $S74^{\circ}30'36''E$  for 404.39 feet; thence run  $S15^{\circ}29'24''W$  for 99.72 feet; thence run  $S74^{\circ}30'36''E$  for 142.41 feet to the POINT OF BEGINNING.

Containing 3.69 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based the North line of the Northeast Quarter (NE 1/4) of said Section 4 to bear  $S89^{\circ}08'48''W$ .

**AND (see next page)**

**DESCRIPTION****MARBELLA ON CYPRESS CONDOMINIUMS, PHASE 5 (NOT SUBMITTED)**

Parcel in

Section 4, Township 45 South, Range 25 East

City of Fort Myers, Lee County, Florida

A tract or parcel of land lying in the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of Section 4, Township 45 South, Range 25 East, City of Fort Myers, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at the Northeast Corner of said Section 4 run S89°08'48"W along the North line of said Section 4 for 206.40 feet; thence run S00°51'12"E for 35.82 feet to the POINT OF BEGINNING.

From said Point of Beginning un S01°24'31"E for 76.42 feet; thence run S15°32'36"W for 176.29 feet; thence run S74°27'24"E for 14.24 feet; thence run S15°29'24"W for 345.53 feet; thence run N74°30'36"W for 142.41 feet; thence run N15°29'24"E for 99.72 feet; thence run N74°30'36"W for 93.93 feet; thence run N15°32'09"E for 172.30 feet; thence run N74°30'36"W for 213.14 feet; thence run N15°29'24"E for 148.94 feet; thence run N24°25'47"E for 61.67 feet to a point of curvature; thence run northeasterly along an arc of curve to the right of radius 12.00 feet (delta 81°03'37") (chord bearing N64°57'35"E)(chord 15.60 feet) for 16.98 feet to a point of tangency; thence run S74°30'36"E for 242.90 feet to a point of curvature; thence run northeasterly along an arc of curve to the left of radius 13.00 feet (delta 90°00'00") (chord bearing N60°29'24"E)(chord 18.38 feet) for 20.42 feet to a point of tangency; thence run N15°29'24"E for 62.06 feet to a point of curvature; thence run northeasterly along an arc of curve to the right of radius 20.00 feet (delta 73°39'25") (chord bearing N52°19'06"E)(chord 23.98 feet) for 25.71 feet to a point of tangency; thence run N89°08'48"E for 30.83 feet; thence run S74°30'36"E for 91.76 feet to the POINT OF BEGINNING.

Containing 3.82 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based the North line of the Northeast Quarter (NE 1/4) of said Section 4 to bear S89°08'48"W.

**AND, THE TERMINATED LANDS, BEING THE FOLLOWING 3 PARCELS  
HEREAFTER IDENTIFIED AS PARCEL "A", PARCEL "B" AND PARCEL "C".**

(legal descriptions of Parcel "A", Parcel "B" and Parcel "C" included on following pages)

**PARCEL "A"**

Parcel in  
Section 4, Township 45 South, Range 25 East  
City of Fort Myers, Lee County, Florida

A tract or parcel of land lying in Phase 2 of "Marbella on Cypress", A Condominium, recorded in Instrument No. 2007000280596, of the Public Records of Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at the Northeast Corner of said Section 4 run S89°08'48"W along the North line of said Section 4 for 1,256.40 feet; thence run S00°51'12"E for 406.98 feet to an intersection with the Northerly line of Phase 2 of said condominium and the POINT OF BEGINNING.

From said Point of Beginning run S86°23'09"E along said Northerly line for 91.30 feet; thence run S03°54'19"W along the Easterly line of said Phase 2 and the southerly extension thereof for 297.09 feet; thence run N86°05'41"W for 89.92 feet; thence run N03°38'18"E for 296.63 feet to the POINT OF BEGINNING.

Containing 0.62 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based the North line of the Northeast Quarter (NE 1/4) of said Section 4 to bear S89°08'48"W.

**PARCEL "B"**

Parcel in  
Section 4, Township 45 South, Range 25 East  
City of Fort Myers, Lee County, Florida

A tract or parcel of land lying in Phase 2 of "Marbella on Cypress", A Condominium, recorded in Instrument No. 2007000280596, of the Public Records of Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at the Northeast Corner of said Section 4 run S89°08'48"W along the North line of said Section 4 for 1,297.73 feet; thence run S00°51'12"E for 1,005.54 feet to the POINT OF BEGINNING.

From said Point of Beginning run N89°10'31"E for 90.38 feet; thence run S00°49'29"E for 292.12 feet; thence run S89°10'31"W for 90.38 feet; thence run N00°49'29"W for 292.12 feet to the POINT OF BEGINNING.

Containing 0.61 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based the North line of the Northeast Quarter (NE 1/4) of said Section 4 to bear S89°08'48"W.

**PARCEL "C"**

Parcel in  
Section 4, Township 45 South, Range 25 East  
City of Fort Myers, Lee County, Florida

A tract or parcel of land lying in Phase 1 of "Marbella on Cypress", A Condominium, recorded in Instrument No. 2007000280596, of the Public Records of Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at the Northeast Corner of said Section 4 run S89°08'48"W along the North line of said Section 4 for 668.06 feet; thence run S00°51'12"E for 142.24 feet an intersection with the Easterly line of Phase 1 of said condominium and the POINT OF BEGINNING.

From said Point of Beginning run S15°29'24"W along said Easterly line for 90.91 feet; thence run N74°30'36"W for 24.87 feet; thence run N88°37'19"W for 174.40 feet; thence run N00°51'12"W for 90.65 feet; thence run N89°08'48"E for 125.30 feet to a point of curvature; thence run Easterly along an arc of a curve to the right of radius 290.00 feet (delta 19°50'12") (chord bearing S80°56'06"E) (chord 99.90 feet) for 100.40 feet to the POINT OF BEGINNING.

Containing 0.45 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based the North line of the Northeast Quarter (NE 1/4) of said Section 4 to bear S89°08'48"W.

