Mayor

Joe Coviello

Council Members

District 1: John Gunter

District 2: John M. Carioscia Sr.

<u>District 3</u>: Marilyn Stout <u>District 4</u>: Jennifer I. Nelson <u>District 5</u>: Dave Stokes <u>District 6</u>: Richard Williams

District 7: Jessica Cosden



1015 Cultural Park Blvd. Cape Coral, FL City Manager
John Szerlag
City Attorney
Dolores Menendez
City Auditor
Andrea R. Butola
City Clerk
Kimberly Bruns

AGENDA FOR THE REGULAR MEETING OF THE CAPE CORAL CITY COUNCIL

September 9, 2019 4:30 PM Council Chambers

PLEDGE OF CIVILITY

We will be respectful of each other even when we disagree. We will direct all comments to the issues. We will avoid personal attacks.

1. MEETING CALLED TO ORDER

- A. MAYOR COVIELLO
- 2. INVOCATION/MOMENT OF SILENCE
 - A. COUNCILMEMBER WILLIAMS
- 3. PLEDGE OF ALLEGIANCE
 - A. AUSTIN COULY CALOOSA ELEMENTARY
- 4. ROLL CALL
 - A. MAYOR COVIELLO, COUNCIL MEMBERS CARIOSCIA, COSDEN, GUNTER, NELSON, STOKES, STOUT, WILLIAMS
- 5. CHANGES TO AGENDA/ADOPTION OF AGENDA
- 6. RECOGNITIONS/ACHIEVEMENTS
 - A. COMMUNICATOR AWARDS: CAPE CORAL APP AND GO BOND PROMO
- 7. APPROVAL OF MINUTES
 - A. Regular Meeting August 19, 2019
- 8. BUSINESS

A. PUBLIC COMMENT - CONSENT AGENDA

A maximum of 60 minutes is set for input of citizens on matters concerning the Consent Agenda; 3 minutes per individual.

B. CONSENT AGENDA

- (1) Resolution 260-19 Approve the purchase and installation of an Emergency Generator with LJ Power, Inc. for the Fleet Maintenance Building and the Everest Fuel Site at the estimated amount of \$115,096. The purchase of the generator is via a piggyback with the Florida Sheriff's Association Contract FSA-18-VEH16.0 and the installation is utilizing the City of Cape Coral Installation contract awarded on 10/15/18 via resolution 217-18; And authorize the City Manager or designee to execute the Purchase Orders; Department: Public Works; Estimated Annual Dollar Value \$115,096; (Internal Services Fund Fleet)
- (2) Resolution 288-19 Approval of Contract for Purchase of Lots 22, 23 and 24, Block 3003, Unit 43, Cape Coral Subdivision, 1032 NW 25th Street, Cape Coral, for the Festival Park project for the purchase price of \$27,000 plus closing costs not to exceed \$1,800; Department: Financial Services / Real Estate Division; Dollar Value: \$28,800; (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.
- (3) Resolution 289-19 Approval of American Tower's request for consent to remove existing equipment and install new equipment for Verizon Wireless at the communication tower located at Fire Station #6 on Chiquita Boulevard and authorization for the City Manager to execute said consent letter; Department: Financial Services / Real Estate; Dollar Value: N/A; (Fund: N/A)
- (4) Resolution 290-19 Approval of Contract for Purchase of Lots 19, 20 and 21, Block 3025, Unit 43, Cape Coral Subdivision, 1252 Wilmington Parkway, Cape Coral, for the Festival Park project for the purchase price of \$14,000 plus closing costs not to exceed \$1,500; Department: Financial Services / Real Estate Division; Dollar Value: \$15,500; (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.

C. CITIZENS INPUT TIME

A maximum of 60 minutes is set for input of citizens on matters concerning the City Government to include Resolutions appearing in sections other than Consent Agenda or Public Hearing; 3 minutes per individual.

D. PERSONNEL ACTIONS

- (1) NONE
- E. PETITIONS TO COUNCIL

- (1) NONE
- F. APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS
 - (1) Health Facilities Authority 2 Vacancies

9. ORDINANCES/RESOLUTIONS

- A. Public Hearings
 - (1) Resolution 282-19 (VP 19-0007*) Public Hearing *Quasi-Judicial, All Persons Testifying Must be Sworn In WHAT THE RESOLUTION ACCOMPLISHES: A resolution providing for the vacation of plat for the six-foot wide public utility and drainage easements located near the western property line of Lots 77-82, Block 1976, Cape Coral Unit 28; property located at 1306 Santa Barbara Boulevard (Applicant: Corazon Burias, Trustee of the Corazon Burias Revocable Living Trust) Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in VP HEX Recommendation 11-2019. City Management Recommendation: City Management recommends approval with conditions.
 - (2) Ordinance 32-19 Final Public Hearing
 - WHAT THE ORDINANCE ACCOMPLISHES:
 An ordinance amending the City of Cape Coral
 Comprehensive Plan by amending the Conservation and
 Coastal Management Element, Infrastructure Element, and
 Intergovernmental Coordination Element by adopting policies
 to provide consistency with the Cape Coral Water Supply
 Facilities Work Plan; adopting the 2017 Cape Coral Water
 Supply Facilities Work Plan as Appendix "A" to the
 Comprehensive Plan. (Applicant: City of Cape Coral)
 Planning & Zoning Recommendation: At their June 5, 2019
 Regular Meeting, the Planning & Zoning Commission voted 70 to recommend approval of Ordinance 32-19.
 City Management Recommendation: City Management
 recommends approval.
 - (3) Ordinance 45-19 Public Hearing
 WHAT THE ORDINANCE ACCOMPLISHES:
 The ordinance amends Chapter 18, "Traffic", Section 18-6,
 "Speed Limits", regulating speed limits on Arterial, Collector,
 and Local Streets located in the City to provide that City
 Council has the ability to set speed limits rather than the City
 Manager. (Applicant: Brought forward by City Council.)

B. Introductions

(1) Ordinance 46-19 (PDP 18-0010*) Set Public Hearing Date for October 7, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending a Planned Development Project in the City of Cape Coral entitled "Sandoval PDP Amendment for Tract RA-2" for certain property described as a parcel of land located in Sections 20 and 29, Township 44, Range 23 East, Cape Coral, Lee County, Florida, as more particularly described herein; property located between Pine Island Road and Veteran's Memorial Parkway West, west of Surfside Boulevard and east of Cape Royal (formally known as Royal Tee); granting a second private clubhouse for the project; eliminating a right-of-way condition appearing in Ordinance 12-12; granting development plan approval pursuant to Section 4.2 of the Land Use and Development Regulations; providing for findings of fact and conclusions of law; providing for action on request and conditions of approval; providing for legal effect and limitations of this PDP development order and administrative requirements (Applicant: Sandoval Community Association, Inc.)

Hearing Examiner Recommendation: The Hearing Examiner recommends approval (with a caveat contained in PDP Hex recommendation 2-2019 in Section III, Item 6c.)
City Management Recommendation: City Management recommends approval.

10. UNFINISHED BUSINESS

- A. Water Quality Update
- B. Follow Up Items for Council

11. NEW BUSINESS

- A. Resolution 291-19 Master Interlocal Agreement Regarding Distribution of Local Option Gas Tax; Department: Public Works; Dollar Value: Approximately additional \$850,000 Per Year from Fiscal Year 2020-2023; (Fund: Six-cent and Five-cent Local Option Gas Tax)
- 12. REPORTS OF THE MAYOR AND COUNCIL MEMBERS
- 13. REPORTS OF THE CITY ATTORNEY AND CITY MANAGER
- 14. TIME AND PLACE OF FUTURE MEETINGS
 - A. A Regular Meeting of the Cape Coral City Council is Scheduled for Monday, September 16, 2019 at 4:30 p.m. in Council Chambers

15. MOTION TO ADJOURN

GENERAL RULES AND PROCEDURES REGARDING THE CAPE CORAL CITY COUNCIL AGENDA

In accordance with the Americans with Disabilities Act and Section of 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the Office of the City Clerk at least forty-eight (48) hours prior to the meeting. If hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

Persons wishing to address Council under Citizens Input or the Consent Agenda may do so during the designated times at each meeting. No prior scheduling is necessary. All speakers <u>must</u> have their presentations approved by the City Clerk's office no later than 3:00 PM the day of the meeting.

Any citizen may appear before the City Council at the scheduled PUBLIC HEARING/INPUT to comment on the specific agenda item being considered. No prior scheduling is necessary.

When recognized by the presiding officer, a speaker shall address the City Council from the designated speaker's lectern, and shall state his or her name and whom, if anyone, he or she represents. An address shall only be required if necessary to comply with a federal, state of local law.

Copies of the agenda are available in the main lobby of Cape Coral City Hall and in the City Council Office, 1015 Cultural Park Boulevard. Copies of all back-up documentation are also available for review in the lobby of Council Chambers. You are asked to refrain from removing any documentation. If you desire copies, please request they be made for you. Copies are 15 cents per page. Agendas and back-up documentation are also available on-line on the City website (capecoral.net) after 4:00 PM on the Thursday prior to the Council Meeting.

*PUBLIC HEARINGS DEPARTMENT OF COMMUNITY DEVELOPMENT CASES

In all public hearings for which an applicant or applicants exist and which would affect a relatively limited land area, including but not limited to PDPs, appeals concerning variances or special exceptions, and small-scale rezonings, the following procedures shall be utilized in order to afford all parties or their representatives a full opportunity to be heard on matters relevant to the application:

- 1. The applicant, as well as witnesses offering testimony or presenting evidence, will be required to swear or affirm that the testimony they provide is the truth.
- The order of presentation will begin with the City staff report, the presentation by the applicant and/or the applicant's representative; witnesses called by the applicant, and then members of the public.
- 3. Members of the City Council may guestion any witness on

relevant issues, by the applicant and/or the applicant's representative, City staff, or by any member of the public.

- 4. The Mayor may impose reasonable limitations on the offer of testimony or evidence and refuse to hear testimony or evidence that is not relevant to the issue being heard. The Mayor may also impose reasonable limitations on the number of witnesses heard when such witnesses become repetitive or are introducing duplicate testimony or evidence. The Mayor may also call witnesses and introduce evidence on behalf of the City Council if it is felt that such witnesses and/or evidence are necessary for a thorough consideration of the subject.
- 5. After the introduction of all-relevant testimony and evidence, the applicant shall have the opportunity to present a closing statement.
- 6. If a person decides to appeal any decision made by the City Council with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Item

7.A.

Number:

Meeting

9/9/2019

Date: **Item Type:**

APPROVAL OF

MINUTES

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Regular Meeting - August 19, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?

No

2. Is this a Strategic Decision?

No

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Regular Meeting Minutes - August 19, 2019

PREPARED BY:

Kimberly Division- Managerial Bruns

City Clerk's Department-

Department

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns City Clerk

1-239-574-0411

ATTACHMENTS:

Description Type

SUBJECT TO APPROVAL

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MINUTES FOR THE REGULAR MEETING OF THE CAPE CORAL CITY COUNCIL

August 19, 2019

Council Chambers

4:30 p.m.

Meeting called to order by Mayor Coviello at 4:31 p.m.

Invocation/Moment of Silence - Councilmember Stokes

Pledge of Allegiance - Councilmember Stokes

Roll Call: Mayor Coviello, Councilmembers Carioscia, Cosden, Gunter, Nelson, Stokes, and Williams were present. Councilmember Stout was excused.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Coviello suggested moving item 11(A) Resolution 274-19 under New Business to immediately follow Citizen's Input.

Councilmember Williams moved, seconded by Councilmember Nelson, to adopt the agenda, as amended.

Council polled as follows: Stokes, Williams, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." Seven "ayes." Motion carried 7-0.

RECOGNITIONS/ACHIEVEMENTS

None.

APPROVAL OF MINUTES

Regular Meeting - July 29, 2019

Councilmember Williams moved, seconded by Councilmember Stokes, to approve the minutes for the July 29, 2019 regular meeting as presented. Voice Poll: All "ayes." Motion carried.

Regular Meeting - August 5, 2019

Councilmember Williams moved, seconded by Councilmember Cosden, to approve the minutes for the August 5, 2019 regular meeting as presented. Voice Poll: All "ayes." Motion carried.

BUSINESS

PUBLIC COMMENT - CONSENT AGENDA

No speakers.

CONSENT AGENDA

- Resolution 261-19 Approval of Seller's counter offer to Purchase Lots 15 and 16, Block 3013, Unit 43, Cape Coral Subdivision, 1230 NW 25th Street, Cape Coral, for the Festival Park project for the purchase price of \$13,500 plus closing costs not to exceed \$1,500; Department: Financial Services / Real Estate Division; Dollar Value: \$15,000; (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.
- 2) Resolution 279-19 School Resource Officer Agreement with Heritage Charter Academy Inc.; Department: Police

3) Resolution 280-19 Authorizing and directing the Mayor to execute Amendment No. 2 to Agreement No. LP36011 Between Florida Department of Environmental Protection and City of Cape Coral, providing for \$3,000,000 in additional funding and a revision in the scope of work and an Extension of the Agreement for the "Cape Coral Reclaimed Water Transmission Main Caloosahatchee River Crossing Project"; Department: Utilities; Additional Grant Value: \$3,000,000; (Fund: N/A)

On march of the state of

Councilmember Carioscia moved, seconded by Councilmember Nelson, to approve items 8(B)(1), 8(B)(2), and 8(B)(3), as presented.

Council polled as follows: Stokes, Williams, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." Seven "ayes." Motion carried 7-0.

CITIZENS INPUT TIME

Steve Crane appeared to discuss the restoration of the speed limit to the original design spec speed limit of 45 miles per hour to Chiquita Boulevard between Cape Coral Parkway and Eldorado Boulevard. He presented the petition that was executed by 89 residents requesting a speed limit study.

Tom Meechan appeared to discuss the possibility of meeting with City officials for a 25-mile speed limit on SE 8th Place. He mentioned that Council and the City Manager agreed to a change on SE 17th Place in prior meetings. He reported that the funds are available for a sign. A petition was submitted with 80 residents to the City Council. He requested a meeting with Staff to at least review this issue and perform the necessary studies.

Barbara Sacher appeared to discuss that most vehicles traveling on SE 8th Place usually are speeding. She voiced her concerns with the dangers involved and the possibility of being hit by a car. A petition was submitted for the speed limit reduction and hoped that something could be done.

Sherry Glancey appeared in support of the speed limit reduction and stated that she was one of the petitioners. She requested the attention of Council on this issue as there are tire marks in the front yards.

Lois Massey appeared to discuss the taxes that are affecting owners. She mentioned the costs associated with the Utilities Expansion. She requested that Council consider the taxpayers' burden when making decisions on projects that result in increasing property taxes.

Joyce Easton appeared to discuss the public records request for the letter of invitation extended to the gentleman from Chengdu to come for a visit. She was informed that there was no such document and inquired if the visit was still going to occur and when the letter would be available. She inquired about the total dollar amount for the Mercola incentives. She was not opposed to the idea but did not understand why there were three different amounts.

Dan Sheppard appeared to suggest that Council, City Manager, and Parks and Rec investigate the Naples Botanical Gardens online. This is a non-profit organization that worked with the City of Naples and brought in \$7 million revenue last year. He opined that this would be an excellent money-making idea and would create a destination.

Mayor Coviello requested that Traffic Engineer Corbett address the speed limit issue raised by the residents.

Traffic Engineer Corbett provided information on Chiquita Boulevard south of Cape Coral Parkway as follows:

In 2016 Public Works hired a consultant, David Douglas Associates, to complete
a speed study on various major roads in the southwest quadrant of the City which

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- included Chiquita in order to ensure that our speeds were set correctly in accordance with the FDOT Speed Zoning Manual.
- Chiquita Boulevard was identified as one of the roadways which the speed limit should have been reduced from 40 mph to 35 mph.
- This was approved in addition to a handful of other roads in that quadrant of the City as a result of that study.
- Staff looked into Mr. Crane's concerns related to the data collection and the recommendations from the consultant. The devices (radar, speed feedback signs) that Mr. Crane discussed were enforcement tools used by the CCPD to collect data and identify areas where they need to conduct enforcement.
- Data used was a tube counter which uses pneumatic tools across the roadway set up in a discrete manner. No staff or Police is in attendance. This is the industry standard equipment for traffic data collection for volumes and speeds.
- City collected that data which was conveyed to the consultant who used the Speed Zoning Manual to identify what the proper posted speed limit should be.
- Multiple variables in setting a posted speed limit: 85th percentile, ten mile per hour pace speed
- Recommendations by the consultant have been reviewed multiple times based on the request by Mr. Crane, staff has determined that the study is valid and support the consultant's recommendations
- Recommended no changes to Chiquita Boulevard south of Cape Coral Parkway and that it remains at 35 mph
- Data collects thousands of points of data and used objective criteria to set the speed limit on that segment of roadway.

Mr. Corbett also provided information on SE 8th Place as follows:

- A few months ago, there was a group of residents that requested the speed limits be reviewed on SE 8th Place.
- In 2006 the speed limit on that road was increased from 30 mph to 35 mph.
- This was a result of a speed study conducted by the Traffic Engineer at that time.
- According to the Florida Speed Zoning Manual, if a speed limit is posted and a study is conducted and it yields results whether it is higher or lower, the speed limit should be adjusted to match the recommendation of the Manual.
- As a result, the Traffic Engineer at that time raised the speed limit to 35 mph.
- This was not conducive to the adjacent Land Use since it is 100% residential.
- He noted he was requested to do a speed study a few months ago. The results were presented which showed the speed limit should stay at 35 mph and could even be raised to 40 mph.
- Speed limits were reduced by a vote from Council from 35 mph to 30 mph.
 Currently the speed limit is 30 mph on SE 8th Place between Hancock Bridge Parkway and SE 9th.
- This road is a cut through. 30 mph is consistent with all of the other residential roads within the City with the exception of SE 17th Place behind Coralwood Mall.
- SE 17th Place was a unique roadway; there was a group of residents that lobbied to have traffic calming devices installed on that roadway. Radar speed feedback signs were installed permanently and continue to collect data. The speed has been reduced to 25 mph as a result of Council's vote. This is the only road in the City that is 25 mph.
- Currently every local residential roadway within the City is set at 30 mph.

<u>Councilmember Stokes</u> addressed the SE 8^{th} Place discussion as he received the petition signed by the 89 residents. He was involved in the speed limit reduction to 30 mph speed limit. He did not see the reason to bring it down to 25 mph.

<u>Councilmember Cosden</u> inquired if there was more data collected after the speed reduction from 35 mph to 30 mph on SE 8th Place to see if it made a difference.

Mr. Corbett stated they did not. They have not gone back out to verify if the prevailing speed has been reduced, but the CCPD has continued to conduct enforcement on that roadway.

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<u>Councilmember Cosden</u> questioned if it made a difference before even considering reducing it further.

Mr. Corbett stated according to industry research signage of itself typically does not reduce speeds. Drivers drive at their comfort level. In a dense neighborhood they will drive slower and in a spare neighborhood they will drive faster. There was a speed reduction sign installed at the bridge to warn people of a hazard which is the site obstruction of the bridge.

<u>Councilmember Carioscia</u> inquired if speed trailers could be placed there so that we can determine whether or not the complaints voiced today are warranting law enforcement.

Mr. Corbett stated he could request that from the CCPD.

Chief of Police Newlan stated they will put the trailers out this week and do the measures.

Councilmember Gunter agreed about the use of speed trailers to collect some data.

<u>Councilmember Stokes</u> inquired if the CCPD could also provide additional enforcement in the area.

Chief of Police Newlan responded that he would be able to provide data for the past year for review by Council.

PERSONNEL ACTIONS

None.

PETITIONS TO COUNCIL

None.

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

None.

NEW BUSINESS (Item 11A moved directly after Citizen's Input)

Resolution 274-19 Approving Jobs Incentive Agreement between Mercola.Com Health Resources, LLC and City of Cape Coral in the amount of not to exceed \$76,500; Department: City Manager/EDO Division; Dollar Value \$76,500; (EDO Incentive Fund).

Economic Development Manager Noguera explained what this Resolution would accomplish. He displayed the following slides:

- · About Dr. Mercola
- Project
- Mercola Campus Conceptual Master Plan
- Requested Incentive
- Addressing Cape Coral's Needs
- Informational Only
- Requested Action
- Questions?

Mayor Coviello inquired about the guarterly incentive payout.

Business Recruitment/Retention Specialist Whaley responded that the incentive would be paid one year after the start of employment in quarterly payments.

<u>Mayor Coviello</u> asked if this would be retroactive for employees who have already started and not offered to new employees to be hired.

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Ms. Whaley responded in the affirmative. Three separate agreements were needed because of the way the companies are set up even though they have the same ownership.

Mayor Coviello asked when the payments would be made.

Ms. Whaley stated they would start in December 2019.

<u>Mayor Coviello</u> asked if there were any plans to create additional incentives going forward.

Ms. Whaley stated this is the incentive package that was offered to them.

<u>Mayor Coviello</u> stated once this goes through, will there be other businesses asking for retroactive incentives.

Manager Noguera stated he did not anticipate that. They have been working with this company since they came in 2016. The negotiations on the incentives started in 2017.

<u>Councilmember Gunter</u> inquired about the \$25,000 approval authority of the members on the Economic Committee. Who is on that Committee?

Manager Noguera responded that the Economic Committee Members were Connie Barron, Assistant City Manager, Vincent Cautero, Community Development Director, and himself.

<u>Councilmember Gunter</u> shared his concerns with the date going back so far retroactively. He supported incentive packages to entice new businesses. His issues were the retroactive date, number of relocated employees, and making the effective date to January 2019.

<u>Councilmember Carioscia</u> responded that 15 months going back was too long for him. He would not support this unless there was a change on the effective date to January 2019 and remove the 19 relocated jobs as part of the incentives.

<u>Councilmember Stokes</u> voiced that he hoped that there could be a compromise as this Resolution would bring high paying jobs to the City.

<u>Mayor Coviello</u> stated that he would be fine with the relocation incentive as it would bring new homeowners to our area and the effective date should be January 2019.

<u>Councilmember Williams</u> discussed his stance on the relocation, and he requested that it be removed from the Resolution.

Councilmember Gunter moved, seconded by Councilmember Carioscia, to approve Resolution 274-19 with the following changes: 1) remove relocated employees within the agreement and 2) also to make it effective January 1, 2019.

City Attorney Menendez requested to confirm the motion that was on the floor. She stated that there were three jobs to be relocated and 48 jobs to be created. The agreement before Council referred to the January 1, 2019 date and would not need to be changed. The change would be to remove the three relocated jobs and leave the 48. She understood that it would impact the amount of money as it was based per job.

Manager Noguera responded in the affirmative.

City Attorney Menendez stated that the amount would need to be adjusted due to the reduction of the positions.

<u>Councilmember Gunter</u> stated that he did not have an issue with the dollar amount, but he was not in agreement with the relocated employees.

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City Attorney Menendez referenced that the only agreement before Council was the agreement concerning the \$76,500 for the Mercola.com Health Resources, LLC for the 51 jobs created and maintained by them. The other two agreements were already approved by staff and provided as information. If there needs to be a change in the amount, it could be changed based on the reduced amount of positions that have been created.

<u>Councilmember Gunter</u> stated he understood that the Economic Committee and the City Manager have already approved the other two packages and were in a contractual agreement with them.

City Attorney Menendez stated the Resolution states the Economic Development Incentive Committee has approved an Economic Development Incentive Award of \$1,500 per job for the creation or relocation of 15 jobs over the next three years to Mercola.com LLC for a total amount not to exceed \$22,500 whereas the City Manager has approved an Economic Development Incentive Award of \$1,500 per job for the creation or relocation of 22 jobs over the next three years to Mercola Consulting Service for a total amount not to exceed \$33,000. The one before Council is for a higher amount and that refers to the creation and relocation of 51 jobs for a total amount of \$76,500 for Mercola.com Health Resources, LLC. She understood that we were removing the three relocated jobs and the agreement would be so reflected assuming the motion is approved. The other two have already been approved by the City Manager and the Economic Development Incentive Committee, but she did not know if the agreements have been signed.

Councilmember Gunter amended his motion to approve Resolution 274-19, only if we can control the \$76,500 aspect of the Resolution, we take out the relocation of jobs in that particular section and make it effective January 1, 2019.

City Attorney Menendez mentioned that staff was being transparent with providing the information on the other agreements.

City Manager Szerlag addressed that although the Committee has made these approvals for the \$22,500 for Mercola.com and \$33,000 for Mercola Consulting Services, LLC, he has not approved anything at this point in time and inquired if he needed to sign anything.

Ms. Whaley stated the documents were ready for signature.

<u>Councilmember Gunter</u> requested the number of relocation jobs included in the two original agreements.

Manager Noguera discussed the importance of including the relocation feature in the agreements due to highly technical skills that are not available in the City workforce base.

<u>Mayor Coviello</u> echoed the same ideology that Manager Noguera mentioned and understood his concerns.

Ms. Whaley stated she has been working with this company for several years and all of their employees live in Lee County or Cape Coral. It is difficult to recruit someone and not bring some of their staff with them.

City Manager Szerlag stated that his intent was to execute the agreements as directed.

<u>Councilmember Nelson</u> stated she sits on the Horizon Council as the City's representative and economic development is discussed for the entire region. She agreed that the relocation feature would be a selling factor for businesses and larger entities.

<u>Councilmember Carioscia</u> stated that after the reference made by the Mayor and other Councilmembers, he would change his mind and support the relocation feature.

<u>Councilmember Gunter</u> stated that in the future that these matters be addressed in a better way. He voiced that he was 100% on board of bringing corporations to the City.

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He discussed changing his motion per the Economic Development Manager's specifications to put it back to May and leave the retroactive in there. He stated it should be left as is.

Mayor Coviello asked Councilmember Gunter if he wants to approve Resolution 274-19 as written with the January 1, 2019 date.

Councilmember Gunter responded in the affirmative, but the retroactive stays in there.

Mayor Coviello noted it was two different dates. The retroactive date would be May 2018.

Councilmember Gunter asked if retroactive referred to employees, not the date.

Mayor Coviello stated the incentive is given to the employee after one year of employment. If we go to the retroactive date of May 2018, then those incentives would come much sooner than if we keep it as it is written in the Resolution starting January 1, 2019.

<u>Councilmember Gunter</u> stated he wanted to make the changes that Mr. Noguera had mentioned earlier.

Councilmember Gunter amended his motion to approve Resolution 274-19 as written with the retroactive date of May 29, 2018 and leave everything else as-is. Second agreed.

Council polled as follows: Stokes, Williams, Carioscia, Coviello, Gunter, and Nelson voted "aye." Cosden voted "nay." Six "ayes" and one "nay." Motion carried 6-1.

ORDINANCES/RESOLUTIONS

PUBLIC HEARINGS

Ordinance 39-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance authorizing the City Manager to sell municipal surplus real property described as Lots 12 and 13, Block 5270, Unit 82 Cape Coral Subdivision pursuant to Section 2-155 of the Code of Ordinances; authorizing and directing the Mayor and Clerk to execute a deed conveying the surplus real property to John Marchese, Jr.; property located at 4125 NW 16th Terrace. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish. She displayed an aerial layout of the parcel which was included in the meeting packet.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Gunter asked how many parcels have been on MLS up to this point.

Ms. Andrews stated currently there are 37 properties listed. This Ordinance will remove two of those. Ten more sites will be listed this week in the Southwest section, south of Savona and west of Chiquita.

<u>Councilmember Gunter</u> asked for an approximate date when all of the properties will be listed on the MLS.

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Ms. Andrews explained why not all of the 109 properties will not be put on MLS.

<u>Councilmember Gunter</u> stated that there was a past Ordinance listing surplus properties which he recalled Council approved to be put on the market. If there is a change on those particular properties, would this need to go before Council?

Ms. Andrews stated if they are put on for surplus, she did not have to sell them immediately.

City Attorney Menendez stated that the Procurement Ordinance on the sale and purchase of real property describes that once property is declared to be surplus, there are a number of different methods that the City can use to offer it for sale. She understood that Councilmember Gunter was questioning at what point does Council have a voice in terms of the manner and the timing in which properties that are declared to be surplus are then offered under those varieties of methods.

<u>Councilmember Gunter</u> questioned if it takes 2-3 years to get them on the market once they are approved.

Ms. Andrews agreed to provide the timelines that will get the properties on to the market. There are ten now which brings it up to 47 properties.

Councilmember Williams inquired about the subject property.

Ms. Andrews displayed the aerial and pointed out the property under contract for this Ordinance on NW 16th Terrace.

Councilmember Stokes questioned the timeline for selling these properties.

Councilmember Stokes moved, seconded by Councilmember Cosden, to adopt Ordinance 39-19, as presented.

City Manager Szerlag offered to provide a list of the surplus properties that are yet to be placed on the market with an indication when they would be on the market. The report would also indicate which fund the monies would go to replenish where the funds were taken to purchase the properties.

<u>Councilmember Williams</u> asked if these three pieces of property were part of the 491 purchase.

Ms. Andrews responded in the affirmative.

Council polled as follows: Stokes, Williams, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." Seven "ayes." Motion carried 7-0.

Ordinance 40-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance authorizing the City Manager to sell municipal surplus real property described as Lots 30 and 31, Block 5271, Unit 82 Cape Coral Subdivision pursuant to Section 2-155 of the Code of Ordinances; authorizing and directing the Mayor and Clerk to execute a deed conveying the surplus real property to PCI Management, Inc.; property located at 1727 NW 42nd Place. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish. She displayed an aerial layout of the parcel. She informed Council that there were two contracts received for the purchase of the subject property, and the City would accept the higher purchase price contract.

Public Hearing opened.

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No speakers.

Public Hearing closed.

Councilmember Williams moved, seconded by Councilmember Stokes, to adopt Ordinance 40-19, as presented.

Council polled as follows: Stokes, Williams, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." Seven "ayes." Motion carried 7-0.

Ordinance 25-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 18, Traffic, Section 18-6, Speed Limits, to regulate speed limits on arterial, collector, and local streets located in the City. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

Traffic Engineer Corbett explained that this was a revision to an existing Ordinance and what it would accomplish. He provided information on the capping of the speed limit to 30 mph on local roadways.

Public Hearing opened.

Steve Crane appeared to discuss the language of the Ordinance, which states that the City Manager may set the speed zones altering the speed limit. He pointed out that Florida Law states that the Municipalities may change the speed limits, not one person. Any changes of posted speed limits would require speed studies to be conducted based on Florida Law.

Public Hearing closed.

Councilmember Carioscia moved, seconded by Councilmember Stokes, to adopt Ordinance 25-19, as presented.

<u>Councilmember Williams</u> mentioned that this issue was addressed several years ago, and the City hired a consultant who recommended that the speed limit not be changed due to the studies conducted. People drive a certain speed due to habit. He was not in agreement with capping the speed limit at 30 mph. There were no studies conducted, and no data to justify the capping of the speed limit.

Engineer Corbett clarified that this Ordinance would not change the speed limit. No roadways are being changed at this time at all. The Ordinance protects the resident when they wish to come in and request a speed study to be conducted on their road. The speed will not be increased as a result of the data collected.

Councilmember Williams inquired if the cap would be over or below 30 mph.

Engineer Corbett responded that the cap cannot go over 30 mph.

City Manager Szerlag provided background information on studies conducted about four years ago.

Engineer Corbett stated the Ordinance states that the City Manager has the right to change the speed limit. However, that speed zone must be reasonable and in conformity to criteria promulgated by the Florida Department of Transportation. It indicates that the study should be completed by a Professional Engineer. He stated that he is a Licensed Professional Engineer, Certified Professional Traffic Operations Engineer. He stated his study would be purely objective, and he would provide recommendations to the City Manager who can approve.

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<u>Mayor Coviello</u> inquired that when Mr. Corbett does a study and decides that the speed limit should be lowered that going to the City Manager for approval is a done deal.

Engineer Corbett responded in the affirmative. That process is already in place today.

Councilmember Stokes inquired about the speed limit reduction process.

Engineer Corbett clarified that the study must be in accordance with the FDOT Speed Zoning Manual and conducted by a Licensed Professional Engineer. He stated the process was not changing. The only request is to cap future requests at 30 mph on local roadways.

<u>Councilmember Cosden</u> asked for clarification about *the City Manager may set speed zones altering the speed limit.* She stated this has been in the works for years and was not due for a vote tonight.

Engineer Corbett responded in the affirmative.

<u>Councilmember Gunter</u> agreed with the capping of 30 mph on local roadways. Specific situations would need to be studied to identify if a change would be required. He requested feedback from the other Councilmembers if the change of the speed limit should be a topic for Council to review prior to making the change.

<u>Councilmember Williams</u> stated that if the speed limit was going to be changed, then it should be done in a Public Hearing. He stated there was nothing in the Ordinance that pertains to restricting the 30 mph to local streets. He asked if staff was looking at capping the arterial or collector roadways.

Engineer Corbett responded in the affirmative. It is already capped by Florida Statute at 60 mph and that is remaining intact.

<u>Councilmember Williams</u> had no objection to controlling the speed limit on neighborhood streets. He questioned if going from 30 mph to 25 mph would make a difference.

Engineer Corbett displayed the existing section on F.S. 18-6 and the proposed changes highlighted.

Chief of Police Newlan recalled the conversation four years ago about reducing the speed on local roadways from 30 mph to 25 mph. The data CCPD looked at did not support lowering the speed limit to 25 mph. All major crashes occur on major roadways, not residential or local roads.

<u>Councilmember Cosden</u> recalled that Council voted on speed limits in past meetings and that it was not always the decision of the City Manager.

City Manager Szerlag responded in the affirmative. He discussed that since he has been City Manager for the past seven years, he did not recall approving any speed limit changes. He agreed if Council so desired, they could take over the duty of setting speed limits. He preferred to have a cap in order to protect the residents. He recommended that the Council approve the Ordinance.

<u>Councilmember Carioscia</u> stated he was not comfortable with giving the authority to the City Manager to alter the speed limits. Any changes in the speed limit should be handled by City Council.

City Manager Szerlag stated that the language be kept to not penalize the residents and capping the speed limit to 30 mph.

Discussion held regarding who would have the authority to make speed limit changes.

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Councilmember Stokes stated he would like to see an amendment to the motion where City Council still had to approve the changes instead of the City Manager but keeping the 30-mph cap on the residential roads. Councilmember Carioscia agreed.

City Attorney Menendez stated that the City Manager has already had the authority to make these changes. This Ordinance will cap the local streets at 30 mph. It is also saying that after a reasonable investigation, speeds for arterial and collector roads can be set up to 60 mph. She understood that the intent of the proposed amendment to the motion of capping 30 mph remain in the Ordinance. She stated to that extent, the Ordinance can be adopted. She understood that Council may wish to bring this back in the future and remove some of the City Manager's authority. If so, that would need to be presented in another Ordinance.

City Manager Szerlag recommended that the Council approve the Ordinance as presented. He stated another Ordinance can be brought forward that gives City Council the authority to post speed limits with the cap unless Council wished not to have a cap.

Councilmember Gunter asked how long it would take to see another Ordinance.

City Manager Szerlag stated all Ordinances are reviewed by the City Attorney's Office. He stated a change in a sentence would take minutes.

<u>Councilmember Gunter</u> stated it would have to be introduced and come back again before Council. He questioned if there were any current traffic studies being done.

Engineer Corbett stated he did not have any speed studies in progress at this time.

Councilmember Gunter asked what meeting this Ordinance could be scheduled for.

City Clerk Bruns mentioned the next meeting was on August 26. There is no meeting on September 2nd, and the next regular meeting will be on September 9th.

<u>Councilmember Gunter</u> responded that he would be in favor of waiting on the change. He agreed with the 30-mph cap and to make a change in the authority, if Council so desired.

<u>Councilmember Stokes</u> questioned the City Attorney how long it would take to change one line in the Ordinance.

City Attorney Menendez stated it was not a question of how many words were being changed, it is more a question of removing the authority from the City Manager to the City Council. This is something to be determined when we actually look at it for that purpose. The Ordinance in front of Council now is actually restricting the City Manager more than he is restricted right now.

Councilmember Stokes asked the City Attorney if it was her advice to bring it back.

City Attorney Menendez stated there would be no problem in having it brought back by September. There should be appropriate notice that Council would be making this change.

<u>Councilmember Williams</u> stated that Ordinance 25-19 was based on placing a cap on the speed limit of 30 mph. If Council wishes to change the procedure, it should be come back as another Ordinance.

Mayor Coviello concurred.

City Clerk Bruns confirmed the motion: It started out from Councilmember Carioscia to approve Ordinance 25-19 as presented, seconded by Councilmember Stokes. Then

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Councilmember Stokes made a suggestion that Councilmember Carioscia said he would be agreeable to have City Council have the authority to make the changes.

<u>Mayor Coviello</u> stated that was not part of the motion when it was made. He understood that if you wanted to come back in the form of giving City Council the authority to approve the speed limits, then the vote would be "no", and it would be brought back. If Council likes the Ordinance as is, the vote would be "yes."

City Attorney Menendez stated it was possible to vote yes on this Ordinance and still want the Ordinance to be brought back to give Council this power. She understood that a good number of Councilmembers want to consider having an Ordinance brought before them that the City Manager is committing that he will bring forward.

Mayor Coviello confirmed the motion was to adopt this Ordinance, as written.

Council polled as follows: Stokes, Williams, Cosden, and Nelson voted "aye." Carioscia, Coviello, and Gunter voted "nay." Four "ayes" and three "nays." Motion carried 4-3.

Ordinance 38-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends Chapter 12, "Offenses and Miscellaneous Provisions", Article VIII, "Offenses Creating Nuisances", Section 12-23(F) of the Code of Ordinances, to prohibit overnight parking of commercial vehicles on certain public streets posted with signs. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

Engineer Corbett explained that the revisions to this Ordinance would add specific streets in the Northeast Industrial Park for posting of the No Overnight Parking of Commercial Vehicle Signs.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Carioscia moved, seconded by Councilmember Cosden, to adopt Ordinance 38-19, as presented.

<u>Councilmember Williams</u> inquired about the ownership of the property and public rights of way.

Engineer Corbett responded that the streets within the Industrial Park are public rights of way. All property that abuts the City right of way other than City-owned parcels are private property.

Councilmember Williams asked who requested this amendment to the Ordinance.

Engineer Corbett stated it was the request from the Industrial Park Association. They stated that there are occasions where there are vehicles that are parked for weeks, months, on end which are impacting business operations negatively, blocking deliveries, and Police are unable to enforce.

Council polled as follows: Stokes, Williams, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." Seven "ayes." Motion carried 7-0.

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INTRODUCTIONS

Resolution 277-19 (VP 19-0008*) Set Public Hearing Date for August 26, 2019 *Quasi-Judicial, All Persons Testifying Must be Sworn In

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for a portion of the San Carlos Canal Right-of-Way and the underlying public utility and drainage easements located adjacent to Lots 34-35, Block 101, Unit 2, Part 2, Cape Coral Subdivision; providing for the vacation of plat for public utility and drainage easements associated with Lots 34-35, Block 101, Unit 2, Part 2, Cape Coral Subdivision; property located at 5084 Sorrento Court. (Applicant: Daniel & Cornelia Huwiler Living Trust)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set for in VP HEX Recommendation 9-2019.

City Management Recommendation: City Management recommends approval.

City Clerk Bruns read the title of the Resolution.

The public hearing was scheduled for August 26, 2019 in Council Chambers.

Planning Team Coordinator Struve stated he was available for questions.

UNFINISHED BUSINESS

WATER QUALITY - UPDATE

Public Works Director Clinghan stated that the level in Lake Okeechobee was approximately two feet lower than it was a year ago. As of Friday, August 16, 2019, the Army Corps of Engineers was releasing zero cfs. Last year they were releasing 3,000 cfs.

FOLLOW UP ITEMS REQUESTED BY COUNCIL

<u>Councilmember Gunter</u> inquired if the City Manager would bring forward a revised Ordinance for the parking speed limit signs.

City Manager Szerlag responded in the affirmative.

NEW BUSINESS

(Item 11A moved directly after Citizen's Input)

Resolution 274-19 Approving Jobs Incentive Agreement between Mercola.Com Health Resources, LLC and City of Cape Coral in the amount of not to exceed \$76,500; Department: City Manager/EDO Division; Dollar Value \$76,500; (EDO Incentive Fund).

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Stokes - Topics: He discussed local media reporting.

Councilmember Stout - Topics: Excused.

<u>Councilmember Williams</u> – Topics: He attended the Annual Conference of the Florida League of Cities this past weekend, the Keynote Speaker for the First Session was Governor DeSantis, and it was Youth Council Day at the FLC on Saturday.

Councilmember Carioscia - Topics: No Report.

Councilmember Cosden - Topics: No Report.

Councilmember Gunter - Topics: Attended the Annual Conference of the Florida League of Cities, Mayor Kevin Ruane was sworn in as the Florida League of Mayors, Mayor

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Randy Henderson was sworn in as the Second Vice President of the Florida League of Cities.

<u>Councilmember Nelson</u> – Topics: Attended the Annual Conference of the Florida League of Cities, she looks forward to having the local Mayors represent our region. She also attended the SalusCare fundraiser last Saturday at Broadway Palm which raised \$160,000. Will be attending the PACE Dress for Success event this coming Wednesday.

Mayor Coviello – Topics: Attended the Florida League of Mayors. He will be attending a luncheon this week with other Mayors to discuss more cooperation in our Coalition of Mayors here. He was seeking committee appointments on the U.S. Conference of Mayors. He will attend the MPO Executive Committee meeting this week.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney: Topics: No Report

<u>City Manager</u>: Topics: He looked forward to seeing the Council for the Joint Budget Workshop scheduled for Tuesday, August 20, 2019.

TIME AND PLACE OF FUTURE MEETINGS

A Joint Cape Coral City Council and Budget Review Committee Budget Workshop was scheduled for Tuesday, August 20, 2019 at 1:00 p.m. in Council Chambers.

A Regular Meeting of the Cape Coral City Council was scheduled for Monday, August 26, 2019 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 6:38 p.m.

Submitted by,

Kimberly Bruns, CMC City Clerk Item Number: B.(1)

Meeting

9/9/2019 Date:

Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 260-19 Approve the purchase and installation of an Emergency Generator with LJ Power, Inc. for the Fleet Maintenance Building and the Everest Fuel Site at the estimated amount of \$115,096. The purchase of the generator is via a piggyback with the Florida Sheriff's Association Contract FSA-18-VEH16.0 and the installation is utilizing the City of Cape Coral Installation contract awarded on 10/15/18 via resolution 217-18; And authorize the City Manager or designee to execute the Purchase Orders; Department: Public Works; Estimated Annual Dollar Value \$115.096: (Internal Services Fund Fleet)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No

2. Is this a Strategic Decision? No

> If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

- 1. Public Works (PW)/Fleet Division is in need of an Emergency Generator for the Fleet Maintenance Building and Everest Fuel Site. The current generator is thirty three (33) years old and does not provide sufficient power to operate the maintenance facility and fuel site. PW/Facilities reviewed the scope of work along with the power requirements and recommended a larger generator.
- 2. Staff is requesting to purchase a TecnoGen model FP200TSX 150kw backup generator at an estimated cost of \$115,096.
- 3. Staff performed a market analysis comparing both the same model and other comparable base plus upgrade brands providing the same power and the market analysis reflects that the purchase is at a competitive price. The attached Department memo summarizes the findings.
- 4. If approved, the purchase will be completed utilizing the Florida Sheriff's Association Contract FSA-18-VEH16.0 and the installation with the City's contract #18-105/KS for Generator Pump Repair Maintenance and Installation Services which was awarded by Council via resolution 217-18 on October 15, 2018. By utilizing the Florida Sheriff's Association for the purchase and the City's contract for installation, a savings is realized for the installation of the generator.

- 5. This request is in accordance with City of Cape Coral Code of Ordinances Chapter 2, Article VII, Division 1, Section 2-144(f) of the Procurement Ordinance "Purchases of Goods or Services from Contracts Awarded by other Governmental Entities or Not by Profit Entities by Competitive Bid or Request for Proposal".
- 6. This is a budgeted item
- 7. Funding: Business unit 500241.664101 Internal Services Fund Fleet (Fleet Repairs Operations-Capital Equipment)

LEGAL REVIEW:

N/A

EXHIBITS:

Department Recommendation Memo

Resolution 260-19

LJ Powers Quote – utilizing Florida Sheriff's Association Contract

Florida Sheriff Contract FSA-18-VEH16.0

Resolution 217-18 – City Contract Generator Pump Repair Maintenance and Installation Services awarded to LJ Powers, Inc.

PREPARED BY:

Wanda Roop Division- Procurement Department-Finance

SOURCE OF ADDITIONAL INFORMATION:

Paul Clinghan, Public Works Director

ATTACHMENTS:

	Description	Туре
D	Department Memo	Backup Material
D	Resolution 260-19	Resolution
D	LJ Powers Quote – utilizing Florida Sheriff's Association Contract FSA-18-VEH16.0	Backup Material
D	Florida Sheriff Contract FSA-18-VEH16.0	Backup Material
D	Resolution 217-18 – City Contract Generator Pump Repair Maintenance and Installation Services awarded to LJ Powers, Inc	Backup Material

MEMORANDOM

CITY OF CAPE CORAL PUBLIC WORKS DEPARTMENT

TO:

John Szerlag, City Manager

Victoria Bateman, Financial Services Director

Wanda Roop, Procurement Manager

FROM:

Paul Clinghan, Public Works Director Marilyn Rawlings, Fleet Manager

DATE:

July 30, 2019

SUBJECT:

Recommendation for Purchase and Installation of Emergency Generator

Background

Resolution 200-18 approved \$60,000 for an Emergency Generator for the Fleet Maintenance Building and Everest Fuel Site. Public Works Facilities reviewed the scope of work and power requirements and recommended a larger generator than previously guoted. The present generator is 33 years old and will not provide sufficient power to operate the maintenance facility and the fuel site.

Fund Availability

Funds for the difference (\$55,096.00) between the initial \$60,000 City Council approved under Resolution 200-18 and the total project of \$115.096.00 have been made available in the Internal Service Fund Business Unit 500241.

Recommendation

Fleet Management Staff performed a Market Analysis and recommends awarding the contract to LJ Power Generators by "piggybacking" the Florida Sheriff's Association State Contract FSA18-VEH16.0 effective October 1, 2018 through September 30, 2019.

MR/gm

MARKET ANALYSIS

A TecnoGen model FP200TSX 150kw backup generator upgraded to a 200kw has been selected to be purchased for emergency power for the Fleet Maintenance Building and Everest Fuel Site.

This model is offered under the Florida Sheriff's Association FSA18-VEH16.0 Florida State Contract. The base price is \$82,000 (150 kw) with the upgrade (200 kw) cost of \$17,000. Additional parts are required for connections and installation giving the project a grand total of \$115,096.00 (\$99,000 for base and upgrade, \$4,331 equipment parts, \$11,765 installation and installation parts).

A market analysis was performed comparing both the same model and other comparable base plus upgrade brands providing the same power. Using the Florida Sheriff's Association's Awarded Contactor LJ Power, TecnoGen was the most favorable. Three other suppliers all were between \$3,143 and \$9,500 more for the base generator plus the upgrade only. Also, Kelly Tractor was not able to upgrade the base 150 kw generator to 200 kw.

LJ Power currently has a contract with the City of Cape Coral for installation of generators. The installation cost is \$11,765.00. Kelly Tractor and Bobcat would require a third party hiring an electrical contractor to quote and install the generator. FTG Equipment declined to perform a complete installation.

Base Price + Upgrade Only

Dealer	150 KW Generator	Upgrade to 200 KW	Base + Upgrade
LJ Power	\$ 82,000	\$17,000	\$ 99,000
Kelly Tractor	\$102,143	\$ n/a	\$102,143
Bobcat Co	\$ 85,696	\$17,066	\$102,762
FTG Equipment	\$ 92,400	\$16,100	\$108,500

RESOLUTION 260 - 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING THE PURCHASE OF A TECHNOGEN FP200TSX 150KW BACKUP GENERATOR FROM LJ POWER, INC., UNDER FLORIDA SHERIFFS ASSOCIATION CONTRACT #FSA18-VEH16.0; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE PURCHASE ORDER(S); PROVIDING AN EFFECTIVE DATE.

WHEREAS, the current generator located at the Public Works/Fleet Division Fleet Maintenance Building and Everest Fuel Site is 33 years old and does not provide sufficient power to operate the maintenance facility and fuel site; and

WHEREAS, staff is requesting the purchase of a TechnoGen model FP200TSX 150KW backup generator from LJ Power, Inc., in accordance with the Florida Sheriffs Association Contract #FSA18-VEH16.0; and

WHEREAS, Section 2-144(f) of the City of Cape Coral Code of Ordinances authorizes the City to purchase goods or services from contracts awarded by other governmental entities by competitive bid; and

WHEREAS, the Procurement Manager has made the determination required by Section 2-144(f) of the City of Cape Coral Code of Ordinances that time and expense factors make it financially advantageous for the City to purchase from a contract awarded by another governmental entity; and

WHEREAS, the Procurement Manager has considered the requirements stated in Section 2-144(f) of the Code of Ordinances in making her recommendation to use the Florida Sheriffs Association contract; and

WHEREAS, on October 15, 2018, City Council adopted Resolution 217-18, approving a contract with LJ Power, Inc., for generator installation services throughout the City; and

WHEREAS, the City Council desires to approve the purchase of a TechnoGen model FP200TSX 150KW backup generator from LJ Power, Inc., in accordance with the Florida Sheriffs Association Contract #FSA18-VEH16.0, along with installation services previously approved in Resolution 217-18, for a total cost not to exceed \$115,096.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA:

Section 1. The City Council hereby approves the purchase of a TechnoGen model FP200TSX 150KW backup generator from LJ Power, Inc., in accordance with the Florida Sheriffs Association Contract #FSA18-VEH16.0, along with installation services previously approved in Resolution 217-18, for a total cost not to exceed \$115,096.

Section 2. The City Council hereby authorizes the City Manager or his designee to execute the purchase order(s).

Section 3. Effective Date. This resolution shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED BY THE CITY CO COUNCIL SESSION THIS		CAPE CORAL AT ITS SPECIAL , 2019.
	JOE COV	IELLO, MAYOR
VOTE OF MAYOR AND COU	JNCILMEMBERS:	
COVIELLO GUNTER CARIOSCIA	NELSON STOKES WILLIAMS	

COSDEN

STOUT

2019.	TO AND	FILED IN	MY OFFICE	THIS	_ DAY OF	
				KIMBERLY		

APPROVED AS TO FORM:

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Piggyback Florida Sheriff Association-LJ Power



Quote Number	Quote Name	Quote	Date	Expiration Da	te	Currency	
18121-006-LD-Е	Cape Coral	7/18/19	9	9/30/19		USD	
Sales Person	Manufacturing Plant		Quote	Entered By	Co	ntact No.	
Larry Davis Louisiana			Larry I	Davis	737	7-703-5000	
Quoted To:		S	Ship To:				
City of Cape Coral Fleet Maintenance Bui Attn: Rigo / Eric / Mar Per Florida Sheriff's State Contract			reight to C	Cape Coral, Florida			

Line No.	Qty	Part Number	Description	Unit Price	Extended Total	
000010	1	FP200TSX	150kW Rental Grade Diesel Driven Towable Generator w/ Tier4F Engine	\$82,000.00	\$82,000.00	1
000020	1	200kW	Upgrade to 200kW	\$17,000.00	\$17,000.00	2
000030	1	VSS	3 Position Voltage Selector Switch	Included	Included	
000040	1	ATS-600	600 Amp Asco ATS in a Nema 3R Enclosure for Fleet Building	\$4,050.00	\$4,050.00	3
000050	1	230 Amp	Downsize to a 230 Amp ATS (Building has 225 Amp Main)	(\$1,700.00)	(\$1,700.00)	4
000060	1	11BE	Programmable Exerciser	\$231.00	\$231.00	5
000070	5	Cable	50' 4/0 Power Cable with Color Coded Camloks.	\$350.00	\$1,750.00	6
080000	1	Freight	Freight to Cape Coral, Fl.	Included	Included	
000090	1	Startup	Onsite Startup and Training by Factory Rep.	Included	Included	
			Total Quote for Generator, ATS, Docking Station and Installation		\$103,331.00	

NOTES:

- Location of Docking Station and ATS will be on the East exterior wall of the Fleet Building.
- Location of Generator to be where existing LP tank sits.
- Removal of existing Gen, MTS, 2 bollards and LP Tank to be removed by City.



Quote Nu	mber	Q	uote Name	Que	ote Date	Expira	tion Date	Currency
18121-006-LD-F		F C	ape Coral 7/18/19 9/30		9/30/19)	USD	
Sales Pers	son	Manu	facturing Plant		Quote	Entered B	y Cor	itact No.
Larry Dav	is	Louisi	ana	ana Larry Davis			737	-703-5000
Quoted T	o:				Ship To:			
Fleet Main Attn: Rigo Pricing Per	/ Eric				Freight to (Cape Coral,	Florida	
Line No.	Qty	Part Number	Description				Unit Price	Extended Total
000010	1	400 GDS	400 Amp Gene	400 Amp Generator Docking Station – 3 Pole			\$5,765.00	\$5,765.00
000020	70	Install-Hours	Installation of ATS, Docking Station and connection to Generator (Includes portable Autostart wires and portable battery charger wiring).		\$85.00	\$5,950.00		

NOTES:

000030

• Location of Docking Station and ATS will be on the East exterior wall of the Fleet Building.

Total Quote for Installation of Generator, ATS, and Docking Station:

\$50.00

\$50.00

\$11,765.00

• Location of Generator to be where existing LP tank sits.

Misc Items

• Removal of existing Gen, MTS, 2 bollards and LP Tank to be removed by City.

Misc Items Required for Install







FLORIDA SHERIFFS ASSOCIATION & FLORIDA ASSOCIATION OF COUNTIES

150KW MOBILE GENERATOR PACKAGE SPECIFICATION #77

2019 TechnoGen FP200TSX

The TechnoGen FP200TSX purchased through this contract comes with all the standard equipment as specified by the manufacturer for this model and FSA's base vehicle specification(s) requirements which are included and made a part of this contract's vehicle base price as awarded by specification by zone.

ZONE:

Western

Northern

Central

Southern

BASE PRICE:

\$82,000.00

\$82,000.00

\$82,000.00

\$82,000.00

While the Florida Sheriffs Association and Florida Association of Counties have attempted to identify and include those equipment items most often requested by participating agencies for full size vehicles, we realize equipment needs and preferences are going to vary from agency to agency. In an effort to incorporate flexibility into our program, we have created specific add/delete options which allow the purchaser to tailor the vehicle to their particular wants or needs.

The following equipment delete and add options and their related cost are provided here to assist you in approximating the total cost of the type vehicle(s) you wish to order through this program. Simply deduct the cost of any of the following equipment items you wish deleted from the base unit cost and/or add the cost of any equipment items you wish added to the base unit cost to determine the approximate cost of the type vehicle(s) you wish to order.

NOTE: An official listing of all add/delete options and their prices should be obtained from the appropriate dealer in your zone when preparing your order. Additional add/delete options other than those listed here may be available through the dealers, however, those listed here must be honored by the dealers in your zone at the stated prices.

