Mail Station No. 125 Tallahassee, Florida 32399

This Instrument Prepared By: Karen Lee Garrison Bureau of Submerged Lands and Preserves 3900 Commonwealth Boulevard

3283321

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

SOVEREIGNTY SUBMERGED LANDS LEASE

No. 361857565

THIS LEASE is hereby issued by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Leason.

WITNESSETH: That for and in consideration of payment of the annual lease fees hereinafter provided and the faithful and timely performance of and compliance with all terms and conditions stated herein, the Lessor does hereby lease to Pelican Landing Community Association, Inc., a Florida Corporation, hereinafter referred to as the Lessee, the sovereign lands described as follows:

A parcel of sovereign submerged land in Section 24, Township 47 South, Range 24 East, in New Pass, Lee County, containing 842 square feet, more or less, as is more particularly described and shown on Attachment A, dated July 29, 1992.

TO HAVE THE USE OF the hereinabove described premises for a period of 5

years from July 21, 1992 , the effective date of this lease. The terms

and conditions on and for which this lease is granted are as follows:

- 1. The Lessee is hereby authorized to construct and operate exclusively a one-slip beach shuttle landing dock in conjunction with a shuttle boat service to be used in conjunction with the upland residential community, without fueling facilities, without sewage pumpout facilities, and without liveaboards, as shown and conditioned in Attachment A. The construction of the structures described in Attachment A shall be completed within the initial term hereof or within the first 5 years of the initial term if the initial term is for a period greater than 5 years. The failure to complete the construction of all authorized structures within this time period shall constitute a material breach of the lease causing the lease to automatically terminate upon the expiration of the initial term or first 5 years, whichever is sooner, without any right of renewal.
- 2. The Lessee hereby agrees to pay an initial annual lease fee and 25 percent surcharge, plus sales tax pursuant to Section 212.031, Florida Statutes, if applicable, of \$ 225.00 within 30 days of receipt of this fully executed lease. The annual fee for the remaining years of the lease shall be adjusted pursuant to provisions of Section 18-21.011, Florida Administrative Code. The Lessor will notify the Lessee in writing of the amount and the due date of the annual payment. The lease fee shall be remitted annually to the Department of Natural Resources as the agent for the Lessor, beginning with the effective and due date of this lease, and each year thereafter until the term of this lease terminates or expires.
- 3. The Lessee shall pay a late charge equal to interest at the rate of twelve percent (12%) per annum from the due date until paid on any lease fees or other charges due hereunder which are not paid within 30 days of their due dates.

[26]

RETURN TO:

WESTINGHOUSE COMMUNITIES OF NAPLES, ING. 801 Laurel Onk Drive, Suite 509 Naples, FL, 33963

ATTN: VIVIEN N. HASTINGS, ES a.

Documentary Tax Pd. 5.