\*\*\*\*\*END OF EXHIBIT B\*\*\*\*\*

**Exhibit "C"****[Legal and Sketch of Street within Excluded Land]****DESCRIPTION**

Parcel in  
Section 4, Township 45 South, Range 25 East  
City of Fort Myers, Lee County, Florida

A tract or parcel of land lying in Phases 3, 4 and 5 of "Marbella on Cypress", A Condominium, recorded in Instrument No. 2007000280596, of the Public Records of Lee County, Florida., said tract or parcel of land being more particularly described as follows:

Commencing at the Northeast Corner of said Section 4 run S89°08'48"W along the North line of said Section 4 for 1,202.20 feet to an intersection with the Easterly right of way line of Six Mile Cypress Parkway (250 feet wide); thence run back along the North line of said Section 4 N89°08'48" E for 185.84 feet to a point of curvature; thence run Southeasterly along an arc of a curve to the right of radius 80.00 feet (delta 85°43'02") (chord bearing S47°59'41" E) (chord 108.83 feet) for 119.68 feet to a point of reverse curvature; thence run Southeasterly along an arc of a curve to the left of radius 20.00 feet (delta 85°43'02") (chord bearing S47°59'41" E) (chord 27.21 feet) for 29.92 feet to a point of tangency; thence run N89°08'48" E for 150.18 feet to a point of curvature; thence run Easterly along an arc of a curve to the right of radius 322.50 feet (delta 19°29'04") (chord bearing S81°06'40" E) (chord 109.14 feet) for 109.67 feet to an intersection with the Westerly line of Phase 5 of said condominium and the POINT OF BEGINNING.

From said Point of Beginning run Easterly along an arc of a curve to the right of radius 322.50 feet (delta 00°50'17") (chord bearing S70°57'00" E) (chord 4.72 feet) for 4.72 feet to a point of reverse curvature; thence run Easterly along an arc of a curve to the left of radius 277.50 feet (delta 03°58'45") (chord bearing S72°31'14" E) (chord 19.27 feet) for 19.27 feet to a point of tangency; thence run S74°30'36" E for 257.97 feet to a point of curvature; thence run Northeasterly along an arc of a curve to the left of radius 12.50 feet (delta 90°00'00") (chord bearing N60°29'24" E) (chord 17.68 feet) for 19.63 feet to a point of tangency; thence run N15°29'24" E for 170.76 feet; thence run S74°30'36" E for 45.00 feet; thence run S15°29'24" W for 969.53 feet to a point of curvature; thence run Southerly along an arc of a curve to the left of radius 77.50 feet (delta 08°01'41") (chord bearing S11°28'33" W) (chord 10.85 feet) for 10.86 feet to a point of tangency; thence run S07°27'43" W for 174.30 feet to a point of curvature; thence run Southeasterly along an arc of a curve to the left of radius 12.50 feet (delta 102°17'04") (chord bearing S43°40'50" E) (chord 19.47 feet) for 22.32 feet to a point of tangency; thence run N85°10'38" E for 76.51 feet; thence run S07°27'43" W for 7.12 feet to a point of curvature; thence run Southerly along an arc of a curve to the left of radius 73.00 feet (delta 30°14'54") (chord bearing S07°39'44" E) (chord 38.09 feet) for 38.54 feet;

**Continued on next page**



**DESCRIPTION (Cont.)**

thence run S85°10'38" W along a non-tangent line for 188.51 feet to a point of curvature; thence run Westerly along an arc of a curve to the right of radius 122.50 feet (delta 03°55'31") (chord bearing S87°08'24" W) (chord 8.39 feet) for 8.39 feet to a point of tangency; thence run S89°06'09" W for 476.85 feet to a point of curvature; thence run Southwesterly along an arc of a curve to the left of radius 12.50 feet (delta 89°55'39") (chord bearing S44°08'20" W) (chord 17.67 feet) for 19.62 feet to a point of tangency; thence run S00°49'29" E for 72.67 feet; thence run S89°10'31" W for 12.50 feet to an intersection with the Westerly line of Phase 3 of said condominium; thence run the following three (3) courses along said Westerly line of said Phase 3: N00°49'29" W for 107.63 feet; N89°06'09" E for 29.95 feet and N00°53'51" W for 22.50 feet; thence run N89°06'09" E for 471.86 feet to a point of curvature; thence run Easterly along an arc of a curve to the left of radius 77.50 feet (delta 03°55'31") (chord bearing N87°08'24" E) (chord 5.31 feet) for 5.31 feet to a point of tangency; thence run N85°10'38" E for 39.99 feet to a point of curvature; thence run Northeasterly along an arc of a curve to the left of radius 12.50 feet (delta 77°42'56") (chord bearing N46°19'11" E) (chord 15.68 feet) for 16.95 feet to a point of tangency; thence run N07°27'43" E for 189.54 feet to a point of curvature; thence run Northerly along an arc of a curve to the right of radius 122.50 feet (delta 08°01'41") (chord bearing N11°28'33" E) (chord 17.15 feet) for 17.16 feet to a point of tangency; thence run N15°29'24" E for 288.61 feet to a point of curvature; thence run Northwesterly along an arc of a curve to the left of radius 12.50 feet (delta 90°00'00") (chord bearing N29°30'36" W) (chord 17.68 feet) for 19.63 feet to a point of tangency; thence run N74°30'36" W for 244.96 feet to a point of curvature; thence run Southwesterly along an arc of a curve to the left of radius 12.50 feet (delta 90°00'00") (chord bearing S60°29'24" W) (chord 17.68 feet) for 19.63 feet to a point of tangency; thence run S15°29'24" W for 82.14 feet to an intersection with the Southerly line of Phase 4 of said condominium; thence run N74°30'36" W along said southerly line for 45.00 feet; thence run N15°29'24" E for 285.00 feet to an intersection with the Northerly line of Phase 4 of said condominium; thence run S74°30'36" E along said Northerly line for 45.00 feet; thence run S15°29'24" W for 77.86 feet to a point of curvature; thence run Southeasterly along an arc of a curve to the left of radius 12.50 feet (delta 90°00'00") (chord bearing S29°30'36" E) (chord 17.68 feet) for 19.63 feet to a point of tangency; thence run S74°30'36" E for 244.96 feet to a point of curvature; thence run Northeasterly along an arc of a curve to the left of radius 12.50 feet (delta 90°00'00") (chord bearing N60°29'24" E) (chord 17.68 feet) for 19.63 feet to a point of tangency; thence run N15°29'24" E for 315.16 feet to a point of curvature;