VEHICLE:

FP200TSX

DEALER:

L J Power

L J Power

L J Power

L J Power

ZONE:

Western

Northern

Central

Southern

BASE PRICE:

\$82,000.00

\$82,000.00

\$82,000.00

\$82,000.00

Order Code	Delete Options	All Zones
PK22TSX ¹	Downgrade generator package - 20KW	\$56,000.00 ¹
FP70TSX ¹	Downgrade generator package - 60KW Downgrade to 61.5kW Rated Generator 1	\$33,000.00 ¹
	Downgrade generator package - 80KW	NA
PK113TSX ¹	Downgrade generator package - 100KW	\$24,000.00 ¹
FP145SX ¹	Downgrade generator package - 125KW Downgrade to 130kW Rated Generator 1	\$2,000.001
KL35TSX ¹	Downgrade generator package - specify Downgrade to 30kW Rated Generator 1	\$46,000.00 ¹
KL45TSX ¹	Downgrade generator package - specify Downgrade to 40kW Rated Generator 1	\$43,000.00 ¹
FP125TSX ¹	Downgrade generator package - specify Downgrade to a 110kW Rated Generator 1	\$8,000.00
FP170TSX ¹	Downgrade generator package - specify Downgrade to a 135kW Rated Generator 1	\$1,500.00 ¹
Trailer-1	Downgrade generator package - specify Remove Trailer 22kVA 1	\$1,500.00 ¹
Trailer-2 1	Downgrade generator package - specify Remove Trailer 25-75kVA	\$3,200.00 ¹
Trailer-3 ¹	Downgrade generator package - specify Remove Trailer 113-330kVA 1	\$5,400.00 ¹
Trailer-4 1	Downgrade generator package - specify Remove Trailer 365-400kVA 1	\$7,000.00 ¹
Trailer-5 ¹	Downgrade generator package - specify Remove Trailer 604-704kVA 1	\$14,000.00 ¹
PK113FQ ¹	Delete option - specify Downgrade to Mega Silent Entertainment Series 100kW 1	\$18,000.00 ¹
FP70FQ ¹	Delete option - specify Downgrade to Mega Silent Entertainment Series 61.5kW 1	\$27,000.00 ¹
KL45FQ ¹	Delete option - specify Downgrade to Mega Silent Entertainment Series 40kW 1	\$34,000.00 ¹
KL35FQ ¹	Delete option - specify Downgrade to Mega Silent Entertainment Series 30kW 1	\$37,000.00 ¹
PK22FQ ¹	Delete option - specify Downgrade to Mega Silent Entertainment Series 20kW 1	\$48,000.00 ¹
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA

VEHICLE:

FP200TSX

DEALER:

L J Power

L J Power

L J Power

L J Power

ZONE:

Western

Northern

Central

Southern

BASE PRICE:

\$82,000.00

\$82,000.00

\$82,000.00

\$82,000.00

Delete option - specify

NA

Order Code	Add Options	All Zones
FP200TSX 1	Upgrade generator package - 175KW	\$0.001
FP225TSX ¹	Upgrade generator package - 200KW	\$17,000.00 ¹
FP330TSX ¹	Upgrade generator package - 300KW Upgrade to 300kW Rated Generator 1	\$46,000.001
	Upgrade generator package - specify	NA
FP255TSX ¹	Upgrade generator package - specify Upgrade to 230kW Rated Generator I	\$33,000.00
FP280TSX ¹	Upgrade generator package - specify Upgrade to 250kW Rated Generator I	\$38,000.00
FP310TSX ¹	Upgrade generator package - specify Upgrade to 275kW Rated Generator I	\$43,000.00 ¹
FP365TSX ¹	Upgrade generator package - specify Upgrade to 325kW Rated Generator 1	\$68,000.00 ¹
FP400TSX ¹	Upgrade generator package - specify Upgrade to 350kW Rated Generator 1	\$78,000.00 ¹
FP440TSX ¹	Upgrade generator package - specify Upgrade to 395kW Rated Generator 1	\$86,000.001
VO604TSX ¹	Upgrade generator package - specify Upgrade to 550kW Rated Generator 1	\$133,000.00 ¹
VO704TSX ¹	Upgrade generator package - specify Upgrade to 615kW Rated Generator 1	\$153,000.00 ¹
	Upgrade generator package - specify	NA
Sync-1 ¹	Optional equipment - specify Synchronizing Control Panel for 25-200kVA 1	\$7,285.00 ¹
Sync-2 1	Optional equipment - specify Synchronizing Control Panel for 225-440kVA 1	\$8,970.001
Sync-3 ¹	Optional equipment - specify Synchronizing Control Panel for 604-704kVA 1	\$14,925.00 ¹
Dual AVR 1	Optional equipment - specify	\$3,300.001
Cam Locks 1	Optional equipment - specify Per Set of 5 - Receptacles 1	\$500.001
Cable-100 1	Optional equipment - specify 30' 3 phase Power Cable - 100 Amp 1	\$1,200.00 ¹
Cable-200 ¹	Optional equipment - specify 30' 3 phase Power Cable - 200 Amp 1	\$2,000.00
Cable-400 ¹	Optional equipment - specify 30' 3 phase Power Cable - 400 Amp 1	\$3,000.001

VEHICLE:

FP200TSX

DEALER:

L J Power

L J Power

L J Power

L J Power

ZONE:

Western

Northern

Central

Southern

BASE PRICE:

\$82,000.00

\$82,000.00

\$82,000.00

\$82,000.00

Plug-100 ¹	Optional equipment - specify 100 Amp 3 Phase Plug to match Customer Connection 1	\$1,800.001
Plug-200 ¹	Optional equipment - specify 200 Amp 3 Phase Plug to match Customer Connection 1	\$2,000.001
Plug-400 ¹	Optional equipment - specify 400 Amp 3 Phase Plug to match Customer Connection 1	\$6,000.001
Cable-400 ¹	Optional equipment - specify 50' of 400 amp Power Cable with Cam locks on both ends - Per Cable 1	\$350.00 ¹
Cable-200 ¹	Optional equipment - specify 50' of 200 amp Power Cable with Cam locks on both ends 1	\$300.001
Cable-100 ¹	Optional equipment - specify 50' of 100 amp Power Cable with Cam locks on both ends 1	\$250.001
Pigtail-400 ¹	Optional equipment - specify 5' Pigtail - 400 amp Power Cable. 1 End Cam-lock / Other End Bare Cable 1	\$125.001
Pigtail-200 ¹	Optional equipment - specify 5' Pigtail - 200 amp Power Cable. I End Cam-lock / Other End Bare Cable 1	\$100.001
Pigtail-100 ¹	Optional equipment - specify 5' Pigtail - 100 amp Power Cable. 1 End Cam-lock / Other End Bare Cable 1	\$100.001
FP125FQ ¹	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 110kW 1	\$2,000.001
FP145FQ ¹	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 130kW 1	\$28,000.00 ¹
FP170FQ ¹	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 150kW 1	\$43,000.00 ¹
FP200FQ ¹	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 175kW 1	\$46,000.00 ¹
FP225FQ ¹	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 200kW 1	\$54,000.00 ¹
FP255FQ ¹	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 230kW 1	\$93,000.00 ¹
FP280FQ ¹	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 250kW 1	\$98,000.001
FP330FQ ¹	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 300kW 1	\$105,000.00 ¹
FP400FQ ¹	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 350kW 1	\$128,000.00 ¹
VO604FQ ¹	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 550kW 1	\$228,000.00 ¹
Bi-Annual-1	Maintenance Plan - specify I Minor and I Major and 2 hour Load bank test - 20kW-200kW 1	\$1,500.00
Bi-Annual-2 1	Maintenance Plan - specify 1 Minor and 1 Major and 2 hour Load bank test - 201kW-604kW 1	\$4,000.00

VEHICLE:

FP200TSX

DEALER:

L J Power

L J Power

L J Power

L J Power

ZONE:

Western

Northern

Central

Southern

BASE PRICE:

\$82,000.00

\$82,000.00

\$82,000.00

\$82,000.00

Warranty - specify
Warranty - specify

NA NA

Warranty - specify

NA



Base Unit





FLORIDA SHERIFFS ASSOCIATION & FLORIDA ASSOCIATION OF COUNTIES

Name of Dealership	Type of Vehicle	Zone	Price
600 AMP AUTOMATIC TRANSFER S	WITCH (Specification #80)		
Mid Florida Diesel, Inc	2019 ASCO Series 300	★ Western	\$3,990.00
ALT - L J Power	2019 ASCO Series 300 2019 ASCO Series 300	Western	\$4,050.00
Mid Florida Diesel, Inc	2019 ASCO Series 300	*Northern	\$3,990.00
ALT - L J Power	2019 ASCO Series 300	Northern	\$4,050.00
Mid Florida Diesel, Inc	2019 ASCO Series 300	★Central	\$3,990.00
ALT - L J Power	2019 ASCO Series 300	Central	\$4,050.00
Mid Florida Diesel, Inc	2019 ASCO Series 300	★ Southern	\$3,990.00
ALT - L J Power	2019 ASCO Series 300	Southern	\$4,050.00
ALI - L'ITOWEI	201) ASCO Selies 300	Southern	\$4,030.00
Ring Power Corporation	2019 Caterpillar CTG Series	Western	\$5,100.00
	2019 Caterpillar CTG Series	Western	NB
Ring Power Corporation	2019 Caterpillar CTG Series	Northern	\$5,100.00
	2019 Caterpillar CTG Series	Northern	NB
Ring Power Corporation	2019 Caterpillar CTG Series	Central	\$5,100.00
	2019 Caterpillar CTG Series	Central	NB
Pantropic Power	2019 Caterpillar CTG Series	Southern	\$5,500.00
	2019 Caterpillar CTG Series	Southern	NB
L J Power	2019 GE Zenith ZTG600	Western	\$4,900.00
	2019 GE Zenith ZTG600	Western	NB
L J Power	2019 GE Zenith ZTG600	Northern	\$4,900.00
	2019 GE Zenith ZTG600	Northern	NB
L J Power	2019 GE Zenith ZTG600	Central	\$4,900.00
	2019 GE Zenith ZTG600	Central	NB
L J Power	2019 GE Zenith ZTG600	Southern	\$4,900.00
	2019 GE Zenith ZTG600	Southern	NB
ACF Standby Systems LLc	2019 Generac GTS600	Western	\$7,100.00
	2019 Generac GTS600	Western	NB
ACF Standby Systems LLc	2019 Generac GTS600	Northern	\$7,100.00



VEHICLE:

Series 300 (ALTERNATE DEALERS)

DEALER:

BASE PRICE:

L J Power

L J Power

L J Power

L J Power

ZONE:

Western \$4,050.00

Northern \$4,050.00

Central \$4,050.00 Southern \$4,050.00

Order Code	Delete Options	All Zones
104 1	Downgrade to 100 amps Asco 300 Series, 104 Amp, Nema 3R w/ Exerciser 1	\$2,450.00 ¹
150 ¹	Downgrade to 150 amps	\$2,300.00 ¹
200 1	Downgrade to 200 amps	\$2,150.00 ¹
260 ¹	Downgrade to 250 amps Asco 300 Series, 260 Amp, Nema 3R w/ Exerciser 1	\$1,600.00 ¹
100	Downgrade to 400 amps	\$1,200.00 ¹
70 1	Delete option - specify Asco 300 Series, 70 Amp, Nema 3R w/ Exerciser 1	\$2,500.00 ¹
30 ¹	Delete option - specify Asco 300 Series, 30 Amp, Nema 3R w/ Exerciser 1	\$2,500.001
230 1	Delete option - specify Asco 300 Series, 230 Amp, Nema 3R w/ Exerciser 1	\$1,700.001
Nema 1-1 1	Delete option - specify Nema 1 Enclosure (30-230 Amp) 1	\$110.00 ¹
Nema 1-2 ¹	Delete option - specify Nema I Enclosure (260-600 Amp) 1	\$220.00 ¹
Nema 1-3 ¹	Delete option - specify Nema 1 Enclosure (800-1000 Amp) 1	\$400.00
Nema 1-4 ¹	Delete option - specify Nema 1 Enclosure (1200-3000 Amp) 1	\$1,300.00 ¹
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA
	Delete option - specify	NA

VEHICLE:

Series 300 (ALTERNATE DEALERS)

DEALER:

L J Power

L J Power

L J Power

L J Power

ZONE:

Western

Northern

Central

Southern

BASE PRICE:

\$4,050.00

\$4,050.00

\$4,050.00

\$4,050.00

4X-5 ¹	Optional equipment - specify Adds a Nema 4X Stainless Steel Enclosure (30-230 Amps; Delayed Transition) 1	\$2,750.001	
SER-1 1	Optional equipment - specify Includes Service Entrance Rated ATS 70-225 Amp 225 Amp is added from the 230 Amp base Price. 1	\$2,045.001	
SER-2 ¹	Optional equipment - specify Includes Service Entrance Rated ATS 250-800 Amp 250 Amp is added from the 260 Amp base Price. 1	\$3,400.00	
SER-3 ¹	Optional equipment - specify Includes Service Entrance Rated ATS 1000-2000 Amp 1	\$9,200.001	
SER-4 ¹	Optional equipment - specify Includes Service Entrance Rated ATS 2500 Amp This is added from the 2600 amp base price. 1	\$14,600.00 ¹	
SER-5 ¹	Optional equipment - specify Includes Service Entrance Rated ATS 3000 Amp 1	\$18,500.00	
HBE 1	Optional equipment - specify Programmable Exerciser, Event Log, RS485 Enabled, Common Alarm Output Contact 1	\$231.001	
Discount ¹	Optional equipment - specify Discount off of List price for any options not listed - 50% Discount from List Price 1	Std ¹	
72EE ¹	Optional equipment - specify Ethernet Module with AES	\$490.00 ¹	
30AA ¹	Optional equipment - specify Load Shed - Customer supplied Contact 1	\$690.00 ¹	
30BA ¹	Optional equipment - specify Load Shed - Customer supplied Voltage 1	\$760.00 ¹	
5310 1	Optional equipment - specify Single Channel Remote Annunciator - Connects with Ethernet Network. Requires 72EE Option. 1	\$700.001	
	Maintenance Plan - specify	NA	
	Maintenance Plan - specify	NA	
5yr-1 ¹	Warranty - specify 5 Year Warranty (30-800 Amps) 1	\$450.00 ¹	
5yr-2 ¹	Warranty - specify 5 Year Warranty (1000-2000 Amps) 1	\$795.00 ¹	
5yr-3 ¹	Warranty - specify 5 Year Warranty (2500-3000 Amps) 1	\$1,250.00 ¹	

VEHICLE:

AT150

DEALER:

L J Power

L J Power

L J Power

L J Power

ZONE:

★Western

★Northern

★Central

★Southern

BASE PRICE:

\$72,000.00

\$72,000.00

\$72,000.00

\$72,000.00

DASE I RICE.	\$72,000.00	\$72,000.00	\$72,000.00	\$72,000.00	
	Upgrade generator package -	specify		N/	A
	Upgrade generator package -	specify		N/	A
	Upgrade generator package -	specify		N/	A
	Upgrade generator package -	specify		N/	A
	Upgrade generator package -	specify		N/	A
	Upgrade generator package -	specify		N/	A
	Upgrade generator package -	specify		NA	A
Cable-100-3ph ¹	Optional equipment - specify 30' 3 phase Power Cable - 100 Amp			\$1,200.00	01
Cable-200-3ph ¹	Optional equipment - specify 30' 3 phase Power Cable - 200 Amp			\$2,000.00	01
Cable-400-3ph ¹	Optional equipment - specify 30' 3 phase Power Cable - 400 Amp	<u>, </u>		\$3,000.00	01
Plug-100 ¹	Optional equipment - specify 100 Amp 3 Phase Plug to match Cu			\$1,800.00	01
Plug-200 ¹	Optional equipment - specify 200 Amp 3 Phase Plug to match Cu.	l stomer Connection 1		\$2,000.00	01
Plug-400 ¹	Optional equipment - specify 400 Amp 3 Phase Plug to match Cu			\$6,000.00	01
Cable-400 ¹	Optional equipment - specify 50' of 400 Amp Power Cable with C			\$350.00	01
Cable-200 ¹	Optional equipment - specify 50' of 200 Amp Power Cable with C			\$300.00	01
Cable-100 ¹	Optional equipment - specify 50' of 100 Amp Power Cable with C			\$250.00	01
Pigtail-400 ¹	Optional equipment - specify 5' Pigtail - 400 Amp Power Cable.		l bare cable. 1	\$125.00	01
Pigtail-200 ¹	Optional equipment - specify 5' Pigtail - 200 Amp Power Cable.		l bare cable. ¹	\$100.00	01
Pigtail-100 ¹	Optional equipment - specify 5' Pigtail - 100 Amp Power Cable.		l bare cable. 1	\$100.00	01
	Optional equipment - specify	y'		N.	A
	Optional equipment - specify	4		N.	A
	Optional equipment - specify	y		N.	A
	Optional equipment - specify	y		N.	A
	Optional equipment - specify	ý		N.	A
	Optional equipment - specify	y		N.	A
	Optional equipment - specify	Ý		N.	A
	Optional equipment - specify	ý		N.	A
	Optional equipment - specify	y		N.	A









FLORIDA SHERIFFS ASSOCIATION & FLORIDA ASSOCIATION OF COUNTIES

Name of Dealership	Type of Vehicle	Zone	Base Unit Price
150KW MOBILE GENERATOR PACKAGE (Sp	ecification #77)		
Mid Florida Diesel, Inc	2019 Blue Star Power Systems VD150-02 FT4	Western	\$80,600.00
	2019 Blue Star Power Systems VD150-02 FT4	Western	NB
Mid Florida Diesel, Inc	2019 Blue Star Power Systems VD150-02 FT4	Northern	\$80,600.00
	2019 Blue Star Power Systems VD150-02 FT4	Northern	NB
Mid Florida Diesel, Inc	2019 Blue Star Power Systems VD150-02 FT4	Central	\$80,600.00
	2019 Blue Star Power Systems VD150-02 FT4	Central	NB
Mid Florida Diesel, Inc	2019 Blue Star Power Systems VD150-02 FT4	Southern	\$80,600.00
	2019 Blue Star Power Systems VD150-02 FT4	Southern	NB
L J Power	2019 Chicago Pneumatic CPG-250 T4F	Western	\$124,000.00
	2019 Chicago Pneumatic CPG-250 T4F	Western	NB
L J Power	2019 Chicago Pneumatic CPG-250 T4F	Northern	\$124,000.00
	2019 Chicago Pneumatic CPG-250 T4F	Northern	NB
L J Power	2019 Chicago Pneumatic CPG-250 T4F	Central	\$124,000.00
	2019 Chicago Pneumatic CPG-250 T4F	Central	NB
L J Power	2019 Chicago Pneumatic CPG-250 T4F	Southern	\$124,000.00
	2019 Chicago Pneumatic CPG-250 T4F	Southern	NB
Bobcat Company	2019 Doosan G190 WCU-34-T4F	Western	\$85,696.00
	2019 Doosan G190 WCU-34-T4F	Western	NB
Bobcat Company	2019 Doosan G190 WCU-34-T4F	Northern	\$85,696.00
	2019 Doosan G190 WCU-34-T4F	Northern	NB
Bobcat Company	2019 Doosan G190 WCU-34-T4F	Central	\$85,696.00
	2019 Doosan G190 WCU-34-T4F	Central	NB

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Bobcat Company	2019 Doosan G190 WCU-34-T4F	Southern	\$85,696.00	
	2019 Doosan G190 WCU-34-T4F	Southern	NB	
ACF Standby Systems LLc	2019 Generac/Magnum MDG175DF4	Western	\$85,500.00	
	2019 Generac/Magnum MDG175DF4	Western	NB	
ACF Standby Systems LLc	2019 Generac/Magnum MDG175DF4	Northern	\$85,500.00	
	2019 Generac/Magnum MDG175DF4	Northern	NB	
ACF Standby Systems LLc	2019 Generac/Magnum MDG175DF4	Central	\$85,500.00	
	2019 Generac/Magnum MDG175DF4	Central	NB	
ACF Standby Systems LLc	2019 Generac/Magnum MDG175DF4	Southern	\$85,000.00	
	2019 Generac/Magnum MDG175DF4	Southern	NB	
L J Power	2019 LJP AT150	★ Western	\$72,000.00	
	2019 LJP AT150	Western	NB	
L J Power	2019 LJP AT150	★Northern	\$72,000.00	
	2019 LJP AT150	Northern	NB	
L J Power	2019 LJP AT150	★ Central	\$72,000.00	
	2019 LJP AT150	Central	NB	
L J Power	2019 LJP AT150	★Southern	\$72,000.00	
	2019 LJP AT150	Southern	NB	
	2019 MPMC MP150S-2	Western	NB	
	2019 MPMC MP150S-2	Western	NB	
	2019 MPMC MP150S-2	Northern	NB	
	2019 MPMC MP150S-2	Northern	NB	
	2019 MPMC MP150S-2	Central	NB	
	2019 MPMC MP150S-2	Central	NB	
	2019 MPMC MP150S-2	Southern	NB	
	2019 MPMC MP150S-2	Southern	NB	
	2019 Multiquip DCA 220SSJU4F	Western	NB	
	2019 Multiquip DCA 220SSJU4F	Western	NB	
	2019 Multiquip DCA 220SSJU4F	Northern	NB	
	2019 Multiquip DCA 220SSJU4F	Northern	NB	
	2019 Multiquip DCA 220SSJU4F	Central	NB	
	2019 Multiquip DCA 220SSJU4F	Central	NB	
	2019 Multiquip DCA 220SSJU4F	Southern	NB	
	2019 Multiquip DCA 220SSJU4F	Southern	NB	
	22 9			
L J Power	2019 TechnoGen FP200TSX	Western	\$82,000.00	1
	2019 TechnoGen FP200TSX	Western	NB	
L J Power	2019 TechnoGen FP200TSX	Northern	\$82,000.00	

	2019 TechnoGen FP200TSX	Northern	NB
L J Power	2019 TechnoGen FP200TSX	Central	\$82,000.00
	2019 TechnoGen FP200TSX	Central	NB
L J Power	2019 TechnoGen FP200TSX	Southern	\$82,000.00
	2019 TechnoGen FP200TSX	Southern	NB
Tradewinds Power	2019 Tradewinds TP150	Western	\$73,220.00
	2019 Tradewinds TP150	Western	NB
Tradewinds Power	2019 Tradewinds TP150	Northern	\$73,220.00
	2019 Tradewinds TP150	Northern	NB
Tradewinds Power	2019 Tradewinds TP150	Central	\$73,220.00
	2019 Tradewinds TP150	Central	NB
Tradewinds Power	2019 Tradewinds TP150	Southern	\$73,220.00
	2019 Tradewinds TP150	Southern	NB
	2019 Wacker Neuson G180	Western	NB
	2019 Wacker Neuson G180	Western	NB
	2019 Wacker Neuson G180	Northern	NB
	2019 Wacker Neuson G180	Northern	NB
Kelly Tractor Co	2019 Wacker Neuson G180	Central	\$102,143.00
	2019 Wacker Neuson G180	Central	NB
Kelly Tractor Co	2019 Wacker Neuson G180	Southern	\$102,143.00
	2019 Wacker Neuson G180	Southern	NB

S for the Construction Indust



Models FP145TSX, FP170TSX, FP200TSX, FP225TSX



100 Paper Place New Castle, DE 19720 www.ftgequipment.com (855) 303-7900 Fax (302) 231-1162 sales@ftgequipment.com



FP145TSX, FP170TSX, FP200TSX, FP225TSX Specifications

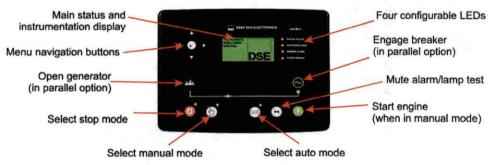
MODEL	FP145TSX	FP170TSX	FP200TSX	FP225TSX
SERIES	ENERMAX	ENERMAX	ENERMAX	ENERMAX
ENERATOR SPECS				
PRIME (kW)	115	132	156	181
STANDBY (kW)	126.5	146	172	200
RPM	1800	1800	1800	1800
VOLTAGE 1PH	N/A	N/A	N/A	N/A
VOLTAGE 3PH	480/277V	480/277V	480/277V	480/277V
VOLIAGE SFIT	208/120V	208/120V	208/120V	208/120V
FREQUENCY (Hz)	60	60	60	60
CONTROLLER BRAND	Deep Sea	Deep Sea	Deep Sea	Deep Sea
CONTROLLER MODEL	DSE7310	DSE7310	DSE7310	DSE7310
ALTERNATOR MAKE	Leroy Somer	Leroy Somer	Leroy Somer	Leroy Some
ALTERNATOR MODEL	LSA 44.3M8	LSA 46.3S2	LSA 46.3S3	LSA46.3S4
SYSTEM VOLTAGE	24V	24V	24V	24V
SOUND LEVEL @ 23 FEET	70	70	70	70
MPS				
SINGLE PHASE 120V zz (P.F. 0,8)	337.5 x 2 zz *	500 x 2 zz *	N/A	N/A
SINGLE PHASE 240V (P.F. 0,8)	338.5 *	500 *	N/A	N/A
THREE PHASE 208V (P.F. 0,8)	399	458	541	628
THREE PHASE 240V (P.F. 0,8)	346	397	469	544
THREE PHASE 480V (P.F. 0,8)	173	198	235	272
NGINE SPECS				
MAKE	FPT	FPT	FPT	FPT
MODEL	NEF67	NEF67	NEF67	NEF67
EPA LEVEL	Tier 4F	Tier 4F	Tier 4F	Tier 4F
No. Cylinders	6	6	6	6
Gross HP	194.5	224	261.5	299
EXTERNAL FUEL VALVE	YES	YES	YES	YES
FUEL CONTAINMENT	110%	110%	110%	110%
UEL CONSUMPTION	RE DEL YO			
FUEL CAPACITY (Gallons)	231.5	231.5	231.5	231.5
75%	6.10 gal/h	6.98 gal/h	7.92 gal/h	9.14 gal/h
RUN TIME @ 75%	37.95	33.17	29.23	25.33
DEF				
DEF TANK CAPACITY (Gallons)	20	20	20	20
WEIGHTS AND DIMENSIONS	E PAGE	Parks 1947		
SKID W/O TRAILER				
Dry WEIGHT (lbs.)	7159.1	7247.3	7423.7	7533.9
Wet WEIGHT (lbs.)	8920.7	9008.9	9185.3	9295.5
LENGTH (in.)	153.5	153.5	153.5	153.5
WIDTH (in.)	44.7	44.7	44.7	44.7
HEIGHT (in.)	88.2	88.2	88.2	88.2

Enermax Series

TecnoGen's Enermax Series generator is built for reliability and is ideal for continuous heavy duty applications.

This series ranges in size from 25 to 1000 kVA and is equipped with market leading engines - Volvo, FPT, Kohler. Standard features include Deep Sea Controller, camlocks, block heater, battery charger and external fuel connect.

Deep Sea Controller





FTG Equipment Solutions 100 Paper Place New Castle, DE 19720 (855) 303-7900 Fax (302) 231-1162

FLORIDA SHERIFFS ASSOCIATION & FLORIDA ASSOCIATION OF COUNTIES

SPECIFICATION #077 - 150KW MOBILE GENERATOR PACKAGE

2019 Blue Star Power Systems VD150-02 FT4; 2019 Chicago Pneumatic CPG-250 T4F 2019 Doosan G190 WCU-34-T4F; 2019 Generac/Magnum MDG175DF4

2019 LJP AT150; 2019 MPMC MP150S-2 2019 Multiquip DCA 220SSJU4F; 2019 TechnoGen FP200TSX

2019 Tradewinds TP150; 2019 Wacker Neuson G180

THE FOLLOWING ITEMS WILL BE FACTORY INSTALLED ON THE BASE VEHICLE/EQUIPMENT TO MEET THE MODEL NUMBER AND BUILD CODES OF THE VEHICLE LISTED.

1. GENERATOR REQUIREMENTS:

- a. Standby duty rated at 150kwe, 187kva, 8 power factor.
- b. Prime power duty rating 135kwe, 168kva, 0.8 power factor. c. Main Breaker shall be equipped with shunt trip.

- d. Generator end shall be Direct coupled to the engine flywheel with a flexible coupling.
- e. Generator shall meet performance class G3 of IEC.
- f. Jacket water heater.

2. ENGINE:

- a. 6 cylinder, water cooled, 1800rpm, diesel engine.
- b. Current emission compliant diesel engine.
- c. Spin on fuel and oil filters.

3. VOLTAGE CHANGE OVER SWITCH & DISTRIBUTION:

Manual 3 position voltage change over switch to select each voltage as specified when the unit is not running.

- b. Iph 120/240, 3ph 120/240, 3ph 120/208, and 3ph 277/480. c. A five point connection shall be provided for ease of connection of load leads.
- d. One 50amp, 120/240vac, I ph, twist lock receptacle. e. One 30amp, 120/240vac, I ph, RV type receptacle.
- f. Two 20amp, 120/240vac, 1 ph, duplex receptacle. g. Two 20amp, 120/240vac, 1ph, duplex GFI receptacle.
- g. Two 20amp, 120/240vac, 1ph, duplex GF1 receptacle.

 h. Each receptacle shall be protected by a individual circuit breaker.
- i. A receptacle shall be provided to power both the jacket water heater and on board battery charger.
- j. Two thumb screw type connection points shall be provided for remote auto start.

4. CONTROLS:

- a. Solid state, microprocessor based generator controls.
- b. Controls shall provide all operating, monitoring and control functions for the generator set. Controls shall provide for auto start/stop functions.

c. A emergency stop push button will be installed.

- d. A voltage adjustment shall be provided in the panel to adjust voltage in all voltage positions.
- e. A switch shall be provided in the panel to turn all power off in the panel if not being used.

5. ENCLOSURE:

- a. Complete diesel engine generator set including control panel, engine starting batteries and fuel tank shall be enclosed in a factory assembled weather protective, sound attenuated enclosure. The sound attenuated enclosure noise level is not to exceed 73 – 75dba
- b. Oil and water drain lines shall be provided and extend to the enclosure wall with valves for easy service.
- c. Critical grade silencer.
- d. Companion flanges.
- e. Flexible exhaust-flex.
- f. Keyed alike lockable doors.

6. IN BASE FUEL TANK TRAILER:

- a. Trailer shall be DOT approved with proper serial number data plate indicating weight capacity minimum of 10,000lbs.
- b. Trailer will have dual axles with torque springs to reduce overall height of package.

c. Standard 7 or 5 pin vehicle hitch receiver to be supplied.

d. Trailer will have two rear level jacks with sand shoes and front leveling jack.

e. Trailer will have hydraulic brakes.

- f. Trailer will have all necessary safety equipment to include but not be limited to an adjustable and removable pintle hitch, 30 inch safety chains, fenders, lights per DOT, and break away cable.

 Tires will be minimum load range type "D" (8 ply rating) with matching steel rims. Rims are to be finish painted.
- h. Minimum 8 hour capacity at 75% load rating to determine single wall tank size.
- A mechanical fuel gauge will be provided.
- j. Locking fuel cap.

k. Low fuel level alarm.

1. All necessary vents and caps will be provided along with suction, return, and drain points.

7. BATTERY CHARGER:

a. Battery will be installed in holding container with battery cables.

b. Current limiting battery charger to automatically charge batteries.

c. Charger shall be dual charge rate with automatic switching to boost rate when required.

d. Charger mounted inside generator set package.
 e. Fully charged battery will be provided at time of delivery and start-up.

8. START UP & COMMISSIONING:

a. One (1) day start-up including operational test of equipment showing proper connection of cables with safety issues performed by a factory trained technician. The start up technician will instruct personnel how to operate and maintain the equipment in accordance with the manufacturer's requirements.

9. CONDITIONS:

a. In addition to equipment specified, each generator shall be equipped with all standard equipment as specified by the manufacturer for this model and shall include but not be limited to the following items:

b. All product shall be new and of current design.
c. Initial filling of oil and antifreeze. (diesel fuel by others)

d. During start-up, the technician shall record the following information and provide to owner for his records:

e. Operating Voltage, Hertz, Phase, and connected load (Amperage). [if any]

f. Package information consisting of Make of generator (Cat, Wacker, or Tradewinds), Model (TJ125 TP20, DP125, etc.), Serial number of complete package, and Start-up date.

Written Information consisting of make, model, serial number, and start-up date.

g. Written Information consisting of many, h. Record Engine and Generator Serial numbers.

One complete set of operation and maintenance manuals.

j. Two (2) year or 1500 hour standard mobile generator warranty will apply. Generator to be transported to authorized servicing dealer for warranty repair during normal business hours.

10. TRAILER

a. The trailer must have a vin and a certificate of origin

Equipment

Specification #77 150KW MOBILE GENERATOR PACKAGE

Unit Price Per Base

Western District \$82,000.00 /ea.

Northern District \$82,000.00 /ea. Central District \$82,000.00 /ea. Southern District \$82,000.00 /ea.

Brand Name:

✓ TechnoGen FP200TSX

SUBMIT SEPARATE SHEETS FOR EACH BRAND AND MODEL OFFERED

BIDDERS MUST INCLUDE A MANUFACTURER'S PRINT-OUT TO VERIFY THE VEHICLE BID MEETS ALL THE FSA AND MANUFACTURER STANDARD REQUIREMENTS OF EACH MAKE AND MODEL/TRIM LEVEL. ALSO, ANY DEALER INSTALLED AFTERMARKET COMPONENTS, IF SPECIFIED, MUST BE NOTED ON THE MANUFACTURER'S PRINT-OUT. ALL CONDITIONS AND REQUIREMENTS SHALL APPLY.

SPECIFICATIONS THAT MAY BE DELETED/ADDED, ORDER CODE, DESCRIPTION AND PRICE

LEGEND FOR DELETE/ADD OPTIONS

Every line will require a DOLLAR VALUE or one of the following abbreviations:

Std. = Manufacturer's standard equip.

Incl. = included with base specs.

NC = no additional charge NA = not applicable to the vehicle

Order code PK22TSX	Delete options Downgrade generator package - 20KW	Credit \$56,000.00
FP70TSX	Downgrade generator package - 60KW Downgrade to 61.5kW Rated Generator	\$33,000.00
	Downgrade generator package - 80KW	Not Applicable
PK113TSX	Downgrade generator package - 100KW	\$24,000.00
FP145SX	Downgrade generator package - 125KW Downgrade to 130kW Rated Generator	\$2,000.00
KL35TSX	Downgrade generator package - specify Downgrade to 30kW Rated Generator	\$46,000.00
KL45TSX	Downgrade generator package - specify Downgrade to 40kW Rated Generator	\$43,000.00
FP125TSX	Downgrade generator package - specify Downgrade to a 110kW Rated Generator	\$8,000.00
FP170TSX	Downgrade generator package - specify Downgrade to a 135kW Rated Generator	\$1,500.00
Trailer-1	Downgrade generator package - specify Remove Trailer 22kVA	\$1,500.00
Trailer-2	Downgrade generator package - specify Remove Trailer 25-75kVA	\$3,200.00
Trailer-3	Downgrade generator package - specify Remove Trailer 113-330kVA	\$5,400.00
Trailer-4	Downgrade generator package - specify Remove Trailer 365-400kVA	\$7,000.00
Trailer-5	Downgrade generator package - specify Remove Trailer 604-704kVA	\$14,000.00
PK113FQ	Delete option - specify Downgrade to Mega Silent Entertainment Series 100kW	\$18,000.00
FP70FQ	Delete option - specify Downgrade to Mega Silent Entertainment Series 61.5kW	\$27,000.00
KL45FQ	Delete option - specify Downgrade to Mega Silent Entertainment Series 40kW	\$34,000.00
KL35FQ	Delete option - specify Downgrade to Mega Silent Entertainment Series 30kW	\$37,000.00
PK22FQ	Delete option - specify Downgrade to Mega Silent Entertainment Series 20kW	\$48,000.00
	Delete option - specify	Not Applicable
	Delete option - specify	Not Applicable
	Delete option - specify	Not Applicable

SPECIFICATIONS THAT MAY BE DELETED/ADDED, ORDER CODE, DESCRIPTION AND PRICE

LEGEND FOR DELETE/ADD OPTIONS

Every line will require a DOLLAR VALUE or one of the following abbreviations:

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Incl. = included with base specs.

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	Delete option - specify	Not Applicable	
The second secon	Delete option - specify	Not Applicable	
Order code FP200TSX	Add options Upgrade generator package - 175KW	Price \$0.00	
FP225TSX	Upgrade generator package - 200KW	\$17,000.00	
FP330TSX	Upgrade generator package - 300KW Upgrade to 300kW Rated Generator	\$46,000.00	
	Upgrade generator package - specify	Not Applicable	
FP255TSX	Upgrade generator package - specify Upgrade to 230kW Rated Generator	\$33,000.00	
FP280TSX	Upgrade generator package - specify Upgrade to 250kW Rated Generator	\$38,000.00	
FP310TSX	Upgrade generator package - specify Upgrade to 275kW Rated Generator	\$43,000.00	
FP365TSX	Upgrade generator package - specify Upgrade to 325kW Rated Generator	\$68,000.00	
FP400TSX	Upgrade generator package - specify Upgrade to 350kW Rated Generator	\$78,000.00	
FP440TSX	Upgrade generator package - specify Upgrade to 395kW Rated Generator	\$86,000.00	
VO604TSX	Upgrade generator package - specify Upgrade to 550kW Rated Generator	\$133,000.00	
VO704TSX	Upgrade generator package - specify Upgrade to 615kW Rated Generator	\$153,000.00	
	Upgrade generator package - specify	Not Applicable	
Sync-1	Optional equipment - specify Synchronizing Control Panel for 25-200kVA	\$7,285.00	
Sync-2	Optional equipment - specify Synchronizing Control Panel for 225-440kVA	\$8,970.00	
Sync-3	Optional equipment - specify Synchronizing Control Panel for 604-704kVA	\$14,925.00	
Dual AVR	Optional equipment - specify	\$3,300.00	
Cam Locks	Optional equipment - specify Per Set of 5 - Receptacles	\$500.00	
Cable-100	Optional equipment - specify 30' 3 phase Power Cable - 100 Amp	\$1,200.00	
Cable-200	Optional equipment - specify 30' 3 phase Power Cable - 200 Amp	\$2,000.00	

SPECIFICATIONS THAT MAY BE DELETED/ADDED, ORDER CODE, DESCRIPTION AND PRICE

LEGEND FOR DELETE/ADD OPTIONS

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Cable-400	Optional equipment - specify 30' 3 phase Power Cable - 400 Amp	\$3,000.00
Plug-100	Optional equipment - specify 100 Amp 3 Phase Plug to match Customer Connection	\$1,800.00
Plug-200	Optional equipment - specify 200 Amp 3 Phase Plug to match Customer Connection	\$2,000.00
Plug-400	Optional equipment - specify 400 Amp 3 Phase Plug to match Customer Connection	\$6,000.00
Cable-400	Optional equipment - specify 50' of 400 amp Power Cable with Cam locks on both ends - Per Cable	\$350.00
Cable-200	Optional equipment - specify 50' of 200 amp Power Cable with Cam locks on both ends	\$300.00
Cable-100	Optional equipment - specify 50' of 100 amp Power Cable with Cam locks on both ends	\$250.00
Pigtail-400	Optional equipment - specify 5' Pigtail - 400 amp Power Cable. 1 End Cam-lock / Other End Bare Cable	\$125.00
Pigtail-200	Optional equipment - specify 5' Pigtail - 200 amp Power Cable. 1 End Cam-lock / Other End Bare Cable	\$100.00
Pigtail-100	Optional equipment - specify 5' Pigtail - 100 amp Power Cable. 1 End Cam-lock / Other End Bare Cable	\$100.00
FP125FQ	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 110kW	\$2,000.00
FP145FQ	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 130kW	\$28,000.00
FP170FQ	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 150kW	\$43,000.00
FP200FQ	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 175kW	\$46,000.00
FP225FQ	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 200kW	\$54,000.00
FP255FQ	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 230kW	\$93,000.00
FP280FQ	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 250kW	\$98,000.00
FP330FQ	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 300kW	\$105,000.00
FP400FQ	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 350kW	\$128,000.00

SPECIFICATIONS THAT MAY BE DELETED/ADDED, ORDER CODE, DESCRIPTION AND PRICE

LEGEND FOR DELETE/ADD OPTIONS

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VO604FQ	Optional equipment - specify Upgrade to Mega Silent Entertainment Series 550kW	\$228,000.00
Bi-Annual-1	Maintenance Plan - specify 1 Minor and 1 Major and 2 hour Load bank test - 20kW-200kW	\$1,500.00
Bi-Annual-2	Maintenance Plan - specify 1 Minor and 1 Major and 2 hour Load bank test - 201kW-604kW	\$4,000.00
	Warranty - specify	Not Applicable
	Warranty - specify	Not Applicable
	Warranty - specify	Not Applicable

FLORIDA SHERIFFS ASSOCIATION & FLORIDA ASSOCIATION OF COUNTIES

SPECIFICATION #080 - 600 AMP AUTOMATIC TRANSFER SWITCH

2019 ASCO Series 300; 2019 Caterpillar CTG Series 2019 GE Zenith ZTG600; 2019 Generac GTS600

2019 Thomson TS 870

THE FOLLOWING ITEMS WILL BE FACTORY INSTALLED ON THE BASE VEHICLE/EQUIPMENT TO MEET THE MODEL NUMBER AND BUILD CODES OF THE VEHICLE LISTED.

1. AUTOMATIC TRANSFER SWITCH:

- a. Maximum voltage rating of 600Vac, 60hz
- b. 1ph or 3ph
- c. Open transition (break-before-make) transfer logic
- d. Transfer switch must meet the related industry standards:
- e. UL 1008 Automatic transfer switches for use in emergency systems
- f. CSA Automatic transfer switches
- g. NEMA Industrial control and systems AC transfer switch equipment h. IEC Automatic transfer switching equipment

2. RATING:

- a. 600 amp, 3 pole, 277/480vac, 60hz
- b. Enclosure type: NEMA 3r

3. FUNCTIONAL:

- a. The automatic transfer switch shall automatically transfer the load to the generator supply in the event of a utility supply failure and return the load to the utility supply upon restoration. The automatic transfer switch power switching devices shall be mechanically and electrically interlocked to prevent the utility and generator supplies from being interconnected.
- b. All timers should be field adjustable to ensure proper field site compatibility.

4. AUTOMATIC SEQUENCE OF OPERATION:

- a. When the voltage on any phase of the utility supply is below present levels of rated voltage for a preset time delay, a contact shall close to initiate start of the standby generator.
- b. The load shall transfer to the generator supply when the generator voltage and frequency have reached acceptable present levels and the warm-up time delay has expired.
- c. When the utility supply is restores to the above present levels of rated voltage on all phases, load transfer from generator to utility supply shall be initiated following expiry of the utility return timer.
- d. Once the transfer mechanism operates and opens the generator power switching device, the transfer mechanism shall stop in the neutral position (i.e. with the both power switching devices open) for the duration of the neutral delay timer setting to allow load voltage to decay prior to reconnecting the utility supply.
- e. The load shall be re-connected to the utility supply once the neutral delay timer expires and the transfer mechanism continues operation and closes the utility power switching device.
- f. The load shall immediately retransfer to the utility supply (if within acceptable limits) should the generator supply fail prior to the expiry of the utility transfer delay.
- g. The generator set shall continue to operate following a load transfer for a cool down delay period, and then a contact shall open to stop the generator set.
- h. An "on load" test mode may be initiated which shall cause a simulated utility failure condition and transfer the load to the generator set. The transfer sequence shall be the same as for a utility power failure except a neutral delay sequence shall occur when transferring from utility to a generator source.
- i. The load shall immediately retransfer to the utility supply (if within acceptable limits) should the generator supply fail during an "on load" test mode.

5. FACTORY TESTING:

- a. A certified factory test report shall be shipped with each switch at time of shipment.
- b. The automatic transfer switch shall be factory tested prior to delivery to the purchaser. The following test shall be conducted by qualified factory personnel:
- Visual Inspection
- d. Mechanical Tests
- e. Electrical Tests
- f. Final Inspection

6. FIELD TESTING AND COMMISSIONING:

- a. The automatic transfer switch shall be field tested once installed at the project site to confirm proper operation of the system. Schedule and witness testing activities shall be coordinated with the project engineer, site contractor, and owner as required in advance of the testing date. A qualified local factory-trained field representative shall conduct the necessary test to ensure proper operation of the switch.
- b. Visual Inspection: Electrical and Mechanical inspection to verify the installation is correct as recommended by the transfer switch

manufacturer and as per National Electric Code (NEC) requirements.

- c. Mechanical Tests: As a minimum, the following mechanical tests shall be performed on the transfer switch:
- d. Power conductor torque verification
- e. Verification of mechanical interlock

- f. Manual ATS Mechanism Operation
 g. All Mechanical Fasteners/Wire Connections Tight
 h. Confirmations of correct transfer switch voltage, current and withstand ratings as is required for the application.
- Meggar testing the power cabling to the transfer switch.

 Verification of correct power cabling phasing and phase rotation prior to energization.
- k. Confirmation of settings for all timers & voltages sensors.
 l. Full Function test-normal operation 3 complete cycles of failing the utility supply, and transfer load to/from the generator set.
- m. Verification of all test modes operates correctly.

7. CONDITIONS:

- a. In addition to equipment specified, each automatic transfer switch shall be equipped with all necessary equipment as specified by the manufacturer for this model and shall include but not be limited to the following necessary items:

- b. Shrink Wrap applied to the product to ensure a clean finish.
 c. One complete set of operation and maintenance manuals.
 d. A two (2) year or 1500 hour from date of standard standby warranty will apply from date of successful start-up. Labor, materials, and travel for the warranty period repair will be paid by manufacturer during normal business hours.

PROPOSAL PRICE

Equipment

Specification #80 600 AMP AUTOMATIC TRANSFER SWITCH

Unit Price Per Base

Western District \$4,050.00 /ea.

Northern District \$4,050.00 /ea.

Central District \$4,050.00 /ea.

Southern District \$4,050.00 /ea.

Brand Name:

✓ ASCO Series 300

SUBMIT SEPARATE SHEETS FOR EACH BRAND AND MODEL OFFERED

BIDDERS MUST INCLUDE A MANUFACTURER'S PRINT-OUT TO VERIFY THE VEHICLE BID MEETS ALL THE FSA AND MANUFACTURER STANDARD REQUIREMENTS OF EACH MAKE AND MODEL/TRIM LEVEL. ALSO, ANY DEALER INSTALLED AFTERMARKET COMPONENTS, IF SPECIFIED, MUST BE NOTED ON THE MANUFACTURER'S PRINT-OUT. ALL CONDITIONS AND REQUIREMENTS SHALL APPLY.

SPECIFICATIONS THAT MAY BE DELETED/ADDED, ORDER CODE, DESCRIPTION AND PRICE

LEGEND FOR DELETE/ADD OPTIONS

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Order code 104	Delete options Downgrade to 100 amps Asco 300 Series, 104 Amp, Nema 3R w/ Exerciser	Credit \$2,450.00
150	Downgrade to 150 amps	\$2,300.00
200	Downgrade to 200 amps	\$2,150.00
260	Downgrade to 250 amps Asco 300 Series, 260 Amp, Nema 3R w/ Exerciser	\$1,600.00
400	Downgrade to 400 amps	\$1,200.00
70	Delete option - specify Asco 300 Series, 70 Amp, Nema 3R w/ Exerciser	\$2,500.00
30	Delete option - specify Asco 300 Series, 30 Amp, Nema 3R w/ Exerciser	\$2,500.00
230	Delete option - specify Asco 300 Series, 230 Amp, Nema 3R w/ Exerciser	\$1,700.00 Credit from IJ Powers per contract
Nema 1-1	Delete option - specify Nema 1 Enclosure (30-230 Amp)	\$110.00
Nema 1-2	Delete option - specify Nema 1 Enclosure (260-600 Amp)	\$220.00
Nema 1-3	Delete option - specify Nema 1 Enclosure (800-1000 Amp)	\$400.00
Nema 1-4	Delete option - specify Nema 1 Enclosure (1200-3000 Amp)	\$1,300.00
	Delete option - specify	Not Applicable
	Delete option - specify	Not Applicable
	Delete option - specify	Not Applicable
	Delete option - specify	Not Applicable
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SPECIFICATIONS THAT MAY BE DELETED/ADDED, ORDER CODE, DESCRIPTION AND PRICE

LEGEND FOR DELETE/ADD OPTIONS

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Delete option - specify	
Detect option openly	Not Applicable
Delete option - specify	Not Applicable
Delete option - specify	Not Applicable
Delete option - specify	Not Applicable
Delete option - specify	Not Applicable
Delete option - specify	Not Applicable
Delete option - specify	Not Applicable
Delete option - specify	Not Applicable
Add options Upgrade to 800 amps	Price \$1,725.00
Upgrade to 1000 amps	\$3,600.00
Upgrade to 1200 amps	\$5,400.00
Upgrade to 1600 amps	\$10,200.00
Upgrade to 2000 amps	\$10,500.00
Upgrade to 2500 amps Asco 300 Series, 2600 Amp, Nema 3R, Exerciser	\$15,850.00
Upgrade to 3000 amps	\$17,650.00
Upgrade to 4000 amps	Not Applicable
Upgrade - specify Upgrade ATS to 4 Pole 30-800 Amp	\$285.00
Upgrade - specify Upgrade ATS to 4 Pole 1000-1200 Amp	\$605.00
Upgrade - specify Upgrade ATS to 4 Pole 1600-2000 Amp	\$1,790.00
Upgrade - specify Upgrade ATS to 4 Pole 30-800 Amp	\$2,520.00
Optional equipment - specify Add Delayed Transition	\$1,505.00
Optional equipment - specify Strip Heater with Thermostat	\$275.00
Optional equipment - specify Relay Expansion Module	\$150.00
Optional equipment - specify Relay Expansion Module with 2 Sets of source available contacts	\$300.00
Relay Expansion Module with 2 Sets of Source available confacts	
	Delete option - specify Add options Upgrade to 800 amps Upgrade to 1000 amps Upgrade to 1200 amps Upgrade to 1200 amps Upgrade to 2000 amps Upgrade to 2500 amps Asco 300 Series, 2600 Amp, Nema 3R, Exerciser Upgrade to 3000 amps Upgrade to 4000 amps Upgrade at 5 to 4 Pole 30-800 Amp Upgrade - specify Upgrade ATS to 4 Pole 1000-1200 Amp Upgrade - ATS to 4 Pole 1000-2000 Amp Upgrade - specify Upgrade ATS to 4 Pole 30-800 Amp Optional equipment - specify Add Delayed Transition Optional equipment - specify Strip Heater with Thermostat Optional equipment - specify Relay Expansion Module Optional equipment - specify

SPECIFICATIONS THAT MAY BE DELETED/ADDED, ORDER CODE, DESCRIPTION AND PRICE

LEGEND FOR DELETE/ADD OPTIONS

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4X-2	Optional equipment - specify Adds a Nema 4X Stainless Steel Enclosure (260-1000 Amps)	\$2,800.00
4X-3	Optional equipment - specify Adds a Nema 4X Stainless Steel Enclosure (800-1000 Amps)	\$2,600.00
4X-4	Optional equipment - specify Adds a Nema 4X Stainless Steel Enclosure (1600 Amps)	\$5,000.00
4X-5	Optional equipment - specify Adds a Nema 4X Stainless Steel Enclosure (30-230 Amps; Delayed Transition)	\$2,750.00
SER-1	Optional equipment - specify Includes Service Entrance Rated ATS 70-225 Amp 225 Amp is added from the 230 Amp base Price.	\$2,045.00
SER-2	Optional equipment - specify Includes Service Entrance Rated ATS 250-800 Amp 250 Amp is added from the 260 Amp base Price.	\$3,400.00
SER-3	Optional equipment - specify Includes Service Entrance Rated ATS 1000-2000 Amp	\$9,200.00
SER-4	Optional equipment - specify Includes Service Entrance Rated ATS 2500 Amp This is added from the 2600 amp base price.	\$14,600.00
SER-5	Optional equipment - specify Includes Service Entrance Rated ATS 3000 Amp	\$18,500.00
11BE	Optional equipment - specify	\$231.00
	Programmable Exerciser, Event Log, RS485 Enabled, Common Alarm Output Contact	
Discount	Programmable Exerciser, Event Log, RS485 Enabled, Common	Standard
	Programmable Exerciser, Event Log, RS485 Enabled, Common Alarm Output Contact Optional equipment - specify Discount off of List price for any options not listed - 50% Discount	
Discount	Programmable Exerciser, Event Log, RS485 Enabled, Common Alarm Output Contact Optional equipment - specify Discount off of List price for any options not listed - 50% Discount from List Price Optional equipment - specify	Standard
Discount 72EE	Programmable Exerciser, Event Log, RS485 Enabled, Common Alarm Output Contact Optional equipment - specify Discount off of List price for any options not listed - 50% Discount from List Price Optional equipment - specify Ethernet Module with AES Optional equipment - specify	Standard \$490.00
Discount 72EE 30AA	Programmable Exerciser, Event Log, RS485 Enabled, Common Alarm Output Contact Optional equipment - specify Discount off of List price for any options not listed - 50% Discount from List Price Optional equipment - specify Ethernet Module with AES Optional equipment - specify Load Shed - Customer supplied Contact Optional equipment - specify	\$490.00 \$690.00
Discount 72EE 30AA 30BA	Programmable Exerciser, Event Log, RS485 Enabled, Common Alarm Output Contact Optional equipment - specify Discount off of List price for any options not listed - 50% Discount from List Price Optional equipment - specify Ethernet Module with AES Optional equipment - specify Load Shed - Customer supplied Contact Optional equipment - specify Load Shed - Customer supplied Voltage Optional equipment - specify Single Channel Remote Annunciator - Connects with Ethernet	\$490.00 \$690.00 \$760.00
Discount 72EE 30AA 30BA	Programmable Exerciser, Event Log, RS485 Enabled, Common Alarm Output Contact Optional equipment - specify Discount off of List price for any options not listed - 50% Discount from List Price Optional equipment - specify Ethernet Module with AES Optional equipment - specify Load Shed - Customer supplied Contact Optional equipment - specify Load Shed - Customer supplied Voltage Optional equipment - specify Single Channel Remote Annunciator - Connects with Ethernet Network. Requires 72EE Option.	\$490.00 \$690.00 \$760.00 \$700.00
Discount 72EE 30AA 30BA	Programmable Exerciser, Event Log, RS485 Enabled, Common Alarm Output Contact Optional equipment - specify Discount off of List price for any options not listed - 50% Discount from List Price Optional equipment - specify Ethernet Module with AES Optional equipment - specify Load Shed - Customer supplied Contact Optional equipment - specify Load Shed - Customer supplied Voltage Optional equipment - specify Single Channel Remote Annunciator - Connects with Ethernet Network. Requires 72EE Option. Maintenance Plan - specify	\$490.00 \$690.00 \$760.00 \$700.00
Discount 72EE 30AA 30BA 5310	Programmable Exerciser, Event Log, RS485 Enabled, Common Alarm Output Contact Optional equipment - specify Discount off of List price for any options not listed - 50% Discount from List Price Optional equipment - specify Ethernet Module with AES Optional equipment - specify Load Shed - Customer supplied Contact Optional equipment - specify Load Shed - Customer supplied Voltage Optional equipment - specify Single Channel Remote Annunciator - Connects with Ethernet Network. Requires 72EE Option. Maintenance Plan - specify Warranty - specify Warranty - specify	\$490.00 \$690.00 \$760.00 \$700.00 Not Applicable Not Applicable

SPECIFICATIONS THAT MAY BE DELETED/ADDED, ORDER CODE, DESCRIPTION AND PRICE

LEGEND FOR DELETE/ADD OPTIONS

Every line will require a DOLLAR VALUE or one of the following abbreviations:

Std. = Manufacturer's standard equip.

Incl. = included with base specs.

NC = no additional charge NA = not applicable to the vehicle

SUBMIT SEPARATE SHEETS FOR EACH BRAND AND MODEL OFFERED

5yr-3

Warranty - specify

5 Year Warranty (2500-3000 Amps)

\$1,250.00



Type Wall Mounted GDS

Description	Listing/Certifications	Suggested Retail	Dealer
200A 2 Pole	ETL Listed to UL 1008, CSA C22.2*	\$4,992.26	\$4,341.10
200A 3 Pole	ETL Listed to UL 1008, CSA C22.2*	\$5,145.16	\$4,474.05
400A 2 Pole	ETL Listed to UL 1008, CSA C22.2*	\$5,603.70	\$4,872.78
400A 3 Pole	ETL Listed to UL 1008, CSA C22.2*	\$5,765.88	\$5,013.81
600A 2 Pole	ETL Listed to UL 1008, CSA C22.2*	\$6,304.07	\$5,481.80
600A 3 Pole	ETL Listed to UL 1008, CSA C22.2*	\$6,432.64	\$5,593.60
800A 2 Pole	ETL Listed to UL 1008, CSA C22.2*	\$6,649.95	\$5,782.57
800A 3 Pole	ETL Listed to UL 1008, CSA C22.2*	\$6,962.52	\$6,054.37
1000 & 1200A 3 Pole	ETL Listed to UL 1008, CSA C22.2*	\$9,416.33	\$8,188.11
1600A 3 Pole	ETL Listed to UL 1008, CSA C22.2*	\$11,043.70	\$9,603.22
2000A 3 Pole	ETL Listed to UL 1008, CSA C22.2*	\$13,132.51	\$11,419.57





RESOLUTION 217 - 18

A RESOLUTION OF THE CITY OF CAPE CORAL, FLORIDA, AWARDING A BID FOR GENERATOR AND PUMP REPAIR, MAINTENANCE AND INSTALLATION SERVICES TO L.J. POWER, INC.; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACT AND SUBSEQUENT RENEWALS BY THE CITY MANAGER; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on June 13, 2018, INVITATION TO BID (ITB) #PW18-105/KS was issued for Generator and Pump Repair, Maintenance and Installation Services for over 170 stationary and mobile generators of various sizes throughout the City; and

WHEREAS, four (4) bids were submitted and opened on July 20, 2018; and

WHEREAS, the term of the contract is for one (1) year with three (3) optional one-year renewals; and

WHEREAS, the City Manager recommends the award to L.J. Power, Inc., as the lowest qualified responsible and responsive bidder meeting the requirements and specifications set forth in the invitation to bid, in the estimated annual amount of \$181,358; and

WHEREAS, the City Council desires to award the bid for Generator and Pump Repair, Maintenance and Installation Services to L.J. Power, Inc., and to authorize the City Manager to approve the renewal of the contract for up to three additional one-year periods, if the City Manager deems the renewals to be in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City hereby awards the bid for Generator and Pump Repair, Maintenance and Installation Services to L.J. Power, Inc., in the estimated annual amount of \$181,358.

Section 2. The City Council hereby authorizes the City Manager to enter into a contract between the City of Cape Coral and L.J. Power, Inc., for Generator and Pump Repair, Maintenance and Installation Services, and authorizes the City Manager to execute the contract. A copy of the contract is attached hereto as Exhibit 1.

Section 3. The City Council hereby authorizes the City Manager to approve the renewal of the contract for three (3) additional one-year periods and authorizes the City Manager to execute any future contract documents associated with such renewal(s), should the City Manager deem it to be in the best interest of the City.

Section 4. This Resolution shall take effect immediately upon its adoption.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO GUNTER CARIOSCIA STOUT

NELSON STOKES WILLIAMS COSDEN

ave ave excused ATTESTED TO AND FILED IN MY OFFICE THIS 18th DAY OF October, 2018.

REBECCA VAN DEUTEKOM,

CITY CLERK

APPROVED AS TO FORM:

DOLORES D. MENENDEZ

CITY ATTORNEY res/Bid Award-LJ Power Inc

Item Number: B.(2)

Meeting

9/9/2019

Date: Item Type:

CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 288-19 Approval of Contract for Purchase of Lots 22, 23 and 24, Block 3003, Unit 43, Cape Coral Subdivision, 1032 NW 25th Street, Cape Coral, for the Festival Park project for the purchase price of \$27,000 plus closing costs not to exceed \$1,800; Department: Financial Services / Real Estate Division; Dollar Value: \$28,800; (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No

2. Is this a Strategic Decision?

Yes

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

- 1. In 2003 at a Strategic Planning Session City Council directed staff to begin purchasing property in Cape Coral Subdivision Unit 43 for a future park site, now known as Festival Park. Over the years, Staff had been working with various owners in the park area to purchase additional properties on a voluntary basis based on current independent state-certified appraisals.
- 2. Currently, the City owns 450 of the 517 parcels required for Festival Park, with five additional property contracts currently pending. Included in the remaining properties to purchase is one (1) improved property located on the Northwind Canal. The subject contract is for a three-lot canalfront parcel located within the designated Festival Park area.
- 3. With the recent GO Bond approval, City Staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Staff submitted an offer to purchase the site based on the price per square foot of a recent appraisal of two-lot canalfront site by an independent state-certified appraiser, which has been accepted by the Seller. The contract requires the City to pay the closing costs incurred by the title company.

4. Staff recommends approval of the purchase contract to purchase Lots 22, 23 and 24, Block 3003, Unit 43, Cape Coral Subdivision, for the purchase price of \$27,000 plus closing costs not to exceed \$1,800.

LEGAL REVIEW:

EXHIBITS:

Resolution 288-19 Property Appraiser Sheet Location Map Appraisal

PREPARED BY:

Dawn Y. Andrews, Property
Broker

DivisionReal Estate
Division
DepartmentFinancial
Services

SOURCE OF ADDITIONAL INFORMATION:

Dawn Y. Andrews, Property Broker Financial Services Department / Real Estate Division 239-574-0735

Joan Estinval, Property Acquisition Agent Financial Services Department / Real Estate Division 239-573-3072

ATTACHMENTS:

	Description	Туре
D	Resolution 288-19	Resolution
D	PA Sheet - Block 3003, Lots 22-24	Backup Material
D	Location Map - Block 3003, Lots 22-24	Backup Material
D	Appraisal - FP - 2 Lot Canalfront	Backup Material

RESOLUTION 288 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL AUTHORIZING THE CITY MANAGER TO ENTER INTO A "CONTRACT FOR SALE AND PURCHASE" BETWEEN JARL ANERUD AND THE CITY OF CAPE CORAL FOR THE PURCHASE OF LOTS 22-24, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, FOR THE FESTIVAL PARK PROJECT; PROPERTY LOCATED AT 1032 NW 25TH STREET; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2003, City Council directed staff to begin purchasing property in Unit 43, Cape Coral Subdivision, for the purpose of creating and developing Festival Park; and

WHEREAS, City staff has been working with various owners in the park area to purchase additional properties on a voluntary basis based on current independent state-certified appraisals; and

WHEREAS, the subject contract is for a three-lot canal front parcel; and

WHEREAS, the City has obtained a recent appraisal of a similar site pursuant to Section 2-152 of the City of Cape Coral Code of Ordinances; and

WHEREAS, City staff recommends that the City purchase the subject property pursuant to the terms and price set forth in the contract; and

WHEREAS, the City Manager requests approval to enter into the "Contract for Sale and Purchase."

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby authorizes the City Manager and the City Clerk to execute a "Contract for Sale and Purchase" between Jarl Anerud and the City of Cape Coral for the purchase of Lots 22-24, Block 3003, Unit 43, Cape Coral Subdivision, as more fully described in the Contract, in the amount of \$27,000, plus closing costs not to exceed \$1,800. The property is located at 1032 NW 25th Street. A copy of the "Contract for Sale and Purchase" is attached hereto as Exhibit 1.

Section 2. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNG COUNCIL SESSION THIS			}ULAR
	JOE COVI	ELLO, MAYOR	
VOTE OF MAYOR AND COUNC	ILMEMBERS:		
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN		
ATTESTED TO AND FILED IN 2019.	MY OFFICE THIS	DAY OF	
	KIMBERL CITY CLE		_

APPROVED AS TO FORM:

DOLORES D. MENENDEZ

CITY ATTORNEY

Res/Purchase Real Property Festival Park L22-24 B3003

CONTRACT FOR SALE AND PURCHASE

THIS IS A LEGALLY BINDING CONTRACT WHEN PROPERLY COMPLETED AND EXECUTED. IF NOT FULLY UNDERSTOOD, SEEK LEGAL ADVICE BEFORE SIGNING.

PARTIES: Jarl Anerud, 82 W. Champions Blvd. Rogers, AR 72758 as "SELLER", and City of Cape Coral, a Florida Municipal Corporation, P.O. Box 150027, Cape Coral, Florida 33915-0027, successors or assigns, as "BUYER", hereby agree that the SELLER shall sell and BUYER shall buy the following (hereinafter referred to as "PROPERTY") described property upon the following terms and conditions:

LEGAL DESCRIPTION of real estate located in Lee County, Florida:
 Lots 22, 23 and 24, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat
 Book 17, Pages 48-57, inclusive of the Public Records of Lee County, Florida.

2. PURCHASE PRICE

\$27,000.00

ONDITIONAL CONTRACT. This contract for sale and purchase is a binding contract once it is executed by the SELLER and by the City Manager on behalf of the BUYER. However, this contract is expressly subject to approval by the Cape Coral City Council. If the Cape Coral City Council fails or refuses to approve the purchase within 45 calendar days of the date when the City Manager has signed this contract, then this contract shall be null and void. This contract is subject to applicable Florida probate proceedings, if required. BUYER and SELLER understand and agree that in the event probate proceedings are necessary, SELLER shall be solely responsible for any and all expenses necessary to complete said probate proceedings.

- 4. **EFFECTIVE DATE & CLOSING DATE.** The Effective Date of this contract shall be the date of Council authorization. This contract shall be closed and the deed shall be delivered within 30 business days after Council authorization unless extended by other provisions of this contract. Such other provisions shall include, but not be limited to, paragraph 7. Possession shall be granted on the day of closing unless otherwise agreed in writing.
- 5. **CONVEYANCE. SELLER** shall convey title to the property to **BUYER** by Warranty Deed subject only to matters contained in this contract and taxes for the year of closing.
- 6. **RESTRICTIONS AND EASEMENTS. BUYER** shall take title subject to:
 - (a) Zoning and restrictions and prohibitions imposed by governmental authority;
 - (b) Restrictive covenants of record;
 - (c) Public utility easements of record, provided however said easements are located along the perimeter of the property and are not more than six feet (6') in width;
 - (d) Taxes for the year of closing and subsequent years;

Provided, however, that none of the foregoing shall prevent use of the entire property for the purpose of right-of-way or any other governmental purpose.

shall at **BUYER'S** expense, obtain a title insurance binder issued by a qualified title insurer of its choice, agreeing to issue to **BUYER**, upon the recording of the deed hereafter mentioned, a title insurance policy in the amount of the purchase price insuring the title to that real property. **BUYER** shall have fifteen (15) days from the date of receiving the evidence of title to examine same. If title is found to be defective, **BUYER** or closing agent shall, within said period of time, notify **SELLER** in writing specifying defects that need to be cured. For purposes of this contract, a requirement by the title insurer that the **SELLER** institute and complete a quiet title action shall be deemed to be a title defect that shall be cured by **SELLER**. If said defects render the title unmarketable or uninsurable **SELLER** shall have ninety (90) days from the receipt of

such notice to cure the defects, and if after said period **SELLER** shall not have cured the defects, then **BUYER** shall have the option of (1) accepting the title as it then is; (2) affording **SELLER** additional time to cure the defect(s); or (3) terminate the contract by providing written notice to the **SELLER**.

- 8. **EXISTING MORTGAGES. SELLER** shall furnish estoppel letters from mortgagee(s) setting forth the principal balance, escrow balance, method of payment, and whether the mortgage is in good standing. It shall be **SELLER'S** obligation to obtain any satisfactions of mortgage required for closing.
- 9. SURVEY. If BUYER desires a survey, BUYER shall have the property surveyed at its expense prior to closing date. If the survey shows an encroachment, the same shall be treated as a title defect.
- OTHER AGREEMENTS. No agreements or representations, unless incorporated in this contract, shall be binding upon any of the parties, unless they be in writing and agreed to by all parties.
- 11. **MECHANIC'S LIENS. SELLER** shall execute an affidavit that there have been no improvements to the subject property and that **SELLER** has not entered any contracts for the provision of goods or services that could give rise to a mechanic's lien for the ninety (90) days immediately preceding the date of closing.
- 12. TIME IS OF THE ESSENCE in the performance of this contract.
- DOCUMENTS FOR CLOSING. SELLER shall execute a Warranty Deed, Seller's Affidavit and other necessary closing documents provided by closing agent.
- 14. **EXPENSES.** Documentary stamps, title insurance, title search, title exam, and settlement fees shall be paid by **BUYER.**
- 15. PRORATION OF TAXES (REAL AND PERSONAL). Taxes shall be prorated based

upon the current year's tax without regard to discount. If the closing takes place and the current year's taxes are not fixed, and the current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated on the prior year's tax, provided, however, if there is a completed improvement of the subject premises by January 1 of the year of closing, then the taxes shall be prorated to the date of closing based upon the prior year's millage. It is further agreed that should, upon receipt of current tax statement, the taxes be different by more than Ten Dollars (\$10.00) than those estimated, the proration shall be adjusted.

- 16. **ATTORNEY'S FEES AND COSTS.** In connection with any litigation arising out of the contract, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees. The parties agree to venue in Lee County, Florida for any action arising out of this Contract.
- 17. **DEFAULT BY SELLER.** If **SELLER** fails to perform any of the covenants of this contract other than the failure of **SELLER** to render his title marketable after diligent effort **BUYER** may proceed at law or in equity to enforce its legal rights under this contract, including, but not limited to, the right to bring suit for specific performance.
- 18. All covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties.
- 19. This agreement shall be interpreted, construed, and governed according to the Laws of the State of Florida.
- 20. The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid and unenforceable provisions were omitted.
- 21. **SELLER** and **BUYER** hereby agree that this contract to purchase the real property described

above is for a proper municipal purpose and grants the **BUYER** the right to enter the real property described above for the purpose of surveying, soil borings, or any other work as deemed necessary by the **BUYER**. The parties herein further agree that the purchase of this property does not destroy or cause any damage whatsoever to **SELLER** or his successor or assigns with respect to any commercial or residential property owned by them whose lands are being so purchased or located upon adjoining lands.

- The place of closing and delivery of the deed to **BUYER** shall be at any office designated by **BUYER**.
- 23. **ENVIRONMENTAL AUDIT. BUYER** may perform or have performed, at **BUYER'S** expense, an environmental audit of the property. If such an audit identifies environmental problems unacceptable to the **BUYER** then **BUYER** may elect to accept the property in its existing condition or **BUYER** may terminate this Contract without obligation.
- 24. **REAL ESTATE COMMISSIONS. BUYER** and **SELLER** understand and agree that in the event **BUYER** has knowledge of any listing agreement for the subject property, then **BUYER**, at its option, may elect to notify and provide a copy of this contract to the Listing Broker. **SELLER** shall be solely responsible for any Broker compensation, Realtor notification or any other terms and conditions of any listing agreement. **SELLER** shall also be responsible for any Realtor transaction fee or administration fee.
- 25. **DISCLOSURE OF BENEFICIAL INTERESTS. SELLER** agrees to comply with the provisions of Section 286.23(1), Florida Statutes. Said section requires that, before property that is owned by a partnership, limited partnership, corporation, trust or any other form of representative capacity whatsoever for others, is conveyed to a governmental unit, the representative of the owner/entity shall make a public disclosure in writing, under oath and subject to the penalties prescribed for perjury, which shall state the names and addresses of

every person having a beneficial interest in the Real Property, however small or minimal.

26. It is understood by the parties that this contract is entered by **SELLER** under the threat and in lieu of condemnation and is inclusive of all compensation for all attorney fees and costs incurred by **SELLER**.

IN WITNESS THEREOF, BUYER and SELLER have signed this contract on the date set forth below.

CITY OF CAPE CORAL, FLORIDA

	BY:	
Witness to A. John Szerlag	A. John Szerlag	Date
	City Manager	
	BY:	
Witness to Kimberly Bruns	Kimberly Bruns	Date
.,	Interim City Clerk	
Witness Print Name: KELLY ANERUD	BY: Jarl Anerud	8/9/20 Date
16		
William		
Witness Print Name: Kimbeli Bakee		
	"OFFICIAL SEAL" KIMBERLI BARKER BENTON COUNTY NOTARY PUBLIC - ARKANSAS My Commission Expires March 15, 2026 Commission No. 12697517	
APPROVED AS TO FORM:	1207/31/	
Dolores D. Menendez, City Attorney		

QUESTIONNAIRE

Project: Festival Park Parcel Strap: 274323C3030030220 Project Parcel: 74	
Please complete the following questions that pertain to you and return to this office in the envelope provided.	
1. Are you the owner of the property identified above? Yes X	
2. Is this property listed with a realtor? If yes, Agents Name:	
Real Estate Company's Name:	
Telephone No.:	
3. Have you sold or are you in the process of selling the property? If yes, to whom – Name:	
Address:	
Closing Date 4. Other than my spouse, I share ownership of this property with:	
Name:	
Address:	
Telephone No.:	
6. Please list the appropriate contact person for this property:	
Name and Title: JARI ANERUD	
Address: 81 W CHAMPIONS BLUD, ROGERS IAR 72758	
Telephone No.: 203 832 4421	
7. Is there an ongoing business on this site? Yes No If yes, who owns the business?	
Name:	
Address:	
Telephone No.:	
8. Additional Comments:	
Property Owner's Signature Date	
TARL ANERUD Printed Name & Title Telephone Number Street Address ROGERS AR 12158 City State Zip Telephone Number Facsimile Number Javlanevad 2 gmail 10 Email address Email address	,Q

Property Data

STRAP: 27-43-23-C3-03003.0220 Folio ID: 10033332



ANERUD JARL

19 WEST HILL RD

STAMFORD CT 06902

Site Address

1032 NW 25TH ST CAPE CORAL FL 33993

Property Description
Do not use for legal documents!