Intamphile Tax Pd. 1

By Clax, LEE OUNITY

Ipuly Clark

com verfico – charie grer, cleba 🗣 o by: Tosha R. battle, D.C. 👁

- 4. The Lessee shall provide upon request by the Lessor any and all information in a certified form needed to calculate the lease fee specified in paragraph two (2) above. The Lessor reserves the right to assess retroactively additional payments when the actual rental rates or total number of linear feet for rent used to determine the annual payment differs from the rental rates or total number of linear feet for rent supplied by the Lessee.
- 5. For purposes of this lease, the Lessor is hereby specifically authorized and empowered to examine, for the term of this lease including any extensions thereto plus three (3) additional years, at all reasonable hours, the books, records, contracts, and other documents confirming and pertaining to the computation of annual lease payments as specified in paragraph two (2) above.
- 6. The Lessee shall secure, maintain, and keep all records for the entire term of this lease, plus three (3) additional years. This period shall be extended for an additional two (2) years upon request for examination of all records and accounts for lease payment verification purposes by the Lessor.
- 7. Within ten (10) days following completion of the construction of the approved structures, the Lessee shall submit to the Lessor an affidavit signed and sealed by a person properly certified by the Florida Board of Professional Land Surveyors, verifying that all structures and preempted activity area are located entirely within the area covered by this lesse, and that the configuration is consistent with Attachment A.
- 8. This lease is given to the Lessee to use or occupy the leased premises for those purposes specified herein. The Lessee shall, within ten days prior to any change in the approved use of the sovereignty lands or the associated upland activity, notify the Lessor in writing of the proposed changes whereupon the Lessor shall be authorized to adjust and prorate fees pursuant to Chapter 18-21, Florida Administrative Code, if applicable.
- 9. The Lessee shall make no claim of title or interest to said lands hereinbefore described by reason of the occupancy or use thereof, and all title and interest to said land hereinbefore described is vested in the Lessor.
- 10. This lease shall not be assigned or otherwise transferred without prior written consent of the Leasor or its duly authorized agent. Any assignment or other transfer without prior written consent of the Lessor shall be null and void and without legal effect.
- 11. During the term of this lease, the Lessee shall maintain a leasehold or fee simple title interest in the adjacent upland property and if such interest is terminated, the lease may be terminated at the option of the Lessor. Prior to sale and/or termination of the Lessee's leasehold or fee simple title interest in the upland property, Lessee shall inform any potential buyer or transferee of the Lessee's upland property interest of the existence of this lease and all its terms and conditions and shall complete and execute any documents required by the Lessor to effect an assignment of this lease, if consented to by the Lessor. Failure to do so will not relieve the Lessee from responsibility for full compliance with the terms and conditions of this lease which include, but are not limited to, payment of all fees and/or penalty assessments incurred prior to such act.
- 12. The Lesses shall investigate all claims of every nature at its expense, and shall indemnify, defend and save and hold harmless the Lessor and the State of Florida from all claims, actions, lawsuits and demands arising out of this lease.
- 13. Lessee waives venue as to any litigation arising from matters relating to this lease and any such litigation between Lessor and Lessee shall be initiated and maintained only in Leon County, Florida.

Page	2	ο£	11	Pages			
Sovere	Ignt	/ St	bmerged	Lands	Lease	No.	361857565

14. The Lessee binds itself, its successors and assigns, to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Lessee, it successors and assigns. In the event the Lessee fails or refuses to comply with the provisions and conditions herein set forth, or in the event the Lessee violates any of the provisions and conditions herein, this lease may be terminated by the Lessor upon thirty (30) days written notice to Lessee. If cancelled, all of the above-described parcel of land shall revert to the Lessor. All costs and attorneys' fees incurred by the Lessor to enforce this provision shall be paid by the Lessee. All notices required to be given to Lessee by this lease or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

Pelican Landing Community Association, Inc. 9200 Bonita Beach Road, Suite 101 Bonita Springs, Florida 33923

The Leggee shall notify the Leggor by certified mail of any change to this address at least ten (10) days before the change is effective.

- 15. The Lessee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this lease.
- 16. The Lessee shall not permit the leased premises or any part thereof to be used or occupied for any purpose or business other than herein specified unless such proposed use and occupancy are consented to by the Lessor and the lease is modified accordingly, nor shall Lessee knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises.
- 17. The Lessee shall maintain the leased premises in good condition, keeping the structures and equipment located thereon in a good state of repair in the interests of public health, safety and welfare. No dock or pier shall be constructed in any manner that would cause harm to wildlife. The leased premises shall be subject to inspection by the Lessor or its designated agent at any reasonable time.
- 18. The Lessee shall not permit any vessel required to be registered or titled under Florida law to moor or dock within or otherwise use the lessed area unless such vessel is registered or titled in accordance with Chapter 327 and 328, Florida Statutes.
- 19. The Lessee shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within the area subject to this lease or upon lands adjacent to and used as an adjunct of the leased area. During the lease term, the Lessee shall post and maintain the placard furnished to the Lessee by the Lessor, in the form set forth in Attachment B, in a prominent and visible location on the leased premises or adjacent business office of the Lessee. It shall be the responsibility of the Lessee to post the placard in a manner which will provide protection from the elements, and, in the event that said placard becomes illegible at any time during the term of this lease (including any extensions theraof), to notify the Lessor in writing, so that a replacement may be provided.
- 20. No failure, or successive failures, on the part of the Lessor to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the Lessor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.
- 21. Upon expiration or cancellation of this lease all permission granted hereunder shall cease and terminate.