Continued on next page

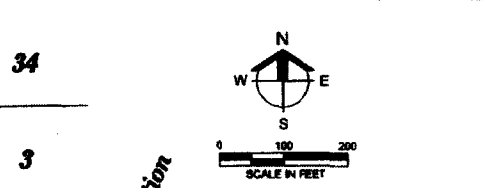
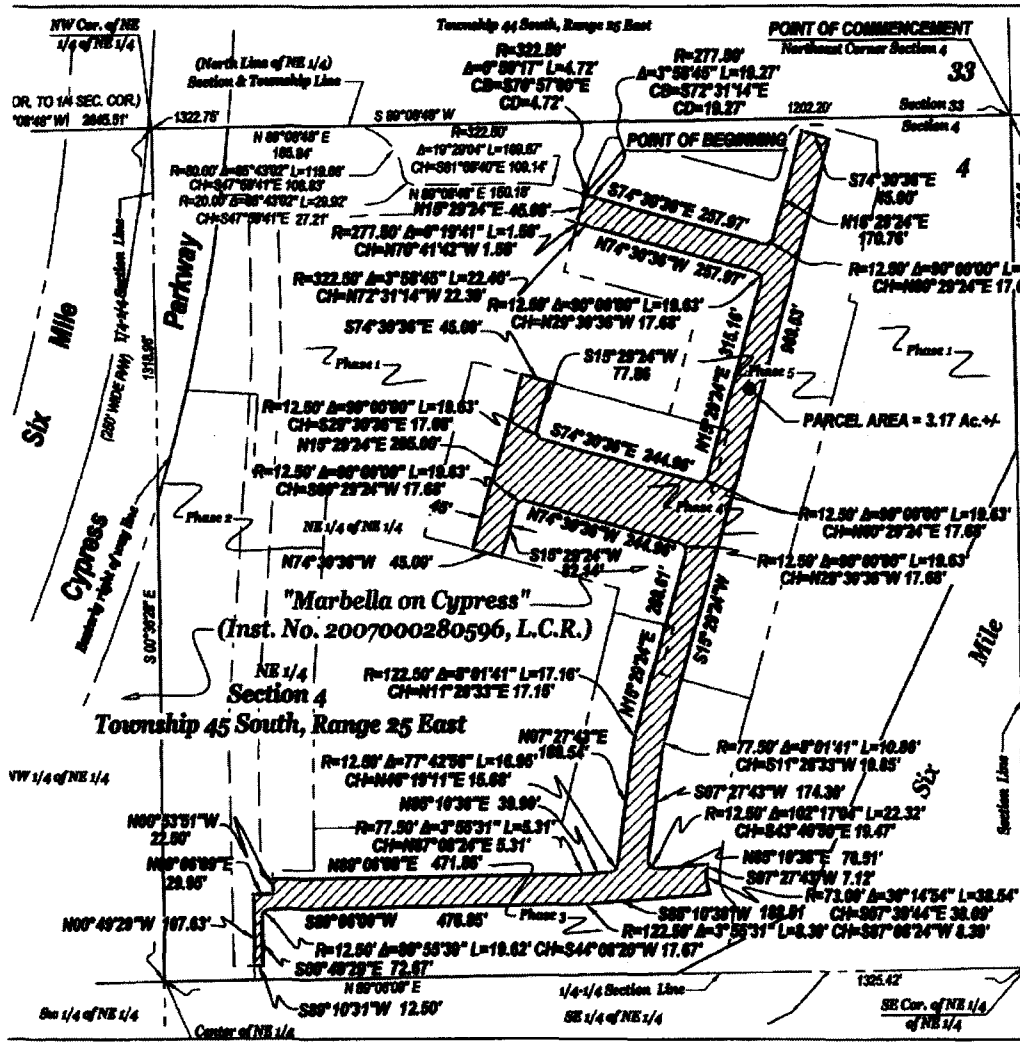
**DESCRIPTION (Cont.)**

thence run Northwesterly along an arc of a curve to the left of radius 12.50 feet (delta  $90^{\circ}00'00''$ ) (chord bearing  $N29^{\circ}30'36''$  W) (chord 17.68 feet) for 19.63 feet to a point of tangency; thence run  $N74^{\circ}30'36''$  W for 257.97 feet to a point of curvature; thence run Westerly along an arc of a curve to the right of radius 322.50 feet (delta  $03^{\circ}58'45''$ ) (chord bearing  $N72^{\circ}31'14''$  W) (chord 22.39 feet) for 22.40 feet to a point of reverse curvature; thence run Westerly along an arc of a curve to the left of radius 277.50 feet (delta  $00^{\circ}19'41''$ ) (chord bearing  $N70^{\circ}41'42''$  W) (chord 1.59 feet) for 1.59 feet to an intersection with the Westerly line of Phase 5 of said condominium; thence run  $N15^{\circ}29'24''$  E along said Westerly line for 45.08 feet to the POINT OF BEGINNING.

Containing 138,058 square feet or 3.17 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based the North line of the Northeast Quarter (NE 1/4) of said Section 4 to bear  $S89^{\circ}08'48''$ W.

(see sketch on following page)



- NOTES:
1. ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.
  2. D.B. - DENOTES DEED BOOK.
  3. D.E. - DENOTES DRAINAGE EASEMENT.
  4. INST. No. - DENOTES INSTRUMENT NUMBER, LEE COUNTY PUBLIC RECORDS.
  5. L.M.E. - DENOTES LAKE MAINTENANCE EASEMENT.
  6. O.R. - DENOTES OFFICIAL RECORD BOOK, LEE COUNTY PUBLIC RECORDS.
  7. (P) - DENOTES PLAT.
  8. P.B. - DENOTES PLAT BOOK.
  9. P.G. - DENOTES PAGE.
  10. P.U.E. - DENOTES PUBLIC UTILITY EASEMENT.
  11. T.U.E. - DENOTES TECHNOLOGY UTILITY EASEMENT.
  12. BEARINGS AS SHOWN ARE STATE PLANE FLORIDA WEST ZONE NAD1983 (1980) ARE BASED ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 4 TO BEAR S80°08'48"W.
  13. DESCRIPTION IS ATTACHED.

**THIS IS NOT A SURVEY**

*Scott A. Wheeler* 3/12/14  
 SCOTT A. WHEELER (FOR THE FIRM - LB-6940) DATE SIGNED:  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA CERTIFICATE NO. 5949

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

**Barraco**  
 Equal Opportunity Employer  
 Equal Housing Opportunity  
 Equal Pay Opportunity  
 Equal Employment Opportunity  
 Equal Access to Public Accommodations  
 Equal Access to State and Federal Financial Programs  
 Equal Access to State and Federal Programs

FOR INFORMATION: LEE COUNTY  
 LAND RECORDS DEPARTMENT  
 WWW.LEECOUNTYFLORIDA.GOV  
 901 GUNN STREET, SUITE 200  
 TAMPA, FLORIDA 33604  
 PHONE: 813.272.2200  
 FAX: 813.272.2200

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

**Royal Properties  
 Fort Myers II, LLC**

APPROVED FOR RECORDING BY:  
 A. MARBELL ON CYPRESS

DATE: 3/12/14  
 TIME: 10:00 AM  
 BY: [Signature]

RECORDING FEE: \$15.00  
 L.I.C. NO. 123456789  
 COUNTY: LEE  
 BOOK: 12345  
 PAGE: 35

PROJECT FILE NO. 123456789  
 DATE: 3/12/14  
 SHEET NUMBER: 4 of 4

**Exhibit "D"****[Legal and Sketch of Street in Phases 1 and 2 of Condominium]****DESCRIPTION**

Parcel in  
Section 4, Township 45 South, Range 25 East  
City of Fort Myers, Lee County, Florida

A tract or parcel of land lying in Phase 1 and 2 of "Marbella on Cypress", A Condominium, recorded in Instrument No. 2007000280596, of the Public Records of Lee County, Florida., said tract or parcel of land being more particularly described as follows:

Commencing at the Northeast Corner of said Section 4 run S89°08'48"W along the North line of said Section 4 for 1,202.20 feet to an intersection with the Easterly right of way line of Six Mile Cypress Parkway (250 feet wide) and the POINT OF BEGINNING.