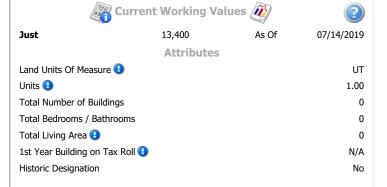
CAPE CORAL UNIT 43 BLK 3003 PB 17 PG 50 LOTS 22 THRU 24

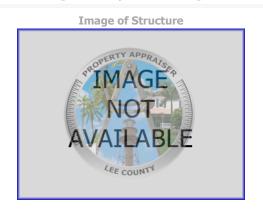
Classification / DOR Code

VACANT RESIDENTIAL / 00



[Pictometry Aerial Viewer]





Property Value History

Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Taxable
1992	7,000	7,000	7,000	7,000	0	7,000
1993	5,130	5,130	5,130	5,130	0	5,130
1994	4,900	4,900	4,900	4,900	0	4,900
1995	4,410	4,410	4,410	4,410	0	4,410
1996	4,280	4,280	4,280	4,280	0	4,280
1997	4,280	4,280	4,280	4,280	0	4,280
1998	4,280	4,280	4,280	4,280	0	4,280
1999	4,280	4,280	4,280	4,280	0	4,280
2000	2,940	2,940	2,940	2,940	0	2,940
2001	2,940	2,940	2,940	2,940	0	2,940
2002	2,940	2,940	2,940	2,940	0	2,940
2003	11,410	11,410	11,410	11,410	0	11,410
2004	24,000	24,000	24,000	24,000	0	24,000
2005	69,600	69,600	69,600	69,600	0	69,600
2006	120,000	120,000	120,000	120,000	0	120,000
2007	72,000	72,000	72,000	72,000	0	72,000
2008	13,750	13,750	13,750	13,750	0	13,750
2009	7,700	7,700	7,700	7,700	0	7,700
2010	6,050	6,050	6,050	6,050	0	6,050
2011	4,400	4,400	4,400	4,400	0	4,400
2012	4,950	4,950	4,950	4,840	0	4,840
2013	9,100	9,100	9,100	5,324	0	5,324
2014	11,840	11,840	11,840	5,856	0	5,856

2015	10,000	10,000	10,000	6,442	0	6,442
2016	12,400	12,400	12,400	7,086	0	7,086
2017	14,374	14,374	14,374	7,795	0	7,795
2018	13,400	13,400	13,400	8,575	0	8,575
2019	13,400	13,400	13,400	9,433	0	9,433

The **Just** value is the total parcel assessment (less any considerations for the cost of sale). This is the closest value to *Fair Market Value* we produce and is dated as of January 1st of the tax year in question (<u>F.A.C. 12D-1.002</u>).

The Land value is the portion of the total parcel assessment attributed to the land.

The **Market Assessed** value is the total parcel assessment (less any considerations for the cost of sale) based upon the assessment standard. Most parcels are assessed based either upon the *Highest and Best Use* standard or the *Present Use* standard (*F.S. 193.011*). For *Agriculturally Classified* parcels (or parts thereof), only agricultural uses are considered in the assessment (*F.S. 193.461* (6) (a)). The difference between the *Highest and Best Use/Present Use* and the *Agricultural Use* is often referred to as the *Agricultural Exemption*.

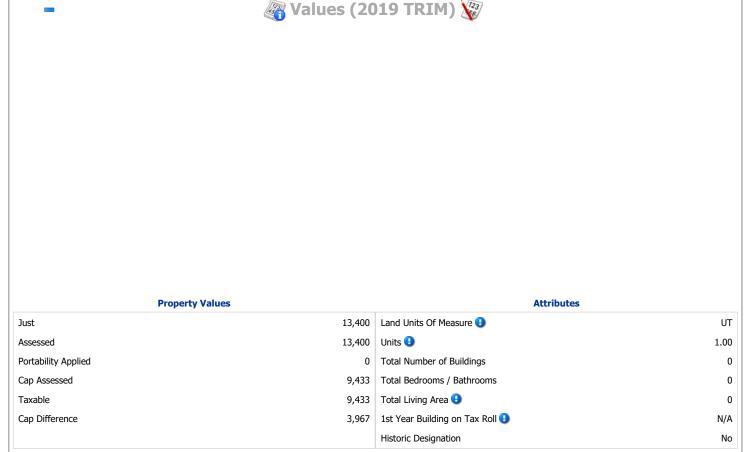
(i.e. Market Assessed = Just - Agricultural Exemption)

The Capped Assessed value is the Market Assessment after any Save Our Homes or 10% Assessment Limitation cap is applied. This assessment cap is applied to all properties and limits year-to-year assessment increases to either the Consumer Price Index or 3%, whichever is lower for Homestead properties OR 10% for non-Homestead properties.

The **Exemptions** value is the total amount of all exemptions on the parcel.

The **Taxable** value is the *Capped Assessment* after exemptions (*Homestead, etc.*) are applied to it. This is the value that most taxing authorities use to calculate a parcel's taxes. (i.e. Taxable = Capped Assessed - Exemptions)

Exemptions No existing exemptions found for this property.



-	Taxing Authorities	
	CITY OF CAPE CORAL / 057	
Name / Code	Category	Mailing Address
LEE CO GENERAL REVENUE / 044	County	LEE COUNTY OFFICE OF MGMT & BUDGET PO BOX 398 FORT MYERS FL 33902-0398
LEE CO ALL HAZARDS PROTECTION DIST / 101	Dependent District	LEE COUNTY OFFFICE OF MGMT & BUDGET PO BOX 398

FORT MYERS FL 33902-0398 LEE COUNTY OFFICE OF MGMT & BUDGET LEE CO LIBRARY DIST / 052 Dependent District PO BOX 398 FORT MYERS FL 33902-0398 LEE COUNTY OFFFICE OF MGMT & BUDGET MUNICIPAL SOLID WASTE DISPOSAL MSTU / 116 Dependent District PO BOX 398 FORT MYERS FL 33902-0398 15191 HOMESTEAD RD LEE CO HYACINTH CONTROL DIST / 051 Independent District LEHIGH ACRES FL 33971 15191 HOMESTEAD RD LEE CO MOSQUITO CONTROL DIST / 053 Independent District LEHIGH ACRES FL 33971 200 MIAMI AVE E WEST COAST INLAND NAVIGATION DIST / 098 Independent District VENICE FL 34285-2408 FINANCIAL SERVICES DIRECTOR CITY OF CAPE CORAL / 014 Municipal PO BOX 150027 CAPE CORAL FL 33915-0027 BUDGET DEPARTMENT PUBLIC SCHOOL - BY LOCAL BOARD / 012 Public Schools 2855 COLONIAL BLVD FORT MYERS FL 33966 BUDGET DEPARTMENT PUBLIC SCHOOL - BY STATE LAW / 013 **Public Schools** 2855 COLONIAL BLVD FORT MYERS FL 33966 3301 GUN CLUB RD SFWMD-DISTRICT-WIDE / 110 Water District WEST PALM BEACH, FL 33406 3301 GUN CLUB RD SFWMD-EVERGLADES CONSTRUCTION PROJECT / 084 Water District WEST PALM BEACH, FL 33406 3301 GUN CLUB RD SFWMD-OKEECHOBEE BASIN / 308 Water District WEST PALM BEACH FL 33406

_	Sales / Transactions •					
Sale Price	Date	OR Number	Туре	Description	Vacant/Improved	
15,000.00	01/01/1991	2204/1028	01	Sales disqualified as a result of examination of the deed Disqualified (Doc Stamp .70 / SP less th \$100 / Other Disq)	V	
8,300.00	04/01/1982	1606/1035	07	Not Classified No Longer Used (was Disqualified - Mail Order Sales)	V	

	Parcel Numbering History •						
ı	Prior STRAP	Prior Folio ID	Renumber Reason	Renumber Date			
	27-43-23-A1-03003.0220	<u>N/A</u>	Reserved for Renumber ONLY	01/26/1997			

Location Information							
Township	Range	Section	Block	Lot			
43	23E	27					
Municipality	Latitude		Longitude				
City of Cape Coral	26.69873		-81.99648				
Links							
View Parcel on Google Maps			View Parcel on GeoView				

Solid Waste (Garbage) Roll Data							
Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount			

Flood and Storm Information

Flood Insurance Rate Map data is not available for parcels within a municipality. To obtain flood information, contact your municipality directly.

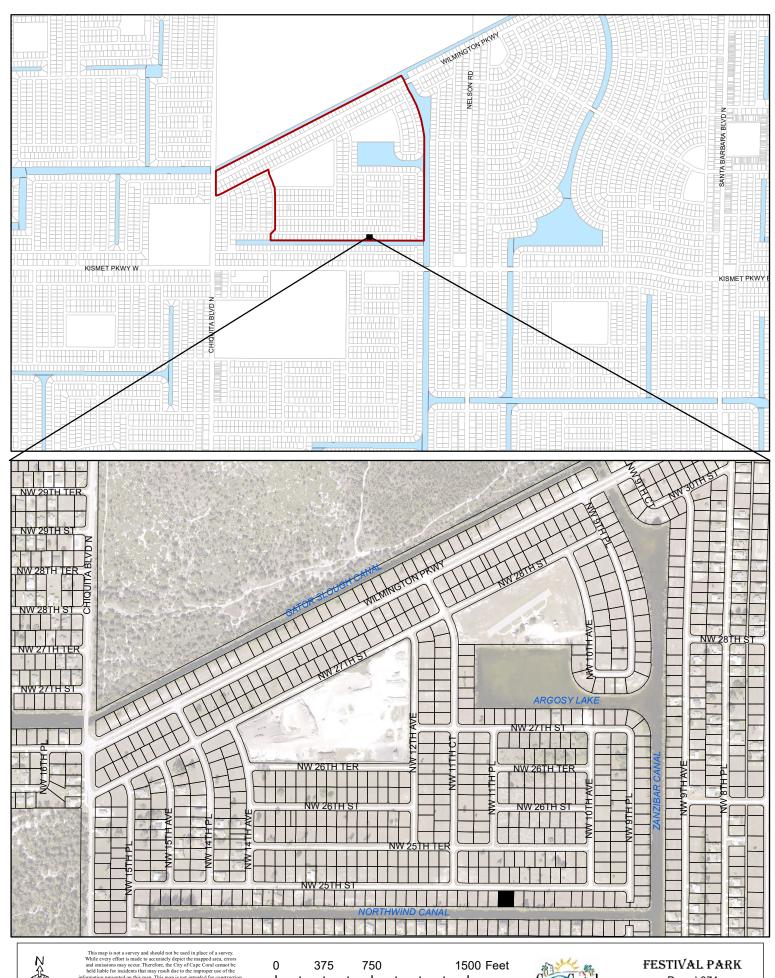
Appraisal Details (2019 TRIM) Land

Land Tracts

Use Code Use Code Description Number of Units Unit of Measure

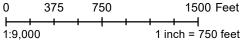
Appraisal Details (Current Working Values)

Land
Land
Land Tracts
Use Code Use Code Description Number of Units Unit of Measure
0 Vacant Residential 1.00 Units





This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product, repared by: The City of CAPE CORAL Real Estate Division-Gregory L. Spir





Parcel 074 Block 3003 Lots 22 - 24

Restricted Real Estate Appraisal Report Of

The Tucker-Gainer Property
Project ID CL-86
Block 3003, Lots 47 and 48
1210 NW 25th Street
City of Cape Coral, Lee County, Florida

Prepared For

The City of Cape Coral
Real Estate Division
% Dawn Andrews
P.O. Box 150027
Cape Coral, Florida 33915-0027

DATE OF VALUATION:

May 3, 2019

Calhoun, Collister & Parham, Inc.





Real Estate Appraisers & Consultants

Jacksonville Office 10151 Deerwood Park Blvd., Building 200, Suite 250 Jacksonville, Florida 32256-0557 Phone: (904) 764-0200 Toll Free (800) 280-8140 Fax: (904) 764-4006 Tampa Office
10014 N Dale Mabry Highway
Suite 201
Tampa, Florida 33618-4426
Phone: (813) 961-8300
Toll Free (800) 280-8150
Fax: (813) 962-6363

West Palm Beach Office
777 South Flagler Drive
Suite 800 – West Tower
West Palm Beach, FL 33401
Phone: (561) 909-3176
Toll Free (800) 280-8140
Fax: (561) 909-3177

August 20, 2019

The City of Cape Coral Real Estate Division % Dawn Andrews P.O. Box 150027 Cape Coral, Florida 33915-0027

Re.: Owner

Mildred G. Tucker-Gainer

Property Address

1210 NW 25th Street

Project ID

CL-86

County

Lee

City

Cape Coral

Dear Mrs. Andrews:

As requested, I have personally inspected and appraised the above referenced property. At the date of value, the subject property consisted of a 10,000 square foot canal front lot. The property is located along the southern side of NW 25th Street and northern side of the Northwind Canal, about 520 feet west of NW 11th Court, within the City of Cape Coral, in Lee County, Florida. The subject property is located in an area that will be developed as Festival Park by the City of Cape Coral. The subject property is identified by the City of Cape Coral as Project ID CL-86.

The intended use of this Restricted Appraisal Report is to assist the client in determining the market value of the subject property. The purpose of the appraisal is to report the market value of the subject property. The format of the report is Restricted Appraisal Report, in that the findings and analysis of the report were prepared for exclusive use by the client, in conformance with Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice (USPAP). Portions of the supporting data analyzed in the appraisal process have been included in this appraisal report. Additional data and other material are contained in the appraisal file, which is incorporated herein by reference.

The City of Cape Coral Real Estate Division % Dawn Andrews August 20, 2019 Page Two

Based upon those factors discussed herein, the market value of the subject property, as of May 3, 2019 (date of last inspection), is:

\$18,000

Please do not hesitate to contact me if you have any questions or comments.

Sincerely,

Calhoun, Collister & Parham, Inc.

ichel H. Parkam

Richard H. Parham

State-Certified General

Real Estate Appraiser

RZ2256

CERTIFICATION STATEMENT

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have not performed other services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the
 development or reporting of a predetermined value or direction in value that
 favors the cause of the client, the amount of the value opinion, the attainment of
 a stipulated result, or the occurrence of a subsequent event directly related to the
 intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I have made a personal inspection of the property that is the subject of this report.
- The following have provided significant real property appraisal assistance to the person signing this certification: Brett A. Meyers, State-Certified General Real Estate Appraiser RZ3409. This does not include any other professional assistance involving other disciplines, which are summarized under the "Scope of Appraisal" portion of the report.

Certification Statement (Continued)

- The reported analyses, opinions, and conclusions were developed, and this
 report has been prepared, in conformity with the Code of Professional Ethics and
 Standards of Professional Appraisal Practice of the Appraisal Institute.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- As of the date of this report, I Richard H. Parham, State-Certified General Real Estate Appraiser RZ2256, have completed the Standards and Ethics Education Requirements for Candidates/Practicing Affiliates of the Appraisal Institute.

Richard H. Parham State-Certified General Real Estate Appraiser

Richal H. Parkam

RZ2256

GENERAL ASSUMPTIONS AND LIMITING CONDITIONS

- 1. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated. The legal description is assumed to be correct for the purposes of this report.
- 2. The property has been appraised as free and clear, unencumbered by mortgages, liens, delinquent taxes, assessments, special or unusual deed conditions or restrictions, but subject to zoning regulations.
- 3. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
- 4. It is assumed there are no hidden or unapparent conditions of the property, subsoil, or structures. The appraiser(s) assumes no liability for any hidden or unapparent conditions of the property. No responsibility is assumed for such conditions, or for arranging for engineering studies that may be required to discover them.
- 5. Possession of this report, or a copy thereof, does not carry with it the right of publication.
- 6. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraisers, or the firm with which the appraisers are connected) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraiser.
- 7. This report is based on the best data available. If additional facts and/or data become available, the appraiser reserves the right to make adjustments and to update the value conclusions contained in this report.

EXTRAORDINARY ASSUMPTIONS

There are no extraordinary assumptions for this report.

HYPOTHETICAL CONDITIONS

There are no hypothetical conditions for this report.

SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS

Report Type: Restricted Appraisal Report

Date of Value: May 3, 2019 (date of last inspection)

Date of Report: August 20, 2019

Type of Value: Market Value

Location: The subject property is located along the southern side

of NW 25th Street and northern side of the Northwind Canal, about 520 feet west of NW 11th Court, within the

City of Cape Coral, in Lee County, Florida.

Owner: Mildred G. Tucker-Gainer

Tax I.D. No.: 27-43-23-C4-03003.0470

Rights Appraised: Fee Simple Estate

Site Data: The subject property contains 10,000 square feet. The

site has about 80 feet of frontage along the south side of NW 25th Street, 80 feet of frontage long the northern side of the Northwind Canal, at a depth of 125 feet.

Access to the property is from NW 25th Street.

Improvement Data: The subject property consists of vacant land.

Zoning: R1, Single-Family Residential, City of Cape Coral

Land Use Designation: PK, Parks and Recreation, City of Cape Coral

Market Value: \$18,000

IMPORTANT DEFINITIONS

Appraisal (noun) is the act or process of developing an opinion of value; an opinion of value. (adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services.¹

Client is the party or parties who engage, by employment or contract, an appraiser in a specific assignment.²

Easement is the right to use another's land for a stated purpose.3

Exposure Time is an estimated length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.⁴

Extraordinary Assumption is an assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions.⁵

Fee Simple is absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.⁶

Highest and Best Use (in appraising real property) is the reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value.⁷

Hypothetical Condition is a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.⁸

Intended Use is the use(s) of an appraiser's reported appraisal or appraisal review assignment results, as identified by the appraiser based on communication with the client at the time of the assignment.⁹

Intended User is the client and any other party as identified, by name or type, as users of the appraisal or appraisal review report by the appraiser, based on communication with the client at the time of the assignment.¹⁰

Calhoun, Collister & Parham, Inc.

¹ Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Foundation, Page 3.

² Ibid, Page 4.

³ The Dictionary of Real Estate Appraisal, 6th Edition, Published by the Appraisal Institute, Page 71

⁴ Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Institute, Page 4.

⁵ Ibid.

⁶ The Appraisal of Real Estate, 14th Edition, Published by the Appraisal Institute, Page 5.

⁷ Ibid, Page 333.

⁸ Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Foundation, Page 4.

⁹ Ibid, Page 5.

¹⁰ Ibid.

Jurisdictional Exception is an assignment condition established by applicable law or regulation, which precludes an appraiser from complying with a part of USPAP.¹¹

Leased Fee Interest is the ownership interest held by the lessor, which includes the right to the contract rent specified in the lease plus the reversionary right when the lease expires.¹²

Leasehold Interest is the right held by the lessee to use and occupy real estate for a stated term and under the conditions specified in the lease. ¹³

Market Value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition are the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- 1. Buyer and seller are typically motivated;
- 2. Both parties are well informed or well advised and acting in what they consider their own best interests;
- 3. A reasonable time is allowed for exposure in the open market;
- 4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- 5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.¹⁴

Replacement Cost is the estimated cost to construct, at current prices as of the effective appraisal date, a substitute for the building being appraised, using modern materials and current standards, design, and layout. ¹⁵ Such replacement cost sometimes offsets functional obsolescence.

Report is any communication, written or oral, of an appraisal or appraisal review that is transmitted to the client or a party authorized by the client upon completion of an assignment.¹⁶

Reproduction Cost is the estimated cost to construct, at current prices as of the effective date of the appraisal, an exact duplicate or replica of the building being appraised, using the same materials, construction standards, design, layout, and quality of workmanship and embodying all the deficiencies, superadequacies, and obsolescence of the subject building.¹⁷

¹⁴ Uniform Standards of Professional Appraisal Practice (Advisory Opinion 22), 2018-2019 Edition, Published by the Appraisal Foundation, Page 127.

¹¹ Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Foundation, Page 5.

¹² The Appraisal of Real Estate, 14th Edition, Published by the Appraisal Institute, Page 72.

¹³ Ibid.

¹⁵ Ibid, Page 197.

¹⁶ Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Foundation, Page 5.

¹⁷ The Dictionary of Real Estate Appraisal, 6th Edition, Published by the Appraisal Institute, Page 198.

Scope of Work is the type and extent of research and analyses in an appraisal or appraisal review assignment.¹⁸

Special Purpose Property is a property with a unique physical design, special construction materials, or a layout that particularly adapts its utility to the use for which it was built.¹⁹

Workfile is documentation necessary to support an appraiser's analyses, opinions, and conclusions.²⁰

¹⁸ Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Foundation, Page 5.

¹⁹ The Dictionary of Real Estate Appraisal, 6th Edition, Published by the Appraisal Institute, Page 217.

²⁰ Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Foundation, Page 6.

IDENTITY OF CLIENT

This appraisal report has been prepared for Dawn Andrews with the City of Cape Coral, who is considered the client for this appraisal assignment.

INTENDED USERS

The intended users of this report are the above identified client. The use of this report by others is not intended.

INTENDED USE

The intended use of this report is to assist the client in determining the market value of the subject property.

PURPOSE

The purpose of the appraisal is to report the market value of the subject property.

TYPE OF VALUE

The type of value determined herein is market value, as defined within the previous Important Definitions section.

DATE OF VALUE

The date of value is May 3, 2019, which represents the date of last inspection.

DATE OF REPORT

The date of this report is August 20, 2019.

PROPERTY RIGHTS APPRAISED

The property rights or interest to be appraised is the undivided fee simple interest as if free and clear of all liens, mortgages, encumbrances, and/or encroachments, unless otherwise provided for herein.

LEGAL DESCRIPTION

Cape Coral Unit 43, Block 3003, Lots 47 and 48, as recorded in Lee County Official Records Book 17 Page 50.

OWNERSHIP AND SALES HISTORY

A search of the public records of Lee County indicates there have been no arm's length transfers of the subject property within the three years prior to the date of value. I am unaware of any contracts or agreements of sale involving the subject property at the date of value.

SCOPE OF APPRAISAL

The scope of work performed in completing this appraisal includes:

- discussions with the client;
- the identification and inspection of the subject property;
- the determination of the appraisal problem and appropriate scope of work for this assignment;
- research into physical and economic factors regarding properties in the market area as related to value;
- a highest and best use analysis of the subject property, taking into consideration development trends in the area;
- the identification and inspection of all comparable sales utilized herein;
- extensive data research;
- the valuation of the subject property via the sales comparison approach.

The subject property is located along the southern side of NW 25th Street and northern side of the Northwind Canal, about 520 feet west of NW 11th Court, within the City of Cape Coral, in Lee County, Florida. The vacant site contains 10,000 square feet.

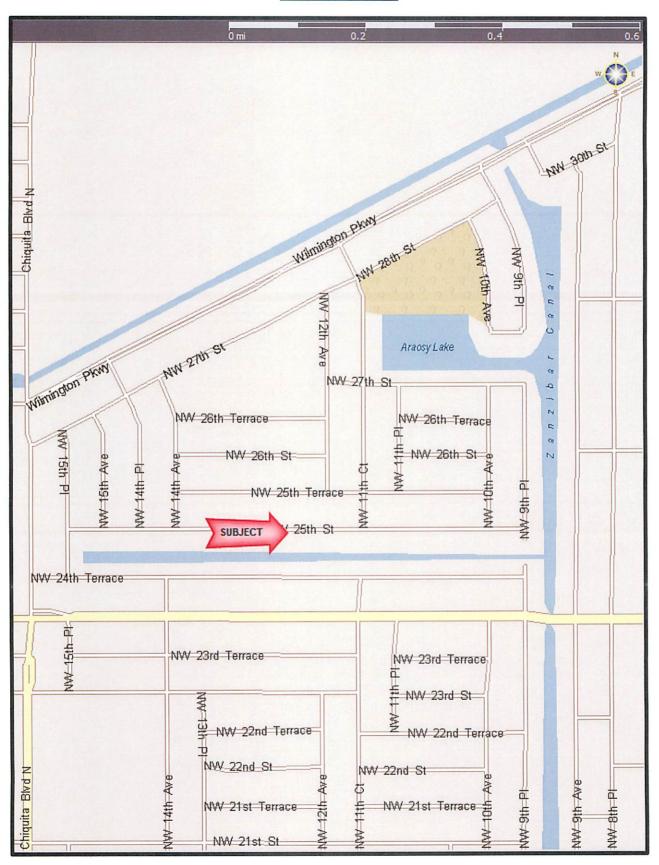
Within this report, the cost, sales comparison, and income approaches will be considered. Those approaches deemed applicable will be utilized, and if any particular approach is not considered applicable, then a summary explanation as to why this particular approach is excluded will be given.

Extensive and detailed research has been completed to research and analyze sales of properties similar to the subject. These properties are located in Lee County, with those utilized to value the subject summarized within the body of this report. Additional data is also contained within the appraisers' files. Therefore, these files are an integral part of this appraisal assignment and are incorporated herein by reference. In the process of researching each sale, the deed and mortgage (as applicable) of each transaction were obtained.

LOCATION MAP



LOCATION MAP



AERIAL MAP



SUBJECT PHOTOGRAPHS

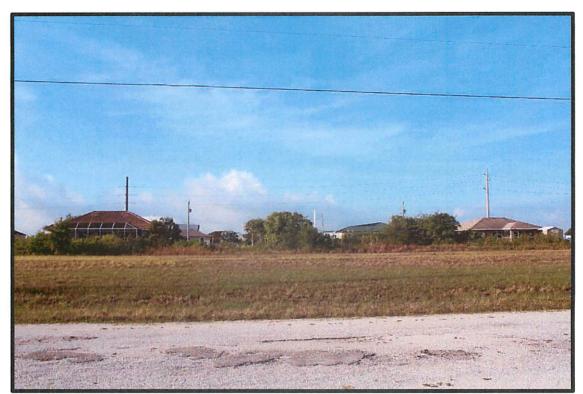


Photo #1 – Southerly view of subject property from NW 25th Street.



Photo #2 – View of the Northwind Canal from subject property.

PROPERTY DESCRIPTION

Location

The subject property is located along the southern side of NW 25th Street and northern side of the Northwind Canal, about 520 feet west of NW 11th Court, within the City of Cape Coral, in Lee County, Florida.

Street/Roads

NW 25th Street is a two-lane, asphalt-paved roadway.

Land

The subject property contains 10,000 square feet. The site has about 80 feet of frontage along the southern side of NW 25th Street and 80 feet of frontage along the northern side of the Northwind Canal, at a depth of 125 feet. The property is generally level, slightly above road grade, and cleared.

A physical inspection of the subject property indicates its soils appear capable of supporting development, especially considering the surrounding development patterns.

Ingress/Egress

The subject property has access from NW 25th Street.

Easements/Encroachments

Although title work was not provided, a review of public records indicates there are no easements or encroachments that would have an adverse impact on the development potential of the site.

Utilities

The subject property has access to electricity and telephone. Well and septic systems are typical in the subject's market area.

Improvements

The subject property consists of vacant land.

ZONING/FUTURE LAND USE

The subject property has a zoning designation of R1, Single-Family Residential District by the City of Cape Coral. The subject's future land use designation is PK, and Parks and Recreation by the City of Cape Coral.

HIGHEST AND BEST USE

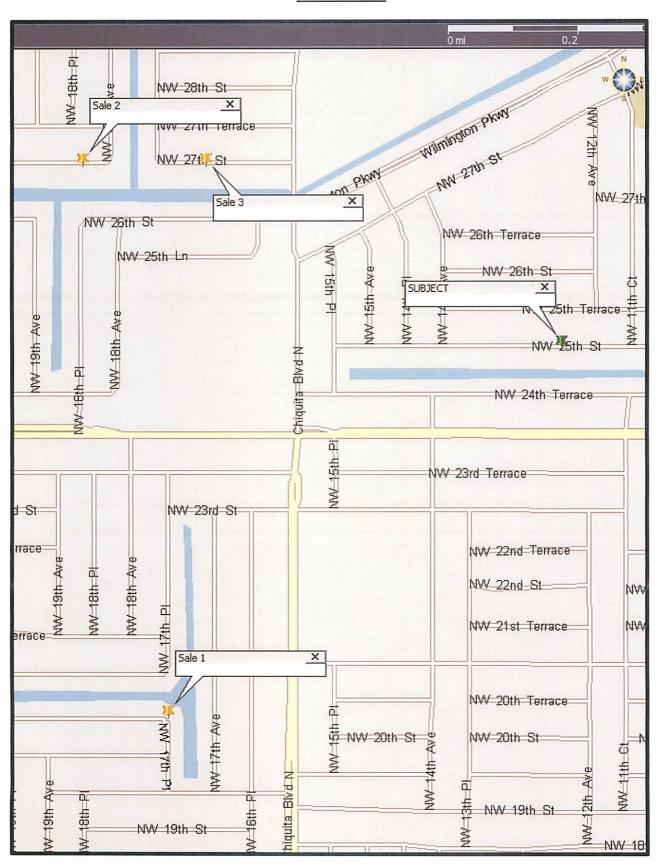
Highest and Best Use Conclusion

The highest and best use for the subject property is for a single-family residential use.

APPRAISAL METHODOLOGY

In determining the market value of the subject property, consideration was given to the cost, sales comparison, and income capitalization approaches to value. The subject property consists of vacant land. Therefore, the sales comparison approach is applicable in valuing the property. The income and cost approaches are not applicable in valuing the subject property.

SALES MAP



SALE 1



Address: 1715 NW 20th Terrace

Strap: 33-43-23-C2-03856.0090

Sale Date: April 26, 2019

Sale Price: \$17,000

Land Size: 12,942 SF

Utilities: Electric and telephone

Water Frontage: Nereid Canal

SALE 2



Address: 1814 NW 27th Street

Strap: 28-43-23-C3-05091.0580

Sale Date: April 18, 2019

Sale Price: \$20,000

Land Size: 10,000 SF

Utilities: Electric and telephone

Water Frontage: Telstar Canal

SALE 3



Address: 1708 NW 27th Street

Strap: 28-43-23-C3-05077.0100

Sale Date: April 18, 2019

Sale Price: \$16,000

Land Size: 10,000 SF

Utilities: Electric and telephone

Water Frontage: Telstar Canal

LAND VALUE

The subject property consists of a 10,000 square foot site with a highest and best use for a single-family residential use. In determining the subject's land value, a sales search was conducted for vacant sites similar in size, location, and highest and best use characteristics to the subject. As a result of the sales search, the land sales below have been researched, verified, analyzed, and compared to the subject.

I have analyzed the comparable sales based on the unit value paid and the qualitative method which gives consideration to the various similarities and differences between the sales and the subject but does not apply specific adjustments in the analysis.

The research of comparable land sales is summarized below:

Sale No.	Sale Date	Sale Price	Size (SF)
1	04/26/2019	\$17,000	12,942
2	04/18/2019	\$20,000	10,000
3	04/18/2019	\$16,000	10,000

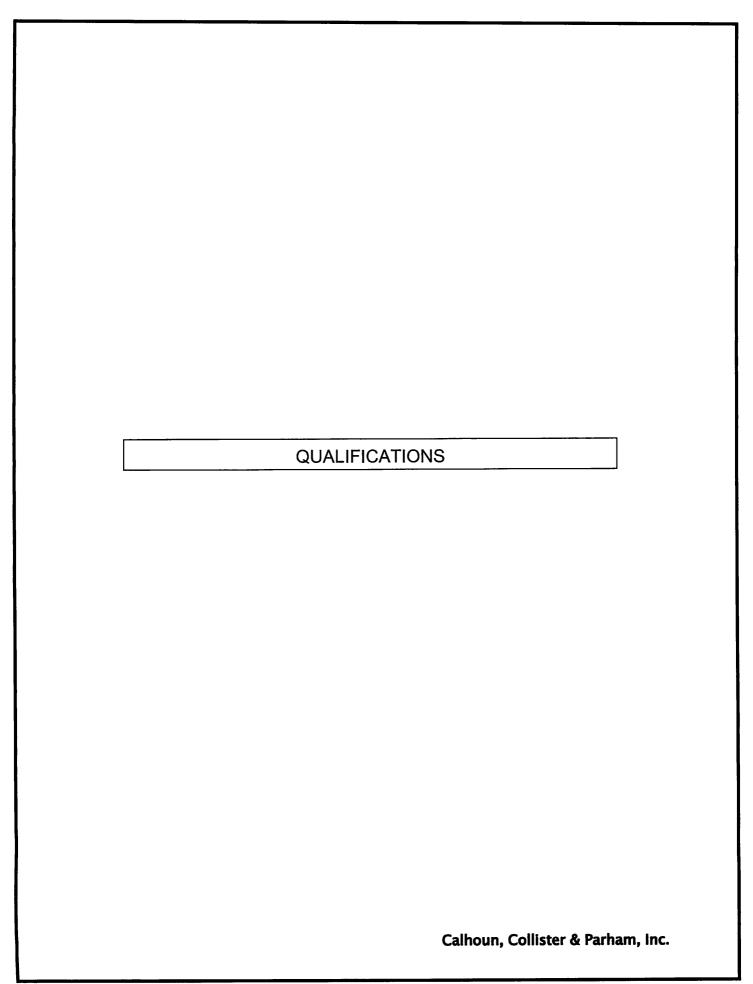
Conclusion of Land Value

The comparable sales have similar single-family residential highest and best use as the subject and range in price from \$16,000 to \$20,000. Considering the similarities and differences between the comparable sales and the subject, the indicated value for the subject, as of May 3, 2019 (date of last inspection), is:

\$18,000

EXPOSURE TIME

The previously reported value estimate is based upon a reasonable market exposure time. Based on current market conditions and research in the market, the estimated exposure time is in the range of three to six months to achieve the market value as shown above. This assumes a competitive open market, and further assumes a reasonable asking price relative to the value reported.



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Calhoun, Collister & Parham, Inc.

Real Estate Appraisers & Consultants

QUALIFICATIONS RICHARD H. PARHAM

Academic Background:

Bachelor of Arts Degree, The American University, 1991

Coursework and Seminars:

The following courses have been completed under the direction of the Appraisal Institute:

Appraisal Principles

Appraisal Procedures (Successfully Challenged)

Standards of Professional Practice (Part A & B)

Basic Income Capitalization

Standards of Professional Practice (Part C)

Advanced Income Capitalization

Highest and Best Use and Market Analysis

Advanced Sales Comparison and Cost Approaches

Report Writing and Valuation Analysis

Advanced Applications

Florida Condemnation Valuation and Appraiser Liability

Appraisers Florida Core Law

Land Valuation Assignments

Business Practices and Ethics

Condemnation Appraising: Principles and Applications

The Appraiser as an Expert Witness: Preparation and Testimonv

Litigation Appraising: Specialized Topics and Applications

Other Coursework:

Environmental Site Assessment, National Association of Master Appraisers

Real Estate Principles, Santa Fe Community College

Tree Trunk Formulas

Uniform Standards of Professional Appraisal Practice

Florida Appraisal License Law and Appraisal Board Regulations

Eminent Domain Conference, CLE International, October 2002

Eminent Domain Conference, CLE International, October 2003

Eminent Domain Conference, CLE International, May 2004

Eminent Domain Conference, CLE International, October 2004

Easement Valuation, International Right of Way Association

Eminent Domain Conference, CLE International, October 2005

Eminent Domain Conference, CLE International, October 2006

Eminent Domain Conference, CLE International, April 2007

Eminent Domain Conference, CLE International, October 2007

Eminent Domain Conference, CLE International, May 2008

Other Coursework (Cont'd):

Eminent Domain Conference, CLE International, October 2008 Roles and Rules of Supervisors and Trainees Communicating the Appraisal

Professional Organizations:

State-Certified General Real Estate Appraiser RZ2256 Member of Association of Eminent Domain Professionals (AEDP) Practicing Affiliate of the Appraisal Institute

Speaking/Instructing Engagements

CLE, Eminent Domain Institute, <u>The Appraiser's Perspective, What You Need To Know</u>

National Business Institute, Highest and Best Use

Association of Eminent Domain Professional, Highest and Best Use

University of Florida College of Law, Appraising For Litigation Purposes

CLE, Eminent Domain Institute, Apportionment Issues

Appraisal Institute, West Coast Chapter, <u>Associate Member Leadership Council</u> Presentation

Employment Experience:

Partner with Calhoun, Collister & Parham, Inc., Present Appraiser with Calhoun and Associates, Inc., 2000 to 2002 Appraiser with Durrance & Associates, P.A., 1994 to 2000 Appraiser with Candler-Sawyer & Associates, Inc., 1993 to 1994 Appraiser with Hanford/Healy Appraisal Company, 1991 to 1993 Intern with U.S. Senator Connie Mack, 1990 to 1991 Appraiser with The L. James Parham Company, 1987-1989

Appraisal Experience:

Richard H. Parham has been personally involved in the appraisal of one or more properties of the following types:

Reclaimed (Mining) Land **ALF Properties Daycare Centers Anchored Shopping Centers** Easements Residential Subdivision Restaurants Apartments **Farms Health & Fitness Centers** Retail Buildings **Auto Service** Retail Strip Center **Automotive Sales** Hotel/Motels Bank/Financial Institutions Industrial and Manufacturing Single Family Residences Mini Warehouses **Special Purpose Properties** Bars/Taverns Storm Water Retention Areas Car Washes Mobile Home Parks Churches Night Clubs **Utility Corridors** Citrus Trees Office Buildings **Utility Systems** Vacant land Condominiums **Phosphate Mines**

Calhoun, Collister & Parham, Inc.

Appraisals have been conducted for commercial banks, corporations, attorneys, condemning authorities, property owners, environmental agencies, and others. The geographic scope of appraisal assignments completed include numerous counties throughout the State of Florida.

Eminent Domain Projects:

Richard H. Parham has personally been involved in appraisal work of one or more properties on the following projects:

0	
State Road 20	Alachua County
39 th Avenue Extension	Alachua County
I-95	Brevard County
Palm Bay Road	Brevard County
Babcock Street	Brevard County
Wickham Road	Brevard County
Beach Erosion	Brevard County
State Road 7	Broward County
Burnt Store Road	Charlotte County
Edgewater Flamingo Extension	Charlotte County
Murdock Village	Charlotte County
Proposed School Site	Charlotte County
Utility Easements	Charlotte County
U.S. 17/Duncan Road	Charlotte County
County Road 491	Citrus County
County Road 486	Citrus County
State Road 44	Citrus County
U.S. 41	Citrus County
Watson Street	Citrus County
County Road 209	Clay County
Green Cove Springs Police Expansion	Clay County
Seacoast Pipeline	Clay County
Collier Boulevard	Collier County
Golden Gate Boulevard	Collier County
Interstate 75	Collier County
Immokalee Road	Collier County
Livingston Road	Collier County
Santa Barbara	Collier County
Vanderbilt Beach Road	Collier County
Marco Island Water Reservoir	Collier County
U.S. 17	DeSoto County
Broward Road	Duval County
Collins Road	Duval County
State Road 23	Duval County
TECO Peoples Gas Pipeline	Duval County
U.S. 17	Hardee County

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State Road 500 (U.S. 441) Lake County
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Interstate 75 Lee County
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Southwest Community Park Lee County
U.S. 41 Lee County
Mid-Point Bridge Lee County
Dr. Martin Luther King Jr. Blvd Lee County
State Road 78 Lee County

Calhoun. Collister & Parham. Inc.

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State Road 263	Leon County
17 th Street 43 rd Street	Manatee County
	Manatee County
Cortez Boulevard	Manatee County
State Road 64	Manatee County
Wares Creek	Manatee County
Gulfstream Pipeline	Manatee County
School Board Site	Manatee County
30 th Avenue	Manatee County
53 rd Avenue	Manatee County
17 th Street Overpass	Marion County
31 st Street	Marion County
County Road 484	Marion County
NW 44 th Street	Marion County
State Road 40	Marion County
SW 95 th Street	Marion County
State Road 35	Marion County
County Road 484	Marion County
Gulfstream Pipeline	Martin County
Indian Street Bridge	Martin County
State Road 70	Okeechobee County
U.S. 441	Okeechobee County
Interstate 4	Orange County
John Young Parkway	Orange County
Kirkman Road	Orange County
Maguire Road	Orange County
Maitland Boulevard Extension	Orange County
Rouse Road	Orange County
State Road 50	Orange County
Western Beltway	Orange County
Orange Avenue	Orange County
Gulfstream Pipeline	Palm Beach County
Bell Lake Road	Pasco County
Boyette Road	Pasco County
Clinton Avenue	Pasco County
County Line Road	Pasco County
East Road	Pasco County
Florida Gas Pipeline	Pasco County
Lake Patience Road	Pasco County
Main Street	Pasco County
Moon Lake Road	Pasco County
Old Pasco Road	Pasco County
Overpass Road Roses County Covernment Complex	Pasco County
Pasco County Government Complex	Pasco County
State Road 54	Pasco County
Shady Hills Road	Pasco County

Calhoun. Collister & Parham. Inc.

Suncoast Parkway	Pasco County
U.S. 41	Pasco County
U.S. 19	Pinellas County
Blind Pass Road	Pinellas County
Clearwater Downtown Stormwater System	Pinellas County
City of St. Petersburg Beach	Pinellas County
County Road 296 Connector	Pinellas County
Dome Industrial Project	Pinellas County
Interstate 75 Connector	Pinellas County
Keene Road	Pinellas County
Keystone Road	Pinellas County
Largo High School Expansion	Pinellas County
Nebraska Avenue	Pinellas County
Ulmerton Road	Pinellas County
St. Pete/Clearwater Airport Expansion	Pinellas County
State Road 436	Pinellas County
Drew Street	Pinellas County
Airport	Pinellas County
Central Florida Pipeline	Polk County
Florida Gas Transmission Pipeline	Polk County
Gulfstream Pipeline	Polk County
State Road 60	Polk County
Drane Field Road	Polk County
Lake Howard Drive	Polk County
Polk County Parkway	Polk County
State Road 540	Polk County
State Road 655	Polk County
State Road 20	Putnam County
Honore Avenue	Sarasota County
Interstate 75	Sarasota County
U.S. 301	Sarasota County
Pinebrook Road Extension	Sarasota County
Fruitville Road/I-75	Sarasota County
State Rod 434	Seminole County
Eden Park Avenue	Seminole County
State Road436	Seminole County
TECO Peoples Gas Pipeline	St. Johns County
U.S. Highway 1	St. Lucie County
Port St. Lucie Utility System	St. Lucie County
County Road 4466A	Sumter County
Florida Wastewater Project	Sumter County
U.S. 301	Sumter County
State Road 35 CSX Overpass	Sumter County
State Road 44	Sumter County
State Road 45 (U.S. 41)	Sumter County
DeBary Avenue	Volusia County
State Road 415	Volusia County
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Calhoun, Collister & Parham, Inc.

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Calhoun, Collister & Parham, Inc.

Real Estate Appraisers & Consultants

QUALIFICATIONS BRETT A. MEYERS

Academic Background:

Florida State University, Tallahassee, Florida College of Business Administration Bachelor of Science Degree; Finance and Real Estate - April 2006

Certifications and Memberships:

State-Certified General Real Estate Appraiser, State of Florida RZ3409

Coursework and Seminars:

Real Estate Principles, Florida State University, December 2004
Real Estate Feasibility, Florida State University, May 2005
Legal Environment of Real Estate, Florida State University, May 2005
Real Estate Finance, Florida State University, December 2005
Real Estate Appraisal, Florida State University, December 2005
Advanced Appraisal/Market Analysis, Florida State University, April 2006
15-Hour National USPAP Course, May 2009
2010 – 2011 National USPAP Update, July 2010
Florida Appraisal Laws and Regulations, July 2010
Florida Supervisor/Trainee Roles & Relationships, July 2010
The Cost Approach, July 2010

Appraisal Experience:

Experienced with various types of residential and commercial properties, including, but not limited to, single-family residences, office buildings, warehouses, retail centers, duplexes and triplexes, and commercial and residential land. His appraisals have been conducted for corporations, attorneys, government bodies, condemning authorities, and others.

Employment Experience:

May 2006 - Present Calhoun, Collister & Parham, Inc. September 2005 - May 2006 Boutin, Brown Realty Advisors, Inc.

Projects:

The following is a partial listing of projects on which Mr. Meyers has personally had valuation assignments involving acquisitions by private and governmental agencies:

Murdock Village (Charlotte County)
Collier Boulevard (Collier County)
Santa Barbara Boulevard Widening (Collier County)
Vanderbilt Beach Road Extension (Collier County)
State Road 39 (Hillsborough County)
U.S. Highway 1 (Indian River County)
U.S. Highway 441 (Lake County)

Brett A. Meyers Page two

Projects (Cont.)

(Lee County) Public Safety Building Project (Lee County) Southwest Community Park Gulfstream Natural Gas Pipeline (Martin County and Palm Beach County) Interstate 4 (Orange) Maguire Road (Orange) (Palm Beach County) State Road 710 (Pasco County) Clinton Avenue East Road Realignment (Pasco County) (Pinellas County) **Keystone Road** (Pinellas County) Largo High School Expansion (Polk County) Lincoln/Beacon Intersection Improvement Maitland Boulevard Extension (Orange County) Narcoosee Road (Osceola) Nolte Road (Osceola) (Sarasota County) Honore Avenue U.S. Highway 301 (Sumter County) Item Number: B.(3)

Meeting

9/9/2019

Date:

Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 289-19 Approval of American Tower's request for consent to remove existing equipment and install new equipment for Verizon Wireless at the communication tower located at Fire Station #6 on Chiquita Boulevard and authorization for the City Manager to execute said consent letter; Department: Financial Services / Real Estate; Dollar Value: N/A; (Fund: N/A)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No

2. Is this a Strategic Decision? No

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of No the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

- 1. The City entered into a Ground Lease with PrimeCo Personal Communications. L.P. in February 1997, which was subsequently assigned to American Tower Corporation.
- 2. In July 2009, City Council approved the Second Amendment to Ground Lease Agreement between the City of Cape Coral and American Tower Corporation.
- 3. American Tower is requesting the City's consent to remove the existing antenna equipment and install new antenna equipment for Verizon Wireless at the tower site. American Tower, or its contractors, will obtain all necessary permits for these modifications.
- 4. Pursuant to Section 3 of the Second Amendment to Ground Lease Agreement, which governs the site, the City must approve any modifications or substitutions of equipment.
- 5. Staff recommends approval of and authorization for the City Manager to execute American Tower's consent letter requesting consent to remove existing equipment and install new equipment within the existing leased tower premises.

LEGAL REVIEW:

EXHIBITS:

Resolution 289-19

PREPARED BY:

Dawn Y. Andrews, Property Broker Division- Real Estate

Department-Financial Services

SOURCE OF ADDITIONAL INFORMATION:

Dawn Y. Andrews, Property Broker Financial Services Department / Real Estate Division 239-574-0735

ATTACHMENTS:

Description

Туре

Resolution 289-19

Resolution

RESOLUTION 289 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL APPROVING AMERICAN TOWER'S REQUEST FOR APPROVAL OF PROPOSED INSTALLATION OF ANTENNA EQUIPMENT FOR VERIZON WIRELESS AT THE COMMUNICATION TOWER LOCATED AT FIRE STATION #6; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 1997 the City adopted Ordinance 4-97, authorizing the leasing of City property to PrimeCo Personal Communications, L.P., for the construction of a communication tower at Fire Station #6; and

WHEREAS, in 2009 the City Council adopted Ordinance 40-09, approving the Second Amendment to Ground Lease Agreement between the City and American Tower, L.P., successor in interest to PrimeCo Personal Communications, L.P.; and

WHEREAS, American Tower has requested the City's consent to remove the existing antenna equipment and install new antenna equipment for Verizon Wireless at the tower site and will obtain all necessary permits for the modification; and

WHEREAS, pursuant to Section 3 of the Second Amendment to Ground Lease Agreement, the City must consent to any modifications or substitutions of equipment; and

WHEREAS, staff recommends approval of American Tower's Request for Approval of Proposed Installation of Equipment requesting approval to install new antenna equipment for Verizon Wireless within the existing leased tower premises.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby approves American Tower's request for consent to install new antenna equipment for Verizon Wireless at the communication tower located at Fire Station #6. A copy of the Request for Approval of Proposed Installation of Equipment is attached hereto as Exhibit A.

Section 2. The City Council hereby authorizes the City Manager or his designee to execute the Request for Approval of Proposed Installation of Equipment for Verizon Wireless's equipment at the communication tower located at Fire Station #6.

Section 3. This Resolution shall take effect immediately upon its adoption.

	DUNCIL OF THE CITY OF CAPE CORAL AT ITS REGUL DAY OF, 2019.	AR
	JOE COVIELLO, MAYOR	_
VOTE OF MAYOR AND CO	UNCILMEMBERS:	
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN	
ATTESTED TO AND FILE 2019.	IN MY OFFICE THIS DAY OF	;
	KIMBERLY BRUNS CITY CLERK	_

APPROVED AS TO FORM:

DOLORES D. MENENDEZ

CITY ATTORNEY

res/-American Tower FS#6-Verizon Wireless



City of Cape Coral Real Estate Division for the City of Cape Coral Florida P.O. Box 150027 Cape Coral, FL 33915 July 26, 2019

REQUEST FOR APPROVAL OF PROPOSED INSTALLATION OF EQUIPMENT

SITE NUMBER	SITE NAME	PROJECT NUM.	CUSTOMER*
24578	CAPE CORAL FL	PE CORAL FL 12959984 VERIZON WIREI	
SITE ADDRESS		GROUND AGREEMENT	
Cape Coral, Florida 33914-6357		Ground Lease Agreement	
4540 CHIQUITA BLVD. SOUTH		dated February 3, 1997 (as amended)	

^{*} any reference to VERIZON WIRELESS includes one or more of its related entities

Dear Landlord:

We, Tower Alliance, are assisting American Tower in the management of this site, including requesting consent from landlords on behalf of American Tower when such consent is required. We are writing to request your approval of a proposed equipment installation by VERIZON WIRELESS, at this site. VERIZON WIRELESS is an existing user of the tower at this site, however pursuant the ground agreement we are required to obtain your approval before we allow them to install their equipment. Specifically, VERIZON WIRELESS will be undertaking the following installations:

Equipment to be removed from the tower

- Nine (9) JMA X7CAP-86-865 Antennas
- Three (3) CSS X7CAP-880 Antennas
- Three (3) Diplexers

Equipment to be installed on the tower

- Six (6) JMA X7CAP-86-865 Antennas
- Three (3) CSS X7CAP-880 Antennas
- Three (3) Diplexers

As wireless technology and coverage demands continue to change, providers routinely replace and upgrade equipment. Below are a few answers to frequently asked questions we receive from landlords on this type of project:

- All work will take place within the existing compound and on the existing tower.
- The overall appearance of the tower will remain similar.
- The modification of VERIZON WIRELESS's equipment will not change the overall height of the tower.

If you could please approve of this proposed equipment modification by signing this letter below and returning it to my attention, either by mail or email, I would appreciate it. Please note that pursuant to the ground agreement you are required to respond to this request within a prescribed period of time. As such if we do not hear from you within ninety (90) days following your receipt of this letter we will consider your non-response as approval to this request. American Tower values our relationship with you so if there are any questions please do not hesitate to contact me directly.

Sincerely,

Lease Consultant

Tower Alliance LLC

MCatanese@TowerAllianceLLC.com

Direct Line: 561-705-0139

Melanie Catanese

Approval

I approve of the proposed modification of equipment by VERIZON WIRELESS at the site referenced above		
Signature:	Date:	
Print Name:		
Title:		

REQUEST FOR APPROVAL OF PROPOSED INSTALLATION OF EQUIPMENT CAPE CORAL FL/ 24578
ATC Project 12959984
VERIZON WIRELESS collocation

Item Number: B.(4)

Meeting 9/9/2019

Date: 9/9/2013

Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 290-19 Approval of Contract for Purchase of Lots 19, 20 and 21, Block 3025, Unit 43, Cape Coral Subdivision, 1252 Wilmington Parkway, Cape Coral, for the Festival Park project for the purchase price of \$14,000 plus closing costs not to exceed \$1,500; Department: Financial Services / Real Estate Division; Dollar Value: \$15,500; (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No

2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

- 1 . In 2003 at a Strategic Planning Session City Council directed staff to begin purchasing property in Cape Coral Subdivision Unit 43 for a future park site, now known as Festival Park. Over the years, Staff had been working with various owners in the park area to purchase additional properties on a voluntary basis based on current independent state-certified appraisals.
- 2. Currently, the City owns 450 of the 517 parcels required for Festival Park, with five additional property contracts currently pending. Included in the remaining properties to purchase is one (1) improved property located on the Northwind Canal. The subject contract is for a three-lot off-water parcel located within the designated Festival Park area.
- 3. With the recent GO Bond approval, City Staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Staff submitted an offer to purchase the site based on an appraisal of a similar three-lot site by an independent state-certified appraiser, which has been accepted by the Seller. The contract requires the City to pay the closing costs incurred by the title company.

4. Staff recommends approval of the purchase contract to purchase Lots 19 through 21, Block 3025, Unit 43, Cape Coral Subdivision, for the purchase price of \$14,000 plus closing costs not to exceed \$1,500.

LEGAL REVIEW:

EXHIBITS:

Resolution 290-19 Property Appraiser Printout Location Map Appraisal

PREPARED BY:

Dawn Y. Andrews, Property
Broker

DivisionReal
Estate

DepartmentFinancial
Services

SOURCE OF ADDITIONAL INFORMATION:

Dawn Y. Andrews, Property Broker Financial Services / Real Estate 239-574-0735

ATTACHMENTS:

	Description	Туре
ם	Resolution 290-19	Resolution
D	PA Sheet - Block 3025, Lots 19-21	Backup Material
D	Location Map - Block 3025, Lots 19-21	Backup Material
D	Appraisal - Festival Park - 3-Lot Off Water	Backup Material

RESOLUTION 290 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL AUTHORIZING THE CITY MANAGER TO ENTER INTO A "CONTRACT FOR SALE AND PURCHASE" BETWEEN CHRISTOPHER BALL AND THE CITY OF CAPE CORAL FOR THE PURCHASE OF LOTS 19-21, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, FOR THE FESTIVAL PARK PROJECT; PROPERTY LOCATED AT 1252 WILMINGTON PARKWAY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2003, City Council directed staff to begin purchasing property in Unit 43, Cape Coral Subdivision, for the purpose of creating and developing Festival Park; and

WHEREAS, City staff has been working with various owners in the park area to purchase additional properties on a voluntary basis based on current independent state-certified appraisals; and

WHEREAS, the subject contract is for a three-lot off-water parcel; and

WHEREAS, the City has obtained a recent appraisal of a similar site pursuant to Section 2-152 of the City of Cape Coral Code of Ordinances; and

WHEREAS, City staff recommends that the City purchase the subject property pursuant to the terms and price set forth in the contract; and

WHEREAS, the City Manager requests approval to enter into the "Contract for Sale and Purchase."

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby authorizes the City Manager and the City Clerk to execute a "Contract for Sale and Purchase" between Christopher Ball and the City of Cape Coral for the purchase of Lots 19-21, Block 3025, Unit 43, Cape Coral Subdivision, as more fully described in the Contract, in the amount of \$14,000, plus closing costs not to exceed \$1,500. The property is located at 1252 Wilmington Parkway. A copy of the "Contract for Sale and Purchase" is attached hereto as Exhibit 1.

Section 2. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL COUNCIL SESSION THIS			
COUNCIL SESSION TITIS	DAT OF		
	JOE CO	VIELLO, MAYOR	
VOTE OF MAYOR AND COUNCIL	MEMBERS:		
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN		
ATTESTED TO AND FILED IN M 2019.	MY OFFICE THIS	DAY OF	,
	KIMBEF CITY CI	RLY BRUNS LERK	

APPROVED AS TO FORM:

DOLORES D. MENENDEZ

CITY ATTORNEY

Res/Purchase Real Property Festival Park L19-21 B302

CONTRACT FOR SALE AND PURCHASE

THIS IS A LEGALLY BINDING CONTRACT WHEN PROPERLY COMPLETED AND EXECUTED. IF NOT FULLY UNDERSTOOD, SEEK LEGAL ADVICE BEFORE SIGNING.

PARTIES: Christopher Ball, P.O. Box 238442, Port Orange, FL 32123 as "SELLER", and City of Cape Coral, a Florida Municipal Corporation, P.O. Box 150027, Cape Coral, Florida 33915-0027, successors or assigns, as "BUYER", hereby agree that the SELLER shall sell and BUYER shall buy the following (hereinafter referred to as "PROPERTY") described property upon the following terms and conditions:

LEGAL DESCRIPTION of real estate located in Lee County, Florida:
 Lots 19, 20 and 21, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat
 Book 17, Pages 48-57, inclusive of the Public Records of Lee County, Florida.

2. PURCHASE PRICE

\$14,000.00

3. CONDITIONAL CONTRACT. This contract for sale and purchase is a binding contract once it is executed by the SELLER and by the City Manager on behalf of the BUYER. However, this contract is expressly subject to approval by the Cape Coral City Council. If the Cape Coral City Council fails or refuses to approve the purchase within 45 calendar days of the date when the City Manager has signed this contract, then this contract shall be null and void. This contract is subject to applicable Florida probate proceedings, if required. BUYER and SELLER understand and agree that in the event probate proceedings are necessary, SELLER shall be solely responsible for any and all expenses necessary to complete said probate proceedings.

Page 1 of 6

- 4. **EFFECTIVE DATE & CLOSING DATE.** The Effective Date of this contract shall be the date of Council authorization. This contract shall be closed and the deed shall be delivered within 30 business days after Council authorization unless extended by other provisions of this contract. Such other provisions shall include, but not be limited to, paragraph 7. Possession shall be granted on the day of closing unless otherwise agreed in writing.
- 5. **CONVEYANCE. SELLER** shall convey title to the property to **BUYER** by Warranty Deed subject only to matters contained in this contract and taxes for the year of closing.
- 6. **RESTRICTIONS AND EASEMENTS. BUYER** shall take title subject to:
 - (a) Zoning and restrictions and prohibitions imposed by governmental authority;
 - (b) Restrictive covenants of record;
 - (c) Public utility easements of record, provided however said easements are located along the perimeter of the property and are not more than six feet (6') in width;
 - (d) Taxes for the year of closing and subsequent years;

Provided, however, that none of the foregoing shall prevent use of the entire property for the purpose of right-of-way or any other governmental purpose.

7. EVIDENCE OF TITLE. Within fifteen (15) days from the date of this contract, BUYER shall at BUYER'S expense, obtain a title insurance binder issued by a qualified title insurer of its choice, agreeing to issue to BUYER, upon the recording of the deed hereafter mentioned, a title insurance policy in the amount of the purchase price insuring the title to that real property.

BUYER shall have fifteen (15) days from the date of receiving the evidence of title to examine same. If title is found to be defective, BUYER or closing agent shall, within said period of time, notify SELLER in writing specifying defects that need to be cured. For purposes of this contract, a requirement by the title insurer that the SELLER institute and complete a quiet title action shall be deemed to be a title defect that shall be cured by SELLER. If said defects render the title unmarketable or uninsurable SELLER shall have ninety (90) days from the receipt of

such notice to cure the defects, and if after said period **SELLER** shall not have cured the defects, then **BUYER** shall have the option of (1) accepting the title as it then is; (2) affording **SELLER** additional time to cure the defect(s); or (3) terminate the contract by providing written notice to the **SELLER**.

- 8. **EXISTING MORTGAGES. SELLER** shall furnish estoppel letters from mortgagee(s) setting forth the principal balance, escrow balance, method of payment, and whether the mortgage is in good standing. It shall be **SELLER'S** obligation to obtain any satisfactions of mortgage required for closing.
- 9. **SURVEY.** If **BUYER** desires a survey, **BUYER** shall have the property surveyed at its expense prior to closing date. If the survey shows an encroachment, the same shall be treated as a title defect.
- 10. **OTHER AGREEMENTS.** No agreements or representations, unless incorporated in this contract, shall be binding upon any of the parties, unless they be in writing and agreed to by all parties.
- 11. **MECHANIC'S LIENS. SELLER** shall execute an affidavit that there have been no improvements to the subject property and that **SELLER** has not entered any contracts for the provision of goods or services that could give rise to a mechanic's lien for the ninety (90) days immediately preceding the date of closing.
- 12. **TIME IS OF THE ESSENCE** in the performance of this contract.
- 13. **DOCUMENTS FOR CLOSING. SELLER** shall execute a Warranty Deed, Seller's Affidavit and other necessary closing documents provided by closing agent.
- 14. **EXPENSES.** Documentary stamps, title insurance, title search, title exam, and settlement fees shall be paid by **BUYER**.
- 15. PRORATION OF TAXES (REAL AND PERSONAL). Taxes shall be prorated based upon

the current year's tax without regard to discount. If the closing takes place and the current year's taxes are not fixed, and the current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated on the prior year's tax, provided, however, if there is a completed improvement of the subject premises by January 1 of the year of closing, then the taxes shall be prorated to the date of closing based upon the prior year's millage. It is further agreed that should, upon receipt of current tax statement, the taxes be different by more than Ten Dollars (\$10.00) than those estimated, the proration shall be adjusted.

- 16. **ATTORNEY'S FEES AND COSTS.** In connection with any litigation arising out of the contract, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees. The parties agree to venue in Lee County, Florida for any action arising out of this Contract.
- 17. **DEFAULT BY SELLER.** If **SELLER** fails to perform any of the covenants of this contract other than the failure of **SELLER** to render his title marketable after diligent effort **BUYER** may proceed at law or in equity to enforce its legal rights under this contract, including, but not limited to, the right to bring suit for specific performance.
- 18. All covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties.
- 19. This agreement shall be interpreted, construed, and governed according to the Laws of the State of Florida.
- 20. The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid and unenforceable provisions were omitted.
- 21. **SELLER** and **BUYER** hereby agree that this contract to purchase the real property described

above is for a proper municipal purpose and grants the **BUYER** the right to enter the real property described above for the purpose of surveying, soil borings, or any other work as deemed necessary by the **BUYER**. The parties herein further agree that the purchase of this property does not destroy or cause any damage whatsoever to **SELLER** or his successor or assigns with respect to any commercial or residential property owned by them whose lands are being so purchased or located upon adjoining lands.

- 22. The place of closing and delivery of the deed to BUYER shall be at any office designated by BUYER.
- 23. **ENVIRONMENTAL AUDIT. BUYER** may perform or have performed, at **BUYER'S** expense, an environmental audit of the property. If such an audit identifies environmental problems unacceptable to the **BUYER** then **BUYER** may elect to accept the property in its existing condition or **BUYER** may terminate this Contract without obligation.
- 24. REAL ESTATE COMMISSIONS. BUYER and SELLER understand and agree that in the event BUYER has knowledge of any listing agreement for the subject property, then BUYER, at its option, may elect to notify and provide a copy of this contract to the Listing Broker. SELLER shall be solely responsible for any Broker compensation, Realtor notification or any other terms and conditions of any listing agreement. SELLER shall also be responsible for any Realtor transaction fee or administration fee.
- 25. **DISCLOSURE OF BENEFICIAL INTERESTS. SELLER** agrees to comply with the provisions of Section 286.23(1), Florida Statutes. Said section requires that, before property that is owned by a partnership, limited partnership, corporation, trust or any other form of representative capacity whatsoever for others, is conveyed to a governmental unit, the representative of the owner/entity shall make a public disclosure in writing, under oath and subject to the penalties prescribed for perjury, which shall state the names and addresses of

every person having a beneficial interest in the Real Property, however small or minimal.

26. It is understood by the parties that this contract is entered by SELLER under the threat and in lieu of condemnation and is inclusive of all compensation for all attorney fees and costs incurred by SELLER.

IN WITNESS THEREOF, BUYER and SELLER have signed this contract on the date set forth below.

	CITY OF CAPE CORAL, FLO	ORIDA
Witness to A. John Szerlag	BY: A. John Szerlag City Manager	Date
Witness to Kimberly Bruns	BY: Kimberly Bruns Interim City Clerk	Date
Witness Print Name: And Batter Witness Print Name: Vicche Bellice	BY: Chuh E. Vsull Christopher E. Ball	√ 8-15-20 19 Date
APPROVED AS TO FORM:		
Dolores D. Menendez, City Attorney		

QUESTIONNAIRE

Project: Festival Park Parcel Strap: 2/4323C403	B0250190 Project Parcel: 381
Please complete the following questions that pertain to ye	ou and return to this office in the envelope provided.
1. Are you the owner of the property identified above?	Yes No
Is this property listed with a realtor? If yes, Agents Name:	Yes No No
Real Estate Company's Name:	
Telephone No.:	
3. Have you sold or are you in the process of selling the lf yes, to whom – Name:	
Address:	
Closing Date	
4. Other than my spouse, I share ownership of this prop	erty with:
Name:	•
Address:	
Telephone No.:	
6. Please list the appropriate contact person for this pro	perty:
Name and Title: Christopher E. Ball	
Address: PO. Box 238442 Port	
Telephone No.: 360-490-3366	0
7. Is there an ongoing business on this site? Yes If yes, who owns the business?	No No
Name:	
Address:	
Telephone No.:	
8. Additional Comments:	
Charles 8-15-2019	
Property Owner's Signature Date	
Printed Name & Title	Telephone Number
Street Address	Facsimile Number
City State Zip	Fmail address

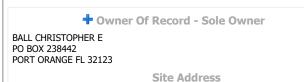


Tax Year 2019

Next Parcel Number Previous Parcel Number Tax Estimator Cape Coral Fees Tax Bills Print

Property Data

STRAP: 27-43-23-C4-03025.0190 Folio ID: 10033883



1252 WILMINGTON PKWY CAPE CORAL FL 33993

> **Property Description** Do not use for legal documents!