Page	3	of	11	Pages			
Sover	elgnty	, St	bmerged	Lande	Lease	No.	361857565

- 22. Renewal of this lease shall be at the sole option of the Lessor. Such renewal shall be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. In the event that Lessee is in full compliance with the terms of this lease including the construction requirements set forth in Paragraph 1, the Lessee may apply in writing for a renewal. Such application for renewal must be received by Lessor no sooner than 120 days and no later than 30 days prior to the expiration date of the original or current term hereof. The term of any renewal granted by the Lessor shall commence on the last day of the previous lease term. If the Lessee fails to timely apply for a renewal, or in the event the Lessor does not grant a renewal, the Lessee shall vacate the leased premises and remove all structures and equipment occupying and erected thereon at its expense.
- 23. If the Lessee does not remove said structures and equipment occupying and erected upon the leased premises after expiration or cancellation of this lease, such structures and equipment will be deemed forfeited to the Lessor, and the Lessor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the Lessee at the address specified in Paragraph 14 or at such address on record as provided to the Lessor by the Lessee. However, such remedy shall be in addition to all other remedies available to Lessor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.
- 24. Any costs incurred by the Lessor in removal of any structures and equipment constructed or maintained on state lands shall be paid by Lessee and any unpaid costs and expenses shall constitute a lien upon the interest of the Lessee in its uplands enforceable in summary proceedings as provided by Law.
- 25. The Lessee, at its own expense, shall record this lease and any subsequent approved renewal and/or modified leases in the official records of the county within which the lease site is located within ten (10) days after receipt of a fully executed copy of this lease, and shall provide the Lessor with a copy of the recorded lease indicating the book and page at which the lease is recorded.
- 26. In the event that any part of any structure authorized hereunder is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent riparian rights, Lessee agrees to either obtain written consent for the offending structure from the affected riparian owner or to remove the interference or encroachment within 60 days from the date of the adjudication. Failure to comply with this paragraph shall constitute a material breach of this lesse agreement and shall be grounds for immediate termination of this lesse agreement at the option of the Lessor.
- 27. This lease is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this lease must be in writing and must be accepted, acknowledged and executed by the Lessee and Lessor.
- 28. Leasee shall place and maintain covered, secured trash receptacions, preferably of 50 gallon capacity, of a sufficient number and at appropriate locations on the overwater structures within the leased area to encourage facility users to discard litter in an acceptable manner and prevent litter from being discarded into the waters of the State. Immediately adjacent to the trash receptacles, Leasee shall post signs the size of which shall be at least as large as 18" x 24" with white lettering on green background to carry an appropriate message such as DON'T BE A LITTER BUG; PLEASE PLACE TRASH IN RECEPTACLE; or TRASH RECEPTACLE.
- 29. No permanent or temporary signs directed to the boating public advertising the sale of alcoholic beverages shall be erected or placed within the leased area. No restaurant or dining activities are to occur within the leased area. The Leasee shall ensure that no permanent, temporary or floating structures, fences, docks, pilings or any structures whose use is not water-dependent shall be erected or conducted over sovereignty submerged lands without prior written consent from the Leasor. In addition, the Leasee shall not undertake any repair or renovation activities within the leased premises without first obtaining the written consent of the Leasor. Unless specifically authorized in writing by the Leaser such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Leasee to administrative fines under Rule 18-14, Florida Administrative Code.