From said Point of Beginning run N89°08'48"E along said North line for 185.84 feet to a point of curvature; thence run southeasterly along an arc of curve to the right of radius 80.00 feet (delta 85°43'02") (chord bearing S47°59'41"E)(chord 108.83 feet) for 119.68 feet to a point of reverse curvature; thence run southeasterly along an arc of curve to the left of radius 20.00 feet (delta 85°43'02") (chord bearing S47°59'41"E) (chord 27.21 feet) for 29.92 feet to a point of tangency; thence run N89°08'48"E for 150.18 feet to a point of curvature; thence run Easterly along an arc of a curve to the right of radius 322.50 feet (delta 19°29'04") (chord bearing S81°06'40"E) (chord 109.14 feet) for 109.67 feet to an intersection with the Easterly line of Phase 1 of said condominium; thence run S15°29'24"W along said Easterly line for 45.08 feet to a point on a non-tangent curve; thence run Westerly along an arc of a curve to the left of radius 277.50 feet (delta 19°59'40") (chord bearing N80°51'22"W) (chord 96.35 feet) for 96.84 feet to a point of tangency; thence run S89°08'48"W for 219.79 feet to a point of curvature; thence run Westerly along an arc of a curve to the left of radius 277.50 feet (delta 05°17'18") (chord bearing S86°30'09"W) (chord 25.60 feet) for 25.61 feet to a point of tangency; thence run S83°51'31"W for 100.71 feet to a point of curvature; thence run Southwesterly along an arc of a curve to the left of radius 17.50 feet (delta 84°42'42") (chord bearing S41°30'09"W) (chord 23.58 feet) for 25.87 feet to a point of tangency; thence run S00°51'12"E for 186.32 feet to a point of curvature; thence run Southerly along an arc of a curve to the right of radius 122.50 feet (delta 04°45'31") (chord bearing S01°31'34"W) (chord 10.17 feet) for 10.17 feet to a point of tangency; thence run S03°54'19"W for 556.05 feet to a point of curvature; thence run Southerly along an arc of a curve to the left of radius 77.50 feet (delta 04°43'48") (chord bearing S01°32'25"W) (chord 6.40 feet) for 6.40 feet to a point of tangency; thence run S00°49'29"E for 232.62 feet to a point of curvature; thence run Southeasterly along an arc of a curve to the left of radius 12.50 feet (delta 90°04'21") (chord bearing S45°51'40"E) (chord 17.69 feet) for 19.65 feet to a point of tangency; thence run N89°06'09"E for 4.91 feet to an intersection with the Easterly line of Phase 2 of said condominium;

(continued on next page)

**DESCRIPTION (Cont.)**

thence run the following three (3) courses along said Easterly line of said Phase 2: S00°53'51"E for 22.50 feet; S89°06'09"W for 29.95 feet and S00°49'29"E for 107.63 feet; thence run S89°10'31"W for 32.50 feet; thence run N00°49'29"W for 375.29 feet to a point of curvature; thence run Northerly along an arc of a curve to the right of radius 122.50 feet (delta 04°43'48") (chord bearing N01°32'25"E) (chord 10.11 feet) for 10.11 feet to a point of tangency; thence run N03°54'19"E for 556.05 feet to a point of curvature; thence run Northerly along an arc of a curve to the left of radius 77.50 feet (delta 04°45'31") (chord bearing N01°31'34"E) (chord 6.43 feet) for 6.44 feet to a point of tangency; thence run N00°51'12"W for 247.71 feet; thence run S89°08'48"W for 42.55 feet to a point on a non-tangent curve and an intersection with the Easterly right of way line of Six Mile Cypress Parkway (250 feet wide); thence run northerly along of said Easterly right of way line and along an arc of curve to the left of radius 2,989.79 feet (delta 02°00'36") (chord bearing N06°27'31"E) (chord 104.88 feet) for 104.89 feet to the POINT OF BEGINNING.

Containing 2.28 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based the North line of the Northeast Quarter (NE 1/4) of said Section 4 to bear S89°08'48"W.

(see sketch on following page)



Exhibit "E"

[Monument Signage Easement Area]