CAPE CORAL UNIT 43 BLK 3025 PB 17 PG 52 LOTS 19 20 + 21

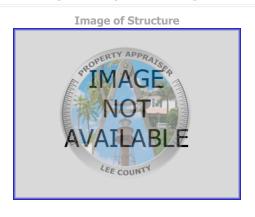
Classification / DOR Code

VACANT RESIDENTIAL / 00



[Pictometry Aerial Viewer]

Cui	rrent Working Va	lues 🥡	?
Just	9,500	As Of	07/14/2019
	Attributes		
Land Units Of Measure 1			UT
Units 1			1.00
Total Number of Buildings			0
Total Bedrooms / Bathrooms			0
Total Living Area 1			0
1st Year Building on Tax Roll 🕒			N/A
Historic Designation			No



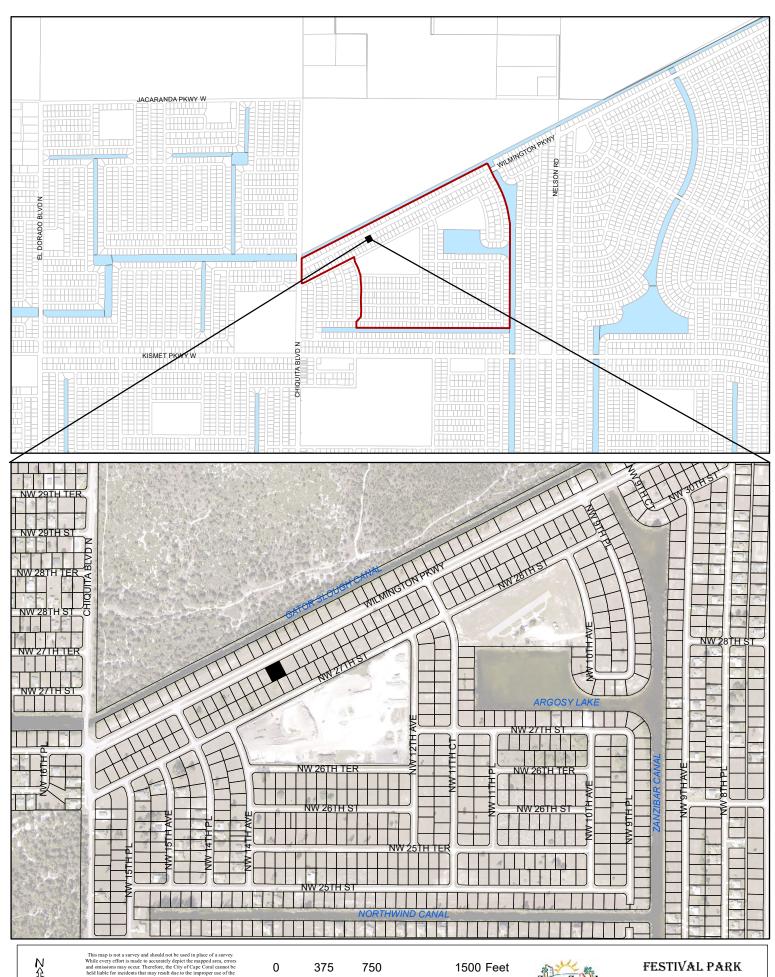
Exemptions



+	Taxing Authorities
+	Sales / Transactions Output Description:
+	Parcel Numbering History 9
+	Location Information
+	Solid Waste (Garbage) Roll Data
+	Flood and Storm Information
+	Appraisal Details (2019 TRIM)
+	Appraisal Details (Current Working Values)

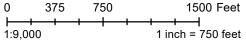
Previous Parcel Number Next
Parcel Number New Query
Search Results Home

TRIM (proposed tax) Notices are available for the following tax years [$\underline{2007}$ $\underline{2008}$ $\underline{2009}$ $\underline{2010}$ $\underline{2011}$ $\underline{2012}$ $\underline{2013}$ $\underline{2014}$ $\underline{2015}$ $\underline{2016}$ $\underline{2017}$ $\underline{2018}$ $\underline{2019}$]





This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the Citry of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map protted. Prepared by: The City of CAPE CORAL Real Estate Division-Gregory L. Spiv





Parcel 381 Block 3025 Lots 19,20,21

Restricted Real Estate Appraisal Report Of

The Alvarez Property
1228 Wilmington Parkway
City of Cape Coral, Lee County, Florida

Prepared For

The City of Cape Coral Real Estate Division % Dawn Andrews P.O. Box 150027 Cape Coral, Florida 33915-0027

DATE OF VALUATION:

May 3, 2019

Calhoun, Collister & Parham, Inc.

Calhoun, Collister & Parham, Inc.

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Real Estate Appraisers & Consultants

<u>Jacksonville Office</u> 10151 Deerwood Park Blvd.,

Building 200, Suite 250

Jacksonville, Florida 32256-0557

Phone: (904) 764-0200

Toll Free (800) 280-8140

Fax: (904) 764-4006

Tampa Office

10014 N Dale Mabry Highway Suite 201 Tampa, Florida 33618-4426 Phone: (813) 961-8300 Toll Free (800) 280-8150 Fax: (813) 962-6363 West Palm Beach Office

777 South Flagler Drive Suite 800 – West Tower West Palm Beach, FL 33401 Phone: (561) 909-3176 Toll Free (800) 280-8140 Fax: (561) 909-3177

June 10, 2019

The City of Cape Coral Real Estate Division % Dawn Andrews P.O. Box 150027 Cape Coral, Florida 33915-0027

Re.: Owner : Silvia Elena Alvarez

Property Address : 1228 Wilmington Parkway

County : Lee

City : Cape Coral

Dear Mrs. Andrews:

As requested, I have personally inspected and appraised the above referenced property. At the date of value, the subject property consisted of a 15,000 square feet lot. The property is located along the southeast side of Wilmington Parkway, about 809 feet southwest of NW 11th Court, within the City of Cape Coral, in Lee County, Florida. The subject property is located in an area that will be developed as Festival Park by the City of Cape Coral.

The intended use of this Restricted Appraisal Report is to assist the client in determining the market value of the subject property. The purpose of the appraisal is to report the market value of the subject property. The format of the report is Restricted Appraisal Report, in that the findings and analysis of the report were prepared for exclusive use by the clients, in conformance with Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice (USPAP). Portions of the supporting data analyzed in the appraisal process have been included in this appraisal report. Additional data and other material are contained in the appraisal file, which is incorporated herein by reference.

The City of Cape Coral Real Estate Division % Dawn Andrews June 10, 2019 Page Two

Based upon those factors discussed herein, the market value of the subject property, as of May 3, 2019 (date of last inspection), is:

\$14,000

Please do not hesitate to contact me if you have any questions or comments.

Sincerely,

Calhoun, Collister & Parham, Inc.

lef H. Parkam

Richard H. Parham State-Certified General

Real Estate Appraiser

RZ2256

Item Number: F.(1)

Meeting 9/9/2019

Date:

Type:

Item

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Health Facilities Authority - 2 Vacancies

REQUESTED ACTION:

Appoint

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No

2. Is this a Strategic Decision?

No

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Health Facilities Authority: 2 vacancies exist

Expiration: 2 members - 9/30/2019

Application: 1 Application received: Carol Turiello (re-appointment).

Advertised in the Breeze Newspaper: 8/2/19 and 8/23/19 and was posted on our City's website

and City's Facebook page

LEGAL REVIEW:

EXHIBITS:

Application: Carol Turiello (re-appointment)

Resignation: Thomas McNulty

Board Sheet

PREPARED BY:

Patricia Department- City Clerk Division- Administration Sorrels

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns, CMC City Clerk 1-239 242-3243

ATTACHMENTS:

	Description	Type
D	Applicant: Carol Turiello	Backup Material
D	Resignation - Thomas McNulty	Backup Material
D	Board Sheet	Backup Material

CITY OF CAPE CORAL

APPOINTMENT INFORMATION FORM

Initials:

This Appointment Information Form, when completed, signed and filed with the City Clerk's Office, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and, therefore, is open to public inspection by any person.

YOU ARE RESPONSIBLE TO KEEP THE INFORMATION ON THIS FORM CURRENT. APPLICATIONS WILL

E RETAINED IN THE CLERK'S OFFICE	IN ACCORDANCE WITH STATE RECURDS RETENTION LAWS.
lease Type, if possible (or print clearly)	Date: 8/13/2019
Jame: Typie//0 (Last)	(Apol Ann) (Birch) (Middle)
-mail address: (turiello @ AOL	
Λ	Court Zip Code_33991
(0)	Zip Code
Phone: (H) 239-54/-6367 (O)	(c) <u>315</u> -254-3725
Occupation: Retired R.N.	Healthappe Administration
Employer:	Position: How Long:
Education: Highest education level achieved ar	<u>Dates Attended</u> <u>Degrees Earned</u>
St. Agnes Haspital School	of Nursing 1964-1967 Diploma Nursing
f "Yes", please provide the title, issue date and incense/Certificate Title Registered Professions	<u>Issue Date</u> <u>Issuing Authority</u>
Board(s) /Commission(s) for which you are appl	olying: Health Facilities Authority reappoints
. Are you a U.S. Citizen?	Yes_ No
2. Are you a Cape Coral Resident?	Yes No
3. Are you <u>currently</u> serving on a City Board(s)?	? Yes No
If yes, which Board(s) and since when?	Yes No No Yes 9/30/20
Have you ever served on a City Board(s)?	Yes No form expli
If yes, which Board(s) and when?	AS Above
i. Are you currently serving on a Board. Authori	rity, or Commission for another governmental agency?
Yes No If yes, what Board,	etc. and since when?

Work Experience:
See Affacted Bio
Community Involvement:
Interests/Activities: Healthlane Covernment, Community Service Bridge
Why do you desire to serve on this/these Board(s)? I've enjoyed my 2 years on the board and would like to Cantialve. Plope fully my hashs round is help for to the Board
How did you learn about the vacancy? Cape Coral Website Newspaper Facebook Word of Mouth
A resume or separate sheet with additional information may be included.
Florida law requires that members of certain Boards file a financial disclosure form. Would you be willing to file a financial disclosure form? Yes No
The City of Cape Coral Code of Ordinances, Section 2-60 has a limitation on offices held; however, this can be waived by a two-thirds (2/3) vote of City Council. If you are already serving on a Board, Authority, or Commission for the City of Cape Coral or for another governmental agency, you would have to be approved by a two-thirds (2/3) vote.
The City of Cape Coral Code of Ordinances, Section 2-57 states that an applicant for membership on a board, committee, or commission or a sitting member of those bodies shall not have any delinquent accounts with the City of Cape Coral at the time of appointment.
I understand the responsibilities associated with being a Board member, and I have adequate time to serve on the above Board(s).
Signature 8/13/2019 Date
If you have any questions, please call the office of the City Clerk at (239) 574-0411. Return this form to:
City of Cape Coral, City Clerk's Office, P.O. Box 150027, Cape Coral, Florida 33915-0027
FOR OFFICIAL USE ONLY Interviewed: Date: Yes No.
Council Action: Date:

Carol A. Turiello R.N.

With over fifty years of experience in nursing, Mrs. Turiello served as Vice President of Practice Management for Syracuse Community Health Center. This was a federally qualified community health center with responsibility for 110 providers and 16 satellite medical centers.

Mrs. Turiello was owner and President of Medical Compliance Resources Inc., an independent consulting firm, specializing in medical practice operations, billing, coding and compliance, throughout the United States.

Mrs. Turiello served as the Cardiology Administrator at SUNY Upstate Medical University in Syracuse, New York.

Prior to her career in medical administration practice, Mrs. Turiello held positions as a registered nurse and a registered diagnostic medical sonographer, Her clinical background was in the Cardiac Cath Lab and Open Heart Surgery Program, where she participated in several major clinical trials with the National Institute of Health.

Mrs. Turiello served as a board member, then the Medical Vice-President, and ultimately the President of the Board of Directors for the Upstate New York Region of the American Heart Association. As Chair for the Heart Walk, Mrs Turiello increased this major fund raiser from \$75,000 to \$500,000. Mrs. Turiello was honored with an award from the Onondaga County Medical Society for her extended service to medical care.

Mrs. Turiello has organized and presented several programs on women and heart disease. She served as a board member of the Alzheimer's Association of Central New York.

After relocating to Florida, Mrs. Turiello has volunteered at the Harry Chapin Food Bank. She is a currently a member of Cape Coral City Council Health Care Facilities Advisory Committee.

Mrs. Turiello has also volunteered and served on the Sandoval Habitat for Humanity project.

Patricia Sorrels

From:

Patricia Sorrels

Sent:

Wednesday, August 21, 2019 7:46 AM

To:

Patricia Sorrels

Subject:

FW: [EXTERNAL] - Re: Health Facilities Authority:

From: motomlee@aol.com <motomlee@aol.com>_

Sent: Tuesday, August 20, 2019 4:42 PM
To: Patricia Sorrels psorrels@capecoral.net

Subject: [EXTERNAL] - Re: Health Facilities Authority:

Caution – This email originated from outside of our organization. Please do not open any attachments or click on any links from unknown sources or unexpected email.

With this letter I officially resign from the health authority Board of the City of Cape Coral.

Sent from my Verizon LG Smartphone

----- Original message----From: Patricia Sorrels

Date: Tue, Aug 20, 2019 12:11 PM

To: Betty Dill; Carol Turiello; Edmund Jackson; Harvey Rollings; Linda Prince; Tom McNulty;

Cc:

Subject: Health Facilities Authority:

Hello All:

I wanted to let the Board know that Mr. Thomas McNulty will not be reapplying for his seat. We do appreciate his Volunteer service on this Board.

We wish him the best in his future endeavors. We have advertised in the paper and on the City website for the open positions. However, if you know of anyone who would be interested please share this opening with them. Applications are available on our website or at the Clerk's office.

Health Facilities Authority 2 Vacancies
Resident of Cape Coral and Citizen of the United States
Deadline to receive applications is no later than 12:00 p.m. on Tuesday, September 3, 2019.

CITY OF CAPE CORAL - BOARDS AND COMMISSIONS

HEALTH FACILITIES AUTHORITY

BOARD INFO	MEMBERS	INITIAL APPOINT MENT	LAST REAPPOINT MENT	TERM EXPIRES
Established by a Special Act of the Florida	Carol Turiello			
Legislature and Resolutions 46-75 and 80-82	2647 Casibari Court	3/6/2017		9/30/2019
Florida Statute 154.201	Cape Coral, FL 33991			
	541-6367			
This board was created in 1975 through Legislature	cturiello@aol.com			
of the State with the enactment of a bill creating	CHAIR			
the City of Cape Coral Health Facilities Authority.	Linda Prince			
	1318 SE 43rd Terrace	4/28/2008	11/6/2017	9/30/2021
Five Members; Term of Office - Four years	Cape Coral, FL 33904			
	822-7963 (c)			
Qualifications:	ednjoprince@gmail.com			
Resident of the City of Cape Coral and Citizen of	VICE CHAIR			
the United States.	Betty Dill			
	1402 SE 43rd Terrace	5/18/2009	11/6/2017	9/30/2021
Appointed by majority vote of City Council.	Cape Coral, FL 33904			
	542-5295			
	bettyjdill@yahoo.com			
Board Attorney:	SECRETARY			0 / 2 0 / 2 0 2 0
Harvey Rollings, Esquire	Edmund Jackson	11/6/2017		9/30/2020
PO Box 100767	1111 SE 8th Terrace, Unit3-A			
Cape Coral, FL 33910	Cape Coral, FL 33990			
542-0700	1-732-535-2250			
Rollings@joneshaberlaw.com	edmundtjackson@aol.com			
Financial Disclosure Required: Yes	VACANCY	2/24/2003	9/28/2015	9/30/2019
Board Secretary: Patricia Sorrels				

Item

A.(1)

Number: Meeting

_ _ _ _ _ _

Date:

9/9/2019

Item

ORDINANCES/RESOLUTIONS -

Type:

Public Hearings

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 282-19 (VP 19-0007*) Public Hearing

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

No

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

<u>Hearing Examiner Recommendation:</u> The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in VP HEX Recommendation 11-2019.

Staff Recommendation: Staff recommends approval with conditions.

SUMMARY EXPLANATION AND BACKGROUND:

A resolution providing for the vacation of plat for the six-foot wide public utility and drainage easements located near the western property line of Lots 77-82, Block 1976, Cape Coral Unit 28; property located at 1306 Santa Barbara Boulevard.

LEGAL REVIEW:

John E. Naclerio III, Assistant City Attorney

EXHIBITS:

Resolution 282-19 (VP 19-0007*)
Hearing Examiner Recommendation
Back up Materials from Hearing Examiner Hearing
Staff Presentation forthcoming

PREPARED BY:

City

Division- Department-Attorney

SOURCE OF ADDITIONAL INFORMATION:

Katherine Woellner, Planner

ATTACHMENTS:

	Description	Туре
D	Resolution 282-19 (VP 19-0007)	Resolution
D	Hearing Examiner Recommendation	Backup Material
D	Back up material from HEX Hearing	Backup Material
D	Staff Presentation	Backup Material

RESOLUTION 282 - 19

A RESOLUTION PROVIDING FOR THE VACATION OF PLAT FOR THE SIX-FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENTS LOCATED NEAR THE WESTERN PROPERTY LINE OF LOTS 77-82, BLOCK 1976, CAPE CORAL UNIT 28; PROPERTY LOCATED AT 1306 SANTA BARBARA BOULEVARD; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Petition was filed by CORAZON BURIAS, TRUSTEE OF THE CORAZON BURIAS REVOCABLE LIVING TRUST for the vacation of plat on property described herein; and

WHEREAS, the Petition meets the requirements of the City of Cape Coral Land Development Code, Article 3, Development Review, Chapter 4, Specific Review Procedures – Quasi-Judicial Permits and Approvals, Section 3.4.5, Vacations of Plats, Easements, and Rights-of-Way, and it is in the best interest of the public that such Petition be granted.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA:

Section 1. The Petition meets the requirements of Article 3, Chapter 4, Section 3.4.5, of the Land Development Code of the City of Cape Coral and it is in the best interest of the public that such Petition be granted. The following described public utility and drainage easements are hereby vacated, to wit:

A TRACT OR PARCEL OF LAND LYING IN LOTS 77 THROUGH 82, BLOCK 1976, CAPE CORAL, UNIT 28, PLAT BOOK 14, PAGES 101 THROUGH 111, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 77, BLOCK 1976, AS RECORDED IN PLAT BOOK 14, PAGES 101 THROUGH 111; THENCE RUN S.00°25'52"W., ALONG THE WESTERLY LINE OF SAID LOT 77 FOR 6.00 FEET TO THE POINT OF BEGINNING; THENCE RUN S.89°07'02"E. FOR 6.00 FEET; THENCE RUN S.00°25'52"W. FOR 228.00 FEET; THENCE RUN N.89°07'00"W. FOR 6.00 FEET TO A POINT ON THE WESTERLY LINE OF LOT 82, SAID BLOCK 1976, SAID POINT BEING 6.00 FEET PARALLEL AND PERPENDICULAR TO THE SOUTH LINE OF SAID LOT 82; THENCE RUN N.00°25'52"W. FOR 228.00 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 1,368 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON THE WEST RIGHT-OF-WAY LINE OF SANTA BARBARA BOULEVARD AS BEING S.00°25'52"W.

Section 2. The Applicant shall meet the following terms and conditions:

- 1. The vacation of the six-foot wide platted public utility and drainage easements along the western property line of Lots 77-82 shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC, dated February 12, 2019, and entitled "(Proposed) Vacation of a Portion of P.U.E. and D.E. Lying in Lots 77 thru 82, Block 1976 Cape Coral Unit 28."
- 2. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant reimburses the Department of Community Development for all recording fees associated with this resolution.

Section 3. This Resolution shall take effect upon its recording within the Office of the Lee County Clerk of Court by the City of Cape Coral.

ADOPTED BY THE CITY COUNCIL OF THE COUNCIL SESSION THIS DAY OF	
	JOE COVIELLO, MAYOR
VOTE OF MAYOR AND COUNCILMEMBERS:	
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN
ATTESTED TO AND FILED IN MY OFFICE 2019.	THIS, DAY OF,
	KIMBERLY BRUNS CITY CLERK
JOHN E. NACLERIO III ASSISTANT CITY ATTORNEY	

res/vp19-0007

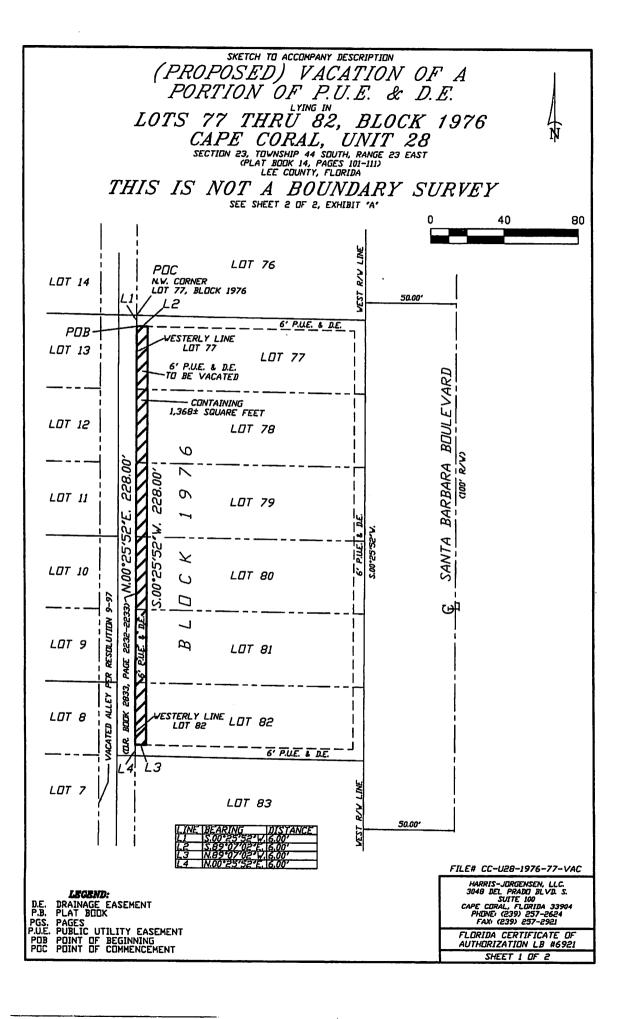


EXHIBIT "A"

DESCRIPTION: (PER HARRIS-JORGENSEN, LLC.)

A TRACT OR PARCEL OF LAND LYING IN LOTS 77 THROUGH 82, BLOCK 1976, CAPE CORAL, UNIT 28, PLAT BOOK 14, PAGES 101 THROUGH 111, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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BEARINGS ARE BASED ON THE WEST RIGHT-OF-WAY LINE OF SANTA BARBARA BOULEVARD AS BEING S.00°25′52′W.

PHILLIP M. MOULD

LS#6515

FEBRUARY 12, 2019

OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL

HEARING EXAMINER RECOMMENDATION

VP HEX Recommendation 11-2019

DCD CASE # VP 19-0007

Rendered July 16, 2019

APPLICATION FOR: Vacation of Platted Public Utility and Drainage Easement

OWNER: The Borazon Burias Revocable Living Trust

APPLICANT: Corazon Burias, Trustee

• 1, .

APPLICANT'S REPRESENTATIVE: TDM Consulting, Inc. (Veronica Martin)

LOCATION OF PROPERTY: 1306 Santa Barbara Boulevard, Cape Coral, FL

Cape Coral Unit 28, Blk 1976, Lots 77 Thru 82 +

Vac Alley

STRAP # 23-44-23-C3-01976.0770

ZONING DISTRICT: Professional Commercial (C-1)

FUTURE LAND USE CLASSIFICATION: Commercial/Professional

URBAN SERVICE: Transition

HEARING DATE: July 16, 2019

SUMMARY OF REQUEST: The Applicant requests to vacate the six-foot wide, platted,

public utility and drainage easement near the western property line of lots 77 through 82 of Cape Coral Unit 28,

Block 1976.

I. SUMMARY OF HEARING EXAMINER RECOMMENDATION

The Hearing Examiner recommends that City Council **approve** the application for the requested vacations, **subject to the conditions set forth below.**

II. NOTICE OF HEARING

Based on the testimony of City Staff Katherine Woellner at the Hearing, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of Article VIII, §8.3, Public Hearings, of the City of Cape Coral Land Use and Development Regulations ("LUDRs").

III. PARTICIPANTS IN HEARING

CITY STAFF: Katherine Woellner, Planner

CITY CLERK'S OFFICE: Patricia Sorrels

APPLICANT'S REPRESENTATIVE: Veronica Martin

MEMBERS OF PUBLIC: none

TELEPHONE CALL/EMAILS FROM PUBLIC: none

IV. **EXHIBITS**

APPLICANT'S AND CITY STAFF'S EXHIBITS: previously submitted.

V. REVIEW OF LUDR REQUIREMENTS

<u>Authority.</u> The Hearing Examiner has the authority to recommend approval or denial of an application for a vacation of a plat and associated easements pursuant to LUDR §9.2.3 b.8.

Standard of Review of Evidence; Hearsay Evidence. The Hearing Examiner's recommendation is based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the LUDRs, upon review of the entirety of the record. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court. The Hearing Examiner must consider all competent substantial evidence in the record as defined by LUDR § 8.3.1.C.3.b.

<u>LUDR Standards.</u> The Hearing Examiner reviewed the application in accordance with the standards set forth in LUDR § 8.11, *Vacation of plats, rights-of-way and other property*, in addition to the general standards set forth in the LUDRs and the City Comprehensive Plan.

VI. <u>TESTIMONY AT HEARING</u>

Incorporation of Staff Report and Staff Testimony by Applicant's Representative

The Applicant's Representative incorporated the Staff Report and Staff Testimony ("Staff Input") into her presentation by reference. She requested the Hearing Examiner to recommend that City Council find the Staff Input as findings of fact, in addition to those separately presented by her.

Incorporation of Staff Report by Staff

Staff incorporated the Staff Report into her presentation by reference.

Hearing Examiner's Recommended Findings of Fact.

All documentary and oral testimony below is accepted by the Hearing Examiner as recommended findings of fact, unless specifically noted otherwise. The Hearing Examiner recommends that the City Council accept such testimony as findings of fact to substantiate its decision regarding this Application.

VII. **DISCUSSION**

Site, Zoning History and Surrounding Area

Staff testified that the 32,308 square foot site is currently undeveloped. It is comprised of six (6) platted lots along Santa Barbara Boulevard.

Staff testified that the block had been among various properties which were involved in an amendment to the Comprehensive Plan in 2010 (LU10-0029) to change the Future Land Use Classification from Multi-Family to CP, its current designation. At that time, a zoning amendment (ZA10-0010) accompanied the Comprehensive Plan Amendment to amend the zoning to C-1, which is its current zoning classification.

Staff further testified that in 1997, the City Council adopted Resolution 9-97 to vacate the platted alley in Block 1976. Although the entire alley was vacated, all underlying and adjacent easements were retained.

Resolution 9-97 "preserv[ed]; all existing 6-foot-wide Public Utilities and Drainage Easements of Record and reserve[ed]: Parcel 'A' (the alley) ... as a Public Utilities and Drainage Easement, in its entirety."

Staff's PowerPoint Presentation (presented during the Hearing and incorporated by reference by staff) set forth that the parcels immediately surrounding the subject site are zoned C-1, with properties across Santa Barbara Boulevard but within the 500 foot proximity boundary having C-1 or R-3 zoning. Properties to the west (not immediately adjacent to the subject property but within the 500 foot proximity boundary) have R 1-B zoning.

Review of Request

The Applicant's Representative testified that the property owner is requesting a vacation of the six-foot wide public utility and drainage easement (P.U.E.) near the west property line, so as to allow commercial development of the site.

The Applicant's Representative testified that the site has two contiguous easements along the west property line: the six-foot wide platted easement which is the subject of this request and a ten-foot wide easement associated with the vacated alley right-of-way.

Staff testified that this ten-foot easement in the previously-vacated alley and the six-foot perimeter easement along the north, east, and south sides of the property would remain.

Staff testified that the site would not be enlarged with the proposed easement vacation. Rather, only the buildable area will increase within the site.

Recommendation that City Council Find That Applicant Has Complied with All Requirements for the Requested Vacations, as Set Forth in LUDR §8.11

1. Applicant has color of title (LUDR §8.11.3b.1)

As set forth above, Applicant owns the property subject to to this Vacation request.

2. A copy of the plat **has** been provided, showing the portions for which vacation is sought (LUDR §8.11.3b.2)

It is attached as an Exhibit hereto.

3. and 4. Letter of Approval from LCEC and Letters of No Objection from Century Link and Comcast (LUDR §8.11.3b.3 and LUDR §8.11.3b.4-6) are not required.

Staff testified that Century Link, Comcast, LCEC, the City of Cape Coral, and Lee County Electric Cooperative do not have utilities within these easements. As a result, these utility providers and the City of Cape Coral do not object to this vacation request.

5. A copy of a recent boundary survey or survey sketch of the property prepared and executed by a registered surveyor, has been provided, showing the area requested to be vacated; providing complete metes and bounds legal descriptions of said areas, and showing all pavement and all utility and drainage facilities in said area, including water, sewer and cable lines, utility poles, swales, ditches, manholes and catch basins. Separate drawings and metes and bounds legal descriptions will be required for each proposed vacation area when the right-of-way and easement configurations differ. (LUDR §8.11.3b.7.B)

All necessary documents are attached as Exhibit "A".

6. No Reasonably Foreseeable Public Use of the Vacated Area. (LUDR, §8.11.3 d)

Staff testified that the subject easement is not needed to meet or fulfill any foreseeable public purpose because the parallel, ten-foot wide P.U.E. will remain. Staff further testified that this request is consistent with the public interest as it would provide greater flexibility in developing this commercial site.

It is recommended that, for the above reasons, the City Council finds there is no reasonably foreseeable public use for the requested vacations.

7. City's Retention of Easements for Utilities and/or Drainage in and Upon the Vacated Area. (LUDR, §8.11.3 d)

As set forth above, the application shows, and staff testified, that the existing ten foot easement in the previously vacated alley and the six foot perimeter easement along the north, east and south sides of the property would remain.

Consistency with the Comprehensive Plan (LUDR §8.11)

This request has been reviewed for consistency with the Comprehensive Plan, and specifically for consistency with Policy 5.5 of the Future Land Use Element which states:

"The City may consider the vacation of rights-of-way to facilitate land assembly and the development of a unified, contiguous commercial project."

Staff testified that the proposed easement vacation would create a larger buildable area on the site, and the Applicant has advised staff that the owner intends to use this for a unified commercial development. ¹ Staff testified that the site's future land use and zoning classifications are compatible with the Applicant's intent to build a commercial development.

The Hearing Examiner agrees with Staff's testimony that this policy is supportive of this request.

Accordingly, it is recommended that the City Council find that the vacation requests are consistent with the City's Comprehensive Plan

Consistency with City Requirements and All Applicable Law

It is recommended that City Council find that granting the requested vacation, as conditioned below, **would be consistent** with the City Comprehensive Plan, Land Use Development Regulations, and all other applicable law.

VIII. **EXHIBIT**

The following Exhibit is attached hereto and hereby incorporated by reference:

 Exhibit "A": sketch and accompanying legal description prepared by Harris-Jorgensen, LLC, dated February 12, 2019 and entitled "(Proposed) Vacation of a Portion of P.U.E. and D.E. Lying in Lots 77 through 82, Block 1976, Cape Coral Unit 28."

¹ The Hearing Examiner observes that this expressed intention would not be binding on the Owner.

IX. RECOMMENDED CONDITIONS OF APPROVAL

City staff testified regarding recommendations for conditions of approval, set forth below. Applicant's Representative testified that Applicant has no objection to these conditions.

The Hearing Examiner **recommends** that these conditions of approval be adopted as part of the City Council's approval of Applicant's request:

- Vacation of P.U.E. and Drainage Easements Consistent with Sketch and Legal Description. The vacation of the easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC, dated February 12, 2019 and entitled "(Proposed) Vacation of a Portion of P.U.E. and D.E. Lying in Lots 77 through 82, Block 1976, Cape Coral Unit 28."
- 2. <u>Recording of Resolution</u>. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant provides the City with the easement deed as described in Condition #3 above and reimburses the Department of Community Development for all recording fees associated with this resolution and the easement deeds.
- 3. <u>Compliance with Zoning District Standards and Requirements and Inclusion of LUDRs, City Ordinances and Other Applicable Law.</u> Applicant shall comply with all standards and requirements for the zoning district in which the property is located and all other requirements set forth in the LUDRs, City ordinances and all other applicable laws and regulations, which are incorporated herein by reference.

The Hearing Examiner hereby **RECOMMENDS APPROVAL** of the request for the above-referenced Vacation filed by Applicant, **WITH THE CONDITIONS** set forth above.

This Recommendation takes effect on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

ANNE DALION, LOGOINE

ATTECT.

Page 6 of 6

Case No	:	VP19-0007			
Exhibit:		A		_	
Page:	1	of	2		

EXHIBIT "A"

DESCRIPTION: (PER HARRIS-JURGENSEN, LLC.)

A TRACT OR PARCEL OF LAND LYING IN LOTS 77 THROUGH 82, BLOCK 1976, CAPE CORAL, UNIT 28, PLAT BOOK 14, PAGES 101 THROUGH 111, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 77, BLOCK 1976, AS RECORDED IN PLAT BOOK 14, PAGES 101
THROUGH 111, THENCE RUN S.00°25'52'W., ALONG THE WESTERLY LINE OF SAID LOT 77 FOR 6.00 FEET TO THE
POINT OF BEGINNING, THENCE RUN S.89°07'02'E. FOR 6.00 FEET, THENCE RUN S.00°25'52'W. FOR 228.00 FEET,
THENCE RUN N.89°07'00'W. FOR 6.00 FEET TO A POINT ON THE WESTERLY LINE OF LOT 82, SAID BLOCK 1976,
SAID POINT BEING 6.00 FEET PARALLEL AND PERPENDICULAR TO THE SOUTH LINE OF SAID LOT 82, THENCE
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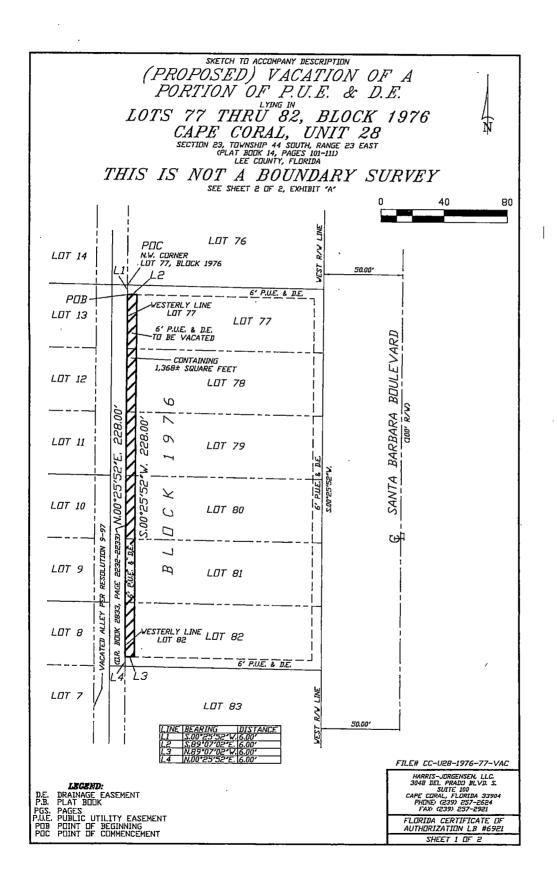
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PHILLIP M. MOULD

LS#6515

FEBRUARY 12, 2019





Case # VP 19 -0007

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

REQUEST TO PLANNING & ZONING COMMISION AND COUNCIL FOR A VACATION OF PLAT

FEE: \$843.00 – In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4) Advertising costs must be paid prior to public hearing otherwise case will be pulled from public hearing.

Following the approval of your request, the applicant shall be responsible for reimbursing the City to electronically record the final signed Resolution or Ordinance with the Lee County Clerk of Court. Until this fee is paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the city from issuing any applicable building permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.

If the owner does not own the property in his/her personal name, the owner must sign all applicable forms in his/her corporate capacity.

OWNER OF PROPERTY	
The Corazon Burias Revocable Living Trust	Address: 2816 SW 33rd Ter.
	City: Cape Coral State: FL Zip 33914
	Phone:
APPLICANT	
Corazon Burias, Trustee	Address: 825 Santa Barbara Blvd.
EMAIL woodlands_alf@yahoo.com	City: Cape Coral State: FL Zip 33991
	Phone: 239-938-5182
AUTHORIZED REPRESENTATIVE Veronica Martin, TDM Consulting, Inc.	Address: 43 Barkley Cir, Suite 200
EMAIL vmartin@tdmconsulting.com	City: Fort Myers State: FL Zip 33907
	Phone: 239-433-4231
Unit <u>28</u> Block <u>1976</u> Lot(s) + vac all	ey OR 283 <mark>3 PG 2232 _{u 82} Subdivision</mark>
Address of Property <u>1306 Santa Barbara Blvd.</u>	
Current Zoning C-1	Plat Book <u>14</u> , Page <u>107</u>
	Strap Number <u>23-44-23-C3-01976.0770</u>



VACATION OF PLAT APPLICATION

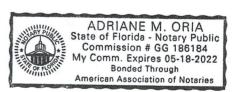
Questions: 239-574-0776

Case	#			

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

The owner of this property, or the applicant, agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

	(SIGNATURE I	MUST BE NOTARIZED)		
corazon Burias, Trustee		loran	Luiax	
APPLICANT NAME (PLEASE TYPE OR P	RINT)	APPLICANT'S	SIGNATURE	
		,		
- 4				
STATE OF ELODICOUNTY OF				
Sworn to (or affirmed) and subscrib	ed before me	this 3PU day of MAR	CH	, 20 <u>1</u> 9 by
CORAZON BURIAS		nally known or produced		'S LICENSE
as identification.	Exp. Date:	5-18-2032 Commis	sion Number:	GG 186184
	Signature o	f Notary Public:	addiana	Caro He
	Printed nan	ne of Notary Public:	Adrian	e M. Oria





VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case	#	
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ACKNOWLEDGEMENT FORM

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

I acknowledge that I or my representative must attend any applicable meetings scheduled for the Hearing Examiner, Planning & Zoning Commission/Local Planning Agency, and City Council.

I will have the opportunity, at the hearing, to present verbal information pertaining to my request that may not be included in my application.

I understand any decision rendered by the CITY shall be subject to a thirty (30) day appeal period. Any work performed within the thirty (30) day time frame or during the APPEAL process will be completed at the applicant's risk.

I understand I am responsible for all fees, including advertising costs. All fees are to be submitted to the City of Cape Coral with the application or the item may be pulled from the agenda and continued to future date after fees are paid.

Please obtain all necessary permits prior to commencing any phase of construction.

Please indicate on a separate sheet those persons to whom you wish a copy of the Public Hearing Notice sent.

By submitting this application, I acknowledge and agree that I am authorizing the City of Cape Coral to inspect the subject property and to gain access to the subject property for inspection purposes reasonably related to this application and/or the permit for which I am applying.

The Corazon Burias Revocable Living T	rust		
CORPORATION/COMPANY NAME		/	_
		1/0.0	<i>i</i>
Corazon Burias, Trustee		Corah	WILES
PROPERTY OWNER (PLEASE TYPE OR P	RINT)	PROPERTY OV	NER'S SIGNATURE
TI SIGNON		1	
STATE OF FLORIDA, COUNTY	OF(LEE	
Sworn to (or affirmed) and subscribe	d before me this 3°	day of MARCH 20	<u>19</u> , by
CORAZON RURIAS			PERSONALLY KNOWN/
as identification.			DRIVER'S LICENSE
	Exp. Date: 5-1	8-2022 Commiss	ion Number: 66 186184
	Signature of Notary	Public:	coldrane Off Oria
	Printed name of No	tary Public:	Adriane M. Oria
	(SIGNATURE MUST	BE NOTARIZED)	





Case	#	

VACATION OF PLAT APPLICATION

Questions:	239-5	74-0	776
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	AUTHORIZATION TO REPRESENT	PROPERTY OWNER(s)
PLEASE BE ADVISED THAT	Veronica Martin, TDM C	onsulting, Inc.
	(Name of person giving	
	ADJUSTMENTS AND APPEALS AND	ANNING & ZONING COMMISSION/ LOCAL PLANNING /OR CITY COUNCIL FOR
UNIT 28 BLOCK	1976 LOT(S) 77 thru 82 + vac alley OR 28	
OR LEGAL DESCRIPTION		
LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.		
Corazon Burias, Trustee		PROPERTY OWNER (Please Print)
PROPERTY OWNER (Please	Print)	PROPERTY OWNER (Please Print)
PROPERTY OWNER (Signatu	re & Title)	PROPERTY OWNER (Signature & Title)
STATE OF FLORIDA, COUN	ITY OF LEE	
Subscribed and sworn to (or affi CORAZON BURIAS as identification.	rmed) before me this who is(personally known) or pr	day of MARCH, 2019 by oduced DRIVER'S LICENSE
	Exp. Date: 5-18-2022 Cor	mmission Number: G6 186184
	Signature of Notary Public:	Adriane Its Oria
	Printed name of Notary Public:	Adriane M. Oria

Note: Please list all owners. If a corporation, please supply the Planning Division with a copy of corporation paper.





VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case	#	
		-

DOCUMENTARY EVIDENCE (LUDR, Section 8.3.1.C.6.f)

A copy of all documentary evidence shall be made available to the decision-making body or the Hearing Examiner and to staff no later than two business days prior to the hearing of the application. This requirement includes information that the applicant intends to present at public hearing.

I have read the above requirement and agree to comply with this provision.

Corazon Burias, Trustee	Man Dullar
OWNER/APPLICANT (PLEASE TYPE OR PRINT)	OWNER/APPLICANT SIGNATURE
(SIGNATUR	RE MUST BE NOTARIZED)
STATE OF FLORIDA COUNTY OF	LEE
as identification.	on this 3°D day ofMARCH Dersonally known or who has producedDRIVER'S LICENSE
Exp. Date <u>5-18-2022</u> Commission # GG 186184	Signature of Notary Public
	Adriane M. Oria
	Print Name of Notary Public





43 Barkley Circle, Suite 200 Fort Myers, FL 33907 Phone 239-433-4231 Fax 239-433-9632 www.tdmcivilengineering.com Certificate of Authorization # 29086

March 26, 2019

Development Services Group **Department of Community Development**City of Cape Coral
1015 Cultural Park Boulevard
Cape Coral, FL 33990

Project Name:

1306 Santa Barbara Boulevard

Unit 28, Block 1976, Lots 77 thru 82 + vacated alley

STRAP #23-44-23-C3-01976.0770

SUBJECT:

Letter of Intent - Vacation of Easement Application

Dear Development Services Manager,

The property owner/applicant, Corazon Burias, Trustee, intends to construct a commercial development at 1306 Santa Barbara Boulevard. The property was platted in 1961 (PB 14 PG 107). The Plat dedications include a 6' wide public utility easement (P.U.E.) along the property lines. Per the Plat, a 20-foot wide alley was located along the rear property line as well. However, the 20-foot wide alley was vacated per Resolution 9-97 (OR 2833, PG 2232). The resolution states "PRESERVING: All existing 6 foot wide Public Utilities and Drainage Easements of Record and RESERVING: Parcel "A", hereinbefore described, as a Public Utilities and Drainage Easement, in its entirety". Please note that Parcel "A" is the vacated alley.

According to the survey, there are overhead power lines within the vacated alley. Since the alley was vacated, there are now two (2) parallel public utility and drainage easements along the rear property line – a 20-foot wide P.U.E. and a 6-foot wide P.U.E. Since the existing infrastructure is located within the 20-foot wide P.U.E. (vacated alley), keeping the 6-foot wide P.U.E. is redundant and limits the developable area of the property. Therefore, it is the intent of the applicant, Corazon Burias, Trustee, to vacate the 6' wide Public Utility Easement along the rear property line of 1306 Santa Barbara Boulevard. The public utility providers have all provided Letters of No Objection to vacating the 6-foot wide PUE.

Please feel free to contact this office if you have any questions.

Sincerely,

TDM CONSULTING, INC.

Yeronica Martin'

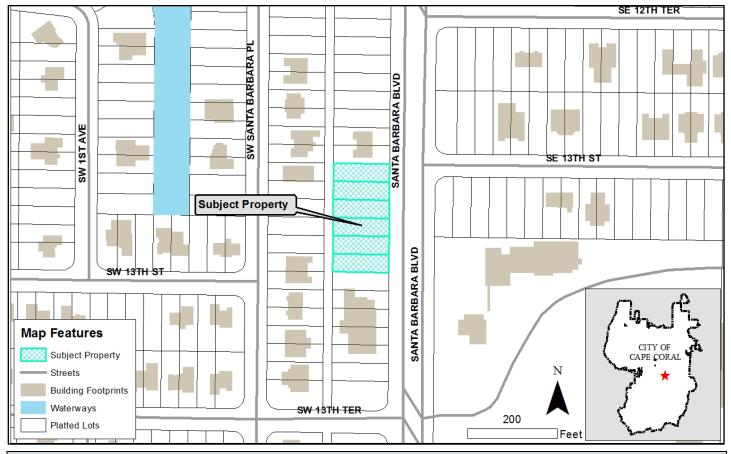
Veronica Martin Senior Planner



VACATION OF PLAT

PLANNING DIVISION CASE REPORT

VP19-0007



HEARING DATE: July 16, 2019

> To vacate the six-foot wide, platted, public utility and drainage REQUEST:

> > easement near the western property line of lots 77 through 82 of

Cape Coral Unit 28, Block 1976.

SITE ADDRESS: 1306 Santa Barbara Blvd

STRAP NUMBER: 23-44-23-C3-01976.0770

LEGAL DESCRIPTION: Cape Coral Unit 28, Blk 1976, Lots 77 Thru 82 + Vac Alley

APPLICANT(S): Corazon Burias, Trustee

PROPERTY OWNER(S): The Borazon Burias Revocable Living Trust **AUTHORIZED AGENT(S):** Veronica Martin, TDM Consulting, Inc.

FUTURE LAND USE: Commercial/Professional

ZONING DESIGNATION: Pedestrian Commercial (C-1)

URBAN SERVICE AREA: Transition N/A

PREPARED BY:

CODE COMPLIANCE CASE:

APPROVED BY: Mike Struve, Planning Coordinator, AICP

Katherine Woellner, Planner

RECOMMENDATION: Approval

BACKGROUND

The 32,308 sq.ft. site is undeveloped and comprised of six platted lots along Santa Barbara Boulevard. The property owner is requesting an easement vacation to allow commercial development of the site.

ZONING HISTORY

The site has a Future Land Use of Commercial/Professional and a Zoning designation of Pedestrian Commercial (C-1). The block was part of an amendment to the Comprehensive Plan in 2010 (LU10-0029) to change the Future Land Use Classification from Multi-Family to CP. A zoning amendment (ZA10-0010) accompanied the Comprehensive Plan Amendment to amend the zoning to C-1.

In 1997 the City adopted Resolution 9-97 that vacated a platted alley in Block 1976. All the alley was vacated, all underlying and adjacent easements were retained. Resolution 9-97 "preserv[ed]; all existing 6-foot-wide Public Utilities and Drainage Easements of Record and reserve[ed]: Parcel 'A' (the alley) ... as a Public Utilities and Drainage Easement, in its entirety."

REQUEST

The applicant is requesting the vacation of a six-foot wide public utility and drainage easement (P.U.E.) near the west property line. The site has two contiguous easements along the west property line: the six-foot wide

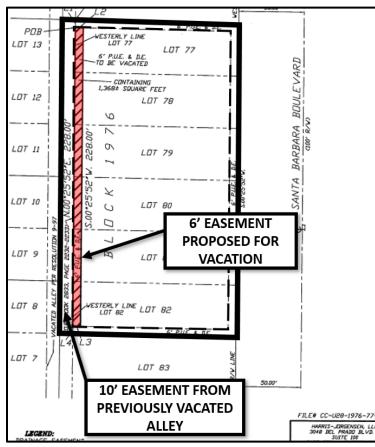


Figure 1: Easements on Subject Property

platted easement the applicant requests to vacate and a ten-foot wide easement associated with the vacated alley right-of-way (See Figure 1). Utilities are absent in the platted easement proposed to be vacated.

ANALYSIS

Staff analyzed this request with the standards found in the Land Use and Development Regulations, Section 8.11, "Vacation of plats, rights-of-way and other property" and Policy 5.5 of the Land Use Element in the Comprehensive Plan regarding vacations.

Comprehensive Plan

Policy 5.5 of the Future Land Use Element states: "The City may consider the vacation of rights-of-way to facilitate land assembly and the development of a unified, contiguous commercial project." The easement vacation will create a larger buildable area on the site which the owner intends

to use for a unified commercial development. Policy 5.5 is supportive of the easement vacation request.

Land Use and Development Regulations (LUDR)

This application was analyzed consistent with LUDR, Section 8.11, "Vacation of plats, rights-of-way and other property."

The site will not be enlarged with the proposed easement vacation, only the buildable area will increase within the site. The site has future land use and zoning classifications that are compatible with the applicant's intent to build a commercial development.

Lee County Electric Cooperative, Inc. (LCEC), **Embarq Corporation, Inc.** (Century Link), **Comcast**, and the **City of Cape Coral** have **no utilities in the easement** proposed to be vacated and have **no objection** to the vacation. The ten-foot easement in the previously-vacated alley and the six-foot perimeter easement along the north, east, and south sides of the property will remain.

The subject easement is not needed to meet or fulfill any foreseeable public purpose because the parallel, tenfoot wide P.U.E. will remain. Approval of this request will not be harmful to the community. This request is consistent with the public interest by providing greater flexibility in developing this commercial site.

RECOMMENDATION

Based on the above analysis, staff recommends **APPROVAL** with the following conditions.

Conditions of Approval

- 1. The vacation of the six-foot wide platted public utility and drainage easements along the western property line (rear) of Lots 77-82 shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC, dated February 12, 2019, and entitled "(Proposed) Vacation of a Portion of P.U.E. & D.E. Lying in Lots 77 thru 82, Block 1976 Cape Coral Unit 28".
- 2. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant reimburses the Department of Community Development for all recording fees associated with this resolution.

Staff Contact Information

Katherine Woellner, Planner

PH: 239-574-0605

Email: kwoellner@capecoral.net

EXHIBIT "A"

DESCRIPTION: (PER HARRIS-JORGENSEN, LLC.)

A TRACT OR PARCEL OF LAND LYING IN LOTS 77 THROUGH 82, BLOCK 1976, CAPE CORAL, UNIT 28, PLAT BOOK 14, PAGES 101 THROUGH 111, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 77, BLOCK 1976, AS RECORDED IN PLAT BOOK 14, PAGES 101 THROUGH 111; THENCE RUN S.00°25′52″W., ALONG THE WESTERLY LINE OF SAID LOT 77 FOR 6.00 FEET TO THE POINT OF BEGINNING; THENCE RUN S.89°07′02″E. FOR 6.00 FEET; THENCE RUN S.00°25′52″W. FOR 228.00 FEET; THENCE RUN N.89°07′00″W. FOR 6.00 FEET TO A POINT ON THE WESTERLY LINE OF LOT 82, SAID BLOCK 1976, SAID POINT BEING 6.00 FEET PARALLEL AND PERPENDICULAR TO THE SOUTH LINE OF SAID LOT 82; THENCE RUN N.00°25′52″W. FOR 228.00 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 1,368 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON THE WEST RIGHT-OF-WAY LINE OF SANTA BARBARA BOULEVARD AS BEING S.00°25'52°W.

PHILLIP M. MOULD

LS#6515

FEBRUARY 12, 2019

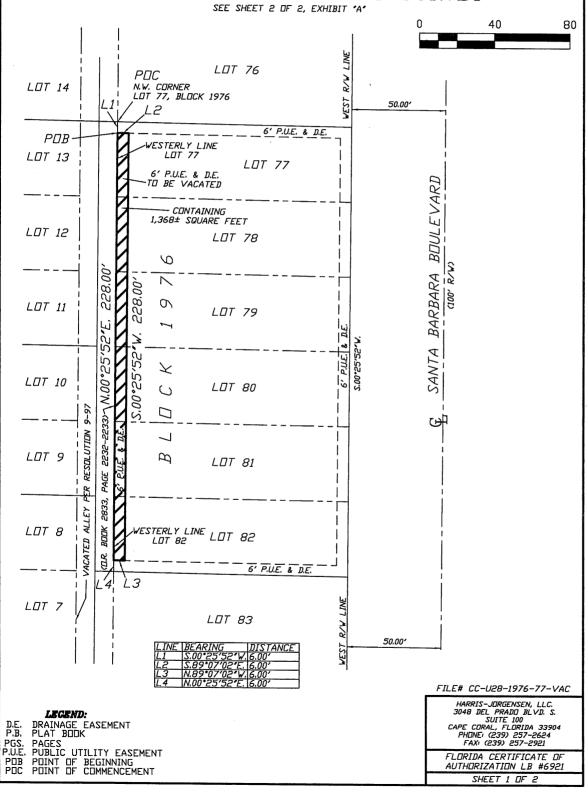
SKETCH TO ACCOMPANY DESCRIPTION (PROPOSED) VACATION OF A

PORTION OF P.U.E. & D.E.

LOTS 77 THRU 82, BLOCK 1976 CAPE CORAL, UNIT 28

SECTION 23, TOWNSHIP 44 SOUTH, RANGE 23 EAST (PLAT BOOK 14, PAGES 101-111) LEE COUNTY, FLORIDA

THIS IS NOT A BOUNDARY SURVEY



INSTR # 2007000279829, Doc Type D, Pages 2, Recorded 09/10/2007 at 01:46 PM, Charlie Green, Lee County Clerk of Circuit Court, Deed Doc. D \$0.70 Rec. Fee \$18.50 Deputy Clerk SSTRADA

Recording prepared by:

LLQ Consulting, LLC 13180 N Cleveland Ave #126 N Ft Myers, FI 33903

and when recorded, please return this deed and tax statements to:

Corazon Burias 220 SW15th Street Cape Coral, FL. 33914

Above reserved for official use only

Property Appraiser's Parcel ID 23-44-23-C3-01976.0770

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS THAT:

FOR A VALUABLE CONSIDERATION, in the amount of in hand and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned, Burias Celerina D + Burias Corazon D hereby REMISES, RELEASES, AND FOREVER QUITCLAIMS to The Corazon Burias Revocable Living Trust ("Grantee"), of which Corazon Burias is trustee, 50% of all right, title, interest and claim to the following real property in the City of Cape Coral, County of LEE, State of Florida with the following legal description:

CAPE CORAL UNIT 28 BLK 1976 PB 14 PG 107 LOTS 77 THRU 82 + VAC ALLEY OR 2833 PG 2232

SITE ADDRESS IS

1306 Santa Barbara BLVD Cape Coral, Fl 33991

TO HAVE AND TO HOLD all of Grantor's right, title and interest in and to the above described property unto the said Grantee, Grantee's heirs, administrators, executors, successors and/or assigns forever; so that neither Grantor nor Grantor's heirs, administrators, executors, successors and/or assigns shall have, claim or demand any right or title to the aforesaid property, premises or appurtenances or any part thereof.

, 2007

EXECUTED this day of

Grantor Signature

Celerina P. Punax Grantor Signature Grantee's Signature

Grantee's Signature

Quitclaim Deed - 1

Grantors Address:	Grantee's Address:
220 SW 15 th Street Cape Coral, Fl 33914	220 SW 15 th Street Cape Coral, Fl 33914
Signed in our presence:	
(Witness Signature)	Witness Signature)
Print Name: DENNIS H WEBE	R Print Name: BARBARA LEE WEBER
State of FLORIDA	NANCY LEBERHARDT MY OMMISSION # DD445535
County of LEE	SS (407) 398-0153 Florida Notary Service.com
The foregoing instrument was acknow by COLARINA BU who has/have produced: SCIVEYS LICE oath.	viedged before me on 8/29/0 > who is/are personally known by me or as identification and who did not take an
	Maus Clubab Signature of Notary Public
	Nanex Eberhaut Printed Name of Notary
My commission expires:	

ł

INSTR # 2007000279662, Doc Type D, Pages 2, Recorded 09/10/2007 at 12:05 PM, Charlie Green, Lee County Clerk of Circuit Court, Deed Doc. D \$0.70 Rec. Fee \$18.50 Deputy Clerk LAMBROSIO

Recording prepared by:

LLQ Consulting, LLC 13180 N Cleveland Ave #126 N Ft Myers, FI 33903

and when recorded, please return this deed and tax statements to:

Celerina D Burias 2816 SW 33rd Terrace Cape Coral, FL. 33914

Above reserved for official use only

Property Appraiser's Parcel ID 23-44-23-C3-01976.0770

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS THAT:

FOR A VALUABLE CONSIDERATION, in the amount of in hand and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned, Burias Celerina D + Burias Corazon D hereby REMISES, RELEASES, AND FOREVER QUITCLAIMS to The Celerina D Burias Revocable Living Trust ("Grantee"), of which Celerina D Burias is trustee, 50% of all right, title, interest and claim to the following real property in the City of Cape Coral, County of LEE, State of Florida with the following legal description:

CAPE CORAL UNIT 28 BLK 1976 PB 14 PG 107 LOTS 77 THRU 82 + VAC ALLEY OR 2833 PG 2232

SITE ADDRESS IS

1306 Santa Barbara BLVD Cape Coral, Fl 33991

TO HAVE AND TO HOLD all of Grantor's right, title and interest in and to the above described property unto the said Grantee, Grantee's heirs, administrators, executors, successors and/or assigns forever; so that neither Grantor nor Grantor's heirs, administrators, executors, successors and/or assigns shall have, claim or demand any right or title to the aforesaid property, premises or appurtenances or any part thereof.

Celerina & Bure

Grantor Signature

Celerina & Bure

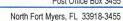
Grantee's Signature

Grantee's Signature

Quitclaim Deed - 1

Grantors Address:	Grantee's Address:
2816 SW 33 rd Terrace Cape Coral, Fl 33914	2816 SW 33 rd Terrace Cape Coral, Fl 33914
Signed in our presence:	
(Witness Signature)	(Witness Signature)
Print Name: DENNIS H WEBER	Print Name: BARBARA LEE WESTER
State of FLORIDA)	NAME OF THE PROPERTY L. EBERHARDT
County of LEE) ss	MYSSION # DD445535
The foregoing instrument was acknowled by Lering + Corezon Burigs who has/have produced: pr/wers License oath.	who is/are personally known by me or
	Signature of Notary Public
	Naney Ebeshard + Printed Name of Notary
My commission expires:	





(239) 995-2121 **Fax** (239) 995-7904

www.lcec.net

April 17, 2019

Ms. Veronica Martin TDM Consulting, Inc. 43 Barkley Circle Suite 200 Fort Myers, Florida 33907

Re.

Letter of No Objection to Vacation of Utility Easement for 1306 Santa Barbara Boulevard, Cape

Coral, FL 33991; Owner: Ms. Celerina Burias and Corazon Burias; Strap#:

234423C301976.0770.

Dear Ms. Martin:

You have opened up negotiations, on behalf of your customer, The Burias, concerning the vacation of a certain rear utility easements as depicted on a sketch and description created by Philip S. Mould, PSM, of Harris Jorgensen, LLC, dated 2/12/19, Project Number CC-U28-1976-77-Vac.

We have reviewed the Plat, the request submitted, and our internal records. LCEC has **no objection** to the vacation as submitted and reflected in the request.

Should there be any questions please call me at 239-656-2112, or, if you prefer, I can be reached by email at russel.goodman@lcec.net.

Very truly yours,

Russ

an SR/ Good

Goodman, SR/

Digitally signed by Russ Goodman, SR/WA Date: 2019.04.17 11:45:26 -04'00'

WA

Russel Goodman, SR/WA

Design & Engineering Coordinator – Land Rights

Veronica Martin

From:

Schroeder, John C < John. Schroeder@centurylink.com>

Sent:

Thursday, March 28, 2019 8:38 AM

To:

Veronica Martin

Subject:

FW: Letter of No Objection - 1306 Santa Barbara Blvd.

Attachments:

Boundary Survey.pdf; Letter of No Objection CenturyLink.pdf; Site Dimension Plan.pdf;

Sketch and Legal Description of Easement to be Vacated.pdf; OR 2833 PG 2232.pdf

Hi Veronica,

Embarq Corporation, Inc. (d/b/a CenturyLink) has reviewed the document for the above referenced information. Based on the review, we have no objections to the vacation of the 6-foot wide PUE at 1306 Santa Barbara Blvd, Cape Coral shown on the plats provided.

If you should require additional information, please contact me at 239 336-2012.

Sincerely,

John C. Schroeder

John C. Schroeder Engineer II FTTT/ISP CenturyLink Fort Myers District 239-336-2012 john.schroeder@centurylink.com

Sent: Friday, March 15, 2019 8:23 AM

To: Schroeder, John C < John. Schroeder@centurylink.com > Subject: FW: Letter of No Objection - 1306 Santa Barbara Blvd.

Hi John,

I'm following up on the letter of no objection for 1306 Santa Barbara Blvd. I'm ready to submit once I have your letter. Please let me know if you need additional information or have any questions.

Thanks,

Veronica Martin

Senior Planner

vmartin@tdmconsulting.com

Saving just one dog won't change the world...but, surely the world will change for that one dog...Adopt, don't shop...



12600 Westlinks Drive Fort Myers, Fl. 33913 Phone: 239-432-1805

February 14, 2019

TDM Consulting Veronica Martin 43 Barkley Circle, Suite 200 Fort Myers, Fl. 33907

Re: 1306 Santa Barbara Blvd. Cape Coral (Lee County)

Dear Veronica Martin,

This letter will serve to inform you that Comcast has no objection to your proposed vacation of the address referenced above. If a relocation is needed there will be a relocation cost.

Should you require additional information or assistance, please feel free to contact me here at 239-432-1805.

Cordially,

Mark Cook

Project Coordinator



Classified Ad Receipt (For Info Only - NOT A BILL)

CITY OF CAPE CORAL_DEPT OF COM **Customer:**

0003666680 Ad No.:

Address: 1015 CULTURAL PARK BLVD

\$382.07 Net Amt:

CAPE CORAL FL 33990

USA

No. of Affidavits: 1 Run Times: 1

Run Dates: 07/06/19

Text of Ad:

NOTICE OF PUBLIC HEARING ADVERTISEMENT

CASE NUMBER: VP19-0007

REQUEST: To vacate the platted, s-ix-foot wide, public utility and drainage easement near the western property line of Lots 77 through 82, Block 1976, Unit 28, Cape Coral Subdivision.

LOCATION: 1306 Santa Barbara Blvd

CAPE CORAL STAFF CONTACT: Katherine Woellner, Planner kwoellner@capecoral.net

PROPERTY OWNER(S): The Borazon Burias Revocable Living Trust

AUTHORIZED REPRESENTATIVE:

Veronica Martin, TDM Consulting, Inc.

