

**CITY OF SANIBEL**

**RESOLUTION 13-009**

**A RESOLUTION APPROVING AN EASEMENT AGREEMENT BETWEEN THE CITY OF SANIBEL AND SANIBEL CAPTIVA CONSERVATION FOUNDATION, INC. (SCCF) TO AUTHORIZE THE GRANT OF AN INGRESS/EGRESS EASEMENT THROUGH THE CITY'S ROADSIDE PARK TO SCCF'S PROPERTY TO THE EAST AND PROVIDING FOR THE GRANT OF A 15 FOOT WIDE SHARED USE PATH EASEMENT BY SCCF TO THE CITY OF SANIBEL FOR A LENGTH OF APPROXIMATELY 1,050 FEET ALONG THE SOUTHERN BOUNDARY OF SUCH SCCF PARCEL; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, SCCF owns and is developing a 28 acre parcel of property historically known as the "Bailey Homestead" and generally located on the north side of Periwinkle Way immediately to the east of the City's Roadside Park; and

**WHEREAS**, SCCF has requested that the City grant, and the City is willing to grant, an access easement through the City's Roadside Park to serve as the main ingress/egress for the SCCF parcel; and

**WHEREAS**, the City has requested that SCCF grant, and SCCF is willing to grant, a 1,050 foot long, 15 foot wide, shared use path easement along the south side of the SCCF parcel and adjacent to the northern right-of-way of Periwinkle Way;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Sanibel, Florida:

**SECTION 1.** The Easement Agreement between Sanibel Captiva Conservation Foundation, Inc. and the City of Sanibel, attached hereto as Exhibit "A", is hereby approved.

**SECTION 2.** The City Manager is authorized to execute the Easement Agreement on behalf of the City of Sanibel.

**SECTION 3.** The City Manager and the City Attorney are authorized to take such actions as may be necessary to implement the provisions of the Easement Agreement, prepare the formal legal description of the shared use path easement and facilitate the execution of all necessary documents pursuant to the Easement Agreement.

**SECTION 4.** Effective date.

This resolution shall take effect immediately upon adoption.

**DULY PASSED AND ENACTED** by the City Council of the City of Sanibel, Florida, this 5th day of February, 2013.

AUTHENTICATION:

\_\_\_\_\_  
Kevin Ruane, Mayor

\_\_\_\_\_  
Pamela Smith, City Clerk

APPROVED AS TO FORM:

*Kenneth B. Cuyler*  
Kenneth B. Cuyler, City Attorney

1/29/13  
Date

Vote of Council members:

Ruane \_\_\_\_\_  
Denham \_\_\_\_\_  
Congress \_\_\_\_\_  
Harrity \_\_\_\_\_  
Jennings \_\_\_\_\_

Date filed with City Clerk: \_\_\_\_\_

## EASEMENT AGREEMENT

**THIS EASEMENT AGREEMENT** dated this \_\_\_ day of \_\_\_\_\_, 2013, by and between Sanibel Captiva Conservation Foundation, Inc. (hereinafter referred to as “SCCF”) and City of Sanibel, a Florida municipal corporation, (hereinafter referred to as “City”).

**WHEREAS**, SCCF owns and is developing a 28 acre parcel of property historically known as the “Bailey Homestead” and generally located on the north side of Periwinkle Way between commercial buildings on the east and the City’s Roadside Park on the west, as more particularly depicted on Exhibit “A”, attached hereto and incorporated herein (hereinafter referred to as the “SCCF Parcel”); and

**WHEREAS**, SCCF has requested that the City grant, and the City is willing to grant, an access easement through the City’s Roadside Park to serve as the main ingress/egress for the SCCF Parcel; and

**WHEREAS**, the City has requested that SCCF grant, and SCCF is willing to grant a 1,050 foot long, 15 foot wide, shared use path easement along the south side of the SCCF Parcel in close proximity to the northern boundary of Periwinkle Way right-of-way;

**NOW, THEREFORE**, in consideration of the sum of Ten Dollars (\$10.00) acknowledged by each party to have been received, and other good and valuable consideration acknowledged by each party to be sufficient, SCCF and the City hereby agree as follows:

1. The City shall grant to SCCF, a perpetual, non-exclusive ingress/egress easement, in substantially the form set forth in Exhibit “B”, attached hereto and incorporated herein, such ingress/egress easement (1) to provide vehicular, pedestrian and bicycle access from Periwinkle Way (and any adjoining City shared use path for purposes of pedestrian and bicycle access) through Roadside Park to the main entrance of the SCCF Parcel and (2) to provide pedestrian and bicycle access to the “trailhead” located on the SCCF Parcel. This grant of easement by the City to SCCF shall be at no charge to SCCF.
2. In consideration of the grant of the ingress/egress easement described above, SCCF shall grant, at no charge to the City, a perpetual shared use path easement approximately 1,050 feet long and 15 feet in width extending from the eastern boundary of the SCCF Parcel to the western boundary of such parcel located at the City’s Roadside Park, along and adjacent to the northern right-of-way line of Periwinkle Way. The City intends to construct a shared use path with a width of 8 to 10 feet within such 15 foot easement area. Such easement will be in substantially the form set forth in Exhibit “C”, attached hereto and incorporated herein, and the description shall be described more specifically (i.e. legal description) at the time of the grant of easement.
3. The shared use path easement described above shall be granted to the City by SCCF within thirty (30) days after the City request made to SCCF, in writing, accompanied by the legal description of the shared use path to be used for the grant of easement.
4. The City shall be responsible for constructing and maintaining, at its sole cost, the shared use path within the easement granted by SCCF to the City as described above.

5. The City shall maintain the City's Roadside Park in its entirety and SCCF shall have no maintenance or repair responsibilities for the City's Roadside Park including that portion of the City's property upon which the SCCF ingress/egress easement is granted. SCCF shall be responsible for all improvements, maintenance, repair and all other matters within the boundary of the SCCF Parcel and the City shall have no maintenance or other responsibilities for any portions of any area within the SCCF Parcel.

6. As a condition of the grant of this easement, it is acknowledged and agreed by the City that the grant of this easement shall not diminish or reduce the development rights of SCCF, its successors and assigns, with respect to calculations for setbacks, permeable/impermeable area, developed area or other development standards (which shall be calculated as if no shared use path or other easement area improvements exist).

7. The grant by SCCF of the shared use path easement shall be non-exclusive, provided, however under no circumstances shall any other rights granted to any party conflict with, diminish, present a safety hazard or in any way interfere with or be inconsistent with the usefulness or purpose of the City's shared use path easement or lawful uses thereof.

8. The grant by the City of the ingress/egress easement shall be non-exclusive, provided, however under no circumstances, except as provided in this section, shall any other rights granted to any party conflict with, diminish, present a safety hazard or in any way interfere with or be inconsistent with the usefulness or purpose of SCCF's ingress/egress easement or lawful uses thereof. Provided, however, notwithstanding any other provision of this Agreement or the grant of easement, the City shall retain the right, in an emergency situation as determined by the City, to use the City's Roadside Park as a staging area or emergency storage lot for equipment, supplies, debris or the like. Such emergency use may require the temporary closing of public access to Roadside Park, which may include temporary closing of the access easement to the SCCF Parcel, and the City reserves the right to do so.

9. If any section, subsection, sentence, clause, phrase or portion of this Agreement, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of application hereof.

10. This Agreement, and the rights and obligations of the City and SCCF hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed and their official seals affixed hereto on the day and year first written above.

(SEAL)

**CITY OF SANIBEL**

BY: \_\_\_\_\_  
Judith A. Zimomra, City Manager

ATTEST:

\_\_\_\_\_  
Pamela Smith, City Clerk

APPROVED AS TO FORM: Kenneth B. Cuyler  
Kenneth B. Cuyler, City Attorney

1/29/13  
Date

(SEAL)

WITNESSES:

**SANIBEL CAPTVIA  
CONSERVATION FOUNDATION, INC.**

\_\_\_\_\_  
Witness #1 Signature

BY: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness #1 Printed Name

Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Witness #2 Signature

Title: \_\_\_\_\_

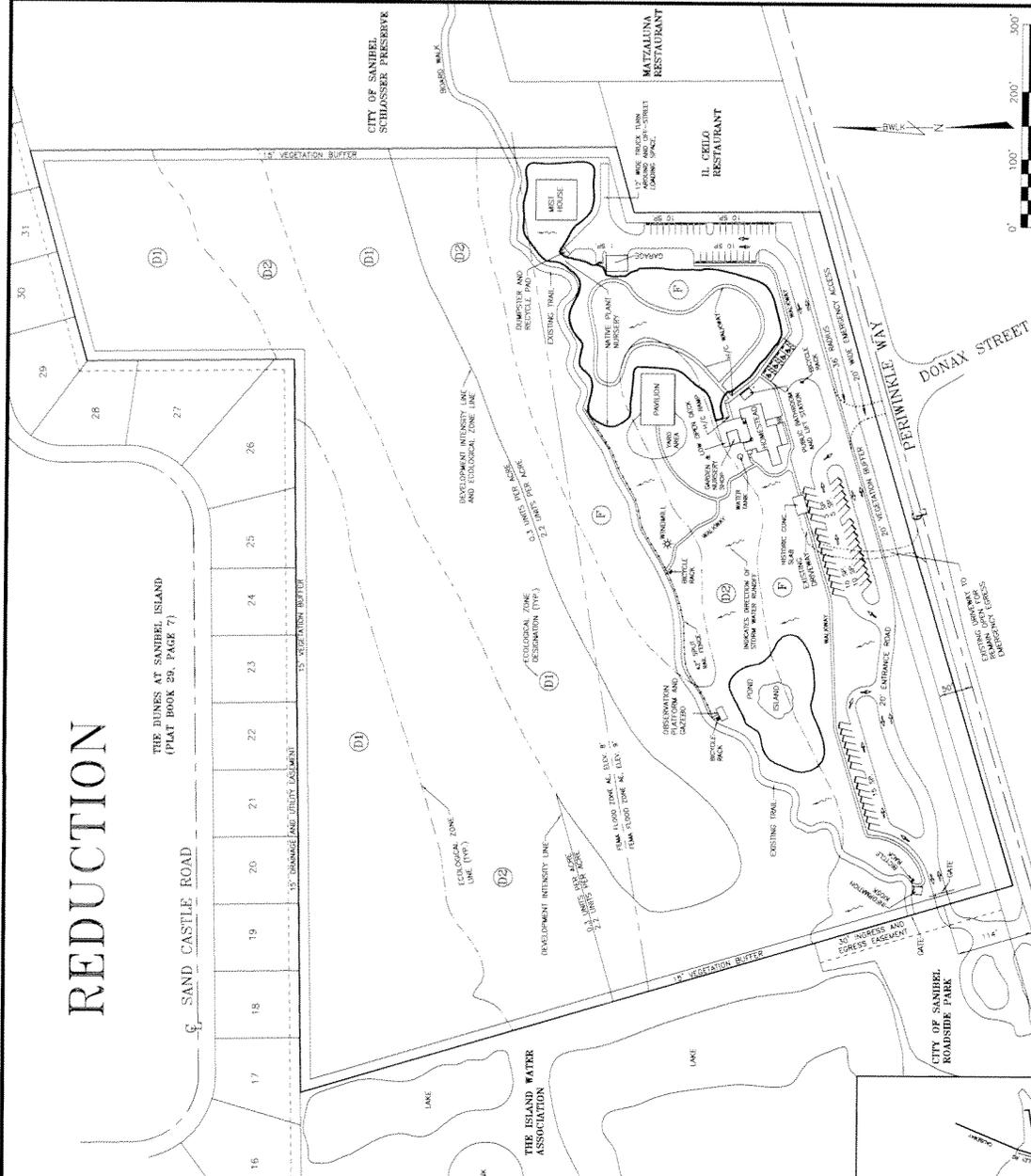
\_\_\_\_\_  
Witness #2 Printed Name

Date: \_\_\_\_\_

# REDUCTION

THE DUNES AT SANIBEL ISLAND  
(PLAT BOOK 29, PAGE 7)

6 SAND CASTLE ROAD



**Bean, Whitaker, Lutz & Karch, Inc.**  
CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS  
13041-1 MICROGOLF BLVD., FORT WORTH, TX 76139 (214) 481-1331  
AUTHORIZATION NUMBER: EB6519 AND EB4919

DESIGNED BY: J.L.L.  
PROJECT NUMBER: 41541

DATE OF DRAWING: 11-13-2012

DRAWING FILE NAME: SP1541.DWG

**SITE PLAN**  
OF  
**THE BAILEY HOMESTEAD PRESERVE**  
**SANIBEL-CAPTIVA CONSERVATION FOUNDATION**  
SECTION 19, TOWNSHIP 46 SOUTH, RANGE 23 EAST  
CITY OF SANIBEL, LEE COUNTY, FLORIDA

**DEVELOPMENT INTENSITY CALCULATIONS**  
PARCEL CONTAINS 28.3 ACRES TOTAL  
14.2 ACRES AT 2.2 UNITS PER ACRE = 31.24 UNITS  
MAXIMUM PERMITTED UNITS = 25

**ECOLOGICAL ZONE AREAS**  
CALCULATED TO THE NEAREST 100 SQ. FT.  
AREA WITHIN ZONE D1 = 45,920 SQ. FT. ±  
AREA WITHIN ZONE D2 = 392,800 SQ. FT. ±  
ALLOWED IMPERVABLE AREA IN D1 = 64,470 SQ. FT.  
ALLOWED IMPERVABLE AREA IN D2 = 102,425 SQ. FT.  
ALLOWED DEVELOPED AREA IN D1 = 122,910 SQ. FT.  
ALLOWED DEVELOPED AREA IN D2 = 172,840 SQ. FT.  
TOTAL ALLOWED IMPERVABLE AREA = 166,895 SQ. FT.  
TOTAL ALLOWED DEVELOPED AREA = 346,350 SQ. FT.

**NOT-ON-SITE IMPROVEMENTS AND VEGETATION**  
IMPROVEMENTS AND VEGETATION NOT ADDRESSED ON THIS PLAN  
STRUCTURES MAY BE ADJUSTED SLIGHTLY DURING CONSTRUCTION  
SPLIT SIGN, FENCING, OTHER TRIM SIGNING MAY BE PLACED TO  
PROTECT IMPORTANT RESTATED AREAS FROM FOOT TRAFFIC.  
SIGNING MAY BE ADJUSTED TO ACCOMMODATE VEGETATION.

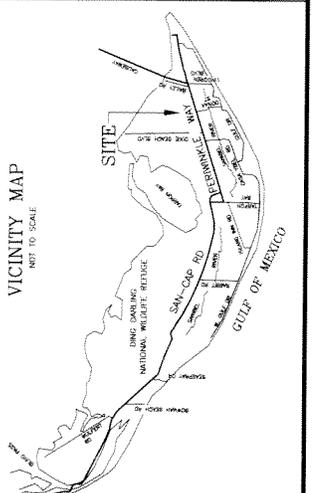
**SITE AREAS**  
PARCEL CONTAINS 28.3 ACRES TOTAL  
PANEL AREA (SOUTHERLY OF TRAIL) = 8.1 ACRES  
THE SITE AREAS BELOW ARE APPROXIMATE AT THIS TIME AND WILL  
BE FINISHED ON CONSTRUCTION PLANS

EXISTING BUILDINGS AND YOTONS = 5,400 SQ. FT.  
GARAGE AND PAVILION = 4,570 SQ. FT. (100 SQ. FT.)  
PARKING = 1,000 SQ. FT.  
OBSERVATION PLATFORM AND LADDER = 250 SQ. FT.  
INFORMATION KIOSK = 150 SQ. FT.  
DUMPER AND RECYCLE PAIL = 75 SQ. FT.  
PANELIN TRAIL AREA = 4,200 SQ. FT.  
NON-HANDICAP WALKWAYS = 6,300 SQ. FT.  
DUNKY WALKWAY = 37,400 SQ. FT.  
[SOME IMPERVABLE/78,750 SQ. FT.]

PROPOSED IMPERVABLE AREA = 48,495 SQ. FT.  
PROPOSED DEVELOPED AREA = 179,640 SQ. FT.

**PARKING SPACE NOTES**  
THAT ARE A HANDICAP PARKING SPACES, 75 CONVENTIONAL PARKING  
BY PARKING SPACES

**GENERAL NOTES**  
WALKWAY SURFACES AND PARKING AREAS OTHER THAN HANDICAP TO  
BE SHELL, GRAVEL OR OTHER PERMEABLE SURFACES.  
ECOLOGICAL ZONE LINES AND DEVELOPMENT INTENSITY LINES WERE  
SCALED FROM THE OFFPLAN MAPS OF THE SANIBEL PLAN.  
NO DEVELOPMENT WILL TAKE PLACE NORTH OF THE EXISTING TRAIL  
PARCEL IS LOCATED IN A SPECIAL FLOOD HAZARD AREA ON THE  
NATIONAL FLOOD INSURANCE RATE MAPS.



REVISED 11-19-2012 / EMERGENCY ACCESS TRAIL RAMP  
REVISED 11-13-2012 / JRM

This instrument prepared by and to be returned to:

Kenneth B. Cuyler, Esq.  
City of Sanibel  
800 Dunlop Road  
Sanibel, Florida 33957  
(239) 472-4359

Parcel No.

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**PERPETUAL, NON-EXCLUSIVE INGRESS AND EGRESS EASEMENT**

THIS INDENTURE, made this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between The City of Sanibel, a Municipal Corporation, located in Lee County, Florida (hereinafter referred to as "Grantor") and Sanibel Captiva Community Foundation, Inc., (referred to as "Grantee").

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey to Grantee, its successors and assigns, a Perpetual, Non-Exclusive Ingress and Egress Easement over, upon, through and across the following described land situate, lying and being in the City of Sanibel, Florida, to-wit:

The property legally described and depicted on **Exhibit A** (easement area depicted in crosshatched marking), attached hereto and made a part hereof ("Perpetual, Non-Exclusive Ingress and Egress Easement")

This easement includes and provides for a right of vehicular, bicycle and pedestrian access, as well as access for all similar modes of transportation.

Grantor covenants that Grantor is lawfully seized and possessed of the easement, having good and lawful right and power to grant and convey this Perpetual, Non-Exclusive Ingress and Egress Easement, and Grantor will forever warrant and defend the title and terms of this easement and the quiet possession thereof against all claims and demands of all others.

The grant by Grantor of the perpetual, non-exclusive ingress and egress easement shall be non-exclusive, provided, however under no circumstances, except as provided in this section, shall any other rights granted to any party conflict with, diminish, present a safety hazard or in any way interfere with or be inconsistent with the usefulness or purpose of the Grantee's perpetual, non-exclusive ingress and egress easement or lawful uses thereof. Provided, however, notwithstanding any other provision of this grant of

easement, the City shall retain the right, in an emergency situation as determined by the City, to use the City's Roadside Park as a staging area or emergency storage lot for equipment, supplies, debris or the like. Such emergency use may require the temporary closing of public access to Roadside Park, which may include temporary closing of the access easement to the SCCF Parcel, and the City reserves the right to do so.

This Easement shall be binding upon, and inure to the benefit of, the Grantor and Grantee and their successors and assigns.

**IN WITNESS WHEREOF**, the Grantor has set its hand and seal on the day and year first above written.

**ATTEST:**

\_\_\_\_\_  
Kevin Ruane, Mayor

\_\_\_\_\_  
Pamela Smith, City Clerk

STATE OF FLORIDA        )  
COUNTY OF LEE         )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by Kevin Ruane, Mayor, City of Sanibel, a Florida municipal corporation, who is personally known to me or produced \_\_\_\_\_ as identification and who (did) (did not) take an oath.

(Seal)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
(Print, type or stamp commissioned  
Name of Notary Public)

# SKETCH AND DESCRIPTION OF

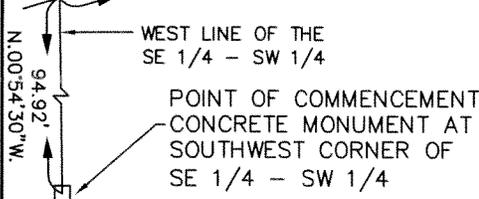
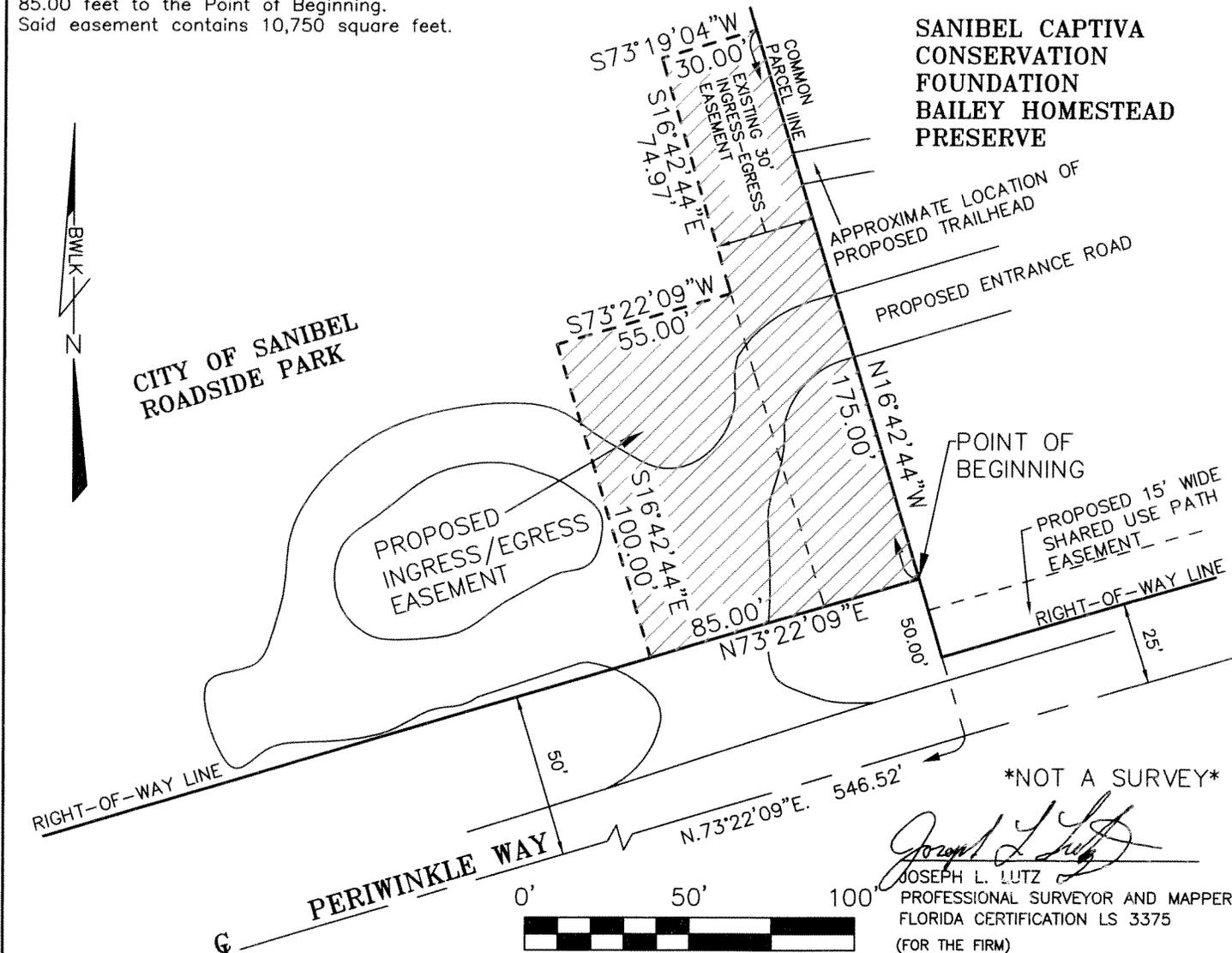
## INGRESS/EGRESS EASEMENT FROM THE CITY OF SANIBEL TO THE SANIBEL CAPTIVA CONSERVATION FOUNDATION

SECTION 19, TOWNSHIP 46 SOUTH, RANGE 23 EAST,  
CITY OF SANIBEL, LEE COUNTY, FLORIDA

An ingress/egress easement in southeast quarter (SE 1/4) of the southwest quarter (SW 1/4) of Section 19, Township 46 South, Range 23 East, City of Sanibel, Lee County, Florida, more particularly described as follows:

Commencing at a concrete monument marking the southwest corner of said southeast quarter (SE 1/4) of the southwest quarter (SW 1/4); thence  $N00^{\circ}54'30''W$  for 94.92 feet to a point on the centerline of Periwinkle Way; thence  $N73^{\circ}22'09''E$  along the centerline of said Periwinkle way for 546.52 feet; thence  $N16^{\circ}42'44''W$  for 50.00 feet to a point on the northerly right-of-way line of Periwinkle Way and the Point of Beginning; Thence continue  $N16^{\circ}42'44''W$  along the common parcel line to the City of Sanibel Roadside Park and the Sanibel Captiva Conservation Foundation for 175.00 feet; thence  $S73^{\circ}19'04''W$  30.00 feet; thence  $S16^{\circ}42'44''E$  parallel with said common line for 74.97 feet; thence  $S73^{\circ}22'09''W$  parallel with said right-of-way line for 55.00 feet; thence  $S16^{\circ}42'44''E$  parallel with said common line for 100.00 feet to said northerly right-of-way line of Periwinkle Way; thence  $N73^{\circ}22'09''E$  along said right-of-way line for 85.00 feet to the Point of Beginning. Said easement contains 10,750 square feet.

**SANIBEL CAPTIVA  
CONSERVATION  
FOUNDATION  
BAILEY HOMESTEAD  
PRESERVE**



<b>Bean, Whitaker, Lutz &amp; Kareh, Inc.</b> CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS 13041 MCGREGOR BLVD., SUITE 1, FORT MYERS, FL 33919 (239) 481-1331 AUTHORIZATION NUMBER: EB4919 AND LB4919		
DRAFTING BY: J.L.L.	CHECKED BY: J.L.L.	SHEET 1 OF 1
PROJECT NUMBER: 41541	DATE OF DRAWING 1-28-2013	DRAWING FILE NAME SK41541 EASEMENT

This Instrument was prepared by and is To Be Returned To:

Kenneth B. Cuyler, Esq.

City Attorney

CITY OF SANIBEL

800 Dunlop Road

Sanibel, Florida 33957 Parcel Strap Nos. \_\_\_\_\_

SHARED USE PATH EASEMENT

THIS INDENTURE, made this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between Sanibel Captiva Conservation Foundation, Inc. (herein referred to as "Grantor"), and the City of Sanibel, a Florida municipal corporation, (herein referred to as "Grantee"), the mailing address of which is 800 Dunlop Road, Sanibel, Florida, 33957.

WITNESSETH, that the said Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey to the Grantee, and its successors and assigns forever, a perpetual easement to construct, maintain, repair, replace and renew a public shared use path (the "Easement") over and across the following described land situate, lying and being in the City of Sanibel, Lee County, Florida, to-wit:

That property which is legally described and depicted on **Exhibit A**, attached hereto and incorporated herein.

This Easement includes the reasonable right of ingress and egress, vehicular and pedestrian, for the purposes of constructing, maintaining, repairing and replacing such shared use path.

Grantor covenant(s) that Grantor is lawfully seized and possessed of the property constituting such Easement area, having good and lawful right and power to convey said Easement.

As a condition of the grant of this easement, it is acknowledged and agreed by Grantee that the grant of this easement shall not diminish or reduce the development rights of Grantor, its successors and assigns, with respect to calculations for setbacks, permeable/impermeable area, or developed area or other development standards (which shall be calculated as if no shared use path or other easement area improvements exist).

The grant by Grantor of the shared use path easement shall be non-exclusive, provided, however under no circumstances shall any other rights granted to any party conflict with, diminish, present a safety hazard or in any way interfere with or be inconsistent with the usefulness or purpose of the Grantee's shared use path easement or lawful uses thereof.

This Easement shall be binding upon, and inure to the benefit of, the Grantor and Grantee and their respective heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, the Grantor has set its hand and seal on the day and year first above written.

WITNESSES:

Sanibel Captiva Conservation  
Foundation, Inc.

\_\_\_\_\_  
1<sup>st</sup> Witness

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

\_\_\_\_\_  
Print Name

Print Name: \_\_\_\_\_

\_\_\_\_\_  
2<sup>nd</sup> Witness

Title: \_\_\_\_\_

\_\_\_\_\_  
Print Name

\*\*\*\*\*

STATE OF            )  
COUNTY OF        )

I HEREBY CERTIFY that, the foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by \_\_\_\_\_. He/She/They is/are personally known to me or have produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida  
Print Name: \_\_\_\_\_  
Commission No: \_\_\_\_\_  
Date Commission Expires: \_\_\_\_\_

## EXHIBIT "A"

(The City shall prepare and attach to the easement document a legal description of the shared use path easement approximately 1,050 feet long and 15 feet wide lying adjacent to the northern boundary of Periwinkle Way and being located on the southern 15 feet of the SCCF Parcel.)

A sketch shall be attached depicting the legally described easement area.