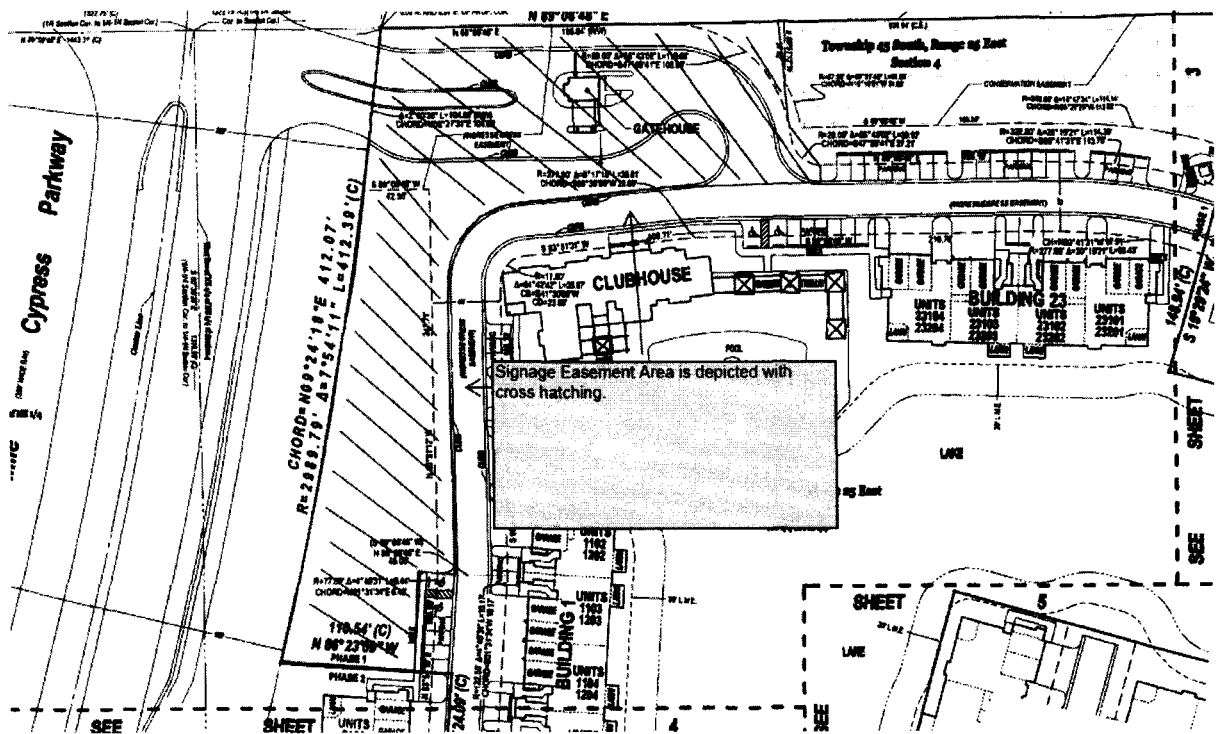


EXHIBIT "F" TO EASEMENT, COST SHARING AND MAINTENANCE AGREEMENT

(NOT A SURVEY)

LEGAL DESCRIPTION

A parcel of land lying in the Northeast quarter (NE 1/4) of Section 4, Township 45 South, Range 25 East, Lee County, Florida, being more particularly described as follows; Commencing at the Northeast corner of Section 4, thence S 89°08'48" W along the North line of said section, a distance of 1201.74 feet to the Point of Beginning; thence S 66°51'35" E a distance of 18.18 feet; thence S 04°53'22" W a distance of 76.88 feet; thence S 85°06'38" E a distance of 17.60 feet; thence N 06°27'18" E a distance of 83.53 feet; thence N 89°06'48" E a distance of 96.48 feet; thence S 00°23'58" E a distance of 10.00 feet; thence S 89°06'48" W a distance of 87.60 feet; thence S 06°27'18" W a distance of 79.21 feet; thence S 02°37'47" E a distance of 70.33 feet; thence S 00°30'32" E a distance of 56.66 feet; thence N 89°08'48" E a distance of 25.62 feet; thence N 00°51'12" W a distance of 52.89 feet, to the beginning of a curve to the right; thence along an arc of said curve, having a radius of 288.00 feet, a central angle of 84°42'57" and whose chord bears N 41°30'09" E for a distance of 37.73, arc distance being 41.40 feet; thence N 83°51'31" E a distance of 100.71 feet; to the beginning of a curve to the right; thence along an arc of said curve, having a radius of 288.00 feet, a central angle of 5°17'17" and whose chord bears N 86°30'09" E having a distance of 26.57, arc distance being 26.58 feet; thence N 89°08'48" E a distance of 9.57 feet; thence S 00°51'12" E a distance of 25.00 feet; thence N 89°08'48" E a distance of 83.00 feet; thence S 00°51'12" E a distance of 10.00 feet; thence S 89°08'48" W for a distance of 93.00 feet; thence N 00°51'12" W for a distance of 25.00 feet; to the beginning of a curve said curve being non-tangent and having a radius of 278.00 feet and whose radius point bears S 00°56'28" E, having a central angle of 5°12'00" and whose chord bears S 86°27'31" W having a distance of 25.22 feet, arc distance being 25.23 feet; thence S 83°51'31" W a distance of 100.71 feet; to the beginning of a curve to the left; thence along an arc of said curve, having a radius of 18.00 feet, a central angle 84°42'08" and whose chord bears S 41°30'09" W for a distance of 24.25 feet, arc distance being 26.61 feet; thence S 00°51'12" E a distance of 52.89 feet; thence N 89°08'48" E a distance of 23.73 feet; thence S 00°51'12" E a distance of 10.00 feet; thence S 89°08'48" W a distance of 23.73 feet; thence S 00°51'12" E a distance of 65.78 feet; thence S 88°28'23" E a distance of 5.33 feet; thence S 01°17'36" W a distance of 10.00 feet; thence N 88°28'23" W a distance of 4.96 feet; thence S 00°51'12" E a distance of 47.64 feet; thence S 01°31'34" W a distance of 10.13 feet; thence S 03°54'19" W a distance of 227.56 feet; thence S 86°05'41" E a distance of 4.06 feet; thence S 05°35'24" W a distance of 10.00 feet; thence N 86°05'41" W a distance of 3.76 feet; thence S 03°54'19" W a distance of 318.49 feet; thence S 01°32'25" W a distance of 6.44 feet; thence S 00°49'29" E a distance of 232.62 feet; to the beginning of a curve to the left; thence along an arc of said curve having a radius 13.00 feet, a central angle 90°05'12" and whose chord bears S 45°51'40" E for a distance 18.40 feet, arc distance being 20.44 feet; thence N 89°06'09" E a distance of 18.89 feet; thence S 00°53'51" E a distance of 10.00 feet; thence S 89°06'09" W a distance of 18.89 feet; to the beginning of a curve to the right; thence along an arc of said curve; having a radius of 23.00 feet, a central angle of 90°04'44" and whose chord bears N 45°51'40" W for a distance of 32.55 feet, arc distance being 36.16 feet; thence N 00°49'29" W a distance of 232.62 feet; thence N 01°32'25" E distance of 7.26 feet; thence N 03°54'19" E a distance of 556.05 feet; thence N 01°31'34" E, a distance of 9.30 feet; thence N 00°51'12" W a distance of 123.43 feet; thence S 89°08'48" W a distance of 25.68 feet; thence S 00°30'32" E a distance of 111.39 feet; thence S 01°31'18" E a distance of 14.72 feet; thence S 04°04'37" W a distance of 53.25 feet; thence S 03°55'41" W a distance of 238.47 feet; thence S 03°49'42" W a distance of 10.87 feet; thence S 03°36'36" W a distance of 73.47 feet; thence S 03°59'05" W a distance of 183.09 feet; thence S 00°42'11" E a distance of 40.28 feet; thence S 00°10'09" E a distance of 73.63 feet; thence S 00°51'04" E a distance of 177.90 feet; thence N 89°07'27" E a distance of 49.16 feet; thence S 00°52'33" E a distance of 10.00 feet; thence S 89°07'27" W a distance of 59.16 feet; thence N 00°51'04" W a distance of 187.96 feet; thence N 00°10'09" W a distance of 73.64 feet; thence N 00°42'11" W a distance of 40.64 feet; thence N 03°59'05" E a distance of 183.46 feet; thence N 03°36'36" E a distance of 73.45 feet; thence N 03°49'42" E a distance of 10.89 feet; thence N 03°55'41" E a distance of 232.71 feet; thence S 85°45'49" W a distance of 63.89 feet; thence S 21°25'02" W a distance of 57.71 feet; thence N 75°54'22" W a distance of 26.24 feet; to the beginning of a curve said curve being non-tangential and also lying at the easterly right of way of Six Mile Cypress Parkway having a 250 foot right of way; said curve having a radius of 2989.79 feet and whose radius point bears N 75°30'28" W having a central angle of 0°11'30", whose chord bears N 14°23'47" E for a distance of 10.00 feet; thence along an arc of distance of 10.00 feet; thence S 75°54'22" E a distance of 17.39 feet; thence N 21°25'02" E a distance of 55.20 feet; thence N 85°45'49" E a distance of 71.63 feet; thence N 04°04'37" E a distance of 24.87 feet; thence N 85°55'23" W a distance of 22.44 feet; thence N 04°04'37" E a distance of 10.00 feet; thence S 85°55'23" E a distance of 22.44 feet; thence N 04°04'37" E a distance of 13.58 feet; thence N 01°31'18" W a distance of 14.32 feet; thence N 00°30'32" W a distance of 177.95 feet; thence N 02°37'47" W a distance of 66.16 feet; thence N 85°06'38" W a distance of 28.08 feet; thence N 04°53'22" E a distance of 79.65 feet; thence N 66°51'35" W a distance of 8.26 feet; to the beginning of a curve said curve being non-tangential and lying along the easterly right of way of Six Mile Cypress Parkway having a 250 foot Right of Way; thence along the arc of said curve having a radius of 2989.79 feet and whose radius point bears N 84°20'57" W, having a central angle of 0°11'50" and whose chord bears N 5°33'08" E a distance of 10.29 feet, arc distance being 10.29 feet to the north line of Section 4; thence N 89°08'48" E along said north line, a distance of 0.46 feet; to the point of beginning of this description, having an area of 0.691 acres