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00AM on July 16, 2019 on the above-mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.
After Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice when this case is scheduled for a City Council hearing.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publ ichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act,

persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

by order of Kimberly Bruns, CMC City Clerk REF # VP19-0007 AD# 3666680 July 6, 2019

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Celerina Burias				
APPLICATION NO: VP19-0007				
STATE OF FLORIDA)				
COUNTY OF LEE) §				
I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:				
That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.				
That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.				
DATED this 10th day of July, 2019.				
Hatt. Lands				
Vincent A. Cautero, AICP				
STATE OF FLORIDA COUNTY OF LEE				

ELISABETH A DELGADO

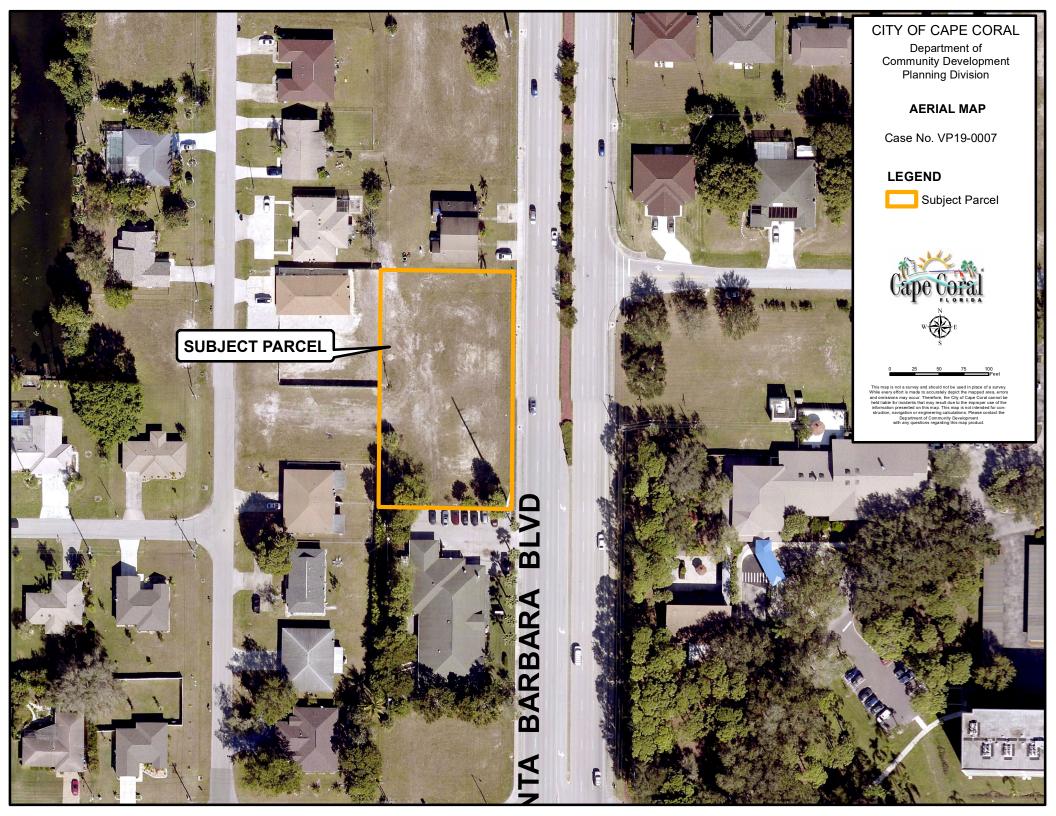
MY COMMISSION # GG030474

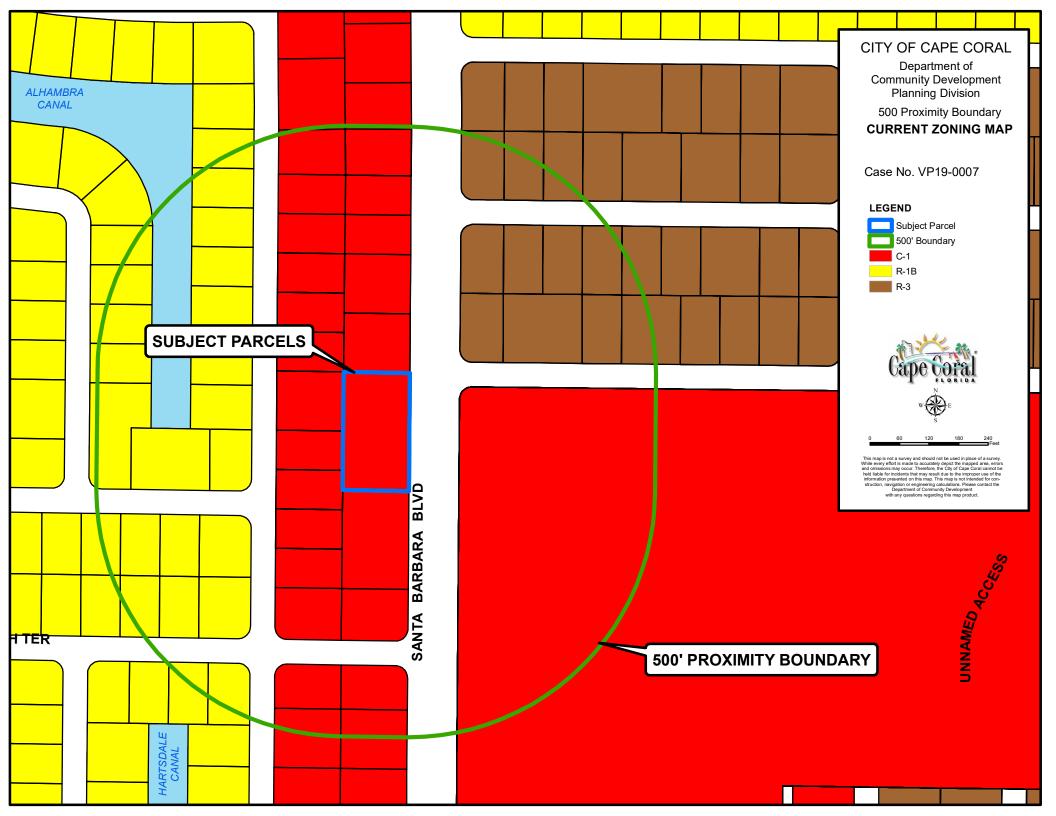
EXPIRES December 06, 2020

Exp. Date 13 6 30 Commission # 46030474

Elisabetto Q. Deligado
Signature of Notary Public

Print Name of Notary Public J







CITY COUNCIL RESOLUTION 282-19

HEARING DATE: August 26, 2019 (Intro); September 9, 2019 (Hearing)

REQUEST: To vacate the six-foot wide, platted, public utility and

drainage easement near the western property line of

lots 77 through 82 of Cape Coral Unit 28, Block 1976

APPLICANT(s)/OWNER(s): Corazon Burias, Trustee

SITE ADDRESS: 1306 Santa Barbara Blvd

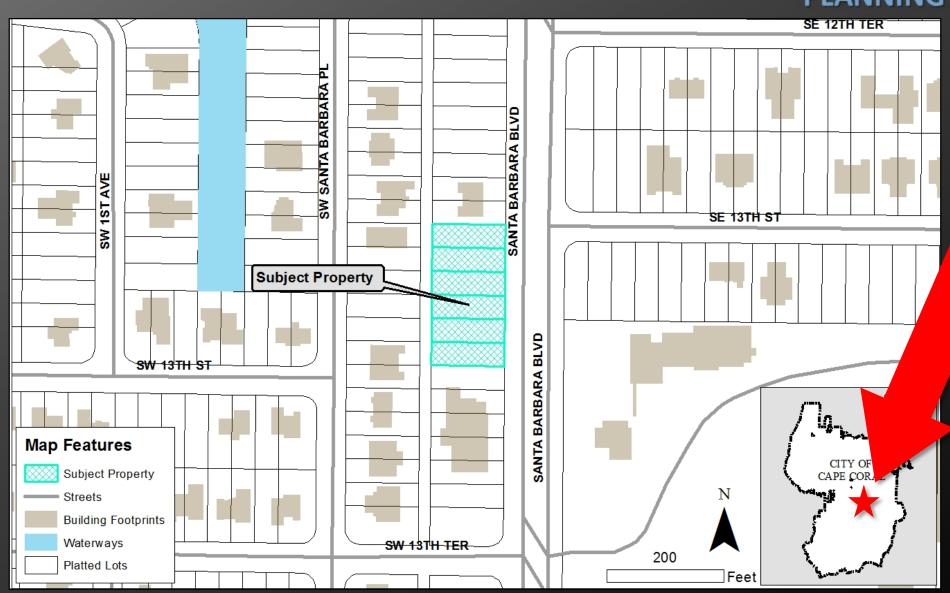
PLANNING STAFF: Katherine Woellner, Planner

RECOMMENDATION: Approval



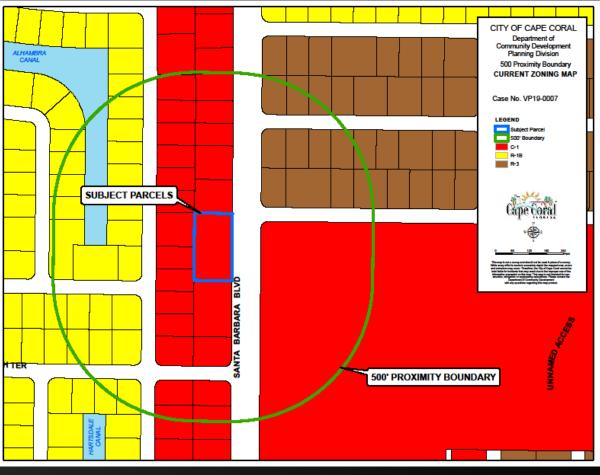
- I. Introduction
 - A. Property Location
 - **B. Surrounding Properties**
 - C. Case Background
- **II. Vacation Request**
- **III.Staff Analysis**
- **IV.Conclusions**
 - A. Staff Recommendation
 - **B. Conditions of Approval**

PROPERTY LOCATION

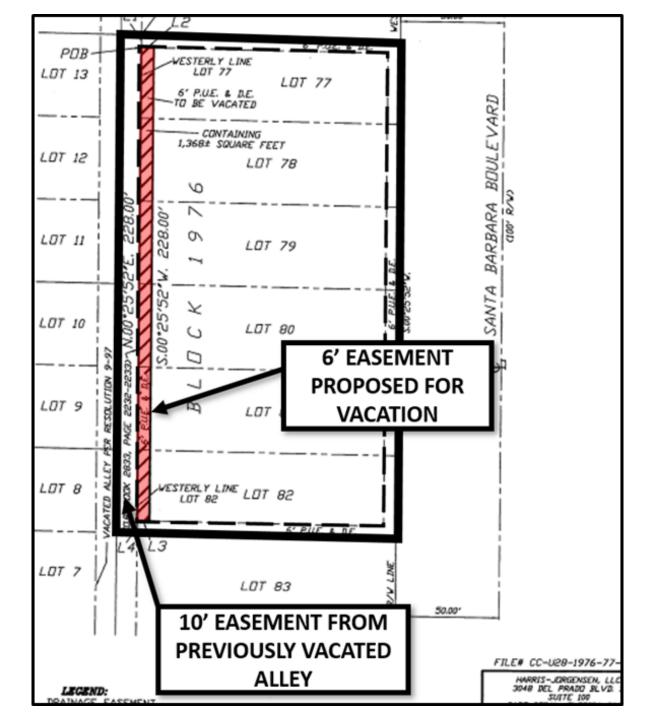


SURROUNDING PROPERTIES









LA	ND USE AND DEVELOPMENT REGULATIONS § 8.11	YES	NO
1.	Petitioner has color of title to the tract or parcel of land covered by the plat or portion of the plat		
2.	A copy of the plat showing the portion thereof of which vacation is sought		
3.	Letter(s) of approval from Lee County Electric Cooperative, Inc. (LCEC), Embarq Corporation, Inc. (Century Link), Comcast, and the City of Cape Coral		
4.	Recent boundary survey or survey sketch of the property prepared and executed by a registered surveyor showing the area requested to be vacated, and a complete metes and bounds legal description of said area		

STAFF RECOMMENDATION:

APPROVAL WITH CONDITIONS

HEX RECOMMENDATION:

APPROVAL WITH STAFF CONDITIONS

PUBLIC CORRESPONDENCE:

• NONE.

CONDITIONS OF APPROVAL

- 1. The vacation of the six-foot wide platted public utility and drainage easements along the western property line (rear) of Lots 77-82 shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC, dated February 12, 2019, and entitled "(Proposed) Vacation of a Portion of P.U.E. & D.E. Lying in Lots 77 thru 82, Block 1976 Cape Coral Unit 28".
- 2. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant reimburses the Department of Community Development for all recording fees associated with this resolution.

Item

A.(2)

Number: Meeting

Date:

9/9/2019

Item

ORDINANCES/RESOLUTIONS -

Type:

Public Hearings

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Ordinance 32-19 Final Public Hearing

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

- 1. Will this action result in a Budget Amendment?
- 2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Planning & Zoning Recommendation: At their June 5, 2019 Regular Meeting, the Planning & Zoning Commission voted 7-0 to recommend approval of Ordinance 32-19. Staff Recommendation: Staff recommends approval.

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Conservation and Coastal Management Element, Infrastructure Element, and Intergovernmental Coordination Element by adopting policies to provide consistency with the Cape Coral Water Supply Facilities Work Plan; adopting the 2017 Cape Coral Water Supply Facilities Work Plan as Appendix "A" to the Comprehensive Plan.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Ordinance 32-19

Staff presentation - Final Public Hearing

PREPARED BY:

City

Division- Department-Attorney

SOURCE OF ADDITIONAL INFORMATION:

Wyatt Daltry, Planning Team Coordinator

ATTACHMENTS:

	Description	Туре		
D	Ordinance 32-19 - updated	Backup Material		
D	Staff Presentation - Final Public Hearing	Backup Material		

ORDINANCE 32 - 19

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE CONSERVATION AND COASTAL MANAGEMENT ELEMENT, INFRASTRUCTURE ELEMENT, AND INTERGOVERNMENTAL COORDINATION ELEMENT BY ADOPTING POLICIES TO PROVIDE CONSISTENCY WITH THE CAPE CORAL WATER SUPPLY FACILITIES WORK PLAN; ADOPTING THE 2017 CAPE CORAL WATER SUPPLY FACILITIES WORK PLAN AS APPENDIX "A" TO THE COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS AS FOLLOWS:

Section 1. The City of Cape Coral hereby adopts Comprehensive Plan amendments necessary to update the Comprehensive Plan as follows:

- A. The amendment to the Conservation and Coastal Management Element establishes Policy 5.1.3 to provide consistency with the 2017 Water Supply Facilities Work Plan dated May 2019. The amendment to the Conservation and Coastal Management Element is more specifically described in Exhibit A, attached hereto and incorporated herein by reference.
- B. The amendment to the Infrastructure Element adds projects to the City's short-term planning timeframe for provision of sanitary sewer, drainage, potable water, and solid waste services, and provides for the adoption of the 2017 Water Supply Facilities Work Plan dated May 2019, attached hereto and incorporated into the Comprehensive Plan as Exhibit "A." The amendment to the Infrastructure Element is more specifically described in Exhibit B, attached hereto and incorporated herein by reference.
- C. The amendment to the Intergovernmental Coordination Element provides for the City's adherence to the SFWMD's Lower West Coast Water Supply Plan. The amendment to the Intergovernmental Coordination Element is more specifically described in Exhibit C, attached hereto and incorporated herein by reference.

Section 2. Severability. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this plan amendment shall be thirty-one (31) days after the state land planning agency notifies the City that the plan amendment package is complete, or if timely challenged, the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184(3)(c)4., F.S., whichever is applicable.

	THE COUNCIL OF DAY OF	THE CITY OF CAPE CO, 2019.	ORAL AT ITS REGULA
		JOE COVIELLO	O, MAYOR
VOTE OF MAY	or and councilm	IEMBERS:	
COVIELLO GUNTER CARIOSCIA STOUT		NELSON STOKES WILLIAMS COSDEN	

2019.	TO AND	FILED IN	MY	OFFICE	THIS	DAY OF	
					KIMBERLY I		

APPROVED AS TO FORM:

BRIAN R. BARTOS

ASSISTANT CITY ATTORNEY Comp Plan Amendment-Water Supply Facilities Work Plan

CONSERVATION AND COASTAL MANAGEMENT GOALS, OBJECTIVES, POLICIES

GOAL 1: Protecting Environmental Resources.

The natural and historic resources of Cape Coral will be preserved, protected, and enhanced. These resources will be managed to ensure the highest environmental quality possible. Development activities will be managed, in accordance with this goal. The scientific and resource management activities outlined under this goal will be coordinated by the City's Environmental Resources Section.

- Objective 1.1: Estuarine Water Quality. Cape Coral will maintain and/or improve the environmental quality of estuarine waters within its jurisdiction, and will prevent the degradation of adjacent water bodies.
- <u>Policy 1.1.1:</u> The City will maintain and/or improve the environmental quality of its estuarine waters by promoting habitat restoration, developing policies for improving mixing zones through use of the addition of hard substrate, and through public education.
- <u>Policy 1.1.2:</u> The City will continue its surface water quality monitoring program to properly evaluate the general environmental condition of its surface waters and estuarine system, to identify any new problem areas, and to evaluate the effectiveness of measures to maintain or improve water quality.
- <u>Policy 1.1.3:</u> Pursuant to S.163.3202, F.S., the City will maintain Land Development Code <u>regulations</u>, which prohibit dredging for the construction of new boat basins in the estuarine system, without proper permits. Marina and multi-dock facilities will be designed, located, constructed and managed so as not to reduce estuarine water quality.
- <u>Policy 1.1.4:</u> The City will assure that there will be no dredging of estuarine waterways that reduces estuarine water quality. Dredging activities will be properly permitted by state and federal agencies.
- <u>Policy 1.1.5:</u> Pursuant to S.163.3202, F.S., Land Development Code will be maintained to prohibit dredging at the mouths of canals directly emptying into natural estuarine waters unless, (1) a detailed study of sediment contaminants is performed and adequate safeguards to prevent the release of any contaminants are provided, and (2) a survey of benthic ecological communities is performed to prevent the destruction of any important biological resources (e.g., marine plant beds).
- <u>Policy 1.1.6:</u> The City has completed and will maintain a comprehensive stormwater management plan, the primary purpose of which is to minimize the impact of stormwater runoff on estuarine water quality. As part of the comprehensive stormwater management plan, the City will continue to conduct the following activities to minimize the impact of stormwater runoff on estuarine water quality:

- The City will incorporate an acceptable level of stormwater treatment in all newly designed stormwater systems.
- The City will perform maintenance activities in accordance with an annual work plan. The work plan will include but not be limited to the following activities:
- The City will conduct street sweeping at major intersections, along bike paths, paved alleys, curbed roads, and within all City owned paved parking lots. In the Viscaya industrial zoned area, the City will provide street sweeping once every month and will clean catch basins four times per year.

The City will replace deteriorated stormwater drainage pipe and stormwater inlets on an as-needed basis.

The City will periodically clean and inspect catch basins and stormwater pipes.

The City will maintain Engineering Design Standards for paved alleys and roadways.

- The City will require all property development to stabilize all areas not covered with structures, pavement, or landscape beds.
- The City will require all non-paved areas of street right-of-ways and areas within fifteen feet of seawalls to be permanently vegetated.
- The City will require the placement of silt screens on all construction sites to eliminate adverse impacts associated with erosion.
- The City will continue to participate with Lee County and other co-permittees in the NPDES process.
- The City will require applicants for clearing and development permits to provide a letter addressing NPDES standards, if applicable, prior to City inspections.

<u>Policy 1.1.7:</u> The City of Cape Coral will continue to extend sanitary sewer and potable water facilities to previously unserved areas of the City, and will coordinate with private and county sources for the provision of solid waste facilities to meet the existing and projected needs identified within the Capital Improvements and Infrastructure Elements of this Comprehensive Plan, and consisted with the City's Facilities Planning Report, prepared by Montgomery Watson Harza (MWH) in 2005.

<u>Policy 1.1.8:</u> The City will (as a cooperative effort with appropriate governmental agencies) continue to investigate the effectiveness and function of the spreader waterway systems in reducing the adverse environmental impacts of surface water discharge from Cape Coral into Matlacha Pass State Aquatic Preserve, and will periodically evaluate whether improvements are needed in the spreader system to reduce measurable negative impacts on the Matlacha Pass Ecosystem.

- <u>Policy 1.1.9:</u> The City will not permit the construction of interior waterway systems unless their primary purpose is to provide stormwater management, environmental enhancement, or water supply.
- Objective 1.2: The City will continue to monitor and inventory all ecological communities, and their component flora and fauna, especially endangered and rare species. The City will implement protective regulations; acquire land or take other actions that are deemed necessary to protect natural communities, listed species and their habitats.
- <u>Policy 1.2.1:</u> By 2020, the City of Cape Coral will adopt regulations to ensure that, prior to property development, or habitat alteration, of any kind, owners of properties having viable native habitat and/or, which may contain habitat for protected species, undergoing significant development and/or habitat alteration, will be required to provide an environmental survey of their properties and undertake acceptable mitigation, as appropriate.
- <u>Policy 1.2.2:</u> The City will notify state and/or federal agencies if activities, suspected to be in in violation of state and/or federal regulations, are known to have been conducted.
- <u>Policy 1.2.3:</u> The City will develop and maintain priorities for the acquisition for preservation of vulnerable coastal ecological communities, and acquire this land, either as part of its land banking program, as discussed in the Future Land Use and Recreation and Open Space Elements, or through other feasible methods.
- <u>Policy 1.2.4:</u> The City will require a management plan for development other than development of a single family residence for disturbance of habitat of any state or federally listed species. Any such management plan shall be consistent with Federal and State guidelines and management strategies relative, but not necessarily limited to: the Bald & Golden Eagle Protection Act (U.S. Fish & Wildlife Service); the Florida Scrub-jay Recovery Plan (USFWS); the Gopher Tortoise Recovery Plan (USFWS); and "Burrowing Owl Nest Protection Guidelines and Procedures in Urban Areas", published by the Florida Fish & Wildlife Conservation Commission.
- <u>Policy 1.2.5:</u> The City will assist in the implementation of and compliance with all state and federal regulations concerning species listed as endangered, threatened, species of special concern, or commercially exploited by monitoring development activities, providing information on listed species in building permit packages, and assisting in investigations as requested.
- <u>Policy 1.2.6:</u> To protect manatees, the city will cooperate in enforcement of boat speed zones within the City's jurisdiction.
- <u>Policy 1.2.7:</u> The City of Cape Coral will protect avian roosting, nesting and feeding areas in estuarine and upland environments through the development of regulations for tree and vegetation clearing.
- <u>Policy 1.2.8:</u> The City will adopt and maintain, consistent with the provisions of section 163.3202 Florida Statutes, land development regulations to require that development and redevelopment of properties include the removal and ongoing control of invasive exotic pest plants.

- <u>Policy 1.2.9:</u> The City will identify, quantify, and rank existing stormwater discharge sources and consider this data in the prioritization of Capital Improvements.
- <u>Policy 1.2.10:</u> The City will continue its street sweeping and catch basin cleaning programs.
- <u>Policy 1.2.11:</u> The City will maintain a program to ensure the integrity of vegetation in the swales within the City.
- <u>Policy 1.2.12:</u> The City will continue to investigate the benefits and costs of adding hard substrate on the bottom of deep canals with substandard dissolved oxygen levels.
- <u>Policy 1.2.13:</u> The City will investigate the benefits and costs of interconnecting saltwater canals for the purpose of providing flushing.
- <u>Policy 1.2.14:</u> The City will maintain a program to manage aquatic vegetation in freshwater canals to maintain sufficient abundance to perform valuable environmental functions, but control excessive growth which inhibits recreational opportunities including recreational fisheries and navigation, hinders drainage, and can result ultimately in poor environmental quality. The City will coordinate this effort with the Lee County Hyacinth Control District.
- <u>Policy 1.2.15:</u> The City will maintain a program of environmentally sound maintenance dredging to provide adequate depth for environmental flushing (sea water), surface water conveyance (saltwater and freshwater), surface water storage (freshwater), and depth for boats (sea water and freshwater).
- <u>Policy 1.2.16:</u> The City shall require, as a condition of approval for Planned Development Projects, Planned Unit Developments, and Site Development Plans, a protected species survey, which reflects the current conditions (at the time of the review) on the development site. If listed species are known to inhabit or use the site, the applicant shall prepare a protected species management plan.
- <u>Policy 1.2.17:</u> The City of Cape Coral will acquire land, as opportunity and resources allow for the purpose of preserving natural communities, listed species and their habitats.
- <u>Policy 1.2.18:</u> The City will, as opportunity and resources allow, restore and enhance degraded natural areas on City-owned lands through activities such as the recreation of natural communities, restoration of natural hydrology, and the removal of noxious exotic vegetation.
- <u>Policy 1.2.19:</u> In order to support the City's continued protected species coordination efforts with the Florida Fish and Wildlife Conservation Commission and the United States Fish and Wildlife Service, the City of Cape Coral shall require a protected species affidavit to be signed by the applicant prior to receipt of a development order application. This affidavit will identify whether gopher tortoises, burrowing owls, or bald eagles are located on-site, or on adjacent property(s), and establish if federal or state permits will need to be obtained for the protection of these species during construction activities.

- Objective 1.3: Water Dependent/Water Related Land Uses: The City will adopt and maintain, consistent with the provisions of section 163.3202 Florida Statutes, land development regulations to direct the management of water-dependent facilities, including marinas and marine-related support facilities.
- <u>Policy 1.3.1:</u> Future public use marinas will be allowed only in non-residential and mixed use zoning districts and public parks. For purposes of this policy, a public use marina is one that may be utilized by any boat owner, and which does not require membership or is not restricted to the residents or guests of a specific development.
- <u>Policy 1.3.2:</u> The City will require that all work area runoff at new marina facilities will obtain any necessary permitting by the SFWMD and the FDEP.
- <u>Policy 1.3.3:</u> Pursuant to S.163.3202, F.S., the City will require that prior to the operation of any new marina fueling facility, a fuel management /spill contingency plan will be developed and provided to the City for review as a condition of planned development project approval. Included in this plan shall be descriptions of methods to be used in dispensing fuel and all the procedures, methods, and materials to be used in the event of a fuel spill and shall meet Lee County Fire Prevention Codes and the Rules of the State Fire Marshall's office.
- <u>Policy 1.3.4:</u> The City will revise the Land Development Code, pursuant to S.163.3202, F.S., to require that all marinas will provide sewage pumpout facilities and facilities for proper handling of used oils and contaminated bilge water.
- <u>Policy 1.3.5:</u> The City will maintain Land Development Code, pursuant to S.163.3202, F.S., that do not permit fueling or repair facilities within residential zoning classifications.
- <u>Policy 1.3.6:</u> The City will require that proposed marina developments will demonstrate that they have sufficient upland areas to accommodate all needed support facilities including adequate parking, work areas, and retention areas for stormwater and work area runoff and have a hurricane contingency plan in place prior to approving such project.
- <u>Policy 1.3.7:</u> During the Planned Development Project and Planned Unit Development process the City will request that marina facilities use dry storage.
- <u>Policy 1.3.8:</u> Marina and/or boat ramp siting shall be consistent with the appropriate aquatic preserve management plan, where applicable.
- <u>Policy 1.3.9:</u> Marina and boat ramp siting preference shall be given to areas where water depths can accommodate vessels with a four foot, or greater, draft, and to those facilities which are to be available for public use, and where economic need and feasibility can be demonstrated.
- <u>Policy 1.3.10:</u> The City will consider consistency with the countywide marina siting plan, adopted on June 29, 2004, in the permitting of marinas. The City will also consider consistency with the

general criteria of the Florida Fish and Wildlife Conservation Commission, Boat Facility Siting Guide, adopted August 2000:

- Expansion of existing facilities may be preferred over new facilities, if environmentally sound;
- There should be no impact to seagrass;
- Mitigation for seagrass destruction should not be allowed;
- Areas with adequate depth and good flushing which require no new dredging are preferable;
- Locations near inlets and popular boating destinations are preferable;
- Piling construction is preferred over dredge and fill techniques;
- Marinas should not be sited in essential manatee habitats; and
- Marinas should not be situated in areas with high manatee mortality occurrence.

<u>Objective 1.4:</u> Air Quality. Cape Coral will continue to meet or exceed the air quality standards established by the Florida Department of Environmental Protection (FDEP).

<u>Policy 1.4.1:</u> The City will regularly review reports of the air quality monitoring station in Cape Coral and take appropriate actions indicated.

<u>Policy 1.4.2:</u> Future industrial land uses will be required to locate in those specific areas identified on the Future Land Use Map as "Light Industrial" or, if compatible, "Mixed Use" to minimize the impact of industry on the current air quality of non-industrial areas.

<u>Policy 1.4.3:</u> The City will require industries to take appropriate measures to ensure that state and federal standards for air pollution are met as established by EPA by requiring that applicants for Planned Development Projects obtain necessary state and federal permits to be obtained prior to City approval. If state and/or federal standards are not met by an existing business proposing expansion or additional facilities, the City will deny further inspections to a violating business until such business is brought into compliance. This shall not limit any inspections for permits needed for activities that are necessary for the purpose of correcting a violation.

Policy 1.4.4: The City will lessen the potential impacts of automobile emissions pollution by:

- (a) Promoting mixed use development by designating specific prime development sites for Mixed Use Development that combines residential land uses with commercial and professional land uses to reduce trip generation;
- (b) Maintaining development standards, pursuant to S. 163.3202, F.S., to require vegetative buffer strips between arterial roadways and residential developments; and

(c) Pursuant to the Transportation Element, providing and/or encouraging alternative means of transportation such as car-pooling, public transit, and bicycle and pedestrian paths.

<u>Objective 1.5:</u> Surface Water. The City of Cape Coral will continue to pursue improvement to the quality of all surface waters within its jurisdiction.

<u>Policy 1.5.1:</u> The City will maintain and/or improve the environmental quality of Cape Coral's surface waters, littoral zone, nutrient input (terrestrial runoff, groundwater) aquatic plant management, and to protect the habitats of aquatic dependent species by encouraging the use of Best Management Practices. The Best Management Practices will be encouraged by distributing information to the citizens and will include the promotion of the following concepts:

- Voluntary fertilization and pesticide application reduction.
- Integrated Pest Management.
- Turf management practices, including mowing practices and irrigation.
- Preservation of areas of existing vegetation.
- Landscaping with appropriate native plants and limiting turf areas.
- Organic pest management.
- Proper hazardous material disposal.

<u>Policy 1.5.2:</u> The City will continue to conserve and protect its wetlands in accordance with standards set by FDEP and SFWMD. The City shall direct future land uses incompatible with protection and conservation of wetlands away from wetlands. The evaluation of incompatibility shall include the following factors for land uses: types, intensity, density, extent, distribution, and location of allowable land uses. The evaluation of incompatibility shall include the following attributes of the wetlands: types, value, function, size, conditions, and location.

<u>Policy 1.5.3:</u> The City has completed and maintains a comprehensive stormwater management plan, the primary purpose of which is to minimize the impact of stormwater runoff on the quality of Cape Coral's surface water and estuarine receiving waters. Level of Service Standards for drainage will be based upon SFWMD's *Basis of Review for Surface Water Management Permit Applications*.

<u>Policy 1.5.4:</u> The City will reduce the effects of septic tank seepage on surface water quality by extending central sewer service to all areas as rapidly as possible, in accordance with the adopted Utility Extension Program.

Objective 1.6: Canal Structures. The City will continue to maintain the design and function of all canal structures.

<u>Policy 1.6.1:</u> The City will inspect all canal structures for structural and functional integrity and take corrective measures as needed.

Objective 1.7: Ground Water Resources. The City will protect the quality of its groundwater resources, and will maintain programs that have the goal of reducing the consumption rate (per dwelling unit) of potable water used for irrigation and other outdoor purposes from (2000) levels.

<u>Policy 1.7.1:</u> The City will continue to adhere to its interlocal agreement with the SFWMD, which requires the plugging of abandoned wells for the purpose of slowing the spread of saltwater intrusion.

<u>Policy 1.7.2:</u> The City will maintain its current policy requiring mandatory connection to sewer and water service when such service is provided, thus reducing the number of septic tanks and wells in use.

<u>Policy 1.7.3:</u> The City will commit to developing regulations that require the disconnection of private self-serve well water supply lines from irrigation systems when City irrigation water is connected.

<u>Policy 1.7.4:</u> The City will protect the functions of natural groundwater recharge areas through means identified jointly by the City and the SFWMD.

<u>Policy 1.7.5:</u> The City will incorporate and/or maintain water conservation measures into its land development regulations (adopted pursuant to F.S. 163.3202) and development orders for Planned Development Projects and Developments of Regional Impact including, but not limited to:

- Adherence to the Standard Plumbing Code to require the use of water saving devices.
- Maintain provisions of the Landscape Ordinance that strongly encourage the use of Florida Yards and Neighborhoods principles.
- Maintain a rate schedule to discourage wasteful use of potable water.
- Establishing conserving time of use restrictions for irrigation.

<u>Policy 1.7.6:</u> The City will continue to comply with, and enforce through its Code Compliance Program, emergency conservation measures as required by the South Florida Water Management District.

<u>Policy 1.7.7:</u> The City will monitor the potential to enhance recreational fisheries (e.g. stocking) and protect and create (e.g. artificial reefs and seawall habitats) fisheries habitats.

<u>Policy 1.7.8:</u> The City will confer with the Florida Fish and Wildlife Conservation Commission and/or the U.S. Department of Interior, Fish and Wildlife Service prior to granting land use approvals that would adversely impact a federal or state listed species.

<u>Policy 1.7.9:</u> The City will continue its policy of requiring all applicants for City building permits to complete an affidavit stating they have inspected the proposed building site for the presence of burrowing owl nests. The applicant shall be required to state whether state and federal permits to remove the owl burrows are needed or whether the development can be completed without removing the owl burrows, in which case the contractor shall accept full responsibility for protecting the owl burrows from actions of employees or sub-contractors.

<u>Policy 1.7.10</u>: The City will maintain a bald eagle protection ordinance with the intention of maintaining Cape Coral's bald eagle population and the successful reproduction of the species in Cape Coral.

<u>Policy 1.7.11:</u> The City will accept and administer private donations of monies and real property for the acquisition and preservation of endangered critical habitat for all endangered and threatened species, and species of special concern, and environmentally sensitive lands within the City's jurisdiction. All funds and the earnings from such funds will be escrowed in a special account administered by the City Manager.

<u>Policy 1.7.12:</u> The City will cooperate with the State of Florida and the Federal Government to maintain the existing natural reservations in the State-owned preservation areas identified in the Recreation and Open Space Element of this plan. These natural reservations include the Four Mile Cove Eco Park and the Matlacha Pass preservation area, including the Matlacha Pass State Aquatic Preserve and the Matlacha Pass National Wildlife Refuge.

<u>Policy 1.7.13:</u> The City, in conjunction with Lee County, has begun development of a Regional Park site in the City's northeast, preserving an upland natural reservation of at least 250 acres as identified in the Recreation and Open Space Element of this plan.

<u>Policy 1.7.14:</u> The management of bays, estuaries, harbors and unique vegetative communities that cross Cape Coral's borders will be coordinated with adjacent local governments including, but not limited to, Lee County, Charlotte County and the City of Fort Myers. Coordination activities may include, but not necessarily be limited to, interlocal agreements, public meetings, staff interaction, written notifications, and joint committees.

<u>Policy 1.7.15</u>: The City of Cape Coral, recognizing the Four Mile Cove Ecological Park area as a unique and irreplaceable example of an estuarine salt marsh, will continue to maintain and protect this vital state owned, city maintained property in its current capacity as a city park emphasizing passive recreation and nature study. To ensure the protection of this area, the City will continue to abide by all rules and regulations imposed by state authorities. The City will limit development within the park to projects such as boardwalks and displays which enhance the public's knowledge of natural resources. The City will also review adjacent applications for development to minimize adverse impacts of development upon the park.

<u>Policy 1.7.16:</u> Recognizing the importance of the Matlacha Pass Preservation Area, including the Matlacha Pass State Aquatic Preserve and the Matlacha Pass National Wildlife Refuge, as representing a unique and vitally important estuarine mangrove community, the City of Cape Coral will continue to abide by all rules and regulations imposed by state authorities to ensure the protection of this area. To implement this policy the City will prohibit all development within the Preservation Area, except for providing public access for enjoyment of the natural area, and will review adjacent applications for development orders to minimize adverse impacts of development upon this unique area.

<u>Policy 1.7.17:</u> The City of Cape Coral recognizes the Yellow Fever Creek Headwaters Area, which is included in the Regional Park site in northeast Cape Coral (see Policy 1.7.13), as a unique upland habitat representative of the upland communities that were destroyed by the development of the City. The City commits itself to the restoration and protection of this area and development of a regional park for passive recreation uses that preserve the area, to the extent possible, in its natural and pristine state.

<u>Policy 1.7.18:</u> The City will discourage the destruction of natural systems by the recreational use of off-road vehicles on public and private property.

<u>Policy 1.7.19:</u> The City will continue to aggressively promote and maintain its established Florida Yards and Neighborhoods (FYN) Program. This program is a partnership of concerned citizens, members of the landscape industry, the University of Florida's Cooperative Extension Service, the Charlotte Harbor National Estuary Program, Florida's Sea Grant College Program and numerous environmental agencies. The program focuses on yards as the first line of water quality defense for our estuaries, rivers, lakes and aquifers.

Objective 1.8: Public Awareness of Natural Resources. The City will maintain and expand a program to enhance public awareness of coastal and other natural resources in order to better understand the importance of these resources and the need for their proper management and conservation. Methods for increasing public awareness may include, but not necessarily be limited to, public presentations, presentations on the Cape Coral Government television channel, education programs, and publications.

<u>Policy 1.8.1:</u> The City will continue to coordinate with Lee County Environmental Learning Center, the Calusa Nature Center, the Cooperative Extension Service, the Cape Coral Friends of Wildlife, and other environmental education organizations to promote the value and conservation of coastal and other natural resources. This shall include, but not be limited to providing or receiving information for public presentations, education programs, and publications.

<u>Policy 1.8.2:</u> The City will educate the public on the value of natural resources, especially species of special concern, threatened, and endangered species, through interpretive displays and trails at recreation sites and parks.

<u>Policy 1.8.3:</u> The City will require that all Planned Development Projects and Planned Unit Developments, which include marinas, multi-slip facilities, and boat ramps having saltwater access

post manatee awareness signs and information. This information shall be placed in locations highly visible to the boating public.

<u>Policy 1.8.4:</u> The City of Cape Coral will continue to support non-profit organizations such as Cape Coral Friends of Wildlife, for the purpose of promoting public awareness of Cape Coral's native wildlife and natural habitats, and to provide volunteer habitat maintenance services in the City's publicly owned parks and natural areas. The City will also continue to support the organization's nature center, and related activities, located at Rotary Park.

Objective 1.9: Mining Activities. The City will ensure that mining activities have a minimal impact on the quality of the environment.

<u>Policy 1.9.1:</u> City Land Development Code will be maintained, pursuant to s.163.3202, F.S., to require the use of buffering between mining sites and adjacent land uses to promote an aesthetically pleasing landscape compatible with existing and future land uses adjacent to the site.

<u>Policy 1.9.2:</u> The City will inform every applicant for a Planned Development Project or planned unit development for any mining activities, including, but not limited to borrow pits, that state and/or federal permits may be required.

<u>Policy 1.9.3:</u> The City will require that Planned Development Projects and Planned Unit Developments for mining activities shall be phased, when possible, in an attempt to assure that the land areas affected by such activities at one time shall be minimal.

<u>Policy 1.9.4:</u> The City will require that Planned Development Projects and Planned Unit Developments for mining activities must provide a reclamation plan, to be approved by the City. Reclaimed lands must be returned in a usable state with complete vegetative cover of all disturbed areas and must conform to the Future Land Use Map and to the provisions of the Future Land Use Element.

<u>Policy 1.9.5:</u> The City will require that Planned Development Projects and Planned Unit Developments for mining activities must, when necessary, include a performance bond, or other financial security, assuring that environmental standards are met and reclamation is carried out to the full extent as a condition for approval.

Objective 1.10: Hazardous Waste Management. The City will continue to reduce its levels of hazardous wastes in accordance with the provisions stipulated by the State's Solid Waste Management Act and will coordinate these activities on a City, County, and regionwide basis.

<u>Policy 1.10.1:</u> The City will coordinate with the Lee County Department of Solid Waste and the Lee County Pollution Prevention Program concerning the proper storage, recycling, collection, and disposal of hazardous wastes, and cooperate with the County household "Hazardous Waste Day" program in program promotion and provision of a temporary site within the City.

<u>GOAL 2:</u> Increasing public awareness of coastal natural resources and public access to coastal resources.

- Objective 2.1: Public access to the coast. The City will continue to maintain or increase public access sites to the coastal zone.
- <u>Policy 2.1.1:</u> The City will annually strive to acquire additional estuarine waterfront property for the purpose of establishing or expanding parks and public access locations, including boat ramps, as part of the land banking strategy specified in the Future Land Use Element, and in accordance with the needs identified in the Recreation and Open Space Element. Current waterfront parks will be maintained. Impact fees and user fees will be the principal sources of funding for these projects.
- <u>Policy 2.1.2:</u> The City will conduct a user survey of the current public coastal access points to assist in determining the need for additional facilities. The City will evaluate the potential revenue generation and user acceptance of charging users of boat ramps, fishing piers, and/or parking a fee to fund acquisition and/or development of additional facilities.
- <u>Policy 2.1.3:</u> All coastal public access development will be done in accordance with the objectives and policies of Goal 1 so as not to destroy or damage coastal natural resources.
- <u>Policy 2.1.4:</u> The City will accept donations of shoreline lands suitable for use as public access facilities.
- <u>GOAL 3:</u> Historic Resources. There shall be no loss of historic resources on City owned property and historic resources on private property shall be protected, preserved or used in a manner that will allow their continued existence.
- Objective 3.1: Protection of Historic Resources. The City will continue to identify the historic resources within its jurisdiction and will work to preserve and protect these resources for future enjoyment. To accomplish this task the City will consult and work with Federal, State, and local historical organizations and will, as opportunity, resources and preservation needs allow, acquire such historical resources and make them accessible to the general public.
- <u>Policy 3.1.1:</u> Cape Coral will continue to cooperate with appropriate Federal and State agencies to protect identified historical and archaeological resources from vandalism and desecration, and to preserve them in a manner which promotes an understanding of historic and prehistoric peoples and their times.
- <u>Policy 3.1.2:</u> The City will require that applicants for Planned Development Projects and Planned Unit Developments that include undisturbed areas identified in the Archaeological Sensitivity map of Cape Coral as Sensitivity Level 1 or Sensitivity Level 2 perform an archaeological assessment and provide any appropriate mitigation as a condition of approval.
- <u>Policy 3.1.3:</u> The City shall, as opportunity, resources and preservation needs allow, acquire historical and archaeological resources and make them accessible, in a controlled manner, to the general public.

- <u>GOAL 4:</u> Reducing Vulnerability to Disasters. The City will maintain programs designed to mitigate the damage to people and property in Cape Coral from the effects of natural or man-made disasters.
- Objective 4.1: Evacuation. Consistent with The Lee Plan, Amended November 2006, Objective 109.1, the City of Cape Coral shall continue to fulfill its assigned role as specified within The Lee County Comprehensive Emergency Management Plan and its policies regarding hurricane evacuation.
- <u>Policy 4.1.1:</u> The City shall coordinate efforts with Lee County to relieve deficiencies identified in the *Southwest Florida Region, Statewide Regional Evacuation Study Program for Charlotte, Collier, Glades, Hendry, Lee and Sarasota Counties*, prepared by the Southwest Florida Regional Planning Council in 2010 and will provide sufficient and appropriate personnel to implement and expedite the County's evacuation plan.
- <u>Policy 4.1.2:</u> The Lee County and Cape Coral Comprehensive Emergency Management Plans shall be used as the operational guide in the mitigation of, preparation for, in response to, and for recovery from, any natural or man-made disaster requiring emergency actions by local government officials.
- <u>Policy 4.1.3:</u> Development review for projects within the coastal high hazard area shall consider significant impacts upon evacuation routes and sheltering, and shall require appropriate mitigation, if deemed necessary.
- <u>Policy 4.1.4:</u> The City shall encourage early hurricane evacuation by residents in the Category A Evacuation Zone through cooperation with Lee County Emergency Management officials and the print and broadcast media in public awareness programs.
- <u>Policy 4.1.5:</u> Critical roadway links causing congestion or subject to flooding or blockage on the City's evacuation routes shall receive high priority for capital improvement expenditures.
- <u>Policy 4.1.6:</u> The City shall continue to lobby for the establishment or expansion of strategic routes within unincorporated Lee County or the region, which alleviate congestion and improve the City of Cape Coral's hurricane evacuation clearance times.
- <u>Policy 4.1.7:</u> All future improvements to City maintained evacuation routes shall include solutions to roadway segments known to be prone to flooding, as identified in the Surface Water Master Plan or through other records.
- <u>Policy 4.1.8:</u> The City shall encourage all City residents to know the Evacuation Zone and storm surge flooding zone of their dwelling unit.
- Objective 4.2: SHELTER. The City will continue to coordinate with County and State emergency officials, the City of Cape Coral Charter School System and the Lee County Public School System to increase the amount of shelter space that is available to meet the needs of the City's general evacuation and special needs populations.

- <u>Policy 4.2.1:</u> In order to mitigate evacuation shelter impacts caused by new development, the City of Cape Coral shall continue to participate in the Lee County All-Hazards Program. The Program includes a municipal services taxing unit (MSTU). Proceeds from the MSTU are used to meet emergency management and evacuation needs in unincorporated Lee County and member municipalities.
- <u>Policy 4.2.2:</u> The Lee County Office of Emergency Management shall identify the special needs and special care populations of the City of Cape Coral, shall maintain an inventory of such special needs and special care populations, and shall endeavor to have the special needs of these populations met. The City of Cape Coral shall assist the Lee County Office of Emergency Management relative to special care and special needs populations and continue its procedures to inform persons with special needs of evacuation transportation and shelter services that may be available to them.
- <u>Policy 4.2.3:</u> The City will continue to coordinate with County, State and Red Cross public education programs concerned with hurricane preparedness. City staff will periodically meet and work with Emergency Preparedness officials from the Red Cross, the Florida Division of Emergency Management and Lee County to exchange information and to assure that all information provided in the programs is valid. The hurricane preparedness programs shall include, but not be limited to, public presentations and publications.
- Objective 4.3: Coastal High-Hazard Area. New public expenditures within the Coastal High-Hazard Area shall be limited to those needed for public health and safety, recreation and open space uses, public land acquisition, and the enhancement and protection of natural resources.
- <u>Policy 4.3.1:</u> Cape Coral shall designate the coastal high hazard area as the sum of all of those areas which are within the storm surge flooding zone for a Category 1 hurricane as illustrated on Figure 4: Coastal High Hazard Areas with Hurricane Evacuation Routes, based on the Southwest Florida Region, Statewide Regional Evacuation Study Program for Charlotte, Collier, Glades, Hendry, Lee and Sarasota Counties, prepared by the Southwest Florida Regional Planning Council in 2010.
- <u>Policy 4.3.2:</u> As of the adoption date of the City of Cape Coral 2030 Comprehensive Plan, new public expenditures within the Coastal High-Hazard Area shall be limited to those needed for public health and safety, recreation and open space uses, public land acquisition, and the enhancement and protection of natural resources.
- <u>Policy 4.3.3:</u> The City shall not approve any future land use map amendment that would increase the maximum residential density within the coastal high-hazard area, unless one of the following criteria is met, in accordance with Section 163.3178(9), F.S.:
 - 1. The proposed amendment would not exceed a 16-hour out-of-county hurricane evacuation time for a category 5 storm event, as measured on the Saffir-Simpson scale; or

- 2. A 12-hour evacuation time to shelter is maintained for a category 5 storm event as measured on the Saffir-Simpson scale and shelter space reasonably expected to accommodate the residents of the development contemplated by a proposed comprehensive plan amendment is available; or
- 3. Appropriate mitigation is provided that will satisfy the provisions of either of the previous two paragraphs. Appropriate mitigation shall include, without limitation, payment of money, contribution of land, and construction of hurricane shelters and transportation facilities. Required mitigation may not exceed the amount required for a developer to accommodate impacts reasonably attributable to development. For future land use map amendments initiated by a developer, the City and the developer shall enter into a binding agreement to memorialize the mitigation plan prior to adoption of the amendment.
- <u>Policy 4.3.4:</u> The City shall maintain requirements for structural wind resistance at least as restrictive as those stated in the latest approved edition of the Florida Building Code.
- <u>Policy 4.3.5:</u> In its evaluation of a zoning amendment for a property located within the coastal high-hazard area the City shall consider the objective of hazard mitigation, in addition to other planning considerations, such as, but not limited to, suitability or compatibility.
- Objective 4.4: POST DISASTER REDEVELOPMENT. The purpose of the City's post-disaster redevelopment programs shall be to speed post disaster recovery and reduce or eliminate the future risk to human life and property from natural hazards through recovery and redevelopment strategies, which ensure improved hurricane/disaster preparedness and recovery in the future. The implementation of such post-disaster redevelopment programs shall be the responsibility of the Community Development Department.
- <u>Policy 4.4.1:</u> By December 31, 2021, the City will prepare a post-disaster redevelopment plan, and will recommend any appropriate amendments to the comprehensive plan, Local Comprehensive Emergency Management Plan, and other policies and procedures.
- <u>Policy 4.4.2:</u> In responding to natural disasters, the City will prioritize activities consistent with guidelines contained in the Lee County and Cape Coral Comprehensive Emergency Management Plans.
- <u>Policy 4.4.3:</u> As part of the post-disaster redevelopment plan, the City will establish guidelines to address the removal, relocation, or structural modification of damaged infrastructure, and the City's role in addressing privately owned unsafe structures. The City will also establish policies limiting redevelopment in areas of repeated damage.
- <u>Policy 4.4.4:</u> The City shall continue to participate in the National Flood Insurance Program and shall conduct all activities necessary to meet the requirements of the program.
- <u>Policy 4.4.5:</u> The post-disaster redevelopment plan will establish guidelines and procedures for evaluating the effectiveness of current hazard mitigation measures at preventing damage.

<u>Policy 4.4.6:</u> The post-disaster redevelopment plan shall include the establishment of guidelines and procedures for utilizing information obtained from damage assessment teams to expedite post-disaster recovery.

<u>Policy 4.4.7:</u> The post-disaster redevelopment plan shall include provisions for enactment of a temporary restriction on issuing permits for reconstruction and repair not immediately needed to protect the public health, safety and welfare.

<u>Policy 4.4.8:</u> The City shall prohibit rebuilding or redevelopment on any property within the coastal high-hazard area containing damaged structures if such rebuilding or redevelopment would increase the maximum residential density above that allowed for the subject property on the Future Land Use Map. Further, the maximum density allowed on any property shall be determined based upon the future land use classification of the subject property, as shown on the future land use map.

<u>Policy 4.4.9:</u> The post-disaster redevelopment plan shall establish criteria for evaluating the options for repairing, replacing, modifying or relocating public and private facilities and infrastructure within the coastal high-hazard area. Any actions chosen by the City of Cape Coral to repair, replace, modify, or relocate public facilities and infrastructure within the coastal high-hazard area shall be consistent with federal and state funding standards.

<u>Policy 4.4.10</u>: The post-disaster redevelopment Plan shall include guidelines and criteria for determining priorities for the acquisition of storm-damaged property in the coastal high-hazard area. These guidelines shall:

- 1) Give priority to eliminating unsafe conditions and inappropriate uses;
- 2) Be used to prioritize potential coastal acquisitions through the State's land acquisition program; and,
- 3) Be used to recognize pristine coastal properties or properties of significant or important environmental sensitivity.

<u>Policy 4.4.11:</u> The City of Cape Coral shall continue to implement its existing hazard mitigation programs that include building code and floodplain regulations, Land Development Code, zoning requirements, and the goals, objectives and policies of the City of Cape Coral Comprehensive Plan, as well as other applicable hazard mitigation measures. Recommendations of damage assessment teams, interagency hazard mitigation reports, or City, County, State or Federal emergency management agencies may be incorporated into one or more of these hazard mitigation programs at the discretion of the City. These mitigation programs shall be periodically amended to remain consistent with State and Federal requirements.

<u>GOAL 5:</u> Infrastructure. Public facilities will be adequate and available to serve the residents and visitors to Cape Coral.

Objective 5.1: Levels of Service. Maintain levels of service, service areas, and phasing of improvements for Cape Coral consistent with the other elements of this plan.

<u>Policy 5.1.1:</u> The levels of service, service areas, and phasing improvements for roadways will be those contained within the Transportation Element.

<u>Policy 5.1.2:</u> The levels of service, service areas, and phasing of improvements for sanitary sewer, solid waste, surface water management, potable water, and natural groundwater aquifer recharge will be those contained within the Infrastructure Element of this plan.

Policy 5.1.3: Potable, irrigation, and non-potable water supply sources will be secured and projects undertaken in accordance with the 2017 Water Supply Facilities Work Plan, dated May 2019.

<u>GOAL 6:</u> Intergovernmental Coordination. The City will use intergovernmental coordination to protect environmental and coastal resources.

Objective 6.1: Natural Resource Management. Environmental and coastal resource management will address natural ecosystems on a system wide basis regardless of political boundaries by using existing formal and informal coordination mechanisms, or by establishing new formal mechanisms to ensure coordination.

<u>Policy 6.1.1:</u> The City will continue to cooperate with other government agencies concerning conservation issues via jointly funded research and management projects, coordinated review of development projects, and regularly scheduled or special meetings. Examples of coordination shall include, but not be limited to, jointly funded coastal research and management studies, and regularly scheduled or special meetings.

<u>Policy 6.1.2:</u> The City will continue to adhere to the Charlotte Harbor Management Plan and carry out its responsibilities under this plan. This shall include, but not be limited to a program evaluating and improving the effectiveness and function of the spreader waterway system with regard to the environmental impacts of surface water discharge from Cape Coral into Matlacha Pass State Aquatic Preserve, and a determination if improvements are needed in the spreader system to reduce any negative impacts on the Matlacha Pass and Charlotte Harbor ecosystem.

<u>Policy 6.1.3:</u> The management of bays, estuaries, harbors, and unique vegetative communities that cross Cape Coral's borders will be coordinated with adjacent local governments including, but not limited to, Lee County, Charlotte County, and the City of Fort Myers. Coordination may include, but not necessarily be limited to, interlocal agreements, public meetings, staff interaction, written notifications, participation in the Charlotte Harbor National Estuary Program, and joint committees.

INFRASTRUCTURE ELEMENT

GOALS, OBJECTIVES, AND POLICIES

<u>GOAL 1:</u> Consistency with the 5-Year Capital Improvements Program and the adopted levels of service - required public facilities will be provided in a manner that promotes orderly, compact, and efficient urban growth.

Objective 1.1: The City will ensure that the public facilities needed through 2020 are in place in accordance with the adopted 5-Year Capital Improvements schedule, and ensure that when building permits are issued, adequate facility capacity is available, or will be available to serve the development at the time required. The long-term planning window shall be the period from the 2015 update of this document to 2035. Long-term infrastructure planning needs to build-out are and will be implemented as identified in the Montgomery Watson Harza Facilities Planning Report (2005 ed.).

<u>Policy 1.1.1.</u> The following levels of service are hereby adopted by the City as a means of determining the availability of facility capacity and the demand created by new development:

Sanitary Sewer Facilities

200 gallons per day/dwelling unit for dwelling units located in the Urban Services Infill and Transition Areas that are serviced by the City's sanitary sewer utility.

The Level of service standard will be equivalent to the Department of Environmental Protection requirements for package treatment plants as identified in Rule 62-555.348 FAC located in Planned Development Projects and Developments of Regional Impact within the Urban Services Reserve Area.

The City Level of service standard for onsite septic systems will be equivalent to the County Department of Health requirements for septic systems in Planned Development Projects and Developments of Regional Impact within the Urban Services Reserve Area.

No level of service standard exists for individual private homes within the Urban Services Reserve Area.

Solid Waste Facilities
Average Solid Waste Generation Rate
Citywide 4.74 lbs per capita per day

Drainage Facilities
Citywide

Based on, *Basis of Review for Surface Water Management Permit Applications*, South Florida Water Management District (See Appendices I and II).

Drainage Facilities Quantity:

Design Storm (3 day duration, 25 year return frequency)

Drainage Facilities Quality:

The City adopts Chapter 17-25, F.A.C. as standards for water quality.

Potable Water Facilities

200 gallons per day/dwelling unit for areas serviced by municipal utilities.

No level of service standard exists for private self serve wells within the Urban Services Reserve Area.

200 gallons per day/dwelling unit for potable water in areas serviced by the Greater Pine Island Water Association.

<u>Policy 1.1.2.</u> All improvements for replacement, expansion, or increase in capacity of public facilities will be compatible with adopted levels of service.

<u>Policy 1.1.3.</u> All new facilities, as well as improvements to existing facilities will be designed to meet or be expandable to meet buildout system requirements.

<u>Policy 1.1.4.</u> The City will maintain procedures to ensure adequate facility capacity before building permits are issued.

<u>Policy 1.1.5.</u> The City will prepare annual summaries of capacity and demand information for each facility to coincide with the annual update to the Capital Improvement Program (CIP).

<u>Policy 1.1.6.</u> Provision by the City of centralized sanitary sewer and potable water service will be limited to the urban services infill and transition areas, as outlined in the adopted future land use map and amended annually via the plan amendment process, and to those areas where the City has a legal commitment to provide services and facilities, including, but not limited to the North Spreader Ecological Management Agreement. The City hereby designates, when feasible, a dual water system which consists of both the irrigation and domestic water supply for the extension of public water service to those portions of the Urban Services Transition Area per the future land use map as amended not currently served by both public water and sewer. In accordance with this, the extension of public water and sewer service to these areas will include the extension of dual water service, when feasible, using non-potable sources for irrigation purposes.

- <u>Policy 1.1.7:</u> New City of Cape Coral potable water, wastewater, and public irrigation water facilities, except for water distribution or wastewater collection facilities, shall not be located within the Coastal High-Hazard Area.
- <u>Policy 1.1.8:</u> To promote efficient growth patterns, public safety, and timely construction of infrastructure, incidental utility activities are allowed in all future land use classifications and zoning districts in Cape Coral, subject to any applicable special regulations to address specific impacts.
- Objective 1.2: The City will maintain a five year schedule of capital improvements, to be updated annually to conform to the annual review process for the Capital Improvements Element of this plan.
- <u>Policy 1.2.1.</u> Capital Improvements projects proposed for inclusion in the five year schedule of capital improvement needs will be evaluated by City Council or its designee. Council will, at least annually, update this schedule to ensure that public facilities and improvements are provided at adopted levels of service concurrent with growth.
- <u>Objective 1.3:</u> The City will continue its cooperation with other local and state agencies for the inspection of on-site wastewater treatment systems.
- <u>Policy 1.3.1.</u> Issuance of development permits will continue to be conditioned upon demonstration of compliance with all applicable federal, state, and local permit requirements for on-site wastewater treatment systems.
- <u>Policy 1.3.2.</u> The City will coordinate with appropriate federal and state agencies to require that issuance of permits for replacement or expansion of on-site wastewater services is conditioned upon compliance with current regulatory requirements and water quality standards.
- Objective 1.4: The City will make maximum use of its existing treatment/processing facilities (in each respective service area) but will construct additional facilities, in accordance with thresholds identified in the Florida Administrative Code.
- <u>Policy 1.4.1.</u> Existing septic tanks and package treatment plants may remain in service until such time as centralized service is made available unless the continued operation of the facility poses a threat to public health, safety, or welfare.
- <u>GOAL 2:</u> Provision of Sanitary Sewer, Drainage, Potable Water, and Solid Waste Services the City of Cape Coral will provide sanitary sewer, drainage, and potable water facilities, and will coordinate with private and County sources for provision of solid waste facilities to meet the existing and projected needs identified in this plan.
- Objective 2.1: Existing deficiencies will be corrected by undertaking the following projects:
- a) Sanitary Sewer and Potable Water Implement Utility Expansion Program

b) Drainage

Implement recommendations of the Master Storm Water Management Plan

<u>Policy 2.1.1.</u> All projects will be undertaken in accordance with the Five Year Schedule of Capital Improvements adopted as part of the Capital Improvements Element.

<u>Policy 2.1.2.</u> Projects needed to correct existing deficiencies will be given priority in the formation and implementation of the Capital Improvements Plan.

Objective 2.2: Projected demands through the year 2018 will be met.

Policy 2.2.1.

The City will meet projected demands by undertaking the following projects within the short-term planning timeframe:

- a. Sewer and Water Projects
- 1. Continue to provide planning and studies necessary for orderly expansion
- 2. North 1 Utility Expansion Program
- 3. North 2 Utility Expansion Program
- 4. Construct North Cape Water Reclamation Facility
- 5 Upgrade Lift Stations
- 6. Rehab/Replace Raw Water Production Wells
- 7. Southwest Bio-Solids Centrifuges
- 8. Palm Tree Water Main Extension Phase I
- 9. Palm Tree Water Main Extension Phase II
- 10. Galvanized Pipe Replacement
- 11. UCD Administration Building
- 12. Manhole Rehabilitation
- 13. Infiltration/Inflow
- 14. Weir# 4 Construction
- 15. Force main Interconnect

- 16. Fire Sprinkler Conversion (Irr to PW)
- 17. Weir# 16 and # 17 Construction
- 18. Reuse Water Main-River Crossing
- 19. ASR/Irrigation Supply Improvement
- 20. North RO Deep Injection Well
- 21. Potable Water Infrastructure Replacement
- 22. Reuse Utilities Main Extension-FGUA
- 23. SWRO Deep Injection Well
- 24. Southwest Operations Building
- 25. Analyzer Building
- 26. Retro SWRO Well Field Control/Communication
- 27. SWRO Control Systems Upgrade
- 28. Distribution System Automation
- 29. Weir #29 construction
- 30. Caloosahatchee River irrigation water crossing main
- 31. Palm Tree Pumping Station
- 32. ADM-47 ASR and Irrigation Supply Wells
- b. Solid Waste Projects
 - to be coordinated with Lee County
- c. Drainage Projects
- 1. Continue to construct city-wide drainage improvements, including modifications to weirs, based on the recommendations in the Master Storm Water Management Plan.
- 2. Continue to dredge the canals to provide required conveyance of storm water.

<u>Policy 2.2.2.</u> Projects generally will be undertaken in accordance with the schedule provided in the Capital Improvements Element of this plan and its amendments.

- <u>Policy 2.2.3.</u> Projects will be scheduled in such a way as to minimize disruption of services and duplication of labor and to maintain service levels for all facilities.
- <u>Policy 2.2.4.</u> All required Federal, State, or County permits must be obtained before the City undertakes, or authorizes contractors to undertake, construction or operation of facilities.
- <u>Policy 2.2.5.</u> All projects will be designed and constructed to meet or exceed the needs of projected population up to and including buildout if appropriate.
- Objective 2.3: For areas not currently programmed to receive utilities, the City will extend services to areas consistent with recommendations of an annually updated implementation plan.
- <u>Policy 2.3.1.</u> The City will amend its future land use map at least annually via the plan amendment process to include in the Urban Services Transition Area those subdivided units, unplatted areas, and miscellaneous subdivisions which are 30 or more percent developed and which are contiguous to the existing Urban Services Transition Area. Exceptions to this policy are provided for those extreme circumstances where the City has entered into an interlocal agreement to provide centralized utilities, or as provided in Policy 1.1.6 of the Infrastructure Element.
- <u>Policy 2.3.2.</u> Provision of potable water and/or sanitary sewer facilities beyond the area shown on the current five year capital improvements plan will be guided by the following methodology unless as otherwise formulated by a comprehensive utility master plan:
- 1. The subdivided unit to receive sewer or water must be in the Urban Services Infill or Transition area (as defined by the Future Land Use Map, or any amendments thereto.)
- 2. The subdivided unit to receive sewer or water must be contiguous to a subdivided unit currently receiving sewer or water.
- <u>Policy 2.3.3.</u> The extension of water and sewer beyond the adopted Urban Services Infill and Transition Areas may be, pending adequate facility capacity, undertaken through developer contributions, or through special assessment districts, should that option become available to the City.
- <u>Policy 2.3.4.</u> Potable water, secondary irrigation water, and sanitary sewer service will be extended concurrently to new service areas unless unusual conditions peculiar to a particular area warrant a deviation based on sound planning principals.
- Policy 2.3.5. The City hereby adopts the 2017 Water Supply Facilities Work Plan, dated May 12, 20142019, thereby being consistent with the South Florida Water Management District's Lower West Coast Water Supply Plan Update. The City shall continue to coordinate future updates of the Water Supply Facilities Work Plan with the South Florida Water Management District, as required by law.
- Objective 2.4: The City will continue to assure that public health, environmental health,

- property values, and quality of life is maintained through assurance of the provision of solid waste facilities and services.
- <u>Policy 2.4.1.</u> The City will continue to require that all developed properties receive solid waste collection and disposal services.
- <u>GOAL 3:</u> Stormwater drainage provision adequate stormwater drainage will be provided to afford reasonable protection from flooding and to prevent degradation of quality of receiving waters.
- Objective 3.1: By 2020, the stormwater drainage regulations contained in the City's Land Use and Development regulations will be reviewed and amended to ensure that future development utilizes stormwater management systems compatible with an adopted comprehensive stormwater management plan.
- <u>Policy 3.1.1.</u> The Public Works Department will ensure that major drainage systems are inspected on an as needed basis, and that they receive required maintenance.
- <u>Policy 3.1.2.</u> The City will maintain a Stormwater Utility ordinance or an alternative funding system to fund improvements and maintenance of the stormwater drainage system within the City.
- <u>Policy 3.1.3.</u> The City will install a two (2) foot sump in the last accessible catch basin of each drainage system for new systems and as drainage systems are repaired and/or replaced.
- <u>Policy 3.1.4.</u> The City will combine stormwater retention/detention as part of development of public parks.
- <u>Policy 3.1.5.</u> The City will update a capital improvement schedule for correction of deficiencies in the stormwater drainage system based on historic flooding or pollutant loading conditions.
- <u>GOAL 4:</u> Groundwater recharge protection the functions of natural groundwater aquifer recharge areas within the City of Cape Coral will be maintained.
- Objective 4.1: The City will protect the functions of natural groundwater recharge areas through means identified jointly by the City and the South Florida Water Management District (SFWMD).
- <u>Policy 4.1.1.</u> The City will maximize recharge of the surficial aquifer by maintaining the function of the weirs and maintaining adjustable structures to provide the maximum the water levels that will not cause flooding or other property damage.
- <u>Policy 4.1.2.</u> The City will coordinate with federal, state, and local agencies to achieve regional aquifer recharge protection objectives. Such coordination shall include, but not necessarily be limited to, staff interaction, interlocal agreements, and participation on joint committees.
- Policy 4.1.3. The City will investigate methods to develop long term dependable water

storage capacity.