Page 4 of 11 Pages Sovereignty Submerged Lands Lease No. 361857565

30. SPECIAL LEASE CONDITIONS:

- a. The Lessee shall comply with the following construction conditions for the protection of the endangered manatees:
 - The leasee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees.
 - The lessee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatess which are protected under the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and the Florida Manates Sanctuary Act.
 - 3. The lessee shall ensure that siltation barriers are made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exit from essential habitat.
 - 4. The lessee shall ensure that all vessels associated with the construction project operate at "no wake/idle" speeds at all times while in water where the draft of the vessel provides less than a four foot clearance from the bottom and that vessels will follow routes of deep water whenever possible.
 - Construction activities in open water shall cease upon the sighting of a manates(s) within 100 yards of the project area. Construction activities will not resume until the manates(s) has departed the project area.
 - 6. Any collision with and/or injury to a manatee shall be reported immediately to the "Florida Marine Patrol" (1-800-DIAL-FMP) and to the U.S. Fish and Wildlife Service, Jacksonville Office (904-791-2580) for North Florida and to the Vero Beach Field Office (407-562-3909) for South Florida.
 - 7. Prior to commencement of construction each vessel involved in the construction shall display in a prominent location, visible to the operator an 8 1/2" X 11" temporary placard reading, "Manatee Habitat/Idle Speed in Construction Area". A second temporary 8 1/2" X 11" placard reading, "Warning Manatee Area" will be posted in a location prominently visible to water related construction graws.
- b. The Lessee shall require and ensure that the docking facility is used only by the vessel used to transport residents and guests of the Westinghouse Bayside Communities Pelican Landing Development of Regional Impact or security or maintenance vessels.
- c. The Lessee shall require and ensure that only temporary (daytime) mooring will be allowed at the facility. Overnight mooring is strictly prohibited except for security and maintenance related activities.
- d. The Lessee shall ensure that no more than one vessel (either the vessel used to transport residents and guests or the security or maintenance vessels is moored at the docking facility at any one time. The vessels shall be operated such that a minimum one-foot clearance between the draft and the water bottom is maintained to prevent damage to grassbeds and shellfish bars.
- e. The Lessee shall ensure that mooring is limited to the waterward face of the 6° x 26° terminal platform.

Page	5	ο£	11 1	верв			
Sovere	signty	/ St	bagzond	Lands	Lease	No.	361857565

f. The Lessee will ensure that the transportation vessel's engine is fitted with a prop guard to reduce possible impact to manatees. The Lessee shall contract the Office of Protected Species Management for assistance in located an appropriate prop guard.

g. Lessee (grantee) shall install and maintain a manatee informational display, informing the boating public of the habitat and mannerisms of manatees and potential threat boats can impose on the continued existence of the endangered manatee. The display shall contain information making operators of vessels moored at this facility awars of the danger boats can cause to the endangered manatee when they are operated above slow speed in grass flats or areas shallower than four feet. Lessee (grantee) agrees to install and maintain manatee awareness signs advising boaters to exercise extreme caution because of the presence of manatees in the area. Lessee shall install and display signs within 30 days prior to completion of construction. Information concerning this educational program may be obtained from the Division of Marine Resources at the following address: 3900 Commonwealth Boulevard, Mail Station 245, Tallahassee, Florida 32399-3000.

οf Pages

Soverelgnty Submerged Lands Lease No.

	·	
	WITMERSES:	BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF
	Original Signature	FLOXIDA (SEAL)
	Typed/Printed Name of Witness	BX P/1 M/OLLLX
•	Though their	Percy W. Mall Men, Jr., hirector, Division of State Lands, Agent for the
	Original (Signature	Board of Trustees of the Internal Improvement Trust Fund
	Typed/Printed Name of Witness	"LESSOR"
	CONTRACT OF MY ADVING	
	STATE OF FLORIDA COUNTY OF LEON	104
	The foregoing instrument was acknowled to the personally known to me and who did not take	dged before me this 5 day of sallison, Jr., Division Director, who is
	personally known to me and who did not take	a an oath.
	APPROVED AS TO FORM AND LEGALITY:	Notary Public, State of Florida
	William C. Sirlin son J.	
	CATHY LYNN WATKINS MY COMMISSION & CC 167822 EXPIRES Much 22, 1996	Printed, Typed or Stamped Name
	BOHOCO TIPU TROY FAIR MEURINGE, INC.	My Commission Expires:
		Commission/Serial No.
		Control And Annual Control Con
	WITNESSES:	Pelican Landing Community Association, Inc., a Florida/Corporation (SEAL)
	Laure Marie	Lessee not-for-profit
	Original Signature	Original Signature of Executing Authority
	Typed/Printed Mame of Witness/	Jerry H. Schmoyer Typed/Printed Name of Executing Authority
	Duren Floris	President Title of Executing Authority
	Original Signature	
	Typed/Printed Name of Witness	"LESSEE"
	STATE OFFlorida	
	COUNTY OF Lee	
	The foregoing instrument was acknowled SEPTEUBER 1992, by Jerry H. S	edged before me this 97H day of Schmoyer, the President of Pelican Landing
	Community Association, Inc., a Florida the corporation. He/she is personally know	not-for-profit corporation, on behalf of wn to me or who has produced and did (did not) take an oath.
		did did form for care an oach.
	My Commission Expires: LAUREL Y. SITTERLY NY COMMISSION EXPIRES	Notary Public, State of 1 FLORIDA
	BOHOED THRU HOTARY PUBLIC UNDERWINTERS	LAUREL W. SITTERILI
	Commission/Serial No. AA 235446	Printed, Typed or Stamped Name
	Page 7 of 11 Pages	
	Sovereignty Submerged Lands Lease No. 3	61857565