SURVEYOR'S NOTES:

- 1. THE DESCRIPTION SHOWN HEREON IS NEW.
2. NO SEARCH OF THE PUBLIC RECORDS WAS CONDUCTED BY THIS OFFICE FOR THE EXISTENCE OF EASEMENTS, RESERVATIONS, OR RIGHTS-OF-WAY.
3. PARCEL BEARINGS AND DISTANCES SHOWN ON PAGE 2 OF THIS SKETCH OF DESCRIPTION ARE BASED ON THE BOUNDARY AND PARTIAL TOPOGRAPHICAL SURVEY PREPARED BY BARRACO AND ASSOCIATES, INC. HAVING A SURVEY DATE OF 4-27-2005.
4. NO BOUNDARY INFORMATION WAS FIELD VERIFIED.
5. ORIENTATION BASED ON THE NORTH LINE OF SECTION 4 AS BEARING S.89°08'48"W
6. DESCRIPTIONS WERE PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH OR ABSTRACT.
7. UNLESS IT BEARS THE ORIGINAL SIGNATURE AND RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, AND ALL 5 SHEETS ARE INCLUDED, THIS MAP IS NOT VALID.
8. THIS IS NOT A SURVEY!

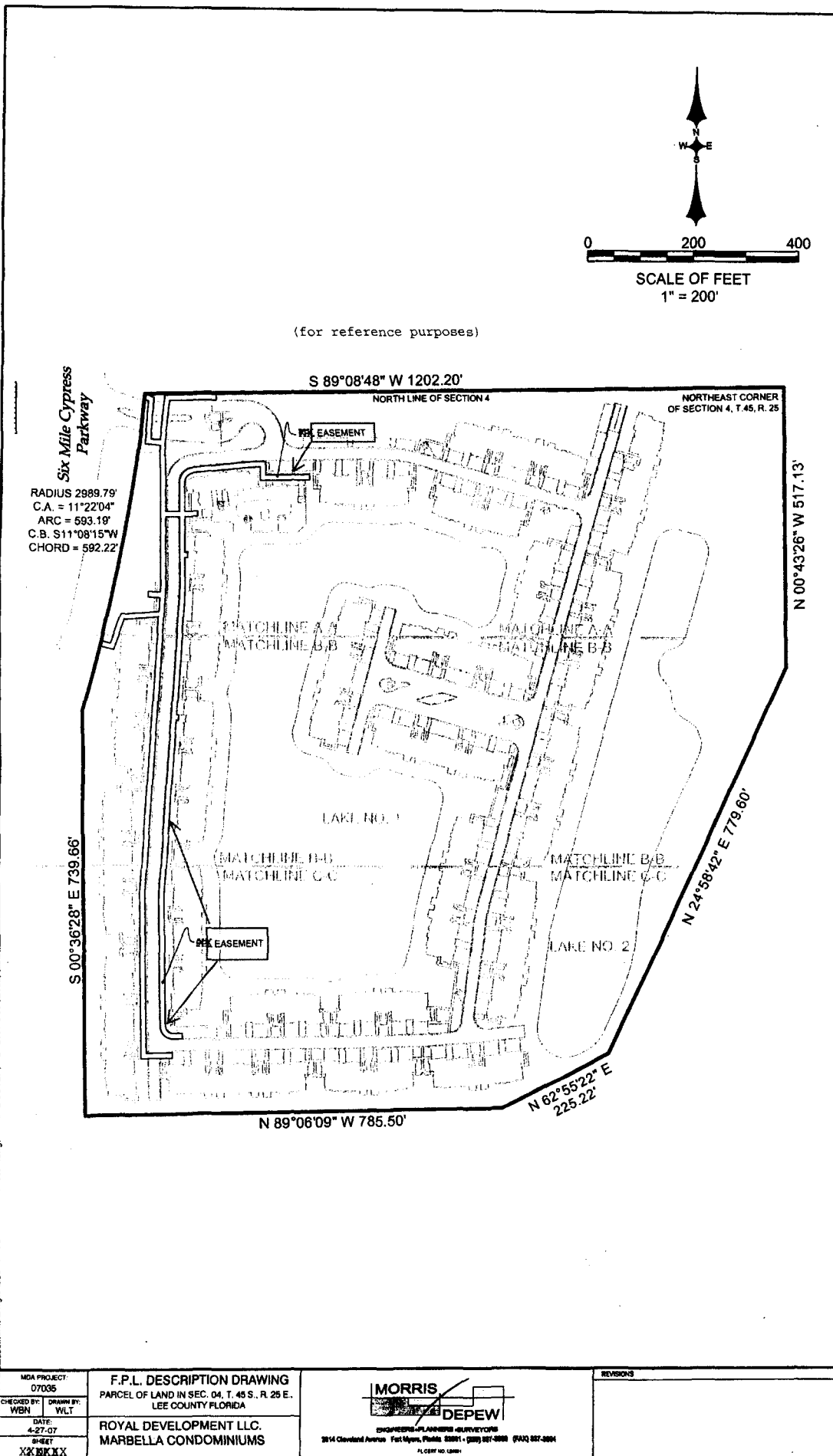
ABBREVIATIONS

- P.G. = PAGE
RNG. = RANGE
SEC. = SECTION
TWP. = TOWNSHIP
O.R. = OFFICIAL RECORDS
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT

Signature of William B. Nix, P.S.M.
DATE 4-27-07
WILLIAM B. NIX, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 6576

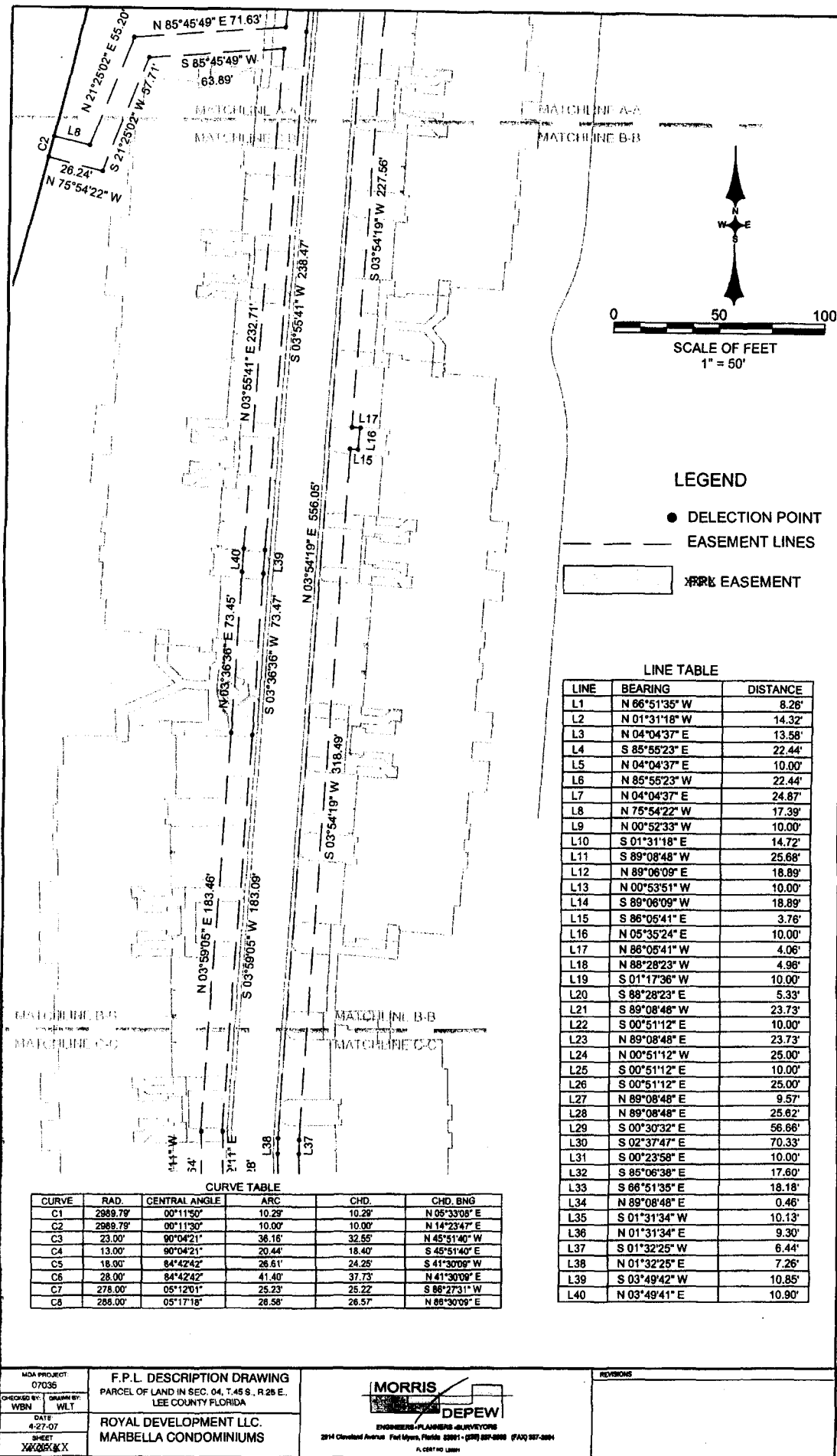
Table with 4 columns: MDA PROJECT (07025), F.P.L. DESCRIPTION DRAWING (PARCEL OF LAND IN SEC. 04, T. 45 S., R. 25 E., LEE COUNTY FLORIDA), MORRIS DEPEW ENGINEERS-PLANNERS-SURVEYORS (2914 Cleveland Avenue, Fort Myers, Florida 33911), and REVISIONS.