- <u>Policy 4.1.4.</u> The City will develop a program of best management practices, including techniques such as provision of retention basins, grassed swales, infiltration areas, etc. to protect the surficial aquifer and create development standards which maintain aquifer recharge at its pre-development levels.
- <u>Policy 4.1.5.</u> The City will maintain regulations to prohibit littering in canals and lakes and to provide recovery of costs incurred in response and recovery efforts related to hazardous materials incidents to protect the surficial aquifer.
- <u>Goal 5:</u> Potable Water resource protection the City will protect and conserve its potable water resources.
- Objective 5.1: The City will continue programs with a goal of continuing to reduce the consumption rate of potable water used for irrigation and other outdoor purposes from (2004) levels.
- <u>Policy 5.1.1.</u> The City will incorporate and/or maintain water conservation measures into its land development regulations (adopted pursuant to F.S. 163.3202) and development orders for Planned Development Projects and Developments of Regional Impact including, but not limited to:
- Adherence to the Standard Plumbing Code to require the use of water saving devices.
- Maintain provisions of the Landscape Ordinance that strongly encourage the use of Xeriscape principles.
- Maintain a rate schedule to discourage wasteful use of potable water.
- Establishing irrigation conserving time of use restrictions.
- <u>GOAL 6:</u> Efficient and safe solid waste disposal the City will continue to minimize the per household quantity of non-hazardous solid waste delivered to the Lee County solid waste disposal facilities from Cape Coral and discourage littering and illegal dumping.
- <u>Objective 6.1:</u> The City of Cape Coral will reduce the volume of non-hazardous solid waste requiring disposal to seventy percent of the total volume.
- <u>Policy 6.1.1.</u> The solid waste materials to be picked up in the City's recycling program shall consist of aluminum containers, steel, tin cans, newsprint/newspaper, magazines, brown grocery bags, glass (clear, brown, and green) containers, and plastic #1 (HDPE), #2 (PETE), #3, #4, #5, #6, and #7 plastic, and cardboard.
- <u>Policy 6.1.2.</u> The City will maintain a program to educate the public and increase their awareness of the solid waste disposal problem, and the importance of recycling. This program may include, but not necessarily be limited to, public presentations, video presentations, and publications. This program may be coordinated with similar programs

offered by the Lee County Division of Solid Waste, the Lee County Extension Service, and other agencies.

<u>Policy 6.1.3.</u> The City will continue to ensure that collection and disposal of horticultural waste is separate from other waste collection.

<u>Policy 6.1.4.</u> The City will continue to support programs which develop or expand recyclable material markets, especially those involving plastics, metals, paper, and glass.

Objective 6.2: The City will maintain regulations to discourage littering and illegal dumping.

<u>Policy 6.2.1.</u> The City will maintain a requirement that mandates subscription to a solid waste collection service for all occupied dwelling units.

INTERGOVERNMENTAL COORDINATION GOALS, OBJECTIVES, AND POLICIES

GOAL:

The City of Cape Coral shall strive to achieve maximum coordination with other governmental jurisdictions, agencies, and entities.

Objective 1:

The City of Cape Coral shall coordinate planning activities mandated by the Comprehensive Plan with the plans of the Lee County School Board and adjacent local governments using existing formal and informal coordination mechanisms, or by establishing new formal mechanisms to ensure coordination. As the plans are amended and growth occurs, coordination methods may be subject to change. However, these methods are expected to include, but not necessarily be limited to, staff interaction, interlocal agreements, written communications and public meetings.

Policy 1.1:

Cape Coral will coordinate planning activities mandated by the Comprehensive Plan with other affected local governments and the school board. Coordination activities may include, but not necessarily be limited to, interlocal agreements, public meetings, staff interaction, written notifications, and joint committees.

Policy 1.2:

The City of Cape Coral shall utilize the mandatory dispute resolution process with other governments and agencies, as described in s. 186.509, Florida Statutes.

Policy 1.3:

Development proposed in the comprehensive plan will be reviewed for impacts on the comprehensive plans of other appropriate local governments, regional agencies, and the State of Florida. This will be accomplished in part through the DRI, PDP and Plan amendment processes, and interlocal agreements (Policy 2.4).

Policy 1.4:

The management of bays, estuaries, and harbors that cross Cape Coral's borders will be coordinated with other jurisdictions, including, but not necessarily limited to, Lee County, Fort Myers, the U.S. Coast Guard, the Charlotte Harbor National Estuary Program, and DEP. Coordination may include, but not necessarily be limited to, notification of development activities and future land use changes affecting those bays, estuaries and harbors, and withholding inspections until permits are obtained from the regulatory agencies with jurisdiction.

Policy 1.5:

The City of Cape Coral will continue to:

- Utilize the Metropolitan Planning Organization (MPO) for all matters of coordination in transportation planning and implementation;
- Utilize the MPO Technical Advisory Committee (TAC) in matters requiring communication, cooperation, and coordination between Cape Coral and other jurisdictions.

Policy 1.6:

City staff will continue to coordinate school and related facility siting and development processes with staff of the Lee County School Board.

Policy 1.7:

City staff will be made available as needed to participate in intergovernmental coordination activities with other governmental, public and private entities.

Policy 1.8:

The City will coordinate the designation of any future dredge spoil sites with neighboring jurisdictions with dredge spoil disposal responsibilities, in accordance with Policy 12.2 of the Future Land Use Element of this Plan.

Objective 2:

EFFECTS OF NEW DEVELOPMENT

The City will coordinate the impacts of planned development on neighboring jurisdictions, regional agencies, and the State of Florida using existing formal or informal coordination mechanisms, or establishing new mechanisms as needed to ensure coordination. These mechanisms may include, but are not necessarily limited to, interlocal agreements, public meetings, staff interaction, written notifications, and joint committees.

Policy 2.1:

Cape Coral will coordinate planning activities mandated by the Comprehensive Plan with other local governments, regional agencies, and the State of Florida, including, but not necessarily limited to, Lee County, Charlotte County, the City of Fort Myers, the Southwest Florida Regional Planning Council, and the Florida Department of Economic Opportunity.

Policy 2.2:

Development proposed within the City of Cape Coral will be reviewed for impacts on the comprehensive plans of adjacent local governments, regional agencies, and the State of Florida. This may be accomplished in part through the Development of Regional Impact (DRI) and Comprehensive Plan amendment processes, and interlocal agreements.

Policy 2.3:

The City of Cape Coral may enter into interlocal agreements with adjacent local governments for the notification and exchange of information regarding changes of future land use and/or zoning within one (1) mile of its corporate limits.

Policy 2.4:

The City of Cape Coral will communicate with Lee County to discuss the effects of new development upon major roadways, such as County roads, that serve both communities.

Objective 3:

LEVEL-OF-SERVICE STANDARDS

Ensure that the Level-of-Service (LOS) standards specified in the Comprehensive Plan are consistent with the LOS standards for public facilities of other governmental entities having operational and maintenance responsibility for those facilities.

Policy 3.1:

The City of Cape Coral will coordinate planning activities mandated by the Comprehensive Plan with other local entities, regional agencies, and the State of Florida, with particular attention to ensuring consistency of level-of-service standards.

Policy 3.2:

Development proposed within the City of Cape Coral will be reviewed for its impact on the level of service standards of adjacent local government. This will be accomplished in part through the DRI and plan amendment processes, the PDP process, the MPO, and through interlocal agreements.

Policy 3.3:

The City of Cape Coral will ensure coordination of level-of-service standards by entering into interlocal agreements, serving on MPO committees, reviewing activities, and actively participating in interagency policy-making and goal-setting activities.

Policy 3.4:

The City of Cape Coral will ensure coordination of water supply sources through adherence to the SFWMD's 2017 Lower West Coast Water Supply Plan.

Objective 4:

The City of Cape Coral shall support voluntary annexation of unincorporated lands adjacent to City boundaries for the purpose of maintaining cost-effective delivery of public services, eliminating enclaves, preserving natural resources, increasing the City's supply of commercial space, and increasing affordable housing opportunities within the City.

<u>Policy 4.1:</u>

The City shall seek to implement a joint planning area (or areas) with Lee County, in order to resolve issues regarding proposed annexations.

Policy 4.2:

In the event that the City of Cape Coral and Lee County are unable to resolve issues of concern relative to the proposed voluntary annexation area(s) the City shall first seek informal mediation.

Policy 4.3:

The City will prioritize voluntary annexation requests that involve properties meeting the criteria for 'enclaves', as defined in Chapter 171, Florida Statutes.



CITY OF CAPE CORAL 2017 WATER SUPPLY FACILITIES WORK PLAN







Project number, 60564995

May 2019





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List of Common Acronyms

Acronym	Definition			
AADD	Annual Average Daily Demand			
AADF	Annual Average Daily Flow			
ASR	Aquifer Storage and Recovery			
AUIR	Annual Update and Inventory Report			
BEBR	Bureau of Economics and Business Research			
BOCC	Board of County Commissioners			
CCIGM	Cape Coral Interactive Growth Model			
CIP	Capital Improvement Plan			
CUP	Consumptive Use Permit			
DIW	Deep Injection Wells			
DSS	Domestic and Small Public Supply			
FAC	Florida Administrative Code			
FGUA	Florida Government Utility Authority			
FDEP	Florida Department of Environmental Protection			
FY	Fiscal Year			
GIS	Geographic Information System			
gpcd	Gallons per Capita per Day			
GPD	Gallons per Day			
HP	Horsepower			
HPRO	High Pressure Reverse Osmosis			
HZ1	Hawthorn Zone 1			
IAS	Intermediate Aquifer System			
IE	Ion Exchange			
1/1	Inflow and Infiltration			
IQ	Irrigation Quality			
LH	Lower Hawthorn			
LORS	Lake Okeechobee Interim Regulation Schedule			
LOSS	Level of Service Standard			
LPRO	Low Pressure Reverse Osmosis			
LS	Lime Softening			
LT	Lower Tamiami Aquifer			
LWCSP	Lower West Coast Water Supply Plan			
MDD	Maximum Daily Demand			
MDL	Maximum Developable Limit			
MG	Million Gallons			
MGD	Million Gallons per Day			
mg/L	Milligrams per Liter			
MMDD	Maximum Month Daily Demand			
MMDF	Maximum Month Daily Flow			
MPO	Lee County Metropolitan Planning Organization			

Project number: 60564995

Acronym	Definition
M3DD	Maximum Three Day Demand
M3DF	Maximum Three Day Flow
NROWTP	North Reverse Osmosis Water Treatment Plant
O&M	Operations and Maintenance
PWS	Public Water Supply
RO	Reverse Osmosis
SAS	Surficial Aquifer System
SCADA	Supervisory Control and Data Acquisition
SDP	Site Development Plan
SFWMD	South Florida Water Management District
SWROWTP	Southwest Reverse Osmosis Water Treatment Plant
TAZ	Traffic Analysis Zone
TDS	Total Dissolved Solids
TM	Technical Memorandum
UEP	Utility Expansion Program
UFW	Unaccounted For Water
USEPA	United States Environmental Protection Agency
WRF	Water Reclamation Facility
WT	Water Table
WTP	Water Treatment Plant
WUP	Water Use Permit
WWTP	Wastewater Treatment Plant

1 INTRODUCTION

The purpose of the City of Cape Coral Water Supply Facilities Work Plan (Work Plan) is to:

- Evaluate projected City population and projected water demands for 10-year and 20-year planning periods.
- Identify and plan for the water supply sources and facilities needed to serve existing and new development within the City of Cape Coral's jurisdiction.

In December 2017, the South Florida Water Management District (SFWMD) approved the 2017 Lower West Coast Water Supply Plan Update. Chapter 163, Part II, Florida Statutes (F.S.), requires local governments to prepare and adopt Work Plans into their Comprehensive Plans within 18 months after the South Florida Water Management District (District) approves the regional water supply plan or its update. Therefore, the deadline for local governments within the Lower West Coast Region to update their comprehensive plans with the Work Plan is June 14th, 2019.

1.1 Statutory History

The Florida Legislature enacted bills in 2002, 2004, 2005, 2011, 2012, 2015, and 2016 sessions to address the state's water supply needs. Senate Bills 360 and 444 (2005 legislative session), significantly changed Chapters 163 and 373, F.S. by strengthening the statutory links between the regional water supply plans and plans prepared by local governments. In addition, these bills established the basis for improving coordination between local land use planning and water supply planning.

1.2 Statutory Requirements

The City of Cape Coral has considered the following statutory provisions when updating the Water Supply Facilities Work Plan (Work Plan):

- 1. Coordinate appropriate aspects of its comprehensive plan with the Lower West Coast Water Supply Plan [163.3177(4) (a), F.S.].
- 2. Ensure the future land use plan is based upon availability of adequate water supplies and public facilities and services [163.3177 (6) (a), F.S.]. Data and analysis demonstrating that adequate water supplies and associated public facilities will be available to meet projected growth demands must accompany all proposed Future Land Use Map amendments submitted for review.
- 3. Ensure that adequate water supplies and potable water facilities are available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent and consult with the applicable water supplier to determine whether adequate water supplies will be available to serve the development by the anticipated issuance date of the certificate of occupancy [163.3180 (2), F.S.].
- 4. For local governments subject to a regional water supply plan, revise the General Sanitary Sewer, Solid Waste, Drainage, Potable Water, and Natural Groundwater Aquifer Recharge Element (the "Infrastructure Element"), within 18 months after the water management district approves an updated regional water supply plan, to:
 - a. Identify and incorporate the alternative water supply project(s) selected by the local government from projects identified in the Lower West Coast Regional Water Supply Plan, or alternative project(s) proposed by the local government under section 373.709(8)(b), F.S. [163.3177(6)(c), F.S.];

- b. Identify the traditional and alternative water supply projects and the conservation and reuse programs necessary to meet water needs identified in the Lower West Coast Regional Water Supply Plan [163.3177(6)(c)3, F.S.]; and
- c. Update the Work Plan for at least a 10-year planning period for constructing the public, private, and regional water supply facilities identified in the element as necessary to serve existing and new development [163.3177(6)(c)3, F.S.].
- 5. Revise the Five-Year Schedule of Capital Improvements to include water supply, reuse, and conservation projects and programs to be implemented during the five-year period [163.3177(3)(a)4, F.S.].
- 6. To the extent necessary to maintain internal consistency after making changes described in Paragraph 1 through 5 above, revise the Conservation Element to assess projected water needs and sources for at least a 10-year planning period, considering the Lower West Coast Water Supply Plan, as well as applicable consumptive use permit(s) [163.3177 (6) (d), F.S.]. The plan must address the water supply sources necessary to meet and achieve the existing and projected water use demand for the established planning period, considering the applicable regional water supply plan [163.3167(9), F.S.].
- 7. To the extent necessary to maintain internal consistency after making changes described in Paragraphs 1 through 5 above, revise the Intergovernmental Coordination Element to ensure coordination of the comprehensive plan with the Lower West Coast Regional Water Supply Plan [163.3177 (6) (h) 1., F.S.].
- 8. While an Evaluation and Appraisal Report is not required, local governments are encouraged to comprehensively evaluate, and as necessary, update comprehensive plans to reflect changes in local conditions. The evaluation could address the extent to which the local government has implemented the need to update their Work Plan, including the development of alternative water supplies, and determine whether the identified alternative water supply projects, traditional water supply projects, and conservation and reuse programs are meeting local water use demands [163.3191 (3), F.S.].

2 BACKGROUND INFORMATION

2.1 Overview

The City of Cape Coral was incorporated in 1970 and is located in southwest Florida about 120 miles south of Tampa. It is bounded to the east and south by the Caloosahatchee River and to the north and west by the Charlotte Harbor. Figure 2-1 shows the location of the City within Lee County. The City encompasses approximately 120 square miles, containing around 150,000 pre-platted building sites and is known for its extensive freshwater and saltwater canal system that spans over 400 miles.

Residents of the City of Cape Coral obtain their water mainly from the City's Utilities Department, which is responsible for ensuring enough capacity is available for existing and future customers. In addition, a portion of the City's residents rely on self-supply wells for their potable and irrigation water needs. The latest census estimates show that Cape Coral's year-round population as of July 1, 2017 was 183,365. The population has increased in Cape Coral by 19% since the 2010 census.

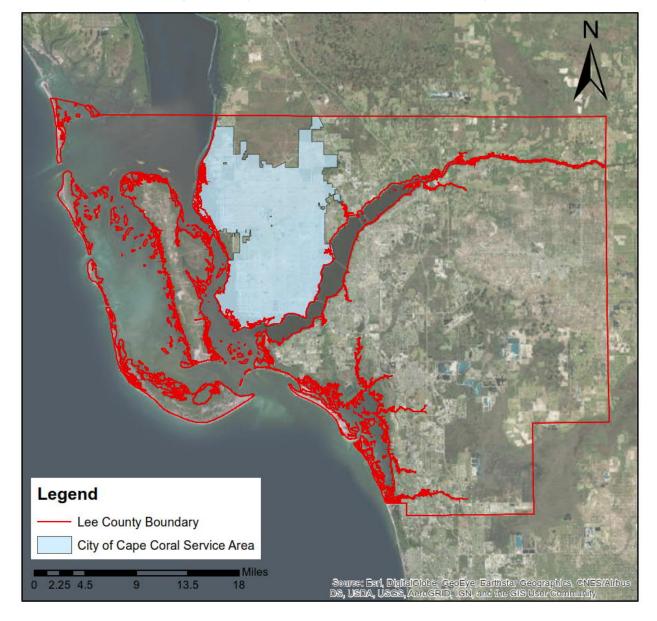


Figure 2-1 City of Cape Coral location within Lee County

2.2 Relevant Regional Issues

The regional issues identified for 2040 in the Lower West Coast Water Supply Plan Update include:

- 1. Increased withdrawals from the Surficial Aquifer System (SAS) and the freshwater portion of the Intermediate Aquifer System (IAS) are generally limited due to potential impacts on wetlands and existing legal water uses, including Domestic and Small Public Supply (DSS); the potential for saltwater intrusion; and the possibility of reaching aquifer Maximum Developable Limits (MDLs). New or increased allocations will be evaluated on an applicationby-application basis to determine if a project meets water use permitting criteria.
 - In some areas such as Lehigh Acres, cumulative DSS withdrawals are affecting aquifer water levels.
- 2. Surface water allocations from Lake Okeechobee and hydraulically connected surface waters are temporarily limited by the Lake Okeechobee Restricted Allocation Area criteria.

- While the 2008 Lake Okeechobee Interim Regulation Schedule (LORS) is in effect, water users in the Lake Okeechobee Service Area have a reduced (1 in 6 year) level of certainty for experiencing water shortage restrictions.
- 3. Peak freshwater discharges during the wet season are affecting the health of the Caloosahatchee River Estuary. Additional storage is required in the basin and in the regional system to attenuate damaging peak flow events.
- 4. During dry conditions, surface water availability and current storage capacity sometimes is insufficient to meet water demands and environmental needs for the C-43 Canal and Caloosahatchee River Estuary during dry conditions.

The City of Cape Coral's water system obtains its water from alternative water supplies, and has also reduced the public demand on potable water supplies by extending its centralized irrigation system to new areas as part of its general utilities expansion plan.

Although the City's source of raw water, the Upper Floridan Aquifer, which is not directly affected by the regional issues identified above by the Lower West Coast Water Supply Plan, it has observed several local issues affecting its water supply.

- Water levels within the Sandstone and Mid-Hawthorn Aquifers underlying Cape Coral have been
 declining, and these aquifers are at or near their maximum developable limits (MDLs) in Cape Coral.
 Although the implementation of the Utilities Expansion Plan (UEP) has contributed to the rebound of
 the Mid-Hawthorn aquifer level in the southern service area by about 40 feet, an abundance of
 domestic self-supply wells combined with abnormally dry seasons continues to contribute to lower
 water table levels in the northern service area.
- Although the LWCSP has indicated that the Floridan Aquifer System (FAS) could supply sufficient water to meet the regional PWS demands through the 2040 planning horizon, Upper Floridan Aquifer (UFA) wellfields have experienced varying levels of water quality degradation. Sustainable withdrawal rates depend on localized aquifer properties, water quality, and proximity to other FAS production wells. Cape Coral constructed several monitor wells to track potential saltwater intrusion towards the UFA wellfields, and one of the wells has observed increasing salinity concentration from 1,500 mg/L to 10,000 mg/L within a few years, which indicate upward migration of saltwater into the UFA. The City has implemented well management and reduced withdrawals from the affected well.
- The City has been able to reduce its water demand by implementing strict restrictions on water use, as well as a separate potable/irrigation water system. The City is implementing several near term, mid term and long term storage projects to guarantee the availability of irrigation water for its customers. Projects include improvements to increase irrigation quality water received from the Florida Governmental Utility Authority (FGUA) beginning 2019, and conducting a full scale pilot test to evaluate the feasibility of utilizing inactive mining pits located in Charlotte County as a seasonal surface water source to supply its freshwater canals beginning 2020. An interlocal agreement was also signed to construct a reclaimed water transmission main across the Caloosahatchee River to obtain reclaimed water from the City of Fort Myers for irrigation purposes beginning 2023.

3 DATA AND ANALYSIS

3.1 Population Information

Cape Coral is a relatively young city, incorporated in 1970, and has an expansive land area. A vast majority of the city is preplatted into 5,000 square foot lots (10,000 square foot/ double lot standard building sites) for residential development. A large section of the City's land area remains undeveloped.

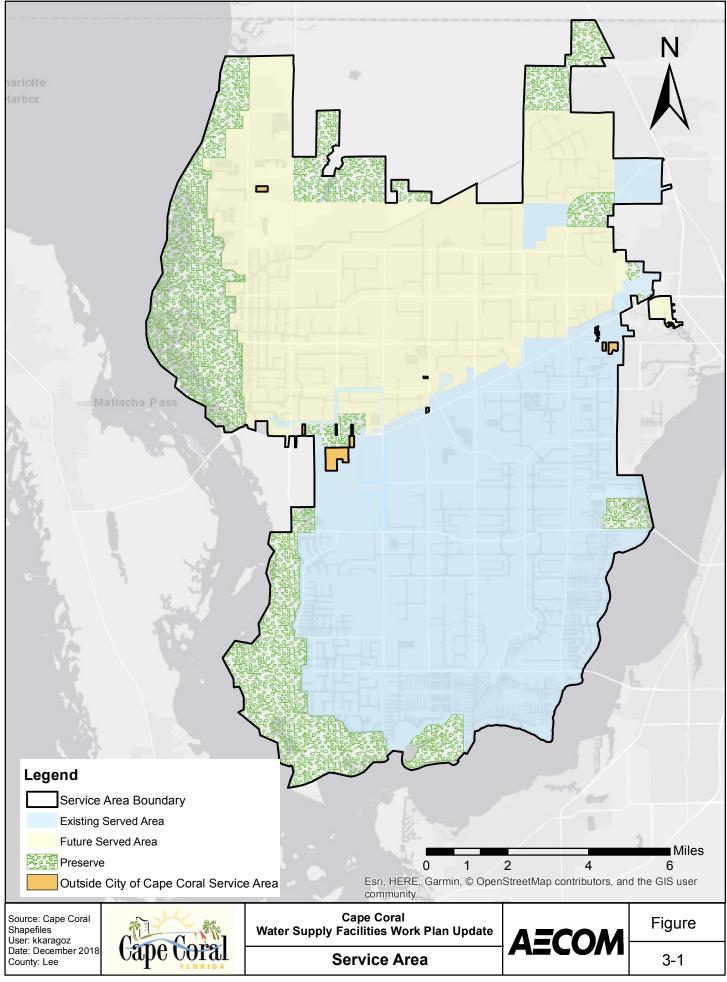
As of 2017, only approximately 75% of the population is served with potable water and irrigation. The remainder of the population relies on domestic self-supply wells for their water and irrigation needs.

The City has made efforts to extend utility service, which includes potable water, wastewater, and irrigation quality water, into newly developed regions of the service area as the population density increases through the Utility Expansion Program (UEP), which was initiated as an outcome of the 1999 Master Plan Update.

3.2 Current and Future Areas Served

The potable water and irrigation water service area extend to the entirety of the City. The distribution networks are concentrated mostly in the south of the service area, which has a higher population density. The irrigation quality water served area is smaller than the potable water service area and the City's goal is to extend service of both potable water and irrigation quality water to the entirety of the service area.

Development in the north of the service area is slowly increasing and future stages of the UEP will extend service to this area. Phases of the UEP located south of Pine Island Rd have already been completed, and Phases North 1 and North 2 are currently underway and scheduled to be completed by 2022.



3.3 Level of Service Standard

3.3.1 Potable Water Level of Service Standard

Potable water supplied by the City is produced at the North Reverse Osmosis Water Treatment Plant (North RO WTP) and the Southwest Reverse Osmosis Water Treatment Plant (SW RO WTP). Treated water is transferred to ground storage tanks located at four different locations in the City, and then pumped into the distribution system.

Records of plant production as well as water billed data for the last five years on a daily basis were provided by the City. The difference between water produced at the plant and water billed is unaccounted for water (UFW), which includes water used to flush the system and water lost due to leaks in the distribution system. During Fiscal Years 2013, 2015, & 2017 a portion of the water produced at the water treatment plants was also used to supply the irrigation water system. Total water produced by the plant including water for supplemental irrigation, as well as water produced for the water distribution system is presented in **Table 3-1**.

Fiscal Year	Estimated Population Connected to City Water ¹	Average Daily Total Production ²	Average Daily Potable Water Production (mgd)	Average Daily Billed (mgd)	UFW (%) ³	Per Capita Produced (gpdpc)	Per Capita Billed (gpdpc)	Maximum Total Daily Production	Total Water Peaking Factor	Maximum Potable Water Daily Production	Potable Water Peaking Factor
2013	124,099	9.41	9.38	7.99	10.00%	75.59	64.35	14.27	1.52	11.85	1.26
2014	125,315	9.63	9.63	8.14	10.20%	76.85	64.92	11.07	1.15	11.07	1.15
2015	128,537	9.98	9.81	8.31	10.10%	76.32	64.63	17.12	1.72	12.20	1.24
2016	134,750	10.05	10.05	8.80	6.40%	74.60	65.33	11.58	1.15	11.58	1.15
2017	138,105	12.86	10.88	9.54	5.00%	78.78	69.07	17.82	1.39	13.31	1.22
Average	130,161	10.39	9.95	8.55	8.34%	76.42	65.66	14.37	1.38	12.00	1.21
	eaks	12.89	10.88	9.54	10.20%		69.07	17.82	1.72	13.31	1.26

Table 3-1 Recent Potable Water Production Trends

The per capita Level of Service Standard (LOSS) was evaluated based on historical potable water production data, and the served population estimates, which are based on 2.5 persons per household and a vacancy rate of 12%. The City of Cape Coral established a Level of Service Standard for their utility system in the 2004 Facilities Planning Report that one service connection is equal to **200 gallons per day** of potable water demand on an annual average daily flow basis (AADF), which translates to **91 gallons per capita per day** (gpcd).

A summary of the 10-year historical per capita potable water usage is presented in **Table 3-2**. Based on the historical demands, the recommended level of service standard for potable water is **80** gallons per capita per day, which would result in an average of **176** gallons per day of potable water demand per connection on an annual average daily flow basis. This includes per capita demands for all water produced, unaccounted for losses and recorded operational losses.

Potable water peak demands are used to identify reliable system capacity requirements. **Table 3-2** shows the historical Annual Average Daily Demand (AADD), Maximum Month Daily Demand (MMDD), Maximum 3-Day Demand (M3DD) and Maximum Daily Demand (MDD). Ten States Standards recommend that reliable water treatment capacity be based on maximum daily demands.

¹⁾ Historical population based on number of connections, vacancy rate of 0.88, and 2.5 persons per household.

²⁾ Total water produced includes water produced for supplemental irrigation purposes and potable water purposes.

3) Unaccounted for water = 1 – ((Adjusted metered water for billing + Flushed/Leaked)/finished water pumped to system)

Table 3-2 10-Year Historical Per Capita Demand – Potable Water

Fiscal	Davis	Annual Average Daily Demand (AADD)		Maximum Month Daily Demand (MMDD)		Maximum 3-Day Demand (M3DD)		Maximum Daily Demand (MDD)	
Year	Permanent Population ¹	Potable Water Demand (MGD)	Per Capita Demand (gpcd) ²	Potable Water Demand (MGD)	Per Capita Demand (gpcd) ²	Potable Water Demand (MGD)	Per Capita Demand (gpcd) ²	Potable Water Demand (MGD)	Per Capita Demand (gpcd) ²
2008	113,362	9.73	86	10.57	93	11.01	97	11.69	103
2009	117,500	10.22	87	11.17	95	11.52	98	11.91	101
2010	119,830	9.02	75	10.07	84	10.87	91	12.22	102
2011	121,350	9.64	79	10.13	83	10.69	88	11.89	98
2012	122,563	9.49	77	10.33	84	11.03	90	11.94	97
2013	124,099	9.38	76	10.37	84	11.31	91	11.85	95
2014	125,315	9.63	77	10.15	81	10.64	85	11.07	88
2015	128,537	9.81	76	10.61	83	11.93	93	12.20	95
2016	134,750	10.05	75	10.92	81	11.38	84	11.58	86
2017	138,105	10.88	79	12.09	88	13.12	95	13.31	96
Ave	erage	9.79	79	10.64	86	11.35	91	11.97	96
P	eak	10.88	87	12.09	95	13.12	98	13.31	103

¹ Historical population based on number of service connections, vacancy rate of 0.88 and 2.5 persons per household.

As shown on **Figure 3-2 and Table 3-2**, the per capita demand for potable water alone has trended downward over the last 10 years (FY2008 – FY2017). The per capita demand decreased from **86** gpcd in FY2008 to **79** gpcd in FY2017, with the lowest of 75 gpcd in 2010 and 2016. During the majority of the 10-year period, per capita demand values remained under **80** gpcd. This decrease may be attributed to a combination of the City's water conservation policies, an ongoing program for replacing aging pipes which reduces losses due to leaks, and the expansion of the City's irrigation water distribution network as a separate system.

Table 3-3 10-Year Historical Per Capita Demand - Total Water Including Supplemental Irrigation

		Annual Average Daily Den	nand (AADD)	Maximum Daily Demand (MDD)		
Fiscal Year	Permanent Population	Total Demand Including Supplemental Irrigation (MGD)	Per Capita Demand (gpcd)	Total Demand Including Supplemental Irrigation (MGD)	Per Capita Demand (gpcd)	
2008	113,362	9.73	86	11.69	103	
2009	117,500	10.22	87	11.91	101	
2010	119,830	9.02	75	12.22	102	
2011	121,350	9.64	79	11.89	98	
2012	122,563	9.68	79	13.88	113	
2013	124,099	9.41	76	14.27	115	
2014	125,315	9.63	77	11.07	88	
2015	128,537	9.98	78	17.12	133	
2016	134,750	10.05	75	11.58	86	
2017	138,105	12.86	93	17.82	129	
Average		10.02	80	13.35	107	
	Peak	12.86	93	17.82	133	

¹Historical population based on number of service connections, vacancy rate of 0.88, and 2.5 persons per household.

² Per capita demand calculated by dividing potable water demand by permanent population.

 $^{^{2}}$ Per capita demand calculated by dividing potable water demand by permanent population.

Total water production, which includes water produced to supplement the irrigation water system, has increased over the same period of time. As shown on **Table 3-3**, average daily demand increased from **86** gpcd in FY2008 (when no water was produced for supplemental irrigation) to **93** gpcd in FY2017. Maximum day demands also increased from **103** gpcd in FY2008 to **129** gpcd in FY2017.

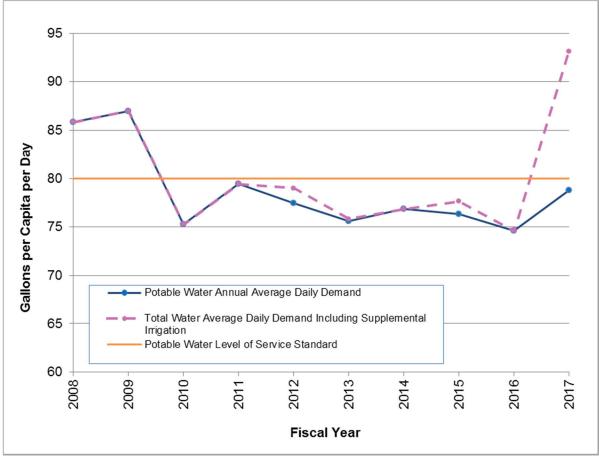


Figure 3-2 Historical Per Capita Water Demand Trends

Refer to Table 3-2 and Table 3-3 footnotes.

The Maximum Daily Demand peaking factor is utilized for planning in order to ensure that the system has adequate capacity to handle anticipated maximum demands. Max Daily Demand Peaking Factors are used when designing and permitting water treatment facilities. Peaking factors for the City are established based on 10-year historical plant production data. The analysis of per capita demand for the Maximum Month Daily demand, Maximum 3-Day Demand, and Maximum Daily demand and the corresponding peaking factors is presented in **Table 3-4**. A maximum day peaking factor for total demand including supplemental irrigation was also established for planning purposes.

2017

Average

Recommended

Peak

138,105

124,541

Total Demand Maximum Month Maximum 3-Day Maximum Daily Daily Demand Demand (M3DD) Demand (MDD)² Supplemental Average Permanent (MMDD)² Irrigation MDD Fiscal Year **Population** System Peaking Peaking Peaking Peaking (AADD)² Demand Demand Demand Demand **Factor** Factor Factor **Factor** (MGD) (MGD) (MGD) (MGD) 2008 113,362 9.73 10.57 1.09 11.01 1.13 11.69 1.20 11.69 1.11 2009 117.500 10.22 11.17 1.09 11.52 1.13 11.91 1.17 11.91 1.07 2010 119,830 9.02 10.07 1.12 10.87 1.21 12.22 1.35 12.22 1.21 2011 1.05 10.69 1.11 11.89 1.23 11.89 1.17 121,350 9.64 10.13 2012 9.49 1.09 11.03 1.16 11.94 1.26 1.34 122,563 10.33 13.88 124,099 9.38 10.37 1.11 11.31 1.21 11.85 1.26 14.27 1.38 2013 1.10 11.07 1.09 2014 125,315 9.63 10.15 1.05 10.64 1.15 11.07 10.61 1.22 12.20 1.24 2015 128,537 9.81 1.08 11.93 17.12 1.61 2016 134,750 10.05 10.92 1.09 11.38 1.13 11.58 1.15 11.58 1.06

1.21

13.31

11.97

1.35

1.35

1.22

1.22

17.82

13.35

1.61

1.60

1.47

1.25

13.12

11.35

1.20

Table 3-4 Potable Water Demand Peaking Factor Analysis

1.11

1.09

12.09

10.88

9.79

3.3.2 Irrigation Quality Water Level of Service Standard

1.10

Irrigation Quality water is sourced from the City's canal system as well as the City's Everest and Southwest WRFs. Over the past years, supplemental irrigation water has also been produced at the water treatment plants during the dry season. Records of monthly irrigation flows for the last ten years and number of accounts as of July 2018 were provided by the City. According to the data provided, as of July 2018, almost 90 percent of all irrigation accounts were from single-family parcels, and over 12 percent of the land in the City was irrigated with the City system (**Table 3-5**).

Account Description	Accounts ¹	Percent of Total	Irrigated Area ² (ft ²)	Irrigated Area (Acres)
Commercial – Metered	376	1%	752,000	17
Commercial - Non metered	551	1%	1,102,000	25
City Accounts – Metered	32	0%	3,066,624	70
City Accounts – Unmetered	514	1%	49,257,648	1,131
Duplex	3,406	7%	20,163,520	463
Multi-Family	1,146	2%	6,784,320	156
Single Family	45,577	88%	305,593,785	7,015
Total	51,602	100%	386,719,897	8,878

Table 3-5. Summary of Irrigation Accounts by Type – July 2018

Historical population based on number of connections, vacancy rate of 0.88 and 2.5 persons per household.

² Potable water only - adjusted to exclude water produced to supplement irrigation.

¹⁾ Account data as of July 2018 provided by City of Cape Coral Financial Services.

²⁾ Irrigated area is based on the following assumptions (from 2011 Irrigation and ASR Master Plan):

[•] Each account represents one parcel lot, which is 10,000 ft2 (the standard size of a City Lot)

[•] For Single-Family - 67.05 percent (or 6,705 ft2) per lot are irrigated acres. Sixty seven percent was determined previously in the City 1989 Stormwater Management Utility Report and agreed upon by the SFWMD through the WUP modification process (MWH, 2005).

[•] For Multi-Family and Duplex - 59.2 percent (or 5,920 ft2) per lot are irrigated acres. This reduced area is based on an estimate that multi-family residential lots have 7.85 percent less pervious area than single-family lots.

[•] For City - Irrigated areas were determined to be 95,832 sf per lot. This is based on an estimate of the area of City-owned property that is pervious.

[•] For Commercial - Irrigated acres are 20 percent of the lot. This is based on an estimate that assumes that commercial land use has more impervious area than residential lots.

Irrigation usage over the past decade was used to determine current average and maximum per capita rates. This analysis determined an average irrigation usage of **214 gpcd**, which is consistent with the rate determined in the 2011 Irrigation and ASR Master Plan and used to determine projected irrigation demands, while the maximum day usage rate of **336 gpcd** is slightly lower than the 2011 rate of 359 gpcd.

Using 1 inch per irrigable acre per week, it is estimated that the irrigation water required for the existing customers is approximately 241 million gallons per week, or 40 MGD (irrigation is only allowed 6 days per week). The City's irrigation demands have already surpassed 40 MGD on a max day basis on five instances over the past decade.

Fiscal Year	Total Irrigation Demand ¹ (MG)	Average Daily Demand (MGD)	Maximum Day Demand (MGD)	Irrigation Population ²	Average Per Capita Demand ³ (GPCD)	Maximum Day Per Capita Demand
2004	9,836	26.9	36.1	100,475	268	359
2005	8,075	22.1	32.5	104,665	211	311
2006	8,062	22.1	29.5	110,248	200	268
2007	8,089	22.1	27.9	108,082	204	258
2008	7,892	21.6	39.9	109,856	196	363
2009	8,259	22.6	34.9	112,022	202	312
2010	8,335	22.8	33.4	113,302	202	295
2011	1,898	24.7	34.3	114,581	215	299
2012	7,674	28.0	41.1	115,861	242	355
2013	9,619	26.4	40.9	117,141	225	349
2014	9,943	27.2	44.3	118,420	230	374
2015	9,365	25.7	38.5	119,700	214	321
2016	7,070	25.9	42.6	120,980	214	352
2017	9,123	25.0	41.8	122,259	204	342
10-Year Average	7,918	25	39	116,412	214	336

Table 3-6. Summary of Recent Historical Irrigation Demand

3.4 Population and Demand Projections

Accurate population forecasting is critical for communities that have not been fully developed in order to correctly estimate and plan for infrastructure investments and maintain adequate service. While underestimating population may result in infrastructure becoming insufficient, overestimating population may lead to premature and unnecessary public expenditures. The population growth models for the City created by various entities are general tools to assist in the update of the City's plans to guide development. For the purposes of this work plan, the following population projection models were considered:

^{1.} Historical irrigation demand (2004-2007) from the City's 2011 Irrigation and ASR Master Plan, demand for 2008-2017 provided by City of Cape Coral.

^{2.} Irrigation population for the period of 2004-2009 obtained from the City's Irrigation and ASR Master Plan (2011). Irrigation population for 2010-2017 estimated via linear projection through the 2018 number of irrigation customers.

^{3.} Per capita demands obtained by dividing demand by irrigation population.

CAPE CORAL INTERACTIVE GROWTH MODEL

Over the years, the City has developed a set of tools to help improve the accuracy and reliability of population projections including the Cape Coral Interactive Growth Model developed by Metro Forecasting.

The City of Cape Coral's Planning Division (Part of the Department of Community Development) utilizes an electronic "Cape Coral Interactive Growth Model" (CCIGM) to track growth and development trends within the City. The key input for the model is City Staff's five-year population forecast update. The population forecast was updated through incorporation of changes and trends occurring between 2006 and 2009. It must be noted that the population forecast update estimates total population growth through the City's currently forecast buildout year (2080), however, the actual portion of the population served by the utilities is required for demand projections.

Prior to 2001, and the introduction of the CCIGM, population forecasts for Cape Coral tended to underestimate growth. The initial CCIGM, released in 2001, forecast a significantly higher rate of growth than previous studies. The original CCIGM concluded that between 2001 and 2020, Cape Coral would likely experience the highest rate of growth for its entire development period prior to build-out. Changes have occurred in the future land use plan including annexations, demographic trends and a new variable, regional development pressure, which affected the rate of population growth in the general area, and especially in Cape Coral.

In applying the population forecast model to the City of Cape Coral, the model was revised to incorporate changes to the potential number of dwelling units at buildout, changes in vacancy rates, as well as the effects of development pressures. The functional population was then recalculated by analyzing the most recent traffic counts in the main traffic corridors of the City for the months of February and July. Coefficients were calculated after outliers were eliminated resulting in an index of 1.17 times the permanent population.

It is important to note that while the CCIGM projects total population for the City, the actual portion of the population served by the utilities is required for demand projections.

SFWMD POPULATION PROJECTIONS

The South Florida Water Management District develops population projections for the elaboration of the Lower West Coast Water Supply Plan Update in coordination with stakeholder groups, other agencies, utilities and local governments. The projections use the 2010 United States Census population as a starting point, 2014 as the current year, and 2040 as the future planning horizon for the Lower West Coast (LWC) Planning Area. These projections take into account permanent residents within the planning area, which includes only service areas from PWS utilities. Service area populations were adjusted to 2014 populations using BEBR estimated medium annual growth rates from 2010 through 2014 (Rayer and Wang 2015). The 2014 estimated county populations then were assigned to 2014 utility service areas, resulting in the 2014 PWS service area populations.

To obtain 2040 populations, information from the Lee County Metropolitan Planning Organization was utilized. The MPO published sub-county population estimates and projections as part of its Long Term Regional Transportation Plan. The 2040 MPO projections were based on the anticipated location of schools, public spaces, transportation infrastructure, residential development, and employment opportunities driven by local development objectives. Building on these key characteristics, the aggregated set of 2040 MPO projections was the basis for calculating relative growth rates across the LWC planning area. The MPOs distributed medium BEBR 2040 county population projections into hundreds of traffic analysis zones (TAZs). The SFWMD assigned individual TAZs to 2040 utility service areas to establish the 2040 population.

RECOMMENDED POPULATION FORECAST

AECOM developed a Recommended Served Population Forecast for the purpose of this work plan after reviewing the different projections provided by the agencies and comparing them with historical population estimates based on actual number of accounts served by the City. The Recommended Forecast utilizes a vacancy rate and number of persons per household recommended by Metro Forecasting and is based upon the assumption that the rate of development observed in the past 10 years will be maintained, and that the UEP will continue to integrate customers into the system at the current rate of 2.4%.

Figure 3-3 shows the comparison of the different Population Projection Models and the Recommended Served Population Forecast and clearly shows that the 2012 LWCWSP and the CCIGM overestimated 2016 population by about 30,000 – 50,000 (the CCIGM because it represents total population). The population forecast recommended by AECOM more closely estimates actual served population and follows a similar trend to the 2017 LWCWSP, which forecasts total population in the City.

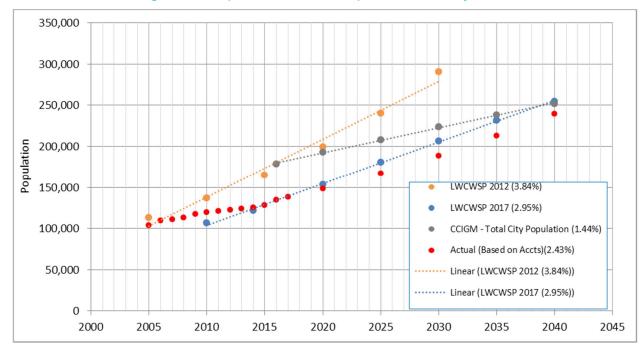


Figure 3-3 Comparison of Different Population Model Projections

 $1) \ Population \ for 2005-2017 \ based \ on \ estimates \ provided \ by \ the \ City, \ population \ for ecast \ for 2018-2040 \ estimated \ based \ on \ historical \ growth \ rate.$

3.4.1 Potable Water Demand Projections

3.4.1.1 Potable Water to be Supplied by the City

The potable water demand forecast for 2018 to 2040 is based on the historical 10-year (2008-2017) average production demand of **80** gallons per capita per day. The forecast estimates a potable water maximum day demand of 20.30 MGD in 2030 and 25.74 mgd by 2040 **Table 3-7** gives yearly estimated projections throughout the planning period. If the potable water system were to continue supplementing the irrigation water system, the projected maximum day demand including supplemental water is 24.06 MGD in FY 2030 and 30.50 MGD in FY 2040.

Table 3-7 Potable Water Demand Projections

Fiscal Year	Population	Potable Water AADD (MGD) ¹	Potable Water MMDD (MGD) ¹	Potable Water M3DD (MGD) ¹	Potable Water MDD (MGD) ¹	Total Demand, Including Supplemental Irrigation Water MDD (MGD) ²
Α	В	С	D = C*1.10	E = C*1.20	F = C*1.35	G = C*1.60
2018	141,419	11.31	12.44	13.58	15.27	18.10
2019	144,813	11.59	12.74	13.90	15.64	18.54
2020	148,289	11.86	13.05	14.24	16.02	18.98
2021	151,848	12.15	13.36	14.58	16.40	19.44
2022	155,492	12.44	13.68	14.93	16.79	19.90
2023	159,224	12.74	14.01	15.29	17.20	20.38
2024	163,045	13.04	14.35	15.65	17.61	20.87
2025	166,958	13.36	14.69	16.03	18.03	21.37
2026	170,965	13.68	15.04	16.41	18.46	21.88
2027	175,069	14.01	15.41	16.81	18.91	22.41
2028	179,270	14.34	15.78	17.21	19.36	22.95
2029	183,573	14.69	16.15	17.62	19.83	23.50
2030	187,979	15.04	16.54	18.05	20.30	24.06
2031	192,490	15.40	16.94	18.48	20.79	24.64
2032	197,110	15.77	17.35	18.92	21.29	25.23
2033	201,840	16.15	17.76	19.38	21.80	25.84
2034	206,685	16.53	18.19	19.84	22.32	26.46
2035	211,645	16.93	18.62	20.32	22.86	27.09
2036	216,724	17.34	19.07	20.81	23.41	27.74
2037	221,926	17.75	19.53	21.30	23.97	28.41
2038	227,252	18.18	20.00	21.82	24.54	29.09
2039	232,706	18.62	20.48	22.34	25.13	29.79
2040	238,291	19.06	20.97	22.88	25.74	30.50

Projected potable water demands estimated based on AADD of 80 gpcd, a MMDD peaking factor of 1.10, M3DD peaking factor of 1.20, and MDD peaking factor of 1.35.

3.4.1.2 Domestic Self-Supply Water

Residents of the northern areas of the City where the UEP has not yet reached obtain drinking and irrigation water from domestic wells. The amount of well water used by the residents in these areas has been estimated based on the level of service standard for the City's utility customers. The projected demands for these residents are provided in Table 3-1. It is estimated that the UEP will expand service to the entire service area by 2040.

Projected total water demands (Including water for supplemental irrigation) MDD based on AADD of 80 gpcd, and a total water MMDD peaking factor of 1.60.

Table 3-8 Estimated Potable Water and Irrigation Water Use from Domestic Self-supply Wells.

Fiscal Year	Population ¹	AADD (MGD) ²
2020	33,702	9.94
2025	28,459	8.40
2030	21,361	6.30
2035	12,025	3.55
2040	0	0.00

¹⁾ Population estimates based on current percentage of population on Domestic Self Supply Wells (DSS) (25%), and a linear projection to 0% in 2040, which is the estimated UEP completion date.

The above projections for water used from domestic self-supply wells assume that private wells will be taken offline as service becomes available from the City's utility.

3.4.2 Irrigation Water Demand Projections

A per capita demand Level Of Service Standard (LOSS) of 215 gpcd (based on the 10-year average of 214 gpcd) was used along with the projected population served by the irrigation system to estimate average annual and maximum daily demand. The population served by the irrigation system was estimated based on the number of accounts as of July 2018, provided by the City, an average household size of 2.5, and a vacancy rate of 12%. Population forecasts are based on the same growth rate as the potable water system. **Table 3-9** summarizes the projected irrigation water demands through 2040. It is estimated that average daily irrigation demands will grow by 154% by 2040 compared to 2018.

²⁾ Projected demand based on 80 gpcd for potable water and 215 gpcd for irrigation quality water (combined).

Table 3-9. Irrigation Water Demand Projections

Fiscal Year	Projected Population ¹	Projected Demand (Average Day) ²	Projected Demand (Max Day) (MGD) ³
2018	123,539	26.56	42.50
2019	126,504	27.20	43.52
2020	129,540	27.85	44.56
2021	132,649	28.52	45.63
2022	135,832	29.20	46.73
2023	139,092	29.90	47.85
2024	142,431	30.62	49.00
2025	145,849	31.36	50.17
2026	149,349	32.11	51.38
2027	152,934	32.88	52.61
2028	156,604	33.67	53.87
2029	160,363	34.48	55.16
2030	164,211	35.31	56.49
2031	168,152	36.15	57.84
2032	172,188	37.02	59.23
2033	176,320	37.91	60.65
2034	180,552	38.82	62.11
2035	184,885	39.75	63.60
2036	189,323	40.70	65.13
2037	193,866	41.68	66.69
2038	198,519	42.68	68.29
2039	203,284	43.71	69.93
2040	208,162	44.75	71.61

¹⁾ Population estimates based on number of accounts as of July 2018, 2.5 persons per household, 12% vacancy rate and a 2.4% growth rate.

3.5 Water Supply Provided by Local Government

The City water system is divided into two separate systems (dual water system), which was adopted in September 1984 as a condition of the consumptive use permit from the South Florida Water Management District. The drinking water (primary) system utilizes subsurface brackish water aquifers as a raw water source to be processed into potable water by the City's two Reverse Osmosis plants. The irrigation water (secondary) system utilizes water from the City's extensive network of freshwater canals to provide non-potable (irrigation and limited fire protection) water for the City. In November 1989, a public referendum endorsed the use of treated effluent for residential reuse. At that point, the secondary system was expanded to include treated effluent to supplement the canal water for non-potable purposes. Since that time, the City has provided reuse irrigation water service to areas which essentially overlap the City's potable water service areas. Use of the secondary water system for irrigation has enabled the City to lower its annual per capita demand for potable water.

²⁾ Average daily demand based on population and demand of 215 gallons per capita per day.

³⁾ Max day irrigation water demand = ADD * 1.6 Max day demand peaking factor

3.5.1 DRINKING WATER SYSTEM:

The primary water system utilizes a reverse osmosis (RO) system to treat subsurface brackish water from the Upper Floridan aquifer. Brackish raw water is obtained from 56 wells and supplied to the two water treatment plants (WTP) via three raw water transmission systems. The City's Water Use Permit number 36-00046-W by the South Florida Water Management District allows the city to withdraw up to 1,312 MG monthly or 14,326 MG per year of raw water from 70 permitted wells. This permit will expire on October 22, 2029.

The City operates and maintains two potable water production facilities; the Southwest RO WTP with a capacity of 18.1 million gallons per day (MGD), and the North RO WTP with a capacity of 12 MGD. Additionally, two water storage and repump stations are used to boost water pressure in the potable water transmission and distribution systems.

The Southwest RO WTP is comprised of two plants and is equipped with three 5.0 million gallon prestressed concrete ground storage tanks. Plant No.1 was built in 1977, and is supplied by 12 production wells. The plant was expanded to 6.0 MGD production capability in 1980. The three-stage RO process of the plant consists of 10 treatment trains, each treatment train is composed of 10 first-stage pressure vessels, seven second stage pressure vessels, and four third-stage pressure vessels. Plant No. 1 produces 78.5 gallons of potable water from each 100 gallons of water removed from the wells. Plant No. 2 is a 12.1 MGD, two-stage RO process built in 1985 and supplied by 21 wells. Plant No. 2 consists of eight treatment trains, each composed of 20 first-stage pressure vessels and 10 second stage pressure vessels. Plant No. 2 produces 84 gallons of potable water from each 100 gallons of water removed from the wellfield. The permitted production capacity of this facility is 18.1 MGD, which can be produced using approximately 21.5 MGD of raw water while producing approximately 3.4 MGD of concentrate water requiring disposal. The firm capacity of Plant No.1 with one of the 10 membrane process trains out of service is 5.4 MGD and the firm capacity of Plant No. 2 with one of the eight membrane process trains out of service is 10.6 MGD, providing a combined firm capacity for the Southwest RO WTP of 16 MGD.

Construction for the North RO WTP began in FY 2006 and was completed during FY 2010. The permitted production capacity of the North RO WTP is 12.0 MGD, which can be produced using approximately 14.5 MGD of raw water while producing approximately 2.5 MGD of concentrate water requiring disposal. The firm capacity of this water treatment plant with one of the four membrane process trains out of service is 9.0 MGD. The treatment process consists of four membrane treatment trains, each with 48 first-stage pressure vessels (expandable to 54) and 24 second stage pressure vessels (expandable to 27). The plant is equipped with a 12-million gallon prestressed concrete ground storage tank. Additional storage of potable water is provided by a 1 MG ground storage tank located at the Van Loon Pumping Station and a 2 MG GST located at the Palm Tree Pumping Station. The City has initiated geological studies to evaluate groundwater supply options.

Based on population projections for the City, a capacity analysis was performed to evaluate future demands versus plant capacity and permitted allocation for the system. The reliable water treatment capacity, defined as the treatment capacity with the largest process unit offline, is compared to the projected maximum day demand to determine if the system has a surplus or deficit.

The results of the capacity analysis are summarized below in **Table 3-10**. and **Figure 3-4**. As shown on the table, the City has sufficient plant treatment capacity to supply its potable water demand (without supplemental irrigation water) beyond 2035. There is a calculated treatment capacity deficit that reaches **0.74** MGD by **2040**. Permitted raw water consumption is forecasted to be sufficient through 2040.

If the City's potable water plants are to continue producing supplemental irrigation water, additional treatment capacity will be required by 2031, and the deficit would reach 5.50 MGD by 2040. Permitted raw water consumption will be sufficient for providing supplemental irrigation water through 2040. A comparison of projected demand with and without supplemental irrigation water is presented on **Figure 3-4**.

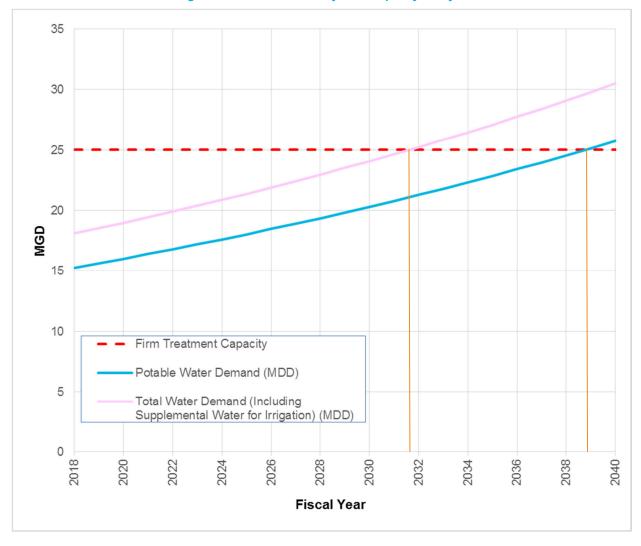


Figure 3-4. Potable Water System Capacity Analysis

Table 3-10 Capacity Analysis – City of Cape Coral Potable Water System

	Histo	orical		Projections					
	2009	2014	2018	2020	2025	2030	2035	2040	
Service Area Population	117,500	125,315	141,419	148,289	166,958	187,979	211,645	238,291	
Potable Water Demand Per Capita (gpcd)	87	77	80	80	80	80	80	80	
Potable Water Annual Average Daily Demand (MGD)	10.22	9.63	11.31	11.86	13.36	15.04	16.93	19.06	
Potable Water Maximum Daily Demand (MGD)	11.91	11.07	15.27	16.02	18.03	20.30	22.86	25.74	
Total Water Including Supplemental Irrigation Maximum Daily Demand (MGD)	11.91	11.07	18.10	18.98	21.37	24.06	27.09	30.50	
Firm Facility Capacity (MGD) ¹	25.0	25.0	25.0	25.0	25.0	25.0	25.0	25.0	
Potable Water Production Facility Capacity Surplus (Deficit) (MGD) ²	13.09	13.93	9.73	8.98	6.97	4.70	2.14	(0.74)	
Total Water Including Supplemental Irrigation - Facility Capacity Surplus (Deficit) (MGD)	13.09	13.93	6.90	6.02	3.63	0.94	(2.09)	(5.50)	
Raw Water Requirement (MGD) ³	15.18	14.11	19.47	20.42	22.99	25.88	29.14	32.81	
Total Water Including Supplemental Irrigation - Raw Water Requirement (MGD) ³	15.18	14.11	23.08	24.20	27.24	30.67	34.54	38.88	
Permitted Amount (MGD Annual Average) ⁴	39.2	39.2	39.2	39.2	39.2	39.2	39.2	39.2	
Potable Water Permitted Surplus (Deficit) (MGD) ⁵	24.1	25.1	19.8	18.8	16.3	13.4	10.1	6.4	
Total Water Including Supplemental Irrigation - Permitted Surplus (Deficit) (MGD) ⁵	24.1	25.1	16.2	15.1	12.0	8.6	4.7	0.4	

Firm capacity is plant capacity with the largest process train out of service.

3.5.2 IRRIGATION WATER SYSTEM:

FRESHWATER CANAL WATER

The secondary water system consists of five City owned and operated canal pump stations, which draw water from 300 miles of freshwater canals in the City and pump it directly into the reuse distribution system after filtration/screening and liquid chlorine injection. As water levels decline in the southern canals, a transfer pump station is utilized to pump water from canals north of Pine Island Road into the southern canal system. The City's five canal pump stations have the combined total pumping capacity to provide approximately 59,200 gpm (85.2 MGD) of irrigation water and fire protection.

² Calculated by subtracting Maximum Daily Demand from Firm Facility Capacity.

³ Raw water requirement is the amount of raw water needed to produce a certain amount of finished water. It is calculated by dividing the MDD by the efficiency of the system (2013-2017 efficiency average is 78.44%).

⁴ CUP (36-00046-W) for 39.2 MGD annual average expires October 22, 2029. Annual average calculated dividing 14326 MG annual allocation by 365 days.
⁵ Calculated by subtracting the Raw Water Requirement from the Permitted Amount

RECLAIMED WATER

The City currently operates two water reclamation facilities (WRFs). The Everest WRF is permitted for 13.4 MGD, and the Southwest WRF permitted capacity is 15.0 MGD. When demands of the reuse irrigation system exceed the water available from the canals, the City utilizes effluent from both the Everest WRF and the Southwest WRF as sources of supply for the reuse system. There are two 5.0 million gallon storage tanks at the Everest WRF, and the Southwest WRF has three 5.0 million gallon storage tanks. Excess effluent is pumped into deep injection wells or discharged into the Caloosahatchee River. However, no effluent has been discharged into the river since October 2008.

In order to increase the availability of canal water to supply the irrigation system, the City has completed several weir improvement projects with more underway in the northern part of the service area to capture more water for irrigation use and to maintain the levels of the freshwater canal system. In addition to these measures, the City is also pursuing several alternatives to increase its irrigation water availability and reduce demands on the canal system:

- Construction of a new canal pump station and pipeline to support the North 2 UEP.
- A test Aquifer Storage and Recovery (ASR) well was installed in order to investigate the potential of storing
 excess water in the aquifer during the wet season with recovery during the dry season.
- A pilot pumping test was carried out to evaluate the feasibility of using inactive mining pits at the Southwest Aggregates Mine located in south Charlotte County as a surface water source to supply water to the Cape Coral canals.
- Pursuing the permitting for Weir 29 which will increase storage capacity in the canal network by 1 MGD by 2020.
- Working with the City of Fort Myers regarding the potential of constructing an interconnect pipeline which would allow transfer of excess reuse water from Fort Myers to Cape Coral.
- Construction of a pipeline to increase conveyed reclaimed water from FGUA to the City.
- Removal of fire suppression from the irrigation system.

Existing and planned sources for irrigation water are shown in Table 3-11. The City has an interlocal agreement with the Florida Governmental Utility Authority (FGUA), which currently provides 0.25 MGD additional irrigation water to the City. The water provided will increase when reuse system improvements are completed. The City will also obtain irrigation quality water from the City of Fort Myers via a river crossing force main that is planned to be completed by 2022 and will provide 6 MGD starting in 2023.

Table 3-11 Projected Irrigation Quality Water Availability

		•		urce		
	Projected		Total Irrigation			
Fiscal Year	Served Wastewater Population	Reclaimed Water (MGD) ²	Canal Water (Average) (MGD) ³	External Reclaimed Water (MGD) ⁴	External Surface Water (MGD) ⁵	Water Availability (MGD)
2018	134,319	13.00	22.50	0.25	-	35.75
2019	137,542	13.31	22.50	0.25	10.00	46.06
2020	140,843	13.63	23.50	0.25	16.00	53.38
2021	144,224	13.96	23.50	1.50	16.00	54.96
2022	147,685	14.30	23.50	1.50	16.00	55.30
2023	151,229	14.64	23.50	7.50	16.00	61.64
2024	154,859	14.99	23.50	7.50	16.00	61.99
2025	158,576	15.35	23.50	7.50	16.00	62.35
2026	162,381	15.72	23.50	7.50	16.00	62.72
2027	166,278	16.10	23.50	7.50	16.00	63.10
2028	170,269	16.48	23.50	7.50	16.00	63.48
2029	174,356	16.88	23.50	7.50	16.00	63.88
2030	178,540	17.28	23.50	7.50	16.00	64.28
2031	182,825	17.70	23.50	7.50	16.00	64.70
2032	187,213	18.12	23.50	7.50	16.00	65.12
2033	191,706	18.56	23.50	7.50	16.00	65.56
2034	196,307	19.00	23.50	7.50	16.00	66.00
2035	201,018	19.46	23.50	7.50	16.00	66.46
2036	205,843	19.93	23.50	7.50	16.00	66.93
2037	210,783	20.40	23.50	7.50	16.00	67.40
2038	215,842	20.89	23.50	7.50	16.00	67.89
2039	221,022	21.39	23.50	7.50	16.00	68.39
2040	226,327	21.91	23.50	7.50	16.00	68.91

^{1.} Population estimates for Irrigation availability based on number of wastewater accounts, 2.5 persons per household, 12% vacancy rate and a 2.4% growth rate.

