

This instrument prepared by, and after recording, please return to:

Leo J. Salvatori, Esquire
Quarles & Brady
4501 Tamiami Trail North
Suite 300
Naples, Florida 34103

Re: **QUARLES & BRADY**
4501 TAMAMIAMI TR N #300
NAPLES FL 34103 3060

**AGREEMENT ESTABLISHING EASEMENTS,
MAINTENANCE RESPONSIBILITIES, AND SHARING OF COSTS**

AGREEMENT made and entered into as of the 16th day of February, 1997, by and between **PELICAN STRAND MASTER PROPERTY OWNERS' ASSOCIATION, INC.**, a Florida not-for-profit corporation (hereinafter "Master Association"); **PELICAN STRAND COMMERCIAL ASSOCIATION, INC.**, a Florida not-for-profit corporation (hereinafter "Commercial Association"); and **PELICAN STRAND, LTD.**, a Florida limited partnership (hereinafter "Declarant").

WHEREAS, Master Association was formed for the purpose set forth in the Declaration of Covenants, Conditions, Restrictions and Easements for Pelican Strand, which is recorded in Official Records Book 2212, Pages 1627, et seq., of the Public Records of Collier County, Florida (the "Pelican Declaration"), and which Pelican Declaration encumbers the property described therein (the "Pelican Strand Property"); and

WHEREAS, Commercial Association was formed for the purposes set forth in the Declaration of Covenants, Conditions, Restrictions and Easements for Pelican Strand Commercial Parcel, which is recorded in Official Records Book 2212, Pages 1632, et seq., of the Public Records of Collier County, Florida (the "Commercial Declaration"), and which Commercial Declaration encumbers the property described therein (the "Commercial Property"); and

WHEREAS, Declarant is the developer of the property commonly known as Pelican Strand (hereinafter "Pelican Strand"), as recorded in Plat Book 147, Pages 116, inclusive, of the Public Records of Collier County, Florida (the "Declarant Property"); and

WHEREAS, Declarant also will operate the Pelican Strand Golf & Country Club located adjacent to the Pelican Strand Property (the "Country Club Property"); and in that capacity, shall hereinafter be referred to as "Country Club"; and

WHEREAS, Master Association, Commercial Association, Country Club, and Declarant (each of which may hereinafter be individually referred to as "Party" and collectively as the "Parties") have certain common interests in connection with the purposes for which they were formed or in connection with the property which they own;

WHEREAS, the Parties wish to enter into this Agreement for the purposes of defining certain agreements and obligations, each to the other, establishing easements, maintenance obligations and cost sharing.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, TEN (\$10.00) DOLLARS paid by each of the Parties to the other, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by each of the Parties, who covenant and agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. The Parties agree that it is in their best interest to maintain the aesthetic standards and compatibility of each of the Properties. In furtherance of their intent to protect and preserve the value of each Party's Property, the Parties collectively hereby agree that the Properties shall be subjected to the easements, covenants and conditions contained herein.
3. Master Association and Commercial Association shall, during the term of this Agreement, install and maintain in a continuously good and attractive condition the landscape shown on the landscaping plan submitted or to be submitted with each site plan approved by Declarant and Collier County for the improvement of any site within each Party's respective Property, as such approved landscape plan may be amended from time to time, such maintenance to include the removal and replacement of any dead plant material, and to provide such irrigation as may be reasonably necessary in order to preserve and maintain the approved landscape in accordance with the standards established herein.
4. Master Association, Commercial Association, and Country Club jointly acknowledge and agree that each of their respective properties benefit from a common irrigation, landscaping and maintenance program for those areas of their properties fronting Immokalee Road (SR 846), the landscaped medians of Immokalee Road, and the landscape medians of that portion of Strand Boulevard dedicated to the public. The parties hereto do hereby further acknowledge that Declarant and/or Master Association has, or will be, entering into maintenance agreements with Collier County for the landscaping, irrigation

and maintenance of the medians within Immokalee Road fronting the Pelican Strand project, as well as those medians within that portion of Strand Boulevard which has been dedicated to the public. All the foregoing areas shall hereafter be known as the Frontage Landscape Area. As to all of said Frontage Landscape Area, the parties hereto do hereby agree as follows:

- a. The Declarant shall be solely responsible for the installation of all irrigation, landscaping and other improvements within the Frontage Landscape Area.
- b. The capital costs of installation of landscaping and irrigation of the Frontage Landscape Area shall be borne exclusively by Declarant.
- c. The Master Association shall maintain, or cause to be maintained, all landscaping and electrical utilities exclusively servicing the Frontage Landscape Area, and irrigation facilities exclusively servicing the Frontage Landscape Area, in a professional and first class manner. Master Association shall be reimbursed by the Commercial Association and the Country Club for a portion of said maintenance expenses in the following percentages:

Commercial Association	33 1/3%
Country Club	33 1/3%
Master Association	33 1/3%

To the extent that any portion of the Frontage Landscape Area is located upon premises owned by either the Country Club or the Commercial Association, said parties do hereby grant unto Master Association, its successors and assigns, a perpetual non-exclusive easement for the purposes of ingress and egress to said Frontage Landscape Area, and further, for purposes of the installation, maintenance and repair of any landscaping, irrigation, utility facilities, and any other improvements located therein for which the Master Association is responsible for maintaining in accordance with the terms and provisions hereof.

5. Master Association, Commercial Association, Country Club and Declarant further agree as follows:
 - a. The Parties do hereby agree that, until Declarant dictates otherwise, Declarant shall be responsible for the maintenance of the bridge connecting Strand Boulevard with Immokalee Road. The Parties do hereby further agree that Country Club, Master Association and Commercial Association shall each be responsible for one-third of all costs of maintaining said bridge.

- b. Tavilla Circle is a roadway which exists within the Commercial Property, and is further described in the Commercial Declaration. The Parties do hereby agree that Commercial Association shall be solely responsible for the cost of maintenance of the same.
- c. The Parties do hereby acknowledge that Declarant intends on constructing an entry water feature and hardscape at the entry to Pelican Strand, at a location yet to be determined by Declarant. The Parties do hereby agree that Master Association shall be responsible for the maintenance and operation of said entry water feature. The Parties further agree that the cost of maintenance and operation of said entry water feature shall be shared 33 1/3% by each of the Master Association, Commercial Association and Country Club.
- d. Declarant has advised the other Parties that Declarant intends on constructing a gate facility north of the terminus of that portion of Strand Boulevard to be dedicated to the public, in such location as Declarant, in its sole discretion, shall elect. The Parties do hereby agree that in the event Declarant should erect such a gate facility, then until such time as Declarant should otherwise elect, that Declarant shall be the sole owner of said gate facility, and solely responsible for operation of said gate facility; and, further, that the cost of staffing, operating, and maintaining said gate facility shall be shared 33 1/3% by Country Club, and 66 2/3% by Master Association.
- e. Declarant has advised all other Parties that Declarant intends on maintaining ownership of that portion of Strand Boulevard that has not been dedicated to the public. Until such time as Declarant otherwise directs, Master Association shall be responsible for the cost of repair and maintenance of Strand Boulevard. Country Club shall be responsible for 33 1/3% of all costs of said maintenance and operation; Master Association shall be responsible for all other costs.
- f. Each Neighborhood shall be responsible for all costs of maintenance of their respective common areas, including but not limited to, landscaped areas, streets within the Neighborhood and other common facilities, and shall hold the other Parties hereto harmless, and indemnify them, against any and all losses or damages associated therewith.
- g. Declarant has advised the Parties that Declarant intends on constructing a pylon or some other form of signage at the entry to Pelican Strand, to identify the various

communities therein. Declarant shall be the owner of said signage, although Master Association shall be responsible for operating, maintaining and repairing the same. Country Club shall be responsible for 50%, and Master Association for 50%, of all costs of operation, maintenance and repair of said signage.

- h. Declarant has advised the other Parties that Declarant intends on constructing a berm, landscape buffer and/or fencing around all, or portions of, the perimeter of the Pelican Strand Property. The Parties do hereby agree that Country Club shall be responsible for 33 1/3%, and Master Association for 66 2/3%, of all costs of irrigation, maintaining and repairing all of said perimeter fencing, berms and/or landscaping.
6. Should a Party other than Master Association fail to maintain its property in accordance with the standards by this Agreement, and such failure to maintain continues for fifteen (15) days after written notice thereof from the Board of Directors of Master Association, then Master Association or its authorized agents shall have the right (but not the obligation) at any time and from time to time, without any liability to such defaulting Party for trespass or otherwise, to enter into the defaulting Party's Property to affect such maintenance and repair as shall be necessary to bring the same into compliance with the maintenance standards established by this Agreement. The Parties responsible for the failure to maintain one or more of the Properties shall reimburse Master Association for all expenses incurred in connection with the enforcement of such maintenance standards, together with interest thereof at the lesser of eighteen (18%) percent per annum or the maximum rate permitted by the laws of the State of Florida, which charges shall become a lien on the defaulting Party's Property, and shall have priority and be effective upon the recording of a claim of lien in the Public Records of Collier County, setting forth the services performed and the amount due from the defaulting Party. Upon filing of a claim of lien, a copy shall be sent to the defaulting Party, and, if not paid within fifteen (15) days of delivery, the claim of lien may be foreclosed in the same manner as a mortgage. The claim of lien shall also secure costs and a reasonable attorneys fee incurred by Master Association in the filing of such claim of lien and the collection of all sums due thereunder, whether or not suit shall be filed in connection therewith.
7. Should Master Association fail to maintain the Pelican Strand Property, or any other area which it has agreed to maintain in accordance with the standards by this Agreement, and such failure to maintain continues for fifteen (15) days after written notice thereof from Commercial Association, Country

Club, or Declarant, then Commercial Association, Country Club or Declarant or their authorized agents shall have the right (but not the obligation) at any time and from time to time, without any liability to Master Association for trespass or otherwise, to affect such maintenance and repair as shall be necessary to bring the same into compliance with the maintenance standards established by this Agreement. Master Association shall reimburse the party performing such maintenance work for all expenses incurred in connection with the enforcement of such maintenance standards, together with interest thereof at the lesser of eighteen (18%) percent per annum or the maximum rate permitted by the laws of State of Florida. In the event that Master Association should fail to pay such charges within fifteen (15) days of delivery of invoice for the same, the performing party shall have the right to bring an action for damages against the Master Association for all of said costs and interest. The prevailing party shall be entitled to reimbursement for all reasonable attorneys' fees incurred, including those incurred incident to any appeal.

8. In the event that any Party should fail to pay its share of maintenance or other costs to the Party performing the maintenance or operation responsibilities within fifteen (15) days of its respective due date, the performing Party shall have the right to institute legal proceedings against the defaulting Party for all monies due the performing Party under the terms of this Agreement. In the event any litigation is instituted, the prevailing Party shall be entitled to reimbursement for all reasonable attorneys' fees and costs incurred, including those incident to any appeal.
9. This Agreement contains all of the various agreements between the Parties as to the matters set forth herein. There shall be no amendments to this Agreement, except in writing, signed by all Parties.
10. This Agreement shall be binding upon the Parties, their successors and assigns, and the owners of the Properties, their successors and assigns. The maintenance obligations required of each of the Parties herein may be performed by a designee of a Party.
11. This Agreement shall be governed by the laws of the State of Florida.
12. This Agreement shall be effective upon recording in the Public Records of Collier County, Florida, and shall have a term of twenty-five (25) years, following which this Agreement shall be automatically renewed for successive terms of ten (10) years unless all of the Parties, including the owners who have