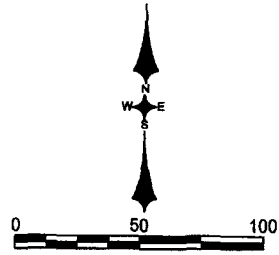
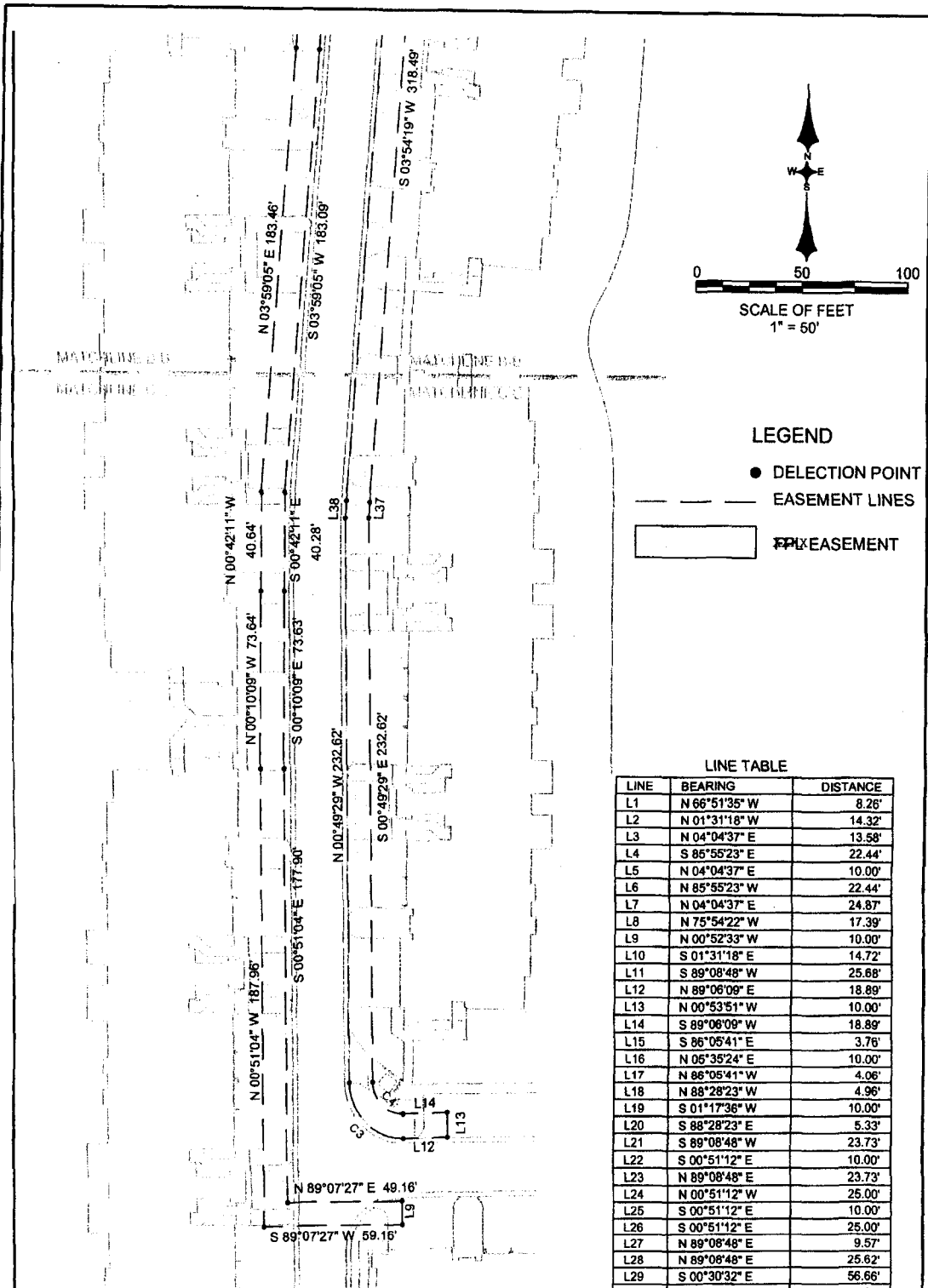


INSTR # 200700041463 Page Number: 5 of 6



L:\2007\00041463\CONDOMINIUM\07035.dwg, SHEET 43 OF 44, DATE 4-27-07, DRAWN BY WBL, CHECKED BY WLT, PROJECT 07035, F.P.L. DESCRIPTION DRAWING, PARCEL OF LAND IN SEC. 04, T. 45 S., R. 28 E., LEE COUNTY FLORIDA, ROYAL DEVELOPMENT LLC, MARBELLA CONDOMINIUMS, MORRIS DEPEW ENGINEERS PLANNERS SURVEYORS, 2814 Cleveland Avenue, Fort Myers, Florida 33901-1029, (941) 937-9800, FAX (941) 937-9804, A.C.S. 01-10-001

~~INSTR # 200700014468 Page Number: 6 of 6~~



**LEGEND**

- DELECTION POINT
- EASEMENT LINES
- [ ] EASEMENT

**LINE TABLE**

LINE	BEARING	DISTANCE
L1	N 66°51'35" W	8.26'
L2	N 01°31'18" W	14.32'
L3	N 04°04'37" E	13.58'
L4	S 85°55'23" E	22.44'
L5	N 04°04'37" E	10.00'
L6	N 85°55'23" W	22.44'
L7	N 04°04'37" E	24.87'
L8	N 75°54'22" W	17.39'
L9	N 00°52'33" W	10.00'
L10	S 01°31'18" E	14.72'
L11	S 89°08'48" W	25.68'
L12	N 89°08'09" E	18.89'
L13	N 00°53'51" W	10.00'
L14	S 89°08'09" W	18.89'
L15	S 86°05'41" E	3.76'
L16	N 05°35'24" E	10.00'
L17	N 86°05'41" W	4.06'
L18	N 88°28'23" W	4.96'
L19	S 01°17'36" W	10.00'
L20	S 88°28'23" E	5.33'
L21	S 89°08'48" W	23.73'
L22	S 00°51'12" E	10.00'
L23	N 89°08'48" E	23.73'
L24	N 00°51'12" W	25.00'
L25	S 00°51'12" E	10.00'
L26	S 00°51'12" E	25.00'
L27	N 89°08'48" E	9.57'
L28	N 89°08'48" E	25.62'
L29	S 00°30'32" E	56.66'
L30	S 02°37'47" E	70.33'
L31	S 00°23'58" E	10.00'
L32	S 85°06'38" E	17.60'
L33	S 66°51'35" E	18.18'
L34	N 89°08'48" E	0.46'
L35	S 01°31'34" W	10.13'
L36	N 01°31'34" E	9.30'
L37	S 01°32'25" W	6.44'
L38	N 01°32'25" E	7.26'
L39	S 03°49'42" W	10.85'
L40	N 03°49'41" E	10.90'

**CURVE TABLE**

CURVE	RAD.	CENTRAL ANGLE	ARC	CHD.	CHD. BNG
C1	2989.79'	00°11'50"	10.28'	10.29'	N 05°33'08" E
C2	2989.79'	00°11'30"	10.00'	10.00'	N 14°23'47" E
C3	23.00'	90°04'21"	36.16'	32.55'	N 45°51'40" W
C4	13.00'	90°04'21"	20.44'	18.40'	S 45°51'40" E
C5	18.00'	84°42'42"	26.61'	24.25'	S 41°30'09" W
C6	28.00'	84°42'42"	41.40'	37.73'	N 41°30'09" E
C7	278.00'	05°12'01"	25.23'	25.22'	S 86°27'31" W
C8	288.00'	05°17'18"	26.58'	26.57'	N 86°30'09" E

MEA PROJECT: 07035 CHECKED BY: WBN DRAWN BY: WLT DATE: 4-27-07 SHEET: XXBXXX	F.P.L. DESCRIPTION DRAWING PARCEL OF LAND IN SEC. 04, T. 46 S., R. 25 E., LEE COUNTY FLORIDA ROYAL DEVELOPMENT LLC. MARBELLA CONDOMINIUMS	 2514 Cleveland Avenue Fort Myers, Florida 38901 (202) 397-8888 (FAX) 397-8884 FL CEN 10 10811	REVISIONS
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