The irrigation water available from canals is the total permitted average over the year. Seasonal variations in available water in the canals make it necessary to develop a storage system in order to access the full available volume throughout the year. The seasonal impacts on irrigation water sources are shown in **Figure 3-5**.

^{2.} Reclaimed water availability estimated based on an average usage of 110 gallons per capita per day, number of wastewater customers, and a minimum monthly flow factor of 0.88 based on 10-year historical analysis of wastewater flows.

Canal Water availability estimated at 22.5 MGD (Based upon average buildout conditions during dry season noted in "2012 Irrigation and ASR Master Plan". Weir 29 will increase this by 1.0 MGD in 2020.

^{4.} External reclaimed water includes water provided via interlocal agreement with FGUA (Currently 250,000 gpd, minimum 1.5 MGD by 2021), and with the City of Fort Myers (6 MGD starting 2023, up to 12 MGD)

^{5.} External surface water includes water flows to the system over a 4-month period during dry season from Southwest Aggregates Mine reservoir. Phase I provides 10 MGD in 2019 and Phase II provides 16 MGD in 2020.

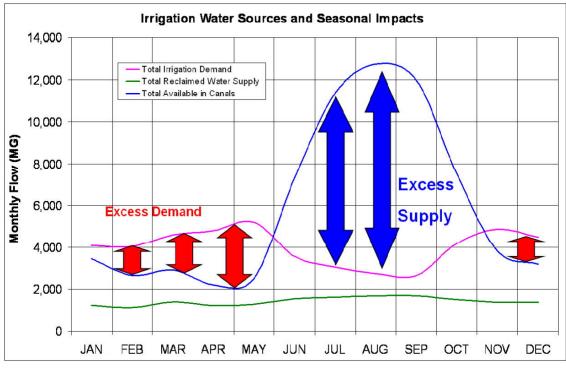


Figure 3-5. Irrigation water sources and seasonal impacts

Source: Cape Coral Integrated Water Resource Management Plan.

A gap analysis was conducted for the irrigation quality water system. As shown on **Table 3-12**, in FY 2018 there was a deficit of 6.75 MGD when comparing Maximum Day Demand to Irrigation Water availability when canal water is estimated at 22.5 MGD. The irrigation system is projected to be able to satisfy demands throughout 2035. Additional 2.70 MGD will be necessary to satisfy demands by FY 2040.

	2018	2020	2025	2030	2035	2040
Served Irrigation Population	123,539	129,540	145,849	164,211	184,885	208,162
Demand Per Capita (gpcd)	215	215	215	215	215	215
Annual Average Daily Demand (MGD)	26.56	27.85	31.36	35.31	39.75	44.75
Maximum Day Demand (MGD)	42.50	44.56	50.17	56.49	63.60	71.61
Available Irrigation Quality Water (MGD)	35.75	53.38	62.35	64.28	66.46	68.91
Irrigation Water Surplus (Deficit) (MGD) ²	(6.75)	8.82	12.18	7.79	2.86	(2.70)

Table 3-12. Irrigation Quality Water System Gap Analysis

3.6 Water Supply Provided by Other Entities

The Greater Pine Island Water Association (GPIWA) service area includes a portion of Cape Coral that is bound on the north by Embers Parkway, on the east by Nott Road (Southwest 20th Street), on the south by Pine Island Road (except for a small area just south of Pine Island Road near Veteran's Parkway), and on the west by Matlacha Pass (not including the Matlacha Isles development). However, not all of this area currently receives service, as portions of the service area are currently undeveloped. GPIWA also provides service to commercial establishments along S.R. 78, an apartment complex and some

¹⁾ Irrigation water surplus/deficit estimated by subtracting Maximum Daily Demand from Available Irrigation Water.

residential units in Unit 54 and 58. The GPIWA has a contract to service this area until the City is able to provide service to individuals in this area and will discontinue service when the City extends water service to this area.

In order to supplement its irrigation water needs, the City entered an agreement on February 2017 to obtain reuse irrigation water from the FGUA utilities located in North Fort Myers, which continues an agreement started with the North Fort Myers Utility, Inc. in 2004. FGUA currently supplies the City with 0.25 MGD, and will supply a minimum of 1.5 MGD, average of 3.5 MGD of reuse irrigation water on an annual average flow basis with peak flow of up to 6 MGD once improvements to the reuse system are completed. The City also entered into an interlocal agreement to construct a reuse water transmission main across the Caloosahatchee River to obtain 9.0 MGD and ultimately 12.0 MGD of effluent from the City of Fort Myers.

Bulk water purchases from other entities have not been made by the City since FY 2013.

3.7 Conservation

The City has implemented several water conservation programs primarily directed toward reducing the amount of potable water that is used by City residents to irrigate lawns and landscaped areas. The City also has programs promoting household water conservation.

3.7.1 Countywide Issues – Not Applicable

3.7.2 Local Government Specific Actions, Programs, Regulations, or Opportunities

The City of Cape Coral has implemented a number of water conservation elements including restrictions on permitted water usage, use of Florida-friendly planting principles, requirement of ultra-low volume plumbing in new construction, a water conservation based rate structure, a meter replacement program, rain sensor over-rides for new lawn sprinkler systems, and public educational programs. Summary information on each of these elements is provided below.

Restrictions on Permitted Water Use

The City of Cape Coral has implemented the following Year-Round Irrigation Conservation Measures that are more stringent than the statutory measures detailed in 40E-24 Florida Administrative Code.

WATERING SCHEDULE:

All residents in Cape Coral are allowed to water two days each week *regardless of the source for the irrigation water*. Permitted watering times are regulated by the last number in a property's address.

The two day schedule, in effect for all Cape Coral residents is as follows:

Monday and Friday: Midnight to 4 a.m. for addresses ending in 0

Monday and Friday: 4 a.m. to 8 a.m. for addresses ending in 1

Wednesday and Saturday: Midnight to 4 a.m. for addresses ending in 3 and 5

Wednesday and Saturday: 4 a.m. to 8 a.m. for addresses ending in 7 and 9

Thursday and Sunday: Midnight to 4 a.m. for addresses ending in 2 and 4

Thursday and Sunday: 4 a.m. to 8 a.m. for addresses ending in 6 and 8

Properties or developments up to and including five acres in size with irrigation systems that must irrigate multiple properties with different watering times will be allowed to water on Monday and Friday from 4 a.m. to 8 a.m. This includes but is not limited to duplexes, multi-family units, compound use and mixed use units.

Properties or developments more than five acres in size with irrigation systems that simultaneously irrigate multiple properties with different watering times shall be allowed to water on Monday and Friday from 12 a.m. to 8 a.m. This includes but is not limited to multi-family, compound-use and mixed-use units.

OTHER WATERING RESTRICTIONS:

Watering of new lawns and landscaping during a 45 day establishment period shall be permitted on any day of the week from 2:00 a.m. to 8:00 a.m.

The following uses of irrigation water are permitted at any time:

- (1) Required watering for lawn chemicals.
- (2) Pressure washing, car, truck or trailer washing, boat washing, and flushing boat motors after salt water use.
- (3) Hand watering using low volume irrigation methods.
- (4) Water use for cleaning, adjusting, and repair of irrigation systems provided that an attendant is on site and for not more than ten minutes per week for the entire irrigation system (if the irrigation system is not divided into areas or "zones") or for not more than ten minutes per area or "zone" per week (if the irrigation system is divided into areas or "zones").
- (5) Irrigation integral to an ongoing business enterprise, such as a golf course (greens, tees and fairways only), a nursery or agricultural operations, is permitted to the extent necessary to reasonably meet the business's minimum agronomic needs and for freeze or heat damage protection.

The City of Cape Coral's Code of Ordinances includes requirements for restrictions on water use during times an "emergency situation" is declared by SFWMD or when the City of Cape Coral Commission determines a reduction in water consumption is necessary to alleviate a local water shortage within the City of Cape Coral's water system. Water restrictions may include reduction of hours and days allowed for irrigation, washing of vehicles, washing of outdoor surfaces, operation of ornamental fountains, operation of air conditioning without a recirculation system, limitations on filling and use of swimming pools, limitations on escapement of water through defective plumbing, restrictions on hotels and restaurants as to the minimum amount of water necessary to conduct operations and other restrictions as necessary.

Use of Florida-Friendly Landscape Principles

The City of Cape Coral sponsors the Florida Friendly Landscaping Program in Cape Coral. The program is a partnership between the landscape industry, the University of Florida Cooperative Extension Service, Florida's National Estuary Programs, Florida's Sea Grant College Program, and various State and local environmental agencies. The program focuses on yards, as they are the first line of defense for estuaries, rivers, lakes, aquifers and the City's canal system.

The Florida Friendly Landscaping program adheres to the nine (9) basic principles that, if implemented properly, are designed to reduce the adverse impacts of a yard on storm water quality. Each principle contains a series of actions that landowners can take to improve the environmental health of the waterways these yards drain to. Through implementation of the principles and actions program participants are awarded points, or 'inches.' When a participating yard achieves 36 inches (a 'yard'), the yard receives a plaque, which can be placed in the yard to let everyone know that the subject property is a "Certified Florida Yard." The program's 9 principles are:

- Right plant, right place;
- · Water efficiently;
- Reduce stormwater runoff;
- Proper maintenance of waterfront properties (to reduce stormwater impacts);
- Mulching;
- Vegetation recycling;
- Avoid or reduce use of fertilizers;
- Avoid use of pesticides and herbicides; and,
- Maintain areas for wildlife.

More information on these nine principles can be found on the City's website at http://www.capecoral.net/department/public_works/florida_yards_and_neighborhoods.php#.WvRlwvnwY7Y

Requirement of Ultra-Low Volume Plumbing in New Construction

 The City of Cape Coral has adopted the Florida Building Code (FBC) which contains plumbing flow restriction requirements. The County Code prohibits an ENTITY within its jurisdiction from enacting standards less stringent from the FBC. The City of Cape Coral's Building and Inspection Services Division also includes in their procedures provisions for new construction to have water conservation control devices installed per the Florida Plumbing Code, as a condition for granting certificates of occupancy.

Water Conservation Based Rate Structure

• The City of Cape Coral has a conservation-based water rate structure, which includes an increasing rate with increasing use, as a means of reducing demand.

Meter Replacement Program

• Unaccounted for water summaries are submitted to the District annually. The average annual estimated unaccounted water loss, for the years 2013-2017 was 8.34 percent.

Rain Sensors Overrides for New Lawn Sprinkler System

 The City of Cape Coral has adopted the FBC, which requires the installation of rain sensors on new irrigation systems. Additionally, the City abides by all of the County's landscape Code requirements regarding rain sensors on automatic lawn sprinkler systems.

Public Information Program

- This program provides water conservation information and practices to the City of Cape Coral's
 residents and customers through the City's webpage, the annual Water Quality Report, and the
 City's Publication, "On The Move". The City speaks to schools and community groups on water
 issues as well as participates in "Green" events at local schools. The City airs videos on reuse as
 well as water issues.
- The City of Cape Coral will coordinate future water conservation efforts with the SFWMD. In
 addition, the City will continue to support and expand existing goals, objectives and policies in the
 comprehensive plan promoting water conservation in a cost-effective and environmentally
 sensitive manner. The City will continue to actively support the SFWMD in the implementation of
 new regulations or programs designed to conserve water during the dry season.

3.7.3 Identify any Local Financial Responsibilities as Detailed in the CIE or CIS

3.8 Reuse

State law supports reuse efforts. Florida's utilities, local governments, and water management districts have led the nation in the quantity of reclaimed water reused and public acceptance of reuse programs. Section 373.250(1) F.S. provides "the encouragement and promotion of water conservation and reuse of reclaimed water, as defined by the department, are state objectives and considered to be in the public interest." In addition, Section 403.064(1), F.S., states "reuse is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems."

The City of Cape Coral has been able to significantly reduce its average daily potable water demand by adopting a reclaimed water system. The Water Independence for Cape Coral program was started in the late 80's and continues to reduce the impact irrigation has on the Mid Hawthorn Aquifer. The City has been recognized as having the third largest reuse demand in the State, at 26.1 MGD with 100% reuse, according to the Annual Reuse Report for fiscal year 2016. Projected annual average daily demand for FY 2018 is 26.56 MGD.

3.8.1 Regional and Countywide Issues – Not Applicable

3.8.2 Local Government Specific Actions, Programs, Regulations or Opportunities

The City supports water reuse initiatives under consideration by both the SFWMD and Lee County and the implementation of new regulations or programs designed to increase the volume of reclaimed water used and public acceptance of reclaimed water. The City's water conservation program encourages both conservation of water and use of alternative water supplies, such as reclaimed water for irrigation.

The City's irrigation is supplied by treated wastewater from the City's two wastewater facilities and supplemented by freshwater canal water pumped from the City's five freshwater canal pumping stations. The City's Water Reclamation Division is responsible for processing wastewater so that after treatment it meets and/or exceeds all standards and different permit requirements as established by the EPA and the FDEP for river discharge, deep injection and/or reuse water for the City's irrigation system. The Division operates and maintains the 13.4 MGD Everest Water Reclamation Facility; the 15.0 MGD Southwest Water Reclamation Facility, and 300 wastewater lift stations throughout the City and 5 freshwater canal pump stations to supplement the irrigation system.

Cape Coral's freshwater canal system is comprised of 300 miles of freshwater canals that provide storage through an extensive system of weirs and pumping stations. The 28 weirs strategically located in the canal network and five canal inter-connections provide the ability to store water during the rainy season for dry season use. The freshwater canal system also provides management of excess storm water flows, which protect the sensitive estuary environment and provide flood control.

4 CAPITAL IMPROVEMENTS

Based on the evaluation of the City's current potable and irrigation water system, as well as projected demands, the City's potable water system is anticipated to have a permit deficit of 4.5 MGD by FY 2040 and maximum daily irrigation demand already exceeds irrigation water availability. Storage will be required in order to provide sufficient irrigation quality water year round.

4.1 Work Plan Projects

The following work plan describes the potable water and irrigation water treatment and distribution facilities planned to be constructed by the City of Cape Coral within a 20-year timeframe. The City has sufficient raw water permitted to provide potable water service to the current and future population throughout 2035, and treatment capacity through 2026. Increasing population along with expansion of service to areas not currently served (Utility expansion project) will expand the demand of both potable and irrigation quality water beyond the current capacity of the system. An increase in treatment capacity will be required by 2027, and permitted water increases will be required to supply the potable water system through 2040.

The year-round availability of irrigation water is contingent upon the availability of sufficient storage capacity. The City has several projects that it's focusing on to increase its irrigation water source availability.

The work plan includes the following projects that have been included in the SFWMD Lower West Coast Water Supply Plan Update

Potable Water:

Utilities Expansion Program

The City completed the construction of a new water treatment facility in the North Cape with the expectation that utilities extension projects would continue in a sequenced fashion throughout the remainder of the areas of the City without utilities.

Well Rehabilitation Program

This project includes rehabilitation of five wells over a five year period to address water quality issues in the wellfield.

Palm Tree Pumping Station

Project includes potable water main pipeline extension and a separate suction/discharge line at Palm Tree Storage tank to improve operations and improve water quality.

South RO WTP

The South RO WTP was constructed in 1977. This project will completely replace the plant with a new structure located on land south of the current plant. This project is expected to be completed within 10 years (by 2030).

Nonpotable Water

Canal Weir Improvements

Construct new weirs and a canal transfer pump station, design as needed. As the Utility Irrigation System expands, additional capacity is required to provide irrigation water to new customers and help maintain system pressure. Also during low rainy seasons the added basins will provide much needed capacity and maintain canal water levels.

Reuse Interconnect City of Cape Coral & City of Fort Myers

Construct a reuse water transmission main across the Caloosahatchee River connecting the City of Fort Myers effluent system to the City of Cape Coral's Reuse System. This interconnect will provide the opportunity to receive 6.0 MGD and ultimately 12.0 MGD to enhance the City's reuse system.

ADM-47 ASR & Irrigation Supply

This project is in the planning phase and involves the construction of above ground pumping facilities for completed well; design and construction of new ASR wells to provide additional water for irrigation supply. With the City's current demand and growth additional irrigation water is needed. ASR wells will provide additional irrigation storage.

Water North 2 Utility Expansion Program – Irrigation Canal Pump Station East #10, and Irrigation Transmission Main

Project includes the construction of Canal Pump Station East #10 and the Irrigation Transmission Main as part of the North 2 portion of the Utility Expansion Program.

Table 4-1 Capital Improvement Program FY 2018- FY 2023

PROJECT#	COMMON DESCRIPTION	FY 2018 Adopted	FY 2019 Proposed	FY 2020 Proposed	FY 2021 Proposed	FY 2022 Proposed	FY 2023 Requested	Total
16	UCD-1 Administration Building	-	4,000,000	3,000,000	500,000	-		7,500,000
17	ADM-47 Forcemain I/C Veterans	-	100,000	-	-	-		100,000
18	IRR-17 Reuse River Crossing	-	-	-	4,000,000	-		4,000,000
19	UCD-11 Meter Replacement Prog	500,000	500,000	500,000	500,000	500,000	500,000	2,500,000
	SRO-06 Control System Upgrade	-	-	-	-	-		-
20	UCD-12 Road Surfacing Adj (Manhole & Valve Adjustments)	500,000	500,000	500,000	500,000	500,000	500,000	2,500,000
21	NRO-5 Deep Injection Well IW1	-	500,000	3,000,000	5,000,000	-		8,500,000
	NRO-8 Perimeter Wall	-	-	-	-	-		-
22	NRO-9 Distribtn Sys Automate	-	390,000	250,000	250,000	250,000		1,140,000
23	NRO-10 Rehab/Rpl Raw Wtr Well	800,000	800,000	1,600,000	1,600,000	1,600,000	1,600,000	7,200,000
24	ADM-46 Palm Tree Phase III	-	-	-	-	1,000,000		1,000,000
	SRO-03 Odor Control Modifications	-	-	-	-	1,000,000		1,000,000
25	NRO-1 North RO Bulk Diesel Mod	-	-	-	-	1,000,000		1,000,000
26	ADM-24 Land Purchases	475,000	365,000	715,000	615,000	590,000		2,285,000
27	IRR-1 Weir Improvements	1,000,000	500,000	1,500,000	-	1,500,000		3,500,000
28	WRC-1 Lift Station Rehab FY18	2,000,000	-	-	-	-		-
29	IRR-2 NE 10MG Stor Tank & Pump	100,000	5,950,000	5,950,000	-	-		11,900,000
30	IRR-3 SW (2) 5MG Stor Tank & Pump	1,200,000	-	-	-	-		-
31	WRC-5 LS Odor Control Rehab	75,000	75,000	75,000	75,000	-		225,000
32	ADM-1 Smoke Testing I&I	50,000	50,000	50,000	50,000	50,000	100,000	300,000
	WRC-6 Maint Bldg Generator Storage	-	-	-	-	-	.00,000	-
33	ADM-6 Galvanized Pipe Rpl 2B	1,350,000	_	_	_	_		_
34	WRC-2 Lift Station Rehab FY19	1,000,000	2,000,000	_	_			2,000,000
35	WRC-3 Lift Station Rehab FY20	_	2,000,000	2,000,000	_			2,000,000
36	WRC-4 Lift Station Rehab FY21		_	2,000,000	2,000,000			2,000,000
37	ADM-10 Fire Sprnkler ConvFY18	500,000	_	_	2,000,000			2,000,000
38	ADM-11 Fire Sprinker ConvFY19	500,000	500,000		_	_		500,000
39	ADM-11 Pite Ophikier Convi 113 ADM-15 Potable Wtr Infr FY18	1,000,000	300,000	_				
40	ADM-16 Potable Wtr Infr FY19	1,000,000	1,000,000	_				1,000,000
41	ADM-17 Potable Wtr Infr FY20	-	1,000,000	1,000,000				1,000,000
42	UCD-4 Manhole Rehab FY18	500,000	-	1,000,000	-	-		1,000,000
43	UCD-5 Manhole Rehab FY19	300,000	500,000	-	-	-		500,000
43	UCD-6 Manhole Rehab FY20		500,000	500,000				500,000
45	ADM-21 Infiltrn & Inflow FY18	750,000	-	500,000	-	-		500,000
		750,000	750,000	-		-		750,000
46 47	ADM-22 Infiltrn & Inflow FY19 ADM-23 Infiltrn & Inflow FY20		750,000	750,000	-	-		
			-	750,000	-			750,000 50,000
48	SRO-2 Plt 2 Bldg Replacement		-	-	-	50,000	750 000	
49	NRO-3 Reconst Van Loon PS Bldg	-	-	100.000		750,000	750,000	1,500,000
52	ADM-30 ASR/IRR Supply FY20	4 000 000	-	100,000	-	-		100,000
53	IRR-10 Reuse Sys Improve FY18	1,000,000	4.000.000	-	-	-		4 000 000
54	IRR-11 Reuse Sys Improve FY19	-	1,000,000	-	-	0 100 000		1,000,000
55	ADM-50 Palm Tree Imprv PHII	-	-		-	2,400,000		2,400,000
56	IRR-12 Reuse Sys Improve FY20			1,000,000	-	-		1,000,000
57	SE 47th Terrace Streetscape	1,475,000	1,137,253	-	-	-		1,137,253
58	ADM-51 Infiltrn & Inflow FY21	-	-	-	-	-		<u> </u>
59	WRE/WRSW-2 Clarifier Ctng FY16	100,000	60,000	-	-	-		60,000
60	ADM-56 NE Reservoir	2,100,000	-	-	-	-		
61	SRO-13 Plt 2 MCC Replacement	750,000	-	-	-	-		-
62	WRE-7 Headworks & Structl Ctg	200,000	-	-	-	-		-
63	WRSW-6 Rpl Utility Mains MCC-1	-	150,000	-	-	-		150,000

64	ADM-62 Fiber Optics	750,000	500,000	-	_	_	500,000	1,000,000
65	ADM-63 WAS Line	1.000.000	500,000	_	_	_	333,333	500,000
66	ADM-65 FM/MOV/MPS Sys & Comm	500,000	1,000,000	1,000,000	1,000,000			3,000,000
68	ADM-71 North 2 Canal PS (9)(West) & (10)(East)	4,729,895	- 1,000,000	1,000,000	4,000,000	4,000,000	4,000,000	12,000,000
69	WRE-10 MCC Blower Conduit Clar	350,000	_	_	1,000,000	1,000,000	1,000,000	-
	WRE-13 VFD Replace Deep Well		150,000		_			150,000
71	IRR-22 North 2 Non Assd Util & F/O	2,700,000	1,000,000		_			1,000,000
72	IRR-23 North 1 Non Assd Util	2,700,000	1,000,000	350,000	350,000			700,000
73	ADM-64 F/Main Replace Pelican	_	_	-	- 000,000	750,000		750,000
74	ADM-59 Burnt St-Casings Ph III	750,000	_		_	730,000		700,000
75	WRSW-9 Reroute Clar Pipe-ABW	730,000	_	200,000	1,000,000	_		1,200,000
76	SRO-14 Ground Storage Tank Coating	500,000	-	200,000	1,000,000			1,200,000
77	UCD-9 Manhole Rehab FY21	500,000	-	-	500,000	-		500,000
78	ADM-66 Fire Sprnkler ConvFY20	-	-	500,000	300,000	-		500,000
	·	277.005	-	500,000	-			300,000
80	WRSW-10 Refurb 3 Clarifiers	377,605	-	-	-	-		<u>-</u>
80 81	NRO-11 GST Exterior Coating	150,000	-	-	-	-		500.000
	SRO-15 Facility Refurbs	500,000	500,000	-	-	-		500,000
82	WRE-12 Recoat Aeration Ext	200,000	-	-	-	-		250.000
83	WRSW-11 New Turblex Blower	-	-	350,000	-	-		350,000
84	WRSW-12 Bleach Cntmnt Ctg	300,000	-	-	-	-		-
85	WRSW-13 Replace 36" Reuse Valve	200,000	-	-	-			-
86	WRSW-16 CROM Tank Repair	300,000	-	-	-	-		
94	ADM-51 Infiltrn & Inflow FY21	-	-	-	750,000	-		750,000
	ADM-60 Infiltrn & Inflow FY22	-	-	-	-	750,000		750,000
96	ADM-73 Infiltrn & Inflow FY23	-	-	-	-	-	850,000	850,000
	ADM-52 ASR/IRR Supply FY21	-	-	-	3,000,000	-		3,000,000
	ADM-55 ASR/IRR Supply FY22	-	-	-	-	3,000,000		3,000,000
	ADM-74 ASR/IRR Supply FY23	-	-	-	-	-	3,000,000	3,000,000
	ADM-53 Irr to PW (F/H) FY21	-	-	-	-	-		-
97	ADM-61 Irr to PW (F/H) FY22	-	-	-	-	1,500,000		1,500,000
	ADM-75 Irr to PW (F/H) FY23	-	-	-	-	-	500,000	500,000
98	IRR-13 Reuse Sys Improve FY21	-	-	-	350,000	-		350,000
99	IRR-20 Reuse Sys Improve FY22	-	-	-	-	350,000		350,000
	IRR-20 Reuse Sys Improve FY23	-	-	-	-	-	350,000	350,000
100	NSRO-3 Replace Membranes	-	-	-	-	1,500,000	600,000	2,100,000
101	WRE-8 Rehab Biosolids Bldg	-	-	-	-	1,100,000		1,100,000
102	WRC-14 Lift Station Rehab FY22	-	-	-	-	2,735,000		2,735,000
	WRC-14 Lift Station Rehab FY23	-	-		•	•	2,000,000	2,000,000
103	UCD-10 Manhole Rehabs FY22	-	-			500,000		500,000
	UCD-13 Manhole Rehabs FY23	-	-	-	-	-	500,000	500,000
104	ADM-67 Fire Sprnkler ConvFY21	-	-	-	750,000	-		750,000
105	ADM-68 Fire Sprnkler ConvFY22	-	-	-	-	750,000		750,000
106	ADM-69 Potable Wtr Infr FY21	-	-	-	300,000	-		300,000
107	ADM-70 Potable Wtr Infr FY22	-	-	-	-	300,000		300,000
	ADM-72 Potable Wtr Infr FY23	-	-	-	-	-	300,000	300,000
108	WRSW-14 RAS Roof Mod	-	-	-	-	200,000	<i>'</i>	200,000
109	WRSW-15 Conc & Liner Repair	-	-	-	-	200,000		200,000
110	Fiber Optics - N-1	-	-	-	750,000	1,500,000		2,250,000
	ADM-76 Nchls/Cntry Club Repipe		-	_		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		,,
	[ADIVI-76 INCHIS/CHITY CIUD REDIDE	- !						
	,	-	-	-	_	-		_
	SRO-12 Palm Tree CS Upgrades SRO-16 Distribution Piping Imp	-	-	-	-	-		-

W	VRE-15 Reuse, Pump Pad, Valves	-	-	-	-	-		-
W	VRSW-17 Reuse Pump, Check VIv	-	-	-	-	-		-
W	VRSW-18 Reroute Elctricl Cable	-	-	•	-	•		-
W	VRE-16 CPS Replace Breakers		-	-	-	-		-
N	IRO-12 Analyzer Bldg	-	-	•	-	•		-
S	SRO-17 New Guard House		-	-	-	-		-
S	SRO-18 Facility Paving	-	-	-	-	-		-
A	ADM-77 Infiltrn & Inflow FY21		-	-	750,000	-		750,000
								-
								-
		29,732,500	24,477,253	24,890,000	28,590,000	30,325,000	16,050,000	124,332,253

5 GOALS, OBJECTIVES AND POLICIES

The following comprehensive plan goals, objectives, and policies (GOPs) have been reviewed for consistency with the Work Plan. The water supply plan continues to be consistent with the City's Comprehensive Plan therefore there is no need to modify the plan. No changes are proposed to the City's goals, objectives and policies.

The following GOPs have been adopted in the original Work Plan and have been reviewed to see if updates or revisions are needed:

- a. Coordination of land and future land use changes with the availability of water supplies and water supply facilities;
- b. Revision to potable water level of service standards for residential and non-residential users;
- c. Provision for the protection of water quality in the traditional and new alternative water supply sources;
- d. Revision of priorities for the replacement of facilities, correction of existing water supply and facility deficiencies, and provision for future water supply and facility needs;
- e. Provision for conserving potable water resources, including the implementation of reuse programs and potable water conservation strategies and techniques;
- f. Provision for improved or additional coordination between a water supply provider and the
 recipient local government concerning the sharing and updating of information to meet
 ongoing water supply needs;
- g. Coordination between local governments and the water supply provider in the implementation of alternative water supply projects, establishment of level of service standards and resource allocations, changes in service areas, and potential for annexation;
- Coordination of land uses with available and projected fiscal resources and develop a financially feasible schedule of capital improvements for water supply and facility projects;
- i. Additional revenue sources to fund water supply and facility projects;
- j. Coordination with the respective regional water supply plan entities;
- k. Update the Work Plan within 18 months following the approval of a regional water supply plan; and
- I. Concurrency requiring water supplies at the building permit stage.

Cape Coral City Council
September 9, 2019
ORDINANCE 32-19

Purpose

A City-initiated change to the Comprehensive Plan

- Changes include amendments to the Conservation and Coastal Management Elements to provide consistency with the Water Supply Facilities Work Plan
- Such changes include the addition of projects in the Infrastructure Element

Purpose

Provides for adoption of the Water Supply Facilities Work Plan

- The Water Supply Facilities Work Plan was developed by the Utilities Department to coordinate water supply with the South Florida Water Management District for the next couple decades
- Amends the Intergovernmental Coordination Element to provide adherence to the Lower West Coast Water Suuply Plan (SFWMD)

Conclusion

- This was transmitted to state and regional agencies. One minor amendment was made to Policy 3.4, the Intergovernmental Coordination Element.
- Staff recommends Transmittal
- We have received no correspondence
- At the June 5, 2019 P&Z meeting, the P&Z Commission voted to recommend transmittal of the proposed amendment.

Item

A.(3)

Number: Meeting

Date:

9/9/2019

Item

ORDINANCES/RESOLUTIONS -

Type:

Public Hearings

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Ordinance 45-19 Public Hearing

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No

2. Is this a Strategic Decision?

No

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

The ordinance amends Chapter 18, "Traffic", Section 18-6, "Speed Limits", regulating speed limits on Arterial, Collector, and Local Streets located in the City to provide that City Council has the ability to set speed limits rather than the City Manager.

LEGAL REVIEW:

EXHIBITS:

Ordinance 45-19

PREPARED BY:

Department-City Attorney Division-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description Type

Ordinance 45-19 Ordinance

ORDINANCE 45 - 19

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 18, "TRAFFIC", SECTION 18-6, "SPEED LIMITS", REGULATING SPEED LIMITS ON ARTERIAL, COLLECTOR, AND LOCAL STREETS LOCATED IN THE CITY TO PROVIDE THAT CITY COUNCIL HAS THE ABILITY TO SET SPEED LIMITS RATHER THAN THE CITY MANAGER; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Council hereby finds that this ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 18, Section 18-6, is hereby amended to read as follows:

§ 18-6 Speed limits.

No person shall operate any vehicle upon a City street at a rate of speed greater than 30 mph; except the City Council Manager may set speed zones altering the speed limit not to exceed 60 mph on streets designated by the City with a functional classification of arterial or collector, after investigation determines such a change is reasonable and in conformity to criteria promulgated by the Florida Department of Transportation, except that no changes shall be made on state or county highways or connecting links or extensions thereof, which shall be changed only by the Florida Department of Transportation or Lee County. Posted speed limits on streets designated by the City with a functional classification of local shall not exceed 30 mph.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL THIS DAY OF	OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSI , 2019.	ON
	JOE COVIELLO, MAYOR	
VOTE OF MAYOR AND COUN	CILMEMBERS:	
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN	
ATTESTED TO AND FILED IN	MY OFFICE THIS DAY OF, 2	:019.
	KIMBERLY BRUNS, CMC CITY CLERK	

APPROVED AS TO FORM:

CITY ATTORNEY

ord/Speed Limits-City Council authority 8/21/19

Item

B.(1)

Number:

Meeting

9/9/2019

Date: Item

ORDINANCES/RESOLUTIONS -

Type:

Introductions

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Ordinance 46-19 (PDP 18-0010*) Set Public Hearing Date for October 7, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No

2. Is this a Strategic Decision?

No

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Hearing Examiner Recommendation: The Hearing Examiner recommends approval (with a caveat contained in PDP Hex recommendation 2-2019 (with a caveat contained in PDP Hex recommendation 2-2019 in Section III, Item 6c.)

City Management Recommendation: City Management recommends approval.

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Ordinance 46-19 (PDP 18-0010*) Back Up materials from HEX hearing

Hearing Examiner Recommendation 2-2019

Staff Presentation

Ord 31-04

Ord 143-06

Ord 156-07

Ord 77-10

Ord 12-12

Ord 4-13

Ord 31-15

PREPARED BY:

Division- Department- City Attorney

SOURCE OF ADDITIONAL INFORMATION:

Mike Struve, Planning Team Coordinator

ATTACHMENTS:

	Description	Туре
ם	Ordinance 46-19 (PDP 18-0010)	Ordinance
D	Back up material from HEX Hearing	Backup Material
ם	Hearing Examiner Recommendation 2-2019	Backup Material
D	Staff Presentation	Backup Material
D	Ord 31-04	Backup Material
D	Ord 143-06	Backup Material
D	Ord 156-07	Backup Material
D	Ord 77-10	Backup Material
D	Ord 12-12	Backup Material
D	Ord 4-13	Backup Material
ם	Ord 31-15	Backup Material

ORDINANCE 46 - 19

AN ORDINANCE AMENDING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE

CORAL, FLORIDA ENTITLED "SANDOVAL PDP AMENDMENT FOR TRACT RA-2" FOR CERTAIN PROPERTY DESCRIBED AS A PARCEL OF LAND LOCATED IN SECTIONS 20 AND 29, TOWNSHIP 44, RANGE 23 EAST, CAPE CORAL, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED BETWEEN PINE ISLAND ROAD AND VETERAN'S MEMORIAL PARKWAY WEST, WEST OF SURFSIDE BOULEVARD AND EAST OF CAPE ROYAL (FORMALLY KNOWN AS ROYAL TEE); GRANTING A SECOND PRIVATE CLUBHOUSE FOR THE PROJECT; ELIMINATING A RIGHT-OF-WAY CONDITION APPEARING IN ORDINANCE 12-12; GRANTING DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Veterans Parkway West (aka Bonita Bay)" Planned Development Project was approved by the Cape Coral City Council by Ordinance 31-04, as amended by Ordinance 143-06, Ordinance 156-07, Ordinance 77-10, Ordinance 12-12, Ordinance 4-13, and Ordinance 31-15; and

WHEREAS, an application from the Sandoval Community Association, Inc., has been received requesting an amendment of a Planned Development Project (PDP) for "Sandoval PDP Amendment for Tract RA-2"; requesting a second private clubhouse and development plan approval; and

WHEREAS, said application received is by a party holding title to ownership of one hundred percent (100%) of the property included in the requested amendment; and

WHEREAS, the request has been reviewed by the Cape Coral Hearing Examiner; and

WHEREAS, the City Council has considered the recommendations of the Cape Coral Hearing Examiner.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I. PDP APPROVAL, PRIVATE CLUBHOUSE, DEVELOPMENT PLAN.

Having reviewed the application requesting approval of a Planned Development Project for "Sandoval PDP Amendment for Tract RA-2", requesting a second private clubhouse and development plan approval; and having considered the recommendations of the Cape Coral Hearing Examiner, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP approval, and approve development plan in accordance with plan set, Sheet C-3, entitled "Development and Lighting Plan", dated December, 2018 and also bearing a revision date of January 16, 2019, prepared by DEI Civil Engineers and Planners, and Sheets A1, entitled "Architectural Floor Plan"; Sheet A2, entitled "Dimensioned Floor Plan", Sheet A9, entitled "Exterior Elevations", and Sheets A10 and A11, entitled "Building Sections." Sheets A1, A2, A9, A10, and A11 are dated July 10, 2018, and were prepared by Gersdorf & Gersdorf, Inc. Architects and DEI Civil Engineers and Planners. All sheets referenced in this section were prepared for purposes of development plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

A. The "Sandoval PDP Amendment for Tract RA-2" development is a mixed-use Planned Development Project (PDP) that was approved by Ordinance 31-04, as amended by Ordinance 143-06, Ordinance 156-07, Ordinance 77-10, Ordinance 12-12, Ordinance 4-13, and Ordinance 31-15. This project has been approved for 1,129 single-family dwelling units, 570 multi-family units, 226,500 sq. ft. of retail, and 10,000 sq. ft. of office uses.

This PDP amendment seeks to amend the development plan for Tract RA-2 by approving a second private clubhouse with an area of 11,600 sq. ft. Other improvements to the site will include a covered walkway linking the existing clubhouse to the new clubhouse, parking, landscaping, walkways, and lighting. Stormwater and utility improvements will also be made to the site.

- B. The name of the legal and equitable owner is the Sandoval Community Association, Inc.
- C. The legal description of the property subject to the extant "Veteran's Parkway West (aka Bonita Bay)" PDP is as follows:

PARCEL IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S 00° 13' 25" W ALONG THE EAST LINE OF SAID SECTION FOR 2842.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 29; THENCE CONTINUE S 00° 13' 25" W ALONG SAID EAST LINE FOR 2718.13 FEET TO AN INTERSECTION WITH THE NORTH LINE OF BURNT STORE ROAD EXTENSION AS RECORDED IN OFFICIAL RECORD BOOK 2910 BEGINNING AT PAGE 2499 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S 89° 35' 38" W ALONG THE NORTH LINE OF SAID BURNT STORE ROAD EXTENSION FOR 2492.55 FEET TO A POINT OF CURVATURE; THENCE RUN WESTERLY AND NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 1565.02 FEET (CHORD BEARING N 87° 10' 59" W) (CHORD 175.99 FEET) (DELTA 06° 26' 47" FOR 176.08 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 29; THENCE RUN N 00° 12' 40" E ALONG SAID WEST LINE FOR 5591.35 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 29; THENCE RUN N 01° 06' 44" W ALONG THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 20 FOR 5303.23 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF PINE ISLAND ROAD (66 FEET WIDE); THENCE RUN S 89° 37' 42" E ALONG SAID SOUTH LINE FOR 836.18 FEET; THENCE RUN S 01° 06' 44" E FOR 1303.89 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTH HALF (S-1/2) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 29' 26" E ALONG SAID NORTH LINE FOR 497.56 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER (SW-1/4) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 00° 28' 44" E ALONG THE EAST LINE OF SAID FRACTION FOR 1337.80 FEET; THENCE RUN S 01° 27' 05" E ALONG THE EAST LINE OF THE NORTHWEST QUARTER (NW-1/4 OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 1081.38 FEET TO A POINT ON SAID EAST LINE, BEING ALSO THE NORTHEAST CORNER OF A AS RECORDED IN OFFICIAL RECORD BOOK 1697 PARCEL OF LAND BEGINNING AT PAGE 3463 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N89°26'26"W ALONG THE NORTH LINE OF SAID PARCEL FOR 890.05 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE RUN S01°27'05"E ALONG THE WEST LINE OF SAID PARCEL FOR 250.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL, BEING ALSO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S89°26'26"E ALONG THE SOUTH LINE OF SAID PARCEL AND SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 890.05 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL AND SAID

FRACTION; BEING ALSO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 26' 26" E ALONG THE SOUTH LINE OF SAID FRACTION FOR 1326.90 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID SECTION 20; THENCE RUN S 01° 47' 29" E ALONG SAID EAST LINE FOR 1329.58 FEET TO THE POINT OF BEGINNING.

SUBJECT TO: LEE COUNTY ELECTRIC COOPERATIVE TRANSMISSION LINE EASEMENT OVER AND ACROSS THE EAST 100 FEET OF THE SOUTHEAST QUARTER (SE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 AS RECORDED IN OFFICIAL RECORD BOOK 1473 BEGINNING AT PAGE 1799 OF SAID PUBLIC RECORDS.

DESCRIBED PARCEL CONTAINS 524.24 ACRES, MORE OR LESS.

D. The legal description of the portion of the property for which the "Sandoval PDP Amendment" is being amended is as follows:

Tract "RA-2" of Sandoval-Phase 2, as recorded in Instrument number 2005000167039 of the public records of Lee County, Florida.

- E. The "Sandoval PDP Amendment for Tract RA-2" PDP subject parcel has 5.06 acres zoned Commercial Corridor (CC) and 2.45 acres zoned Residential Multi-Family Low (RML), which was rezoned from Multi-Family Residential (R-3) in Ordinance 4-19, pursuant to the authority of Chapter 166, Florida Statutes, and the Land Development Code, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 5.06 acres with a Future Land Use designation of Pine Island Road District (PIRD) and 2.45 acres with a Future Land Use Designation of Multi-Family.
- F. All existing and future structures and uses, population density, building intensity, and building height shall conform to the respective provisions of the Commercial Corridor (CC) and the Residential Multi-Family Low (RML) zoning districts of the Land Development Code, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- G. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- H. The "Sandoval PDP Amendment for Tract RA-2" PDP, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- I. The term Developer for purposes of this development order shall mean and refer to Sandoval Community Association, Inc., or its successors in interest, lessees, and/or assigns.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

A. TRANSPORTATION

Improvements to the City right-of-way associated with the Pine Island Road North/South four-lane connector required in Section III.G.6. of Ordinance 12-12 are no longer required by the City.

B. GENERAL CONSIDERATIONS

All provisions and conditions contained in Ordinance 31-04, as amended by Ordinance 143-06, Ordinance 156-07, Ordinance 77-10, Ordinance 12-12, Ordinance 4-13, and Ordinance 31-15 shall remain in full force and effect, except as otherwise stated in this Development Order.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the "Sandoval PDP Amendment for Tract RA-2" PDP.
- B. This Development Order shall be binding on the Developer.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.
- F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- G. Subsequent requests for local development permits shall not require further review, unless it is found by the City Council, after due notice and hearing, that one or more substantial deviation(s), or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City have occurred. Substantial deviations include but are not limited to:
 - 1. Any change which requires a variance to code and above those specifically incorporated herein.
 - 2. An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or building square footage.
 - 3. An expiration of the period of effectiveness of this Development Order as herein provided.
 - 4. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PUD Application has been submitted, reviewed and approved, and all local approvals have been obtained.

H. The physical development authorized under this Development Order shall terminate in ten years from the date of adoption of this Development Order, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.

- I. The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. This Development Order shall be recorded with the Office of the Lee County Clerk of the Circuit Court by the City of Cape Coral. The Developer shall be responsible for all recording fees within 30 days of being notified by the City that the Development Order has been recorded.

SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

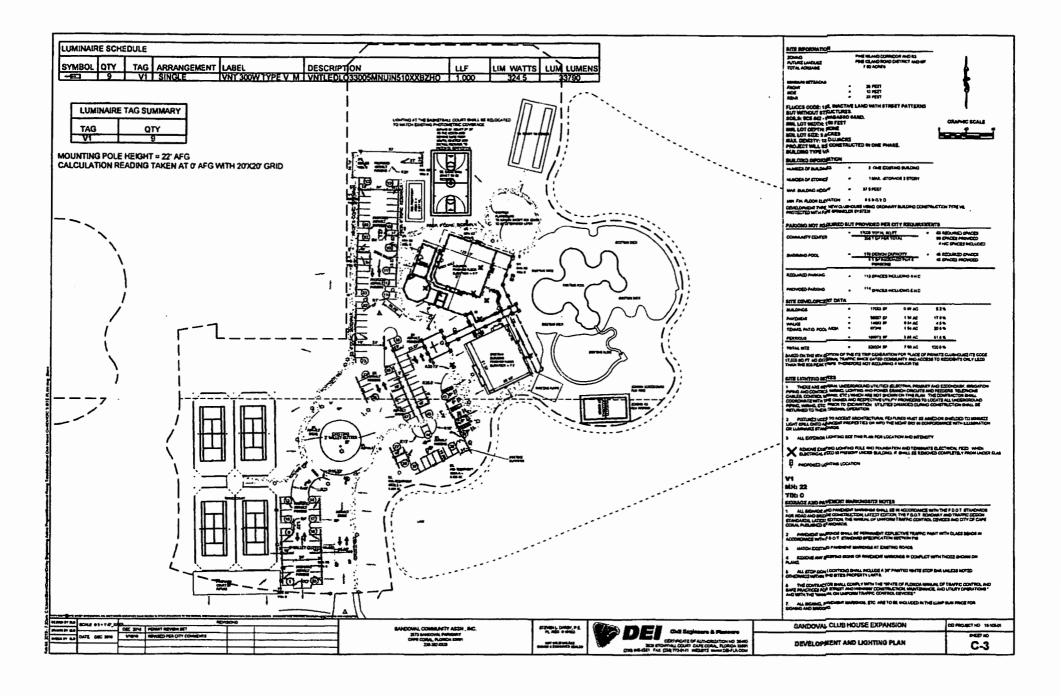
SECTION VI. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

ADOPTED BY THE CITY COUNCIL O COUNCIL SESSION THIS DAY			AR
	JOE CO	VIELLO, MAYOR	
VOTE OF MAYOR AND COUNCILMEN	MBERS:		
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN		
ATTESTED TO AND FILED IN MY C 2019.	OFFICE THIS	DAY OF	
APPROVED AS TO FORM:	KIMBER CITY CL	RLY BRUNS ÆRK	

JOHN E. NACLERIO III ASSISTANT CITY ATTORNEY

ord/PDP 18-0010 Sandoval Amendment Tract RA-2



E DefCC's | Se gas DeCCastle 1 Trespons 1 State Wall and Section 1 Section 1

SECOND NAME OF PERSONS OF PERSONS OF SPICES AND PROPERTY OF SPICES OF SPICES



December 18, 2018 Revised January 29, 2019

Mr. Vince Cautero, AICP
Community Development Director
Dept. of Community Development
City of Cape Coral
P.O. Box 150027
Cape Coral, FL 33915-0027

Re: Letter of Intent for PDP

Sandoval Clubhouse Expansion

STRAP# 29-44-23-C2-005RA.02CE, Tract RA-2, Phase 2 2573 Sandoval Parkway, Cape Coral, Florida 33991

Dear Mr. Cautero:

It is the intent of the property owner, Sandoval Community Association, Inc., to request a modification to their existing Planned Development Project (PDP 03-00800008, Ordinance 31-04) for the expansion of the existing clubhouse within the Sandoval Community. This site comprises of 7.5 acres with all the existing amenities remaining. It is proposed to expansion the existing clubhouse of 5,500 sq.ft. to the north with an 11,600 sq.ft. addition with a separation between buildings with a breezeway. A copy of the proposed building elevations and site plan are attached.

The project expansion will consist of an additional 62 parking area, separate utility connections for sanitary sewer, potable water, fire line connection and irrigation. The intent of this PDP application is to construct the necessary improvements such as additional 9 light poles and approximately 580 linear feet of pedestrian sidewalks to meet the City Land Use regulations. The project site is covered by existing fire hydrants and utilities which are servicing the existing clubhouse facility with changes determined due to the expansion.

The clubhouse site area has existing stormwater drainage improvements which include an outfall structure to control stormwater discharge to the City's canal system to the east of the development. An existing SFWMD permit will be modified for the proposed improvements to accommodate the required pre-treatment and verify existing water quality treatment and the design storm event. An existing dumpster is located on-site with no plans of modifying the location and or size due to the expansion, the existing access drive into the facility will be unchanged with additional parking added for the expansion, and landscaping meeting the City's landscape regulations.

Since this clubhouse is a private facility for the residents only and the entire community is gated the trips generated by this project will not increase from previously approved traffic impact studies.

There are no existing borrowing owls and endanger species found on-site since this existing area is active. The project will require a Pollution Prevention Plan and an NOI from the owner and contractor since site disturbance will be greater than one acre.

The existing clubhouse has been determined by the board of the association to have inadequacy by being undersized at 5,420 sq.ft. with limited parking resulting in residents being turned away from major events. Residents being unable to book events and loss of rental income compared with other communities. Sandoval currently has 1,425 home sites compared to other communities such as Moody River with a 7,000 sq.ft clubhouse for 746 homes, Botanica Lakes with a 7,225 sq.ft. clubhouse for 686 homes, Bridgetown at the Plantations clubhouse with a 12,700 sq.ft. for 905 homes, Marina Bay with a 12,000 sq.ft. clubhouse for 680 homes, and Coralina Apartment with a 7,000 sq.ft. clubhouse for 186 homes.

The existing clubhouse will be remodeled to accommodate an expanded gym area and open up a new movement room. The new clubhouse will provide for association office space, catering facilities, children entertainment areas, library, a media room and three multi-purpose rooms. Which is lacking in the existing clubhouse due to the size limitations. The existing and proposed clubhouse will function as one facility with no duplicate areas within the buildings.

Provided are boundary and topographic survey and site plan detailing the proposed construction improvements, building elevations and floor plan of the expanded clubhouse along with the supporting documentation for the PDP submittal.

Should you require any additional information, please contact me at 239-945-0551.

Sincerely,

DARBY Engineering, Inc.

Steven L. Darby, P.E.

President

Attachments:



PLANNED DEVELOPMENT PROJECT (PDP) APPLICATION

PROPERTY OWNER IS A CORPORATION, LIMITED LIABILITY COMPANY (LLC), LIMITED COMPANY (LC), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUST

	Clubnouse Expansion	
Project Number:		
To help prepare this application	, the applicant should obtain copies of th	he following:
 Land Do Parking Landsco 		: is linked)
with an application to the City of final design or project must con	of Cape Coral. Formal review may result	ject to change based on detailed information in additional changes not noted at this time. Th it Regulations, Engineering Design Standards, Cit d regulations.
	ACKNOWLEDGEMEN ⁻	
conform to all applicable laws of	dent, as the owner of this property of of the City of Cape Coral and to all applica- correct to the best of my knowledge.	or the duly Authorized Representative, agree to table Federal, State and County laws, and certify
		Occupancy for this development, the engineer h record drawings and a letter of substantial
In addition, I authorize the staff evaluating the request made th		the property for purposes of investigating and
	s must be paid in full at least 10 days nd continued to a future date once t	s prior to public hearing or the item may the fees have been paid.
By: NAME AND TITLE (PLEASE T	YPE OR PRINT)	SIGNATURE 7
	Community Association, Inc.	PRESIDIENT
STATE OF £, COUN	(SIGNATURE MUST BE NOTA	
JUAN DIEGO FERRON Notary Public. State of Florida Commission# GG 202458 My comm. expires Apr. 2, 2022	Exp. Date: Apr 2. Commis Signature of Notary Public: Printed name of Notary Public: es for multiple property owners.	ssion Number: 202458 JUFELLON
		. //

OP Application June, 2014

Page 1 of 11

authorized representative or property owner's nitials

Authorization to Represent Property Owner(s) -Property Owner is a Corporation, Limited Liability Company (LLC), Limited Company (LC), Partnership, Limited Partnership, or Trustee

Please be advised that	Darby Engineering, Inc	c., Steven L. Da	rby, P.E.
	(Name of Authorized Repr	resentative(s) and I	business entity, if any)
			the Planning & Zoning Commission/Local uncil for a Planned Development Project.
Unit Block	Lot	Subdivision	Sandoval Phase 2
Or Legal Description:	(described as an exhibit A in	n Microsoft Word f	format and attached hereto)
* Sandoval Commun			Sandoval Community Association, Inc.
** Name of Entity (Corpora	ation, Partnership, LLC, etc)	Title of Signato	ory
1. () 1		Joseph Kilra	ine
Signature		Name (Please	
		MUST BE NOTARIZE	30)
STATE OF 7L,	COUNTY OF Lee		
		J	
Sworn to (or affirmed) and	subscribed before me this /		20 <u>/9</u> , by
as identification.	who is personally known	or produced _	FERE
as identification.			
	Exp. Date: Per 2 2	Commission	Number: 46 202458
	Signature of Notary Pu	blic:	Ath
	Printed name of Notar		JOFERRON
*Please include additional	pages for multiple property own	ners.	
**Notes:			
If the applicant is a corporal fithe applicant is a Limited by the Company's "Manag	ing Member."	imited Company (I	L.C.)., then the documents should be signed
	rship, then a partner can sign or partnership, then the general p		nership. nd be identified as the "general partner" of the
			orate, trust, partnership, estate, etc., and then
			JUAN DIEGO FERRON Notary Public, State of Florida Commission# GG 202458

My comm. expires Apr. 2, 2022

PDP Applicant Checklist

Project Name: Sandova Cauphouse Expansion

Applicant must submit the completed application and the associated documentation listed below, collated into 17 separate packets (one (1) original and 16 copies). These are minimum requirements for all PDP applications. Based on the nature of your project, additional items may be required by staff.

Incomplete submittals will not be accepted

X	All application pages must be initialed by the property owner or their authorized representative
<u>X</u>	$24^{\prime\prime}$ x $36^{\prime\prime}$ engineered PDP Development Plans, including landscape buffer areas and building elevations – See pages 7 – 10 for further information
X	Certified Boundary Surveys, in NGVD 1929, completed within the last six (6) months showing elevations – See page 7 for further information
X	PDP application fees paid in full at time of application – See page 11 for further information
X	Letter of Intent (LOI) – See page 6 for further instructions
X	Environmental Survey/Report – See page 7 for further instructions
<u>X</u>	Warranty or Quit Claim Deed – Applicant shall provide a copy of Warranty or Quit Claim Deed for one hundred (100) percent of the property comprising the Planned Development Project.
	Vacation of Plat requests must include letter of "No Objection" from the electric company, the telephone company, and the cable company – See page 9 for further instructions
X	Page 1 must be signed and notarized by either all property owner(s) or the authorized agent
X	The "Authorization to Represent Property Owners", page of the application, must be signed by all property owner(s) and notarized
	Properties owned by corporations, limited liability companies, limited partnerships, general partnerships, and trustees must provide legal documentation (For example, the Articles of Incorporation) listing persons authorized to sign for the entity and in these situations the property owner(s) must sign all applicable PDP forms in their corporate capacity.

As an alternative to submitting everything in paper format, the applicant may opt to submit the following:

X 11 sets of plans, in paper format, as described above
 X 11 signed and sealed Boundary Surveys, in paper format, as described above
 X One (1) copy of the application & all other documents you are submitting for review
 X 1 CD/DVD with PDFs of documents you are submitting:

 Each document you are submitting needs to be a separate PDF, appropriately identified by name. For example, the application will be one PDF, titled "Application", the Letter of Intent will be another PDF, titled "Letter of Intent", plans, boundary surveys, etc.

authorized representative or property owner studious

PDP Application June, 2014

Page 3 of 11

GENERAL INFORMATION

Project Name:	Sandoval Clubhous	e Expansion	<u> </u>	
Applicant:	Sandova. Community Ass	ociation, Inc.		
Address:	2573 Sancoval Parkway,	Cape Coral, F.o	orida 33991	
Phone: 239.424.883	61 Fax:	E-Mail:	jgk.iraine@m	sn.com
*Property Owner: Sar	ndova. Community Associa	on, Inc.	11 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	
Address 2573 Sand	oval Parkway, Cape Corai.	Florida 33991		
Phone <u>239.424.88</u>				raine@msn.com
Authorized Representative	Darby Engineering, Inc.,	Steven L. Darb	y, P.E.	
Address 263	88 Stonya I Court, Cape Co	orai, Florida 339	91	
Phone239.94	5.0551 Fax 23	9.772.0141	E-Mail steve	@de:-fla.com
Location				
Unit	Block	Lot(S)	
Subdivision Sandova	al Phase 2 Strap Nu	mber(s) <u>29-44-2</u>	3-C2-005RA.	02CE
Legal Description	(Described as Exhibit A in N	1icrosoft Word For	mat and attache	d hereto)
Property Address: 2	2573 Sandoval Parkway, C	ape Coral, Flori	da 33991	
Plat Book # <u>205-167039</u>	Current Page Zoning	CORR/R-	3 Future	Land Use MF/PiRD
	This application include		quests:	
		all that apply)		1
Subdivision	Special Exception	Rezoning		Variance
Deviation to Landscaping	Deviation to Non-residential Design	Deviation to Engineering Desi		All Other Deviation
, ,	Standards	Standards (EDS)	isi net	446363
Borrow Pit	Vacation of Plat			

Authorized representative of property givener's initials

^{*}Please include additional pages for multiple property owners.

PROPERTY and PROJECT DEVELOPMENT DATA

a.	Zoning District	PINE ISLAND CORP	1007
b.	Future Land Use Class	PINE ISLAND DISTR	i:CT
С.	Area of Subject Property	<u>7.5</u> acres	
d.	Type of Development	RECREATIONAL	
e.	Estimated Number of Employees	5	
	Number of Seats in Assembly	<u>N/A</u>	
f.	Parking Spaces Required	113	
g.	Parking Spaces Provided	114	
h.	Parking and Street Area	58567 sq. ft. 17.9 % o	f Site
i.	Ground Floor Building Area	17053 sq. ft. 5.2 % o	f Site
j.	Total Floor Area	17053 sq. ft 5.2 % of	f Site
k.	Building Heights	_32_feet	stories
١.	Total Proposed Impervious Surface Area	sq. ft. <u>15753</u> 1	% of Site <u>48.2</u>
m.	Permanent Open Space	sq. ft. <u>16897</u> 3	% of Site <u>51.8</u>
	Landscaped Area	sq. ft.	% of Site
n.	Recreation Area	3 <u>26504</u> sq. ft.	% of Site <u>100</u>

If the proposed project is a multifamily residential development, the following additional data shall be shown on the plans.

Ο.	Num	ber of Dwelling I	Jnits (du)	-	
p.	Gros	s Density (du/ac	res)	-	
q.	Num	ber, Type, and F	oor Area of each	n Dweiling Unit:	
	1.	Efficiency		Floor Area	sq. ft
	2.	1 Bedroom		Floor Area	sq. ft
	3.	2 Bedroom		Floor Area	sq. ft
	4.	3 Bedroom		Floor Area	sq. ft.
	5.	4 Bedroom		Floor Area	sg. ft.

authorized representative or property owner's initials

LETTER OF INTENT

Please include a Letter of intent (LOI), stipulating your request, addressed to the Community Development Director. This letter must specify all applicable requests. Such requests may include any and/or all of the following:

- a. General purpose and intent of the PDP
- b. Subdivision requests See Article 4.1 and 4.2.5
- c. Rezoning requests specifying the actual request and explanation of need for the rezoning
- d. Special exception requests and explanation of need for the special exception
- e. Variance requests specifying the actual request and explanation of need. All variance requests must address the five (5) criteria for the granting the a variance, per Land Use and Development Regulations, section 8.10. Note: Variances run with the land.
- f. Vacation of Plat as outlined in section 8.11 and explanation of vacation request
- g. Borrow pit requests as outlined in section 3.23, 4.2.5, and 8.3.2

DEVIATION REQUEST LETTER(S)

Applicant must complete a separate deviation request letter for each deviation type requested. Please ensure that proper justification for the requested deviation accompanies each request. Staff will not analyze any requested deviation that does not include justification for the deviation sought and this may result in a rejection of your application. Refer to the appropriate section of the LUDRs for guidance on the criteria for which a particular deviation may be sought. Note: Deviations do not run with the land.

- Landscaping Deviations shall be in accordance with Section 5.2.19
- Non-residential Design Standards Deviations shall be in accordance with Section 5.6.10 Deviation,
- Engineering Design Standards (EDS) Deviations in accordance with sheet 1, "Foreword" paragraph 5,
- All Other Deviation Requests, shall be in accordance with Section 4.2.4.K

TRAFFIC GENERATION ESTIMATE

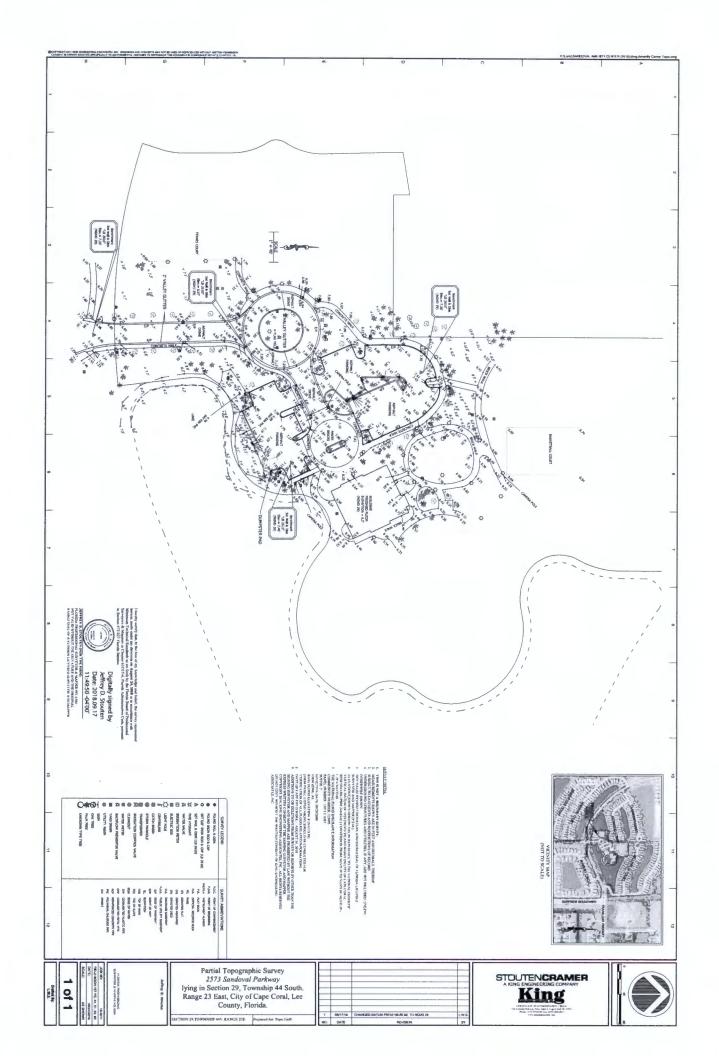
The following will determine the need of a Traffic Impact Statement. Trip Generation Estimate, based on the most

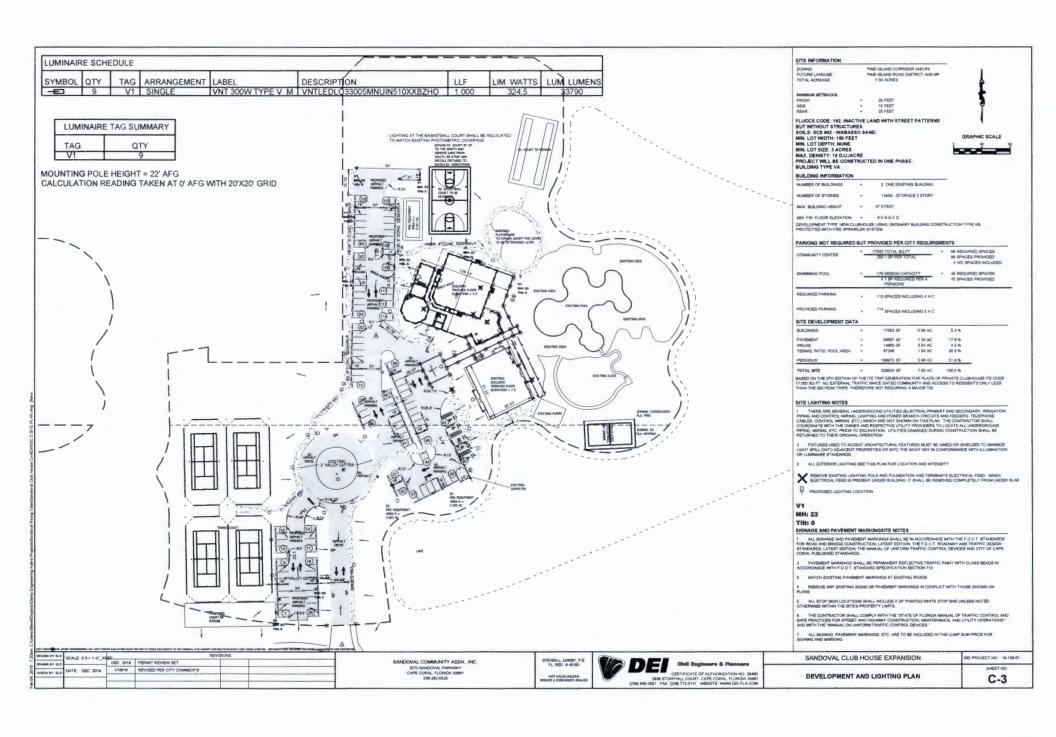
current edition of	of the Institute of Tr	ansportation Engineers (ITE) Tri	p Generation manual:	
ITE Code	:. A	Is estimate based on loc	ally collected data?	
Regression equa	tion (if used)			
Independent Vai	riable			
Daily Two Way T	rip Estimate			
Peak Hour (of ge	enerator) Entering			
Peak Hour (of ge	enerator) Exiting			
Total Peak Hour	(of generator)			
Peak Hour Enter	ing and Exiting trips	greater than 300 trips	INTERNAL TRIPS	

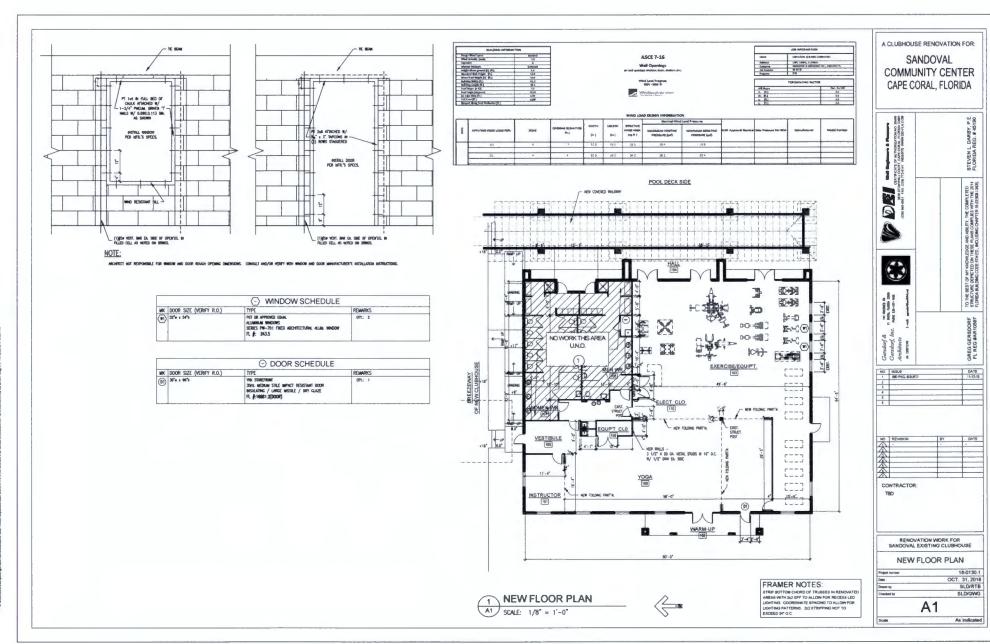
If the total peak hour traffic exceeds 300 trips, a Traffic impact Statement (TIS) will be required. A methodology meeting with the City staff is required prior to submitting the TIS. The methodology meeting will be scheduled after the initial submittal of the PDP application.

authorized representative or property owner's initial

PDP Application June, 2014







Installments and an anti-section of the laters from the Philips Letter challenges of Hillscript Conference of the Confer

C'Ubers/Shundbershanderseint street/Seedows Cub. Heime Experiment SES SARONAL QUURISECONST DRYCOSSAN QUUR EXIST Ave., A 1, 1912/919 1 15 34 PM

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Investigation der destination Die Thurs-Communication In July LABOUR, CLARKONSTORIT (SPECIALIE CLAS des 42, 19/2219 351

Ment Spended Company to 41th EadOrts, CLIB-CARCOSS 1 DATEOREX SLEWS TO 6 to 1 to 12 to 15 No.