DESCRIPTION SUBMERGED LAND LEASE SECTION 13, T, 47 S., R, 24 E. BIG HICKORY ISLAND, LEE COUNTY, FLORIDA

A tract or parcel of land for submerged land lease lying in Government Lot 3, Section 13, Township 47 South, Range 24 East, Big Hickory Island, Lee County, Florida which tract or parcel is described as follows:

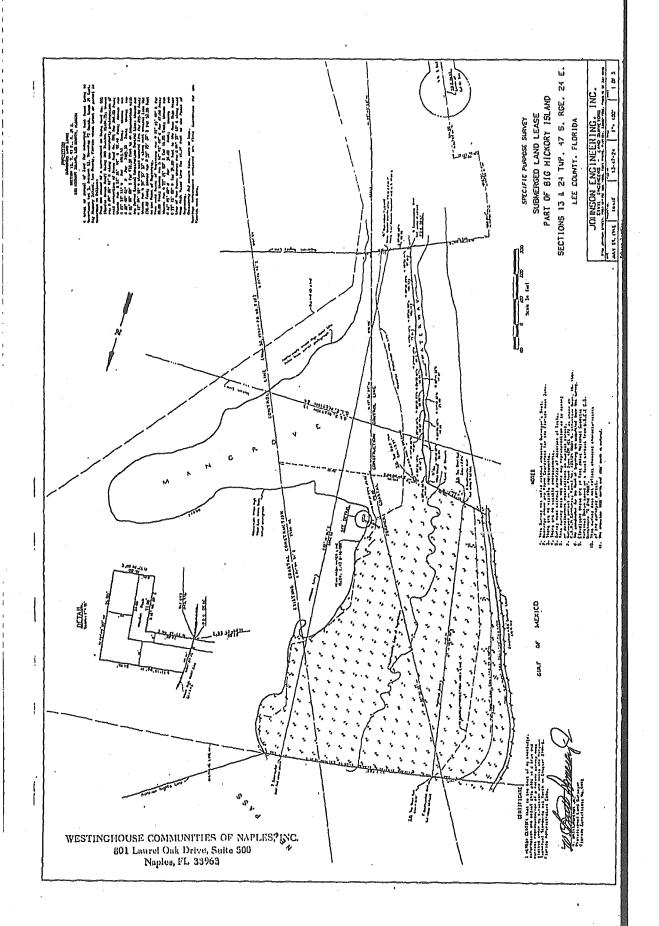
From the center of a turn-around on State Road No. 865 (Bonita Beach Road) being SRD Station 19184.75; thence run N 24° 28' 41" W along the northerly prolongation of said centerline of State Road No. 865 for 266.00 feet; thence run S 62° 26' 49" W 98.40 feet; thence run N 27° 33' 11" W for 1863.42 feet; thence run N 20° 00' 41" W for 1403.30 feet; thence run N 65° 00' 00' E for 472.30 feet to an intersection with the former Coastal Construction Control Line; thence run N 17° 04' 59" W along said control line for 895.40 feet; thence run N 30° 30' 32" W along said control line for 178.00 feet; thence run N 59° 29' 28" E for 52.00 feet to the Point of Beginning.