AND ENGINEERING CONTINUES IN SANSORS, CLARKWITCOUT (RANDOR AT ELFATIONS AND AND 1973)

ME CONTRACTOR DESCRIPTION OF THE PROPERTY OF THE PROPERTY SERVING AND ALL INSTRUMENT AND ALL INSTRUMENTS A

Detail by Entity Name

Florida Not For Profit Corporation SANDOVAL COMMUNITY ASSOCIATION, INC.

Filing Information

 Document Number
 N03000010403

 FEI/EIN Number
 80-0102415

 Date Filed
 12/01/2003

State FL

Status ACTIVE

Last Event AMENDMENT
Event Date Filed 10/20/2016
Event Effective Date NONE

Principal Address

2573 Sandoval Parkway Cape Coral, FL 33991

Changed: 04/17/2017

Mailing Address

2573 Sandoval Parkway Cape Coral, FL 33991

Changed: 04/17/2017

Registered Agent Name & Address

Becker & Poliakoff, P.A. 12140 Carissa Commerce Court 200 Fort Myers, FL 33966

Name Changed: 04/17/2017

Address Changed: 04/17/2017

Officer/Director Detail Name & Address

Title VP

Browning, William W., Jr. 2664 Astwood Court Cape Coral, FL 33991

Title President

Kilraine, Joseph 2624 Fairmont Cove Court Cape Coral, FL 33991

Title Treasurer

INSTR # 2010000313127, Doc Type D, Pages 4, Recorded 12/27/2010 at 03:15 PM, Charlie Green, Lee County Clerk of Circuit Court, Deed Doc. D \$0.70 Rec. Fee \$35.50 Deputy Clerk LTALONE

Prepared by and return to: David L. Cook, Esq.

Henderson, Franklin, Starnes & Holt, P.A. (B) 3451 Bonita Bay Boulevard Suite 206 Bonita Springs, FL 34134 239-344-1100

[Space Above This Line For Recording Data]

Quit Claim Deed

This Instrument Was Prepared Without Opinion of Title.

This Warranty Deed made this /6 day of December, 2010 between Cape Coral Development Associates, LLC, a Florida limited liability company, whose address is 9990 Coconut Road, Suite 200, Bonita Springs, FL 34135 grantor, and Sandoval Community Association, Inc., a Florida corporation, whose post office address is 9990 Coconut Road, Suite 200, Bonita Springs. FL 34135, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, does hereby remise, release, and quitclaim to the said grantee, and grantee's heirs and assigns forever, all the right, title, interest, claim and demand which grantor has in and to the following described land, situate, lying and being in Lee County, Florida to-wit:

See Exhibit "A" and "B" attached hereto and made a part hereof.

Subject to taxes for 2010 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

To Have and to Hold, the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of grantors, either in law or equity, for the use, benefit and profit of the said grantee forever.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Cape Coral Development Associates, LLC, a Florida limited liability company

By: Resource Conservation Properties, Inc., a Florida corporation,

Its: Managing Member

Printed Name: Gay Ana
Its: Vice Presided

State of Florida County of Lee

The foregoing instrument was acknowledged before me this 16 day of December, 2010 by of Resource Conservation Properties, Inc., a Florida corporation, Managing Member of Cape Coral Development Associates, LLC, a Florida limited liability company, on behalf of the corporation, who [V is personally known or [X] has produced a driver's license as identification.

[Notary Seal]

DIANE MURRAY
MY COMMISSION # EE43845
EXPIRES: December 03, 2014
Legg. And TARY
II. Notary Discount Assoc. Co.

Notary Public

Printed Name: Diane Murra

My Commission Expires: 12 3 14

Exhibit "A"

1. The following tracts or parcels within Sandoval Phase 1, according to the plat thereof recorded in Official Records Book 79, Page 15, Public Records of Lee County, Florida:

Recreation Lake 1

Recreation Lake 2

Tract RA-1

Tract RA-2

Tract LP-1

Tract LP-2

Tract LP-3

Tract LP-4

Tract LP-5

Tract LS-1

Tract LS-2

Tract LS-3

Tract LS-4

Tract LS-5

Tract LS-6

2. The following tracts or parcels within Sandoval Phase 2, according to the plat thereof recorded as Instrument Number 2005000167039, Public Records of Lee County, Florida:

Tract WL-1

Tract LP-6

Tract LP-7

Tract LP-8

Tract LP-9

Tract LP-10

Tract LP-11

Tract LP-12

Tract LS-7

Tract LS-8

Tract LS-9

Tract LS-10

Tract LS-11

Tract LS-12

Tract LS-13

Exhibit_"B"

1. The following tracts or parcels within Sandoval Phase 1, according to the plat thereof recorded in Official Records Book 79, Page 15, Public Records of Lee County, Florida:

Lake Tract 1-A

Lake Tract 1-B

Lake Tract 1-C

Lake Tract 1-D

Lake Tract 1-E

Lake Tract 1-F

Lake Tract 1-G

Lake Tract 1-H

Lake Tract 1-I

Tract CA-1

Tracts R-1 through R-7

Tract R-S1

Tract ROW-1

Tract UD-1

2. The following tracts or parcels within Sandoval Phase 2, according to the plat thereof recorded as Instrument Number 2005000167039, Public Records of Lee County, Florida:

Tract 2-A

Tract 2-B

Tract 2-F

Tract 2-G

Tract 2-H

Tract 2-I

Tract 2-J

Tract 2-K

Tract 2-L

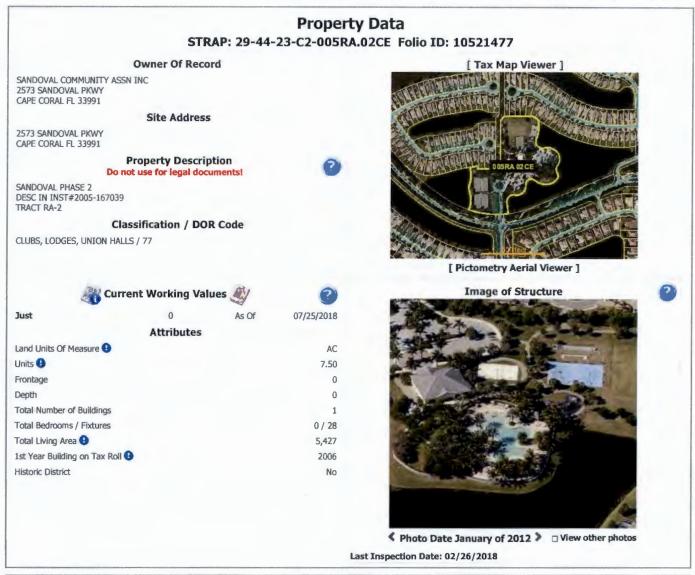
Tract CA-2

Tracts R-8 through R-15



Tax Year 2018

Next Parcel Number Previous Parcel Number Tax Estimator Cape Coral Fees Tax Bills Print



Exemptions No existing exemptions found for this property.



TRIM (proposed tax) Notices are available for the following tax years

-	Taxing Author	
Name / Code	Category	Mailing Address
LEE CO GENERAL REVENUE / 044	County	Lee County Office of Management & Budget PO BOX 398 FORT MYERS FL 33902-0398
LEE CO ALL HAZARDS PROTECTION DIST / 101	Dependent District	Lee County Office of Management & Budget PO BOX 398 FORT MYERS FL 33902-0398
LEE CO LIBRARY DIST / 052	Dependent District	Lee County Office of Management & Budget PO BOX 398 FORT MYERS FL 33902-0398
MUNICIPAL SOLID WASTE DISPOSAL MSTU / 116	Dependent District	Lee County Office of Management & Budget PO BOX 398 FORT MYERS FL 33902-0398
LEE CO HYACINTH CONTROL DIST / 051	Independent District	RUSSELL BAKER 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
LEE CO MOSQUITO CONTROL DIST / 053	Independent District	RUSSELL BAKER 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
WEST COAST INLAND NAVIGATION DIST / 098	Independent District	Justin D. McBride EXECUTIVE DIRECTOR 200 MIAMI AVE E VENICE FL 34285-2408
CITY OF CAPE CORAL / 014	Municipal	VICTORIA BATEMAN FINANCIAL SERVICES DIRECTOR PO BOX 150027 CAPE CORAL FL 33915-0027
PUBLIC SCHOOL - BY LOCAL BOARD / 012	Public Schools	AMI DESAMOURS BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
PUBLIC SCHOOL - BY STATE LAW / 013	Public Schools	AMI DESAMOURS BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
SFWMD-DISTRICT-WIDE / 110	Water District	MICHELLE QUIGLEY 3301 GUN CLUB RD WEST PALM BEACH, FL 33406
SFWMD-EVERGLADES CONSTRUCTION PROJECT / 084	Water District	MICHELLE QUIGLEY 3301 GUN CLUB RD WEST PALM BEACH, FL 33406
SFWMD-OKEECHOBEE BASIN / 308	Water District	MICHELLE QUIGLEY 3301 GUN CLUB RD WEST PALM BEACH FL 33406

				Sales / Transactions	
Sale Price	Date	OR Number	Туре	Description	Vacant/Improved
				Sales disqualified as a result of examination of the deed Corrective Deed, Quit Claim Deed, or Tax Deed; deed bearing Florida Documentary Stamp at the minimum rate prescribed under Chapter 201, F.S.; transfer of ownership in which no documentary stamps were paid	
100.00	12/16/2010	2010000313127	11	There are 52 additional parcel(s) with this document (may have been split after the transaction date) 20-44-23-C3-0052F,00CE 20-44-23-C3-0052G,00CE 20-44-23-C3-0051E,00CE 20-44-23-C3-0051E,00CE 20-44-23-C3-0051E,00CE 20-44-23-C3-0051E,00CE 29-44-23-C2-0031E,00CE 29-44-23-C2-0031E,00CE 29-44-23-C2-0031E,00CE 29-44-23-C2-0031E,00CE 29-44-23-C2-0031E,00CE 29-44-23-C2-0031E,00CE 29-44-23-C2-0052A,00CE 29-44-23-C2-0052B,00CE 29-44-23-C2-0052B,00CE 29-44-23-C3-0052B,00CE 29-44-23-	I
5,325,400.00	03/22/2001	3385/2347	02	Sales qualified but excluded from sales ratio analysis Qualified (Multiple STRAP # / 06-091)	V
100.00	03/22/2001	3385/2329	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
100.00	03/22/2001	3385/2326	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
100.00	03/22/2001	3385/2323	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
100.00	03/22/2001	3385/2320	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
100.00	03/22/2001	3385/2317	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V

100.00	03/22/2001	3385/2314	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V	
100.00	03/22/2001	3385/2311	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V	
300,000.00	05/16/1979	1349/1861	02	Sales qualified but excluded from sales ratio analysis Qualified (Multiple STRAP # / 06-09I)	V	

-	Building/Construction Permit Data	1
Permit Number	Permit Type	Date
B18-10885	AC New / Change out	04/23/2018
B17-18652	Building Miscellaneous	09/20/2017
B17-18201	AC New / Change out	08/21/2017
B17-03745	Fence	03/13/2017
B15-13814	AC New / Change out	07/31/2015
B15-02297	Building Miscellaneous	03/10/2015
B14-11998	Building Miscellaneous	09/30/2014
B14-09370	Building Miscellaneous	08/07/2014
B13-04576	Electric	04/16/2013
B10-12873	Site Development - Driveway / Sidewalks	12/10/2010
306-20398	Electric	08/23/2006
306-20400	Electric	08/23/2006
306-20270	Electric	08/22/2006
305-35842	Pool & Spa	07/28/2006
306-10848	Shutter, Awning	07/21/2006
306-15543	Building Miscellaneous	07/17/2006
806-15826	Commercial	07/07/2006
<u>306-16361</u>	Landscape / Irrigation	07/03/2006
306-4743	Building Miscellaneous	05/01/2006
806 <u>-4745</u>	Fence	05/01/2006
305-19951	Commercial	04/25/2006
005-16417	Fence	07/26/2005
004-11901	Commercial	05/17/2005
<u> 005-6656</u>	Electric	03/01/2005
905-204	Electric	01/04/2005
804-23857	Plumbing	10/01/2004
304-227 <u>39</u>	Site Development - Driveway / Sidewalks	09/27/2004
04-22740	Site Development - Driveway / Sidewalks	09/27/2004
04-22414	Electric	09/20/2004
303-17716	Site Development - Driveway / Sidewalks	09/12/2003

IMPORTANT INFORMATION: THIS MAY NOT BE A COMPREHENSIVE OR TIMELY LISTING OF PERMITS ISSUED FOR THIS PROPERTY.

Note: The Lee County Property Appraiser's Office does not issue or maintain any permit information. The Building/Construction permit data displayed here represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding that in no way is this to be considered a comprehensive listing of permits for this or any other parcel.

The Date field represents the date the property appraiser received information regarding permit activity; it may or not represent the actual date of permit issuance or completion.

Full, accurate, active and valid permit information for parcels can only be obtained from the appropriate permit issuing agency.

 Parcel Numbering History 						
Prior STRAP	Prior Folio ID	Renumber Reason	Renumber Date			
29-44-23-C2-00001.0000	10088056	Split (From another Parcel)	03/06/2006			

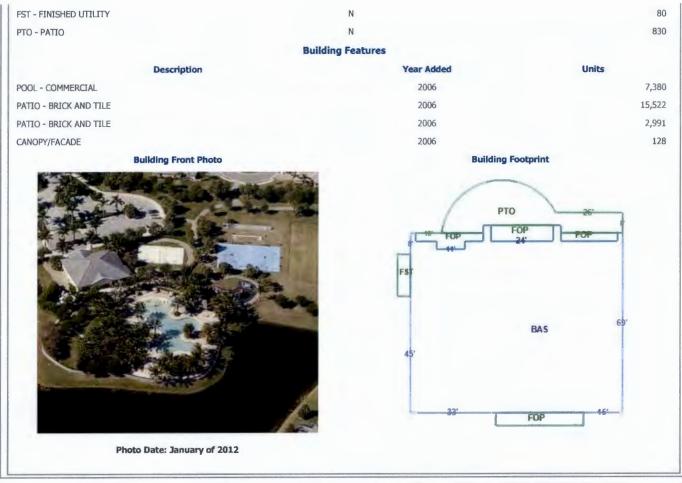
-	Le	ocation Informatio	on	
Township	Range	Section	Block	Lot
44	23E	20	005RA	02CE
Municipality	Lati	tude	Longi	tude
City of Cape Coral	26.6	2303	-82.0	2686
		Links		
View Pa	rcel on Google Maps		View Parcel on GeoVi	ew

Solid Waste (Garbage) Roll Data							
Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount			

-	Flood and Storm Information					
Flo	ood Insurance Fi	nd my flood zone		Storm Surge Zone	Evacuation Zone	
Community	Panel	Version	Date	Storm Surge Zone	LVacuation Zone	
125095	0385	F	8/28/2008	В	В	

 Appraisal Details (2018 Trim) 					
			Land		
		La	nd Tracts		
Use Code	Use Code Description	Depth	Frontage	Number of Units	Unit of Measure
7720	Country Clubs	0	0	7.50	Acres
		Lan	d Features		
	Description			Year Added	Units
BLACK TOP - IMPROVE	D			2006	30,950
ENCE - ALUM/VINYL -	4 FEET			2006	788
BLACK TOP - IMPROVE	D			2006	5,890
TENNIS COURT - BLAC	K TOP			2006	28,000
ENCE - CHAIN LINK -	10 FOOT			2006	806
ENCE - CHAIN LINK -	4 FOOT			2006	240
TIKI HUTS - TRUSS/RA	FTER SYSTEM			2006	400
TIKI HUTS - TRUSS/RA	FTER SYSTEM			2006	144
WALL - DECORATIVE -	C.B.S.			2006	228
SLAB - CONCRETE				2006	144
FENCE - CHAIN LINK -	6 FOOT			2006	12

	Build	ings		
	Building	1 of 1		
	Building Cha	racteristics		
Improvement Type	Model Type	Stories	Living Units	
74 - Health/Clubhouse	7 - Apt/Hotel/Clubs	1.0	1	
Bedrooms Bathrooms		Year Built	Effective Year Built	
0	0.0	2006	2006	
	Building S	Subareas		
Descript	don	Heated / Under Air	Area (Sq Ft)	
BAS - BASE		Υ	5,42	
P - FINISHED OPEN PORCH N		N	6	
OP - FINISHED OPEN PORCH N		N	14	
OP - FINISHED OPEN PORCH		N	11	
OP - FINISHED OPEN PORCH		N	17	



			Land nd Tracts		
Use Code	Use Code Description	Depth	Frontage	Number of Units	Unit of Measure
7720	Country Clubs	0	0	7.50	Acres
		Land	l Features		
	Description			Year Added	Units
BLACK TOP - IMPROVE				2006	30,950
FENCE - ALUM/VINYL -	4 FEET			2006	788
BLACK TOP - IMPROVE				2006	5,890
TENNIS COURT - BLACK TOP FENCE - CHAIN LINK - 10 FOOT			2006	28,000	
				2006	80
FENCE - CHAIN LINK -	4 FOOT			2006	24
TIKI HUTS - TRUSS/RA	FTER SYSTEM			2006	400
TIKI HUTS - TRUSS/RA	FTER SYSTEM			2006	14
WALL - DECORATIVE -	C.B.S.			2006	229
SLAB - CONCRETE				2006	14
FENCE - CHAIN LINK -	S FOOT			2006	1:
		В	ıildings		
		Build	fing 1 of 1		
		Building	Characteristics		



Previous Parcel Number Next
Parcel Number New Ouery
Search Results Home

[2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018]

PROJECT SUMMARY

PROJECT: Sandoval PDP Amendment for Tract RA-2

CASE NUMBER: PDP18-0010

REQUESTS: Amend the project to allow a second clubhouse on Tract RA-2;

Eliminate a right-of-way requirement appearing in Ordinance 12-12

SITE ADDRESS (clubhouse): 2573 Sandoval Parkway

STRAP NUMBER: 29-44-23-C2-005RA.02CE

LEGAL DESCRIPTION: Tract "RA-2" of Sandoval-Phase 2, as recorded in Instrument number

2005000167039 of the public records of Lee County, Florida

PROPERTY OWNER: Sandoval Community Association, Inc.

AUTHORIZED AGENT: Steve Darby, P.E., DEI Civil Engineers and Planners

FUTURE LAND USE: Pine Island Road District and Multi-Family

ZONING DESIGNATION: Corridor (CORR) and Multi-Family Residential (R-3)

URBAN SERVICE AREA: Transition

CODE COMPLIANCE CASE: N/A

PREPARED BY: Mike Struve, AICP, Planning Team Coordinator

APPROVED BY: Robert H. Pederson, AICP, Planning Manager

RECOMMENDATION: Approval with conditions

PURPOSE

This document provides a single, consolidated review for a Planned Development Project (PDP) entitled "Sandoval PDP Amendment for Tract RA-2." Within this report the following topics are addressed:

- Description of the Sandoval Project
- · Description of the project area;
- Need for the PDP Amendment;
- Requests, analysis, and recommendations;
- Eliminate a Condition Appearing in Ordinance 12-12
- General standards and requirements for PDPs;
- Concurrency review;
- Consistency with the City Comprehensive Plan; and
- Project recommendation.

DESCRIPTION OF THE SANDOVAL PROJECT

The applicant seeks to amend a PDP entitled "Sandoval." This project was originally approved by Ordinance 31-04 as "Veteran's Parkway West" (aka Bonita Bay). The project was amended by Ordinance 143-06 and granted subdivision approval for an 20.74-acre commercial subdivision named "Shops at Surfside." Ordinance 156-07 amended the project and included renaming Phases I, II, and III approved by Ordinance 31-04 as "Sandoval." Since the original approval of the project by Ordinance 31-04, the project has been amended by Ordinances 143-06, 156-07, 77-10, 12-12, 4-13, and 31-15.

Sandoval is a mixed-use PDP on 524.24 acres between Veteran's Memorial Parkway and Pine Island Road (Figure 1). The project has been developed in several phases. Ordinance 31-04 approved 1,081 single-

family units, 488 multi-family units, 310,000 sq. ft. of retail, and 10,000 sq. ft. of office uses. The project has been amended several times, most recently by Ordinance 31-15, resulting in the approval of 1,219 single-family units, 570 multi-family units, 226,500 sq. ft. of retail, and 10,000 sq. ft. of office uses. Based on the number of single and multi-family sites, the project is over 95% built out. The project area has several Future Land Use Classifications (FLUC); Pine Island Road District; Single Family; Multi Family; and Commercial/Professional. Zoning districts represented in the project include Corridor (CORR), Single-Family Residential (R-1B), Multi-Family (R-3), and Pedestrian Commercial (C-1).

PROJECT AREA

This PDP amendment involves a 7.5-acre tract at 2573 Sandoval Parkway. This site is centrally located within the project and features recreational facilities that include a clubhouse, swimming pool, and basketball and tennis courts. This parcel has a Pine Island Road District FLUC and Corridor Zoning for 5.06 acres, while the remaining 2.45 acres has a Multi Family FLUC and R-3 Zoning.

Figure 1. Aerial Map Showing the Sandoval Project Area Outlined in Red and an Insert Aerial of the 7.5-Acre Site Subject to the PDP Amendment.



NEED FOR THE PDP AMENDMENT

Section IV. G. of Ordinance 31-04 that approved the Sandoval Project states the following:

"G. Subsequent requests for local development permits shall not require further review, unless it is found by the City Council, after due notice and hearing, that one or more substantial deviation(s), or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City have occurred. Substantial deviations include but are not limited to:

- 1. Any change which requires a variance to code over and above those specifically incorporated herein.
- 2. An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or <u>building square footage</u> ..."

Tract RA-2 has an existing 5,500 sq. ft. clubhouse. The request for an additional 11,600 sq. ft. clubhouse on this site exceeds the 5% threshold in building square footage outlined in Subsection 2. above.

REQUESTS

Two requests are sought by the applicant.

- 1. A second private clubhouse is requested for the project. This building will be 11,600 sq. ft. and will be connected to the existing 5,500 sq. ft. clubhouse to the south by a breezeway (Figure 2).
- 2. Development plan approval is requested to revise the previously approved plans for Tract RA-2. Besides the new clubhouse, other improvements include parking, new walkways, and lighting.

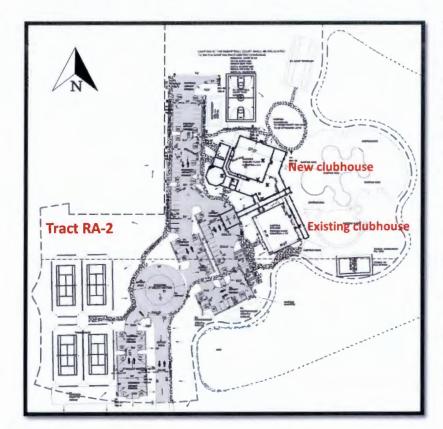
New Private Clubhouse

Background

The applicant seeks approval for a second private clubhouse on the site. Private clubhouses are defined in Article XI as "A central facility that serves as an integral part of a residential development providing a meeting place and/or indoor recreation opportunities for residents of a residential subdivision or other residential or mixed-us development, within which the facility is located." This new building will be north of the existing clubhouse. A covered walkway will connect the two buildings. Staff considers the new clubhouse to be a separate building from the existing smaller clubhouse since each building will operate and function independent of one another, and the buildings will not be structurally integral to one another.

The proposed clubhouse will be constructed on land with a Pine Island Road District FLUC and Corridor Zoning. The development plan shows this building will comply with all Corridor setbacks. Architectural compliance will be required for the clubhouse that will be verified during site development plan review.

Figure 2. Diagram of a portion of Tract RA-2 Showing the New and Existing Clubhouse Sites.



The applicant states the existing clubhouse is inadequate to serve the Sandoval Community that has over 1,700 dwelling units. The new clubhouse will address this deficiency by providing space for offices, catering facilties, entertainment areas, library, media room, and several multipurpose rooms. The existing clubhouse will serve as a fitness facililty.

While parking is not required for clubhouses, 62 new parking spaces are proposed that will bring the total number of parking spaces on the site to 101. These spaces will be used by residents visiting the clubhouses and other recreational amenities on this site.

Analysis

LUDR, Section 3.15.1 states private clubhouses in residential or mixed-use PDPs may be approved as part of the PDP process by the City Council if the City Council finds that such a facility will serve as an integral part of the development where the facility is located.¹

The clubhouse will be on a large parcel containing a variety of recreational facilities. The new facility will be integrated into the design of the site near the existing clubhouse and pool. Adequate parking will be provided for residents and guests.

The nearest single-family residences will be to the east, about 100 feet from the new clubhouse. A row of mature landscaping is between these dwellings and the clubhouse.

¹ The existing 5,500 sq. ft. clubhouse was approved as a special exception use by Ordinance 31-04. In 2006 the LUDRs were amended to eliminate private clubhouses as a special exception use and to instead allow the City Council to approve clubhouses for residential and mixed-use projects approved by PDP. For residential and mixed-use projects not requiring PDP approval, the Director of Community Development may approve private clubhouses.

The new building will be on land with Corridor Zoning. The development plan shows the building will comply with the Corridor setback requirements. Compliance with the nonresidential design standards for this building will be evaluated during site development plan review.

The new clubhouse will provide amenities that are currently lacking to residents of Sandoval. The applicant has provided information on clubhouse area and the total number of home sites of several other planned developments in Lee County. These data suggest the existing clubhouse area is not commesurate to the population of the Sandavol Community.

The new clubhouse will provide a variety of amenities that are currently lacking. The existing clubhouse, based on information provided by the applicant, is relatively small for the population served by this facility. Staff finds that the proposed clubhouse will be an integral part of the development as many residents in planned communities expect recreational facilities and services will be provided on-site. The facility will promote the public health, safety, and welfare by offering a suite of amenities within walking distance to many residents of the Sandoval Community.

Recommendation

Staff recommends approval of adding a second clubhouse to the site.

Amend the Development Plan for Tract RA-2

Background

The applicant seeks to amend the previously approved development plan for Tract RA-2. Changes to this plan include a new clubhouse, parking, walkways, and lighting.

Analysis

The development plan reflects improvements requested by the applicant and outlined in the letter of intent to the City for Tract RA-2. The submittal of a site development plan for staff review following PDP approval is required to be consistent with the development plan approved by the City Council.

Recommendation

Staff recommends approval.

ELIMINATE A CONDITION APPEARING ORDINANCE 12-12

When PDPs are amended, staff reviews conditions in previously approved orders to identify conditions that should be updated, revised, or eliminated. These efforts often occur independent of the initial request of the applicant for amending the PDP.

A condition in Ordinance 12-12 required the developer to complete off-site improvements in a City right-of-way (ROW) at the northwest corner of Sandoval south of Pine Island Road. This ROW is oriented north to south and is about 600 feet long (Figure 3). The final ROW design was to consist of a four-lane divided roadway with sidewalks on both sides; of the street. The developer was to complete these improvements

prior to developing a 10.35-acre commercial tract (as known as Sandoval Phase IV) or no later than June 11, 2022, whichever came first.

Figure 3. Aerial Map Showing the ROW Area and Sandoval Phase IV.



Sandoval Phase IV was originally approved for commercial development. However, in 2015 Sandoval was amended by Ordinance 31-15 to allow commercial, mixed-use, or multi-family development on this tract.

In 2016 a site plan (SP16-0041) approving 186 multi-family units was approved for Sandoval Phase IV, and construction was subsequently completed on Coralina Apartments. At the time of construction of these apartments, the existing ROW improvements were considered sufficient for meeting the traffic demands of the development. Those improvements included two lanes and a sidewalk on the east side of the ROW, while the west side had one lane and no sidewalks. Bike lanes exist on both the east and west sides.

Planning recently revisited the adequacy of these ROW improvements with Public Works staff. Since Phase IV developed as a residential project, the number of trips generated by the development is considerably less than if the ten-acre site had developed commercially. As a result, Public Works staff no longer believes additional lanes or sidewalks are necessary on the west side of this ROW. Staff recommends the ROW condition appearing in Ordinance 12-12 be eliminated.

GENERAL STANDARDS AND REQUIREMENTS FOR PDPS

This project was also evaluated for compliance with general standards and requirements found in LUDR, Section 4.2 that is provided below.

- A. Environmental control standards: The project involves redeveloping a site with an existing clubhouse and other recreational amenities. A second, new clubhouse will augment recreational amenities on the site. Since new development is confined to a site that is currently improved, the project will have no adverse affect on the natural environment. Regarding criteria and performance standards outlined in Section 5.4, the site has an existing dumpster that will be adquate for solid waste collection. The project is not antipated to produce offensive odors. The new clubhouse will be constructed near a smaller, existing clubhouse with a outdoor pool. The new building will be integrated into the existing development and will be compatible with residential development in this community. Based on the existing development on the site, soils should be adequate for the construction of the new clubhouse. Soil compaction suitability will be evaluated during the building inspection process. This project complies with those standards established in Section 5.4.
- B. Maintenance of improvements: Ordinance 31-04 included a condition requiring all landscaping and screening to be maintained in good condition throughout the life of the development.
- C. Consistency with Comprehensive Plan: This project is consistent with several policies and goals in the Comprehensive Plan that are discussed in greater detail later in this report.
- D. *Financial Responsibility:* The project does not involve any mandatory improvements that the City requires securing with a bond or other similar financial instrument.
- E. *Dimensional requirements:* The project will comply with all applicable dimensional requirements of the Corridor District. No variance or deviation from any dimensional standard is needed.
- F. Maximum density: This PDP amendment will approve the construction of a second clubhouse on a recreation parcel. This amendment does not authorize new residential development beyond that which has previously been approved.
- G. *Minimum parcel size:* The project is in the City Urban Services Transition Area. As a result, there is no minimum parcel or project area required.
- H. *Time limitation:* Substantial construction is required to begin within two years of project approval by the City Council or within one year of the last permit approval from all appropriate regulatory bodies, whichever is less, unless otherwise approved by the City Council.
- 1. Ownership requirements: A single entity, Sandoval Community Association, Inc., owns 100% of Tract RA-2.
- J. Special exceptions: No special exceptions are sought as part of this PDP amendment.
- K. Deviations: No deviations are sought as part of this PDP amendment.

L. Underground Utilities: The new clubhouse will be served by underground utilities.

CONCURRENCY REVIEW

Sandoval met concurrency requirements for roads, sewer, water, drainage, solid waste, and parks when the project was approved in 2004. This amendment approves a second clubhouse that will be used primarily by Sandoval residents. While trips to the site may increase within the Sandoval project, the number of trips generated outside the project on City streets should remain essentially unchanged.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

This project is consistent with the policies listed below.

Conservation and Coastal Management Element

Policy 1.7.9: The City will continue its policy of requiring all applicants for City building permits to complete an affidavit stating they have inspected the proposed building site for the presence of burrowing owl nests. The applicant shall be required to state whether state and federal permits to remove the owl burrows are needed or whether the development can be completed without removing the owl burrows, in which case the contractor shall accept full responsibility for protecting the owl burrows from actions of employees or sub-contractors. Staff comments: A burrowing owl/gopher tortoise affidavit is required by the City during the site development plan review process. This policy is supportive of this request.

Future Land Use Element

Policy 1.15: This policy includes information on the Multi Family and the Pine Island Road District Future Land Use Classifications. Staff comments: About 5.06 acres of the site has a Pine Island Road District FLUC and Corridor Zoning. About 2.45 acres has a Multi-Family FLUC and Multi-Family Residential (R-3) Zoning. The two zoning districts represented on the site is consistent with the two respective Future Land Use Classifications. This policy is supportive of this request.

Policy 1.20: The City will promote the development of identifiable residential neighborhoods and commercial districts through the encouragement of more compact development patterns, the use of shared design and landscaping characteristics, and the development of landmarks and gateways. Staff comments: Sandoval is a mixed-use development. The project provides a variety of housing types and lot areas. The project features signage and landscaping that provides the development with a common identify. This policy is supportive of this request.

Policy 4.1: Future development requiring access or connection to public water and sewer facilities will be located within either the Urban Services Infill or Transition areas. **Staff comments: The entire Sandoval Project is in the Urban Services Transition Area. This policy is supportive of this request.**

Transportation Element

Policy 2.2.6: In order to promote bicycling, walking, and other alternative modes of transportation, the City shall provide incentives for the development of mixed-use projects, commercial activity centers, and alternative subdivision design and lot layouts. Staff commercial Lot dimensions and areas vary

considerably in Sandoval. This project includes an interconnected sidewalk/greenway/bike path system. This policy is supportive of this request.

PROJECT RECOMMENDATION

Staff finds that this PDP amendment is consistent with the Comprehensive Plan and LUDRs. Staff recommends approval of all applicant requests and approval of the PDP amendment.

Staff Contact Information

Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

PH: 239-242-3255

Email: mstruve@capecoral.net



Please contact us with changes or cancellations as soon as possible, otherwise no further action needed.

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NOTICE OF PUBLIC HEARING ADVERTISEMENT

CASE NUMBER: PDP18-0010

REQUEST: A request to amend a planned development project in the City of Cape Coral, Florida entitled "Sandoval PDP Amendment for Tract RA-2" for certain property described as land lying in Sections 20 and 29, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida; property located between Pine Island Road and Veterans Parkway West, west of Surfside Boulevard and east of Cape Royal (formerly known as Royal Tee); granting a second private clubhouse on Tract RA-2; eliminating a right-of-way condition appearing in Ordinance 12-12; granting development plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations.

ulations.

CAPE CORAL STAFF CONTACT: Mike Struve, Planning Team Coordinator, 239-242-3255, mstruve@capecoral.net

UPCOMING PUBLIC HEARING: Notice is UPCUMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on July 16, 2019 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available five days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

DETAILED INFORMATION: The case re-DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027

The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

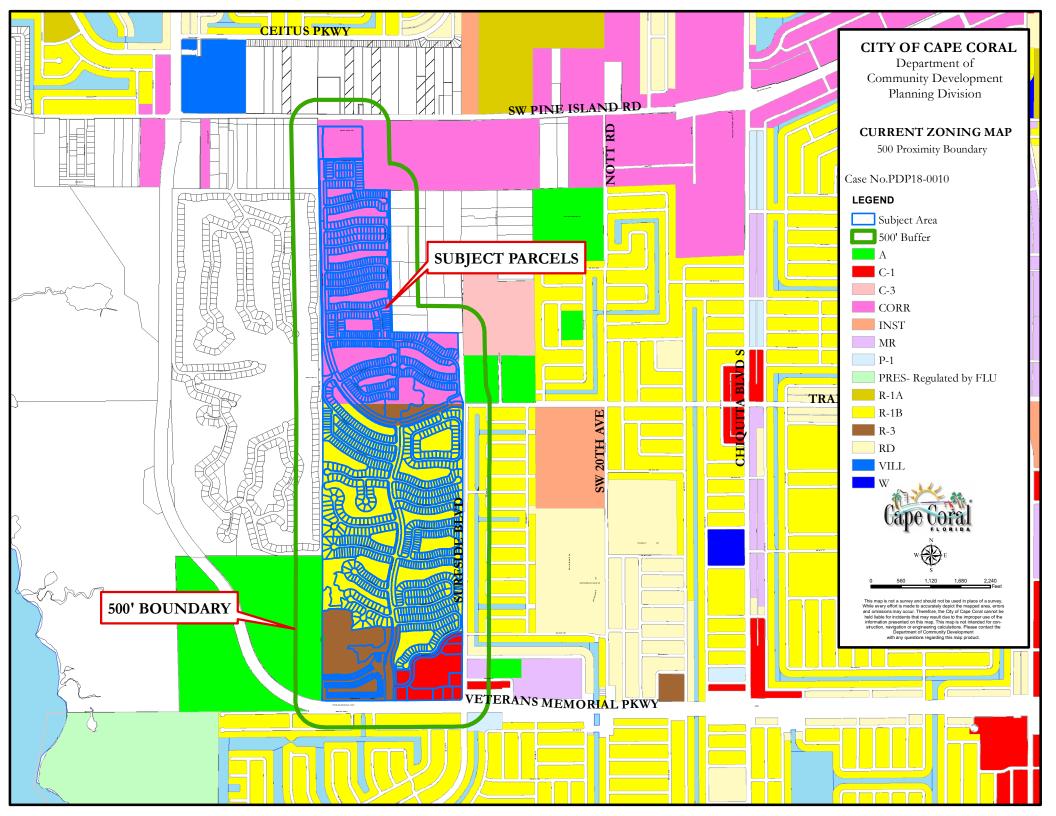
by order of Kimberly Bruns, CMC City Clerk REF # PDP18-0010 AD#3655337

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Sandoval Amendment

APPLICATION NO: PDP18-0010
STATE OF FLORIDA) COUNTY OF LEE)
I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:
That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.
That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.
DATED this day of Tuly, 2019. Vincent A. Cautero, AICP
STATE OF FLORIDA COUNTY OF LEE
The foregoing instrument was acknowledged before me this 10th day of 1019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.
Exp. Date 12 Commission # 5503047
Signature of Notary Public
Print Name of Notary Public





CITY OF CAPE CORAL, FLORIDA
OFFICE OF THE HEARING EXAMINER

PDP HEX Recommendation 2-2019 Rendered July 17, 2019

SANDOVAL PDP AMENDMENT FOR TRACT RA-2 DCD Case # PDP 18-0010

SECTION I. SANDOVAL PDP AMENDMENT FOR TRACT RA-2 DCD CASE # PDP 18-0010

PURSUANT TO CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS ("LUDRs") ARTICLE IV, §4.2, PLANNED DEVELOPMENT PROJECT PROCEDURE, THE HEARING EXAMINER **RECOMMENDS APPROVAL** (WITH A CAVEAT) TO THE CITY COUNCIL REGARDING THE SANDOVAL PLANNED DEVELOPMENT PROJECT ("PDP") AMENDMENT FOR TRACT RA-2 ("PROJECT"), FOR CERTAIN PROPERTY DESCRIBED AS A PARCEL OF LAND LOCATED IN SECTIONS 20 AND 29, TOWNSHIP 44, RANGE 23 EAST, CAPE CORAL, LEE COUNTY, FLORIDA AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED BETWEEN PINE ISLAND ROAD AND VETERAN'S MEMORIAL PARKWAY WEST, WEST OF SURFSIDE BOULEVARD AND EAST OF CAPE ROYAL (FORMALLY KNOWN AS ROYAL TEE); WITH SUCH RECOMMENDATION SPECIFICALLY AS FOLLOWS:

- GRANTING A SECOND PRIVATE CLUBHOUSE FOR THE PROJECT:
- ELIMINATING A RIGHT-OF-WAY CONDITION APPEARING IN ORDINANCE 12-12 OR, IN THE ALTERNATIVE, REQUIRING APPLICANT TO COME INTO COMPLIANCE THEREWITH AS A PRECONDITION TO DEVELOPMENT HEREUNDER;
- GRANTING DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS;
- PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW:
- PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL;
- PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THE PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS;
- PROVIDING SEVERABILITY AND AN EFFECTIVE DATE

SECTION II. REVIEW OF LUDR REQUIREMENTS

1. <u>Authority.</u> The Hearing Examiner has the authority (i) to recommend to the City Council approval or denial of an application for those planned development projects (including amendments thereto) which are set forth in LUDR §4.2.5.F.2 as

amended from time to time and (ii) if the recommendation is for approval, to recommend the establishment of appropriate conditions and safeguards pursuant to LUDR §4.2.5.F2.

- 2. <u>Site Visit by Hearing Examiner.</u> The Hearing Examiner conducted a site visit of the subject property prior to the Hearing, in accordance with the authority set forth in LUDR § 8.3.1.C.6.a.
- 3. <u>Standard of Review of Evidence; Hearsay Evidence.</u> The Hearing Examiner's decision is based on whether the Application meets all applicable requirements of the Comprehensive Plan, City Code of Ordinances, and the LUDRs, upon review of the entirety of the record. It is Applicant's burden to prove that it does.

Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient by itself to support a finding unless it would be admissible over objection in court.

In rendering this Recommendation, the Hearing Examiner must consider all competent substantial evidence in the record as defined as defined by LUDR § 8.3.1.C.3.b.

4. Notice of Hearing, Participants, and Submission of Documentary Evidence
Based on the testimony of City Staff Michael Struve at the commencement of the
Hearing on July 16, 2019, the Hearing Examiner finds that proper notice of this
hearing was provided, in accordance with the requirements of LUDR Article VIII,
§8.3, Public Hearings of the City of Cape Coral.

The Hearing participants were City Staff Michael Struve, AICP¹; David Hyyti,² ³ Development Services Manager, DCD; John Naclerio, Esquire, Assistant City Attorney; City Clerk Representative/Recording Clerk Patricia Sorrels; and Applicant's Representative, Steve Darby, P.E., of DEI Civil Engineers and Planners.

No members of the public testified. Staff testified that one informational meeting was held with an individual at the DCD counter in City Hall. In addition, staff

¹ Based upon his prior testimony at hearings of this nature and the recitation of his qualifications, certifications and education contained in his C.V. which is on file with the City Clerk's Office, the Hearing Examiner qualified Mr. Struve as an expert witness for land planning issues relevant to this hearing.

² Based upon his prior testimony at hearings of this nature and the recitation of his qualifications, certifications and education contained in his C.V. which is on file with the City Clerk's Office, the Hearing Examiner qualified Mr. Hyyti as an expert witness for land planning issues relevant to this hearing.

³ Mr. Hyyti testified on a limited basis at the Hearing. His testimony was solely regarding the right of way condition in the Ordinance 12-12 and his recommendation regarding retention or removal of that condition in the current HEX PDP Recommendation.

> testified that he received one telephone call, with the caller expressing concern about the new parking request set forth in Applicant's PDP Application, but that the caller did not express an opinion either way about other aspects of the Project itself.

> All documentary evidence considered by the Hearing Examiner was submitted prior to the Hearing, in accordance with City requirements.

5. <u>Hearing Examiner's Recommended Findings of Fact</u>

"Staff Testimony" as used in this Order is inclusive of Staff testimony at the Hearing, as well as the staff report, staff PowerPoint, and all other documentary evidence presented by Staff prior to the Hearing.

"Applicant's Testimony" as used in this Order is inclusive of all documentary evidence presented by the Applicant prior to the hearing, as well as testimony by Applicant's Representative at the Hearing. The Applicant's Representative incorporated the staff report and staff's testimony into his presentation. Accordingly, all references below to "Staff Testimony" should be construed as testimony by Applicant as well.

All documentary and oral testimony referenced below is accepted by the Hearing Examiner as recommended findings of fact, except as specifically noted otherwise. The Hearing Examiner recommends that the City Council accept such testimony as findings of fact to substantiate its decision hereunder.

SECTION III. RECOMMENDED GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW

- Legal Description of PDP Property. The legal description for the subject property
 of the proposed Amendment, as provided by staff is as follows: Tract "RA-2" of
 Sandoval-Phase 2, as recorded in Instrument Number 2005000167039 of the
 Public Records of Lee County, Florida. The STRAP number is 29-44-23-C2005RA.02CE
- 2. <u>Street Address, Location of PDP Property, Location of Residential Uses and Landscaping.</u> The location and street address of the property subject to this Amendment request is Tract RA-2, Sandoval, with a street address of 2753 Sandoval Parkway, Cape Coral, FL, and an approximate size of 7.5 acres.

The previously approved project is a Mixed-Use PDP with a variety of surrounding structures and street classifications. Staff testified that this Mixed-Use Project, approved in 2004, contains 1,219 single-family dwellings, 570 multi-family units and 236,500 square feet of commercial uses.

The nearest single-family residences are to the east, about 100 feet from the new clubhouse. A row of mature landscaping is located between these dwellings and the clubhouse.

- 3. <u>Legal and Equitable Owner of Subject Property.</u> Staff testified that the legal and equitable owner of the subject property is Sandoval Community Association, Inc.
- 4. <u>Current Zoning Classification, Future Land Use Designation, Urban Services Transition Area.</u> Staff testified that the 7.5 acre parcel has a Pine Island Road District Future Land Use Designation and Corridor Zoning for 5.06 acres, and Multi-Family Future Land Use Designation and R-3 zoning for the remaining 2.45 acres. Its Urban Service Area is Transition.
- 5. <u>Prior Amendments to the Project PDP</u>, Staff testified that the Project PDP has been amended six (6) times, most recently in 2015. If approved, this would be the seventh amendment.
- 6. Analysis of Applicant's Request
 - a. Second Private Clubhouse.

The Applicant's Representative testified that Applicant wishes to construct a second private clubhouse on the site, north of the existing clubhouse.

Article XI defines private clubhouses as follows:

"A central facility that serves as an integral part of a residential development providing a meeting place and/or indoor recreation opportunities for residents of a residential subdivision or other residential or mixed-us development, within which the facility is located."

LUDR § 3.15.1 states that private clubhouses in residential or mixed-use PDPs may be approved as part of the PDP process by the City Council, upon a finding that the facility would serve as an integral part of the development where the facility is located.

The Applicant's Representative testified that a covered walkway would connect the existing and proposed new clubhouses. However, Staff testified that the new clubhouse would be considered to be a separate building from the existing smaller clubhouse, since the Association intends to operate and function the buildings independently of one another, and the buildings would not be structurally integral to one another.

The Applicant's Representative testified that the existing clubhouse is substantially smaller than clubhouses in comparably sized local communities and that it is too small to serve the over 1,700 dwelling units in the Sandoval Community. The Applicant's Representative testified that the proposed new clubhouse would be substantially larger that the existing one and would provide space for offices, catering facilities, entertainment areas, library, media room, and several multi-purpose rooms for playing card games and similar activities. The intention of the community is to turn the existing clubhouse into a "movement facility" with other fitness aspects.

Staff testified that the proposed clubhouse would be an integral part of the development, as many residents in planned communities expect recreational facilities and such services will be provided on-site. Staff further recommends a finding that the new facility would promote the public health, safety, and welfare by offering a suite of amenities within walking distance to many residents of the Sandoval Community.

The Applicant's Representative testified that 62 new parking spaces are proposed, for a total of 101 parking spaces on-site, with these spaces to be used by residents only. Staff testified that additional parking is not required under the City Code, so this would be Applicant's option.

From all of the above testimony, the Hearing Examiner recommends a finding that the proposed new clubhouse would serve as an integral part of the development where the facility is located and thereby be in compliance with the LUDR requirements.

b. <u>Development Plan Approval to Revise Previously Approved Plans for Tract</u> RA-2 to Include New Clubhouse, Parking, New Walkways and Lighting

As set forth in the Letter of Intent, the Applicant seeks to amend the previously approved development plan for Tract RA-2 so as to modify the walkways and lighting as well as adding parking and the new clubhouse, as set forth in detail above. Staff testified that the Applicant's architectural compliance with nonresidential design standards for the new clubhouse would be verified during site development plan review and that the proposed development plan currently shows compliance with all Corridor setbacks.

If City Council approves the proposed PDP Amendment, a site development plan must be submitted for staff review following PDP approval, to ensure the project is consistent with the development plan approved by the City Council.

c. <u>Staff's Request for Elimination of A Condition of Approval Appearing in</u>
Ordinance 12-12 ⁴

Staff testified that the Applicant is **not in compliance** with the requirement of constructing off-site improvements in the City right-of-way ⁵ prior to developing a 10.35-acre commercial tract (currently known as Sandoval Phase IV) or no later than June 11, 2022, whichever occurred earlier.

Staff testified that these improvements were to be located at the northwest corner of Sandoval, south of Pine Island Road.⁶ The final ROW design was to consist of a four-lane divided roadway with sidewalks on both sides of the street.

Staff testified that Sandoval Phase IV has been developed as a residential project, without the developer completing these required improvements. Staff testified that the original intent of the condition was to facilitate commercial development of Sandoval Phase IV through improvement of the right of way. Accordingly, staff is recommending that this condition be eliminated.

Upon inquiry from the Hearing Examiner, staff testifed that this improvement was not needed for hurricane or other emergency evacuation or other purposes.

The Hearing Examiner recommends that the City Council review whether the condition is needed for emergency purposes. If so, this should be a condition precedent to the Applicant moving forward with the proposed new clubhouse (assuming that City Council approves it).

If City Council agrees with staff that this improvement is not needed for any purpose, it is recommended that the condition be eliminated as part of this approval process.

SECTION IV. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW: GENERAL STANDARDS AND REQUIREMENTS SET FORTH IN LUDR §4.2.4

1. <u>Compliance with General Standards and Requirements Set Forth in LUDR §4.2.4</u> All planned development projects must conform to the general standards and requirements set forth in LUDR § 4.2.4. For the reasons set forth in this Recommendation, the Hearing Examiner recommends that the City Council make the following findings of fact and conclusions of law and thereby

⁴ The Hearing Examiner notes that this request was not brought forth by Applicant.

⁵ This requirement was set forth in a prior PDP Approval and codified in Ordinance 12-12.

⁶ Staff testified that this Right-of-Way is oriented north to south and is approximately 600 feet in length.

determine that the Project is in compliance with all applicable standards and requirements, as follows:

A. Environmental Control Standards (LUDR §4.2.4A)

The Applicant's Representative and staff testified that this proposed amendment would redevelop a site containing an existing clubhouse and other recreational amenities. The proposed second clubhouse would augment the on-site recreational amenities.

Staff and the Applicant's Representative further testified that, since the proposed new development would be confined to a currently improved site, the Project would have no adverse effect on the natural environment. In addressing criteria and performance standards outlined in Section 5.4, the site has an existing dumpster that the Applicant's Representative testified would be adquate for solid waste collection, both for the current development and the proposed additional development. Staff testified that the Project is not antipated to produce offensive odors.

Staff testified that, based on the existing development on the site, soils should be adequate for the construction of the new clubhouse and that soil compaction suitability would be evaluated by staff during the building inspection process. Accordingly, staff recommended a finding that the proposed Project complies with those standards established in Section 5.4.

Accordingly, the Hearing Examiner recommends a finding that this Standard has been met.

B. Maintenance of Improvements (LUDR §4.2.4B)

Staff testified that Applicant will be required to maintain in good condition the landscaping and screening throughout the life of the development, pursuant to the requirements of Ordinance 31-04.

Accordingly, the Hearing Examiner recommends a finding that this Standard has been met.

C. Consistency with the Comprehensive Plan (LUDR §4.2.4C)
Staff and the Applicant's Representative testified that the Project is consistent with the policies listed below, as indicated under each Policy.

Conservation and Coastal Management Element

Policy 1.7.9: The City will continue its policy of requiring all applicants for City building permits to complete an affidavit stating they have inspected the proposed building site for the presence of burrowing owl nests. The applicant shall be required to state whether state and

> federal permits to remove the owl burrows are needed or whether the development can be completed without removing the owl burrows, in which case the contractor shall accept full responsibility for protecting the owl burrows from actions of employees or subcontractors.

As set forth above, the proposed Project would be a redevelopment of an existing site. In addition, staff testified that a burrowing owl/gopher tortoise affidavit would be required by the City during the site development plan review process.

Accordingly, the Hearing Examiner adopts Staff's testimony that this policy is supportive of this request.

Future Land Use Element

Policy 1.15: This policy includes information on the Multi Family and the Pine Island Road District Future Land Use Classifications.

As set forth above, approximately 5.06 acres of the site has a Pine Island Road District Future Land Use Classification and Corridor Zoning. Approximately 2.45 acres has a Multi-Family Future Land Use Designation with Multi-Family Residential (R-3) Zoning. Staff testified that these two zoning districts are each consistent with the its respective Future Land Use Designation.

Accordingly, the Hearing Examiner adopts Staff's testimony that this policy is supportive of this request.

Policy 1.20: The City will promote the development of identifiable residential neighborhoods and commercial districts through the encouragement of more compact development patterns, the use of shared design and landscaping characteristics, and the development of landmarks and gateways.

Staff testified that Sandoval is a mixed-use development with a variety of housing types and lot areas and that the Project area features signage and landscaping to provide the development with a common identify.

In addition, the Hearing Examiner on her site visit observed that Sandoval appears to have an identifiable residential neighborhood district, company development patterns, and

> intelligent use of design elements such as a winding footpath through the development to provide the common identity referenced by staff above.

> Accordingly, the Hearing Examiner adopts Staff's testimony that this policy is supportive of this request.

Policy 4.1: Future development requiring access or connection to public water and sewer facilities will be located within either the Urban Services Infill or Transition areas.

As set forth above, the entire Sandoval Project is located in the Urban Services Transition Area.

Accordingly, the Hearing Examiner adopts Staff's testimony that this policy is supportive of this request.

Transportation Element

Policy 2.2.6: In order to promote bicycling, walking, and other alternative modes of transportation, the City shall provide incentives for the development of mixed-use projects, commercial activity centers, and alternative subdivision design and lot layouts.

Staff testified that the lot dimensions and areas vary considerably in Sandoval. As set forth above, the Hearing Examiner observed that the Project area includes a very attractive interconnected sidewalk/ greenway/bike path system.

Accordingly, the Hearing Examiner adopts Staff's testimony that this policy is supportive of this request.

For the reasons set forth above, the Hearing Examiner recommends a finding that the Project, as conditioned, **is consistent** with the Comprehensive Plan.

D. Financial Responsibility (LUDR §4.2.4D)

Staff testified that the proposed Project would not involve mandatory improvements which would need to be secured with Applicant's bond or similar financial instrument. Accordingly, staff testified that no security bond or a certified check would be required to guarantee the installation of the required improvements.

However, if the City Council determines not to rescind the requirement set forth in Ordinance 12-120 (see Section III, Paragraph 6.c. above), the Hearing Examiner recommends that the City Council review this requirement, due to Applicant's prior non-compliance with all of the conditions set forth in Ordinance 12-12.

The Hearing Examiner recommends a finding that this standard is not applicable, with the caveat set forth above.

E. Dimensional Requirements (LUDR §4.2.4E) Staff testified that the Project, as proposed, would comply with all dimensional requirements of the Corridor Zoning District.

F. Maximum Density (LUDR §4.2.4 F)

Staff testified that this Project **would not** request authorization of new residential development beyond prior approvals as memorialized in prior Ordinances.

Accordingly, the Hearing Examiner recommends a finding that this Standard has been met.

G. Minimum Parcel Size (LUDR §4.2.4.G)

The proposed project site is in the Urban Services Transition Area and, therefore, no minimum parcel or parcel area is required.

Accordingly, the Hearing Examiner recommends a finding that this Standard **does not apply**.

H. Time Limitation(LUDR §4.2.4.H)

The Applicant's Representative acknowledged that Applicant will adhere to the requirement of **substantial construction beginning within two years** of project approval by the City Council or **within one year of the last permit approval** from all appropriate regulatory bodies, whichever is less, unless otherwise approved by the City Council.

- I. Ownership Requirements(LUDR §4.2.4.I)
 The Applicant holds title to 100% of the subject property.
- J. Special Exceptions (LUDR §4.2.4.J)
 No special exceptions were requested by Applicant.
- K. Deviations (LUDR §4.2.4.K)No deviations were requested by Applicant.

L. Underground Utilities (LUDR §4.2.4.L)
Staff testified that all utilities to the new clubhouse would be placed underground.

2. Concurrency.

Staff testified that, when the original project was approved in 2004, all concurrency requirements for roads, sewer, water, drainage, solid waste and parks were met.

While this Project, if approved, would authorize construction of a new clubhouse within Sandoval, the Applicant's Representative testified that it use would be restricted to residents and their guests and that the current clubhouse is not utilized by outside groups for outside purposes. He further testified that this is also the intention of the Owner as to the proposed new Clubhouse. He further testified that although trips by residents within the development would probably increase due to additional availability of the new Clubhouse for card games and other recreational purposes and that elderly residents would prefer to drive rather than walk or bicycle, it would not increase traffic on City streets.

3. Consistency with All Applicable Law, Ordinances and Regulations.

Based upon the recommended findings of fact and conclusions set forth elsewhere in this Recommendation, and subject to the caveat set forth above, the Hearing Examiner recommends that the City Council find that the Project, as conditioned, is consistent with the requirements of the Zoning District(s) in which the property is located, the Comprehensive Plan, the Land Use Development Regulations, City ordinances and all other applicable local, state, and federal law

SECTION V. RECOMMENDATIONS AS TO LEGAL EFFECT AND LIMITATIONS OF THIS RECOMMENDED DEVELOPMENT ORDER; ADMINISTRATIVE REQUIREMENTS

The Hearing Examiner makes the following recommendations regarding the legal effect and limitations of this recommended development order as well as administrative requirements:

a. This is a Recommendation by the Cape Coral Hearing Examiner to the City Council of Cape Coral, in response to the Planned Development Project Application filed for the SANDOVAL PDP AMENDMENT FOR TRACT RA-2.

- b. All development shall occur in accordance with the Composite Exhibit "A", attached hereto and hereby incorporated by reference, except as such development may be modified in the City's Development Order.
- c. All provisions and conditions contained in the "Sandoval PDP" as approved by Ordinance 31-04 and subsequently amended by Ordinance 143-06, Ordinance 156-07, Ordinance 77-10, Ordinance 12-12, Ordinance 4-13, and Ordinance 31-15 shall remain in full force and effect, except as otherwise stated in the City Council's Development Order.
- d. If this Project is approved by City Council, it is recommended that Council's Development Order be binding on the Applicant.
- e. If this Project is approved by City Council, it is recommended that the terms and conditions set out in the City Council's approved Development Order constitute a basis upon which the Applicant and City may rely in future actions necessary to implement fully the final development contemplated by such Order.
- f. If this Project is approved by City Council, it is recommended that the City Council find that the proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- g. If this Project is approved by City Council, it is recommended that the City Council declare that all conditions, restrictions, stipulations, and safeguards contained in Council's approved Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- h. If this Project is approved by City Council, it is recommended that any references by the City Council to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of, any referenced governmental agency in existence on the effective date of Council's Development Order, if any.
- i. If this Project is approved by City Council, it is recommended that approvals granted by City Council's Development Order are limited and that any such approval shall not be construed to obviate the Applicant's duty to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. It is further recommended that such approval, if any, shall also not obviate the duty of the Applicant to comply with any City

Ordinance or other regulations adopted after the effective date of this Development Order.

- j. If this Project is approved by City Council, it is recommended that the physical development authorized under the City Council's Development Order terminate in ten (10) years from the date of adoption of this amendment, if any, unless an extension is approved by the appropriate governing body. Such body may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. It is recommended that all conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- k. If this Project is approved by City Council, it is recommended that the Director of the Cape Coral Department of Community Development or his/her designee ("Director"), shall be the local official responsible for assuring compliance with this Development Order and that, upon reasonable notice by the City and at all reasonable times, the Applicant shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- I. Within thirty (30) days of the effective date of an Order, if any, entered by the City Council, it is recommended that Council require such Development Order to be recorded with the Office of the Lee County Clerk of the Circuit Court by the City of Cape Coral and the Applicant to be responsible for reimbursing the City for all recording fees within 30 days of being notified by the City thereof.

SECTION VI. EFFECTIVE DATE

- 1. This Recommendation takes effect on the date specified below.
- 2. Permits issued prior to the City Council consideration of this Application are obtained solely at the risk of the Applicant.

SECTION VII. ATTACHMENT OF EXHIBIT

The following Exhibit "A" is attached hereto and hereby incorporated by reference:

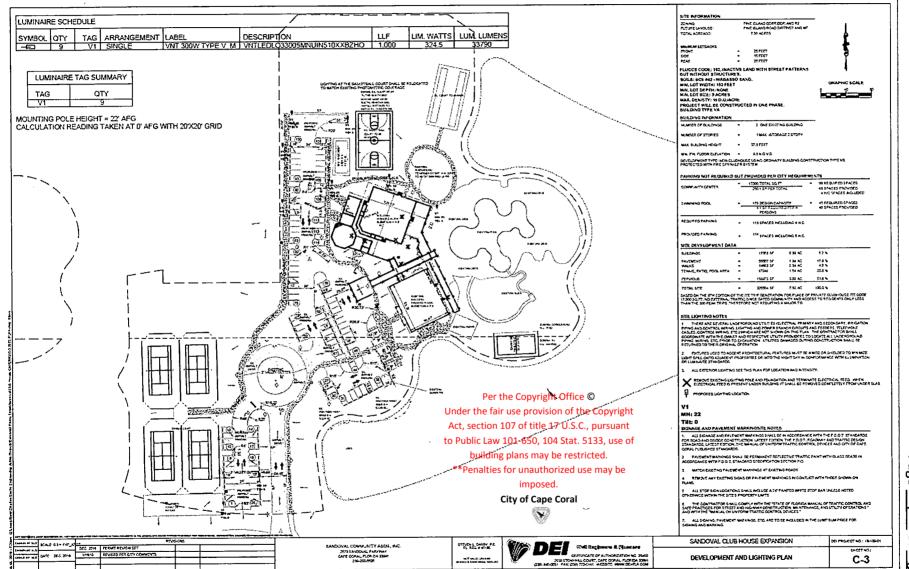
Exhibit "A": Sheet C-3, entitled "Development and Lighting Plan", dated December, 2018 and also bearing a revision date of January 16, 2019, prepared by DEI Civil Engineers and Planners, and Sheets A1, entitled "Architectural Floor Plan"; Sheet A2, entitled "Dimensioned Floor Plan", Sheet A9, entitled "Exterior Elevations", and Sheets A10 and A11, entitled "Building Sections." Sheets A1, A2, A9, A10, and A11 are dated July 10, 2018