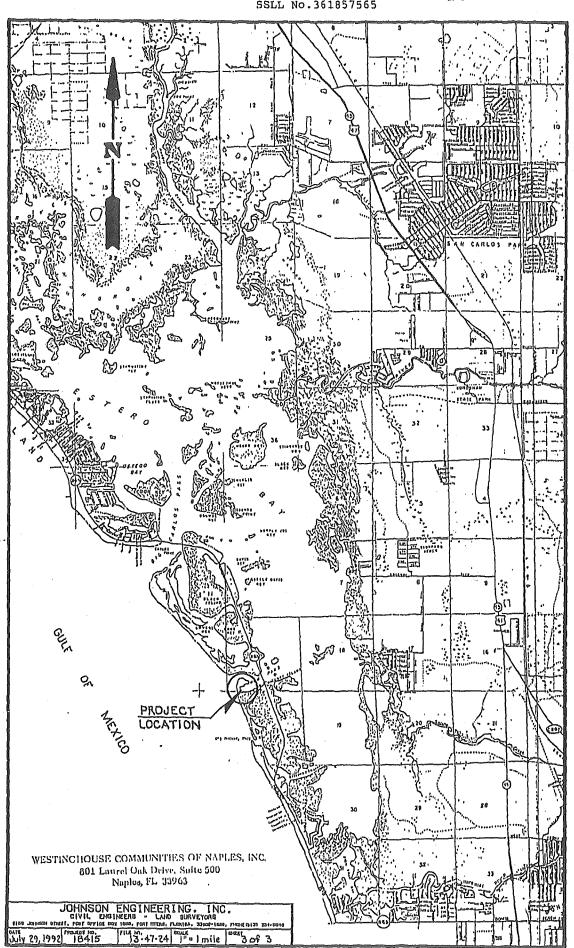
From said Point of Beginning run N 77° 15' 00" E for 20.00 feet; thence run S 12° 45' 00" E for 22.00 feet; thence run N 77° 15' 00" E for 16.00 feet; thence run N 12° 45' 00" W for 36.00 feet; thence run S 77° 15' 00" W for 34.00 feet to the Mean High Water Line of New Pass; thence run S 04° 37' 12" E along said Mean High Water Line for 14.14 feet to the Point of Beginning.

Containing 842 square feet, more or less. Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone.

W. BRITT POMEROY, JR. Professional Land Surveyor Florida Certificate No. 4448

ATTACHMENT A
Page 9 of 11 Pages
SSLL No.361857565





The docking structures located on the public lands are under lease from the Florida Board of Trustees of the Internal Improvement Trust Fund. As a condition of that lease, the lessee is prohibited from discriminating on the basis of an individual's race, color, religion, sex, national origin, age, handicap or marital status in the rental or use of those structures.

Persons denied equal right to rent or use the docking structures included within Sovereignty Submerged Land Lease Number 361857565 may file a complaint with the:

Department of Natural Resources
Division of Halie Lands
3901 Chrimon Wealth Blvd.
Mall Sladon Number 150
Tallatiassee FL 13389-8000
Callat (904) 488-8242
7, (Investigations)

Las estructuras de muella situadas en las tierras públicas son sojetas a arrendamiento de El Consejo de Administradores del Fondo Seguro de Mejoramiento Interno de la Florida. Como condición de este arrendamiento, el arrendador sera prohibido descriminar por causa de raza, color, religión, sexo, origen nacional, edad, incapacitación o estado civil.

Las personas a quieres se les haya negado el derecho de igualdad al arrendar o usar las estructuras de muelle incluidas dentro de la Soberania de Tierras Somergidas para Arrendamiento Numero 361857565 pueden presentar una queja al :

Departamento de Recursos Naturales División de Treiras de Estado Malistation Number 150 3900 Commonweelth Blvd. Tallahassee, FL | 32399-3000 Liamerul (904) 488-6242 (Investigaciones)

920CT 23 PH 3:56

WESTINGHOUSE COMMUNITIES OF NAPLES, INC. 801 Laurel Oak Drive, Suite 500 Naples, FL 83963

Attachment <u>B</u>
Page <u>11</u> of <u>11</u> Pages
SSLL No. 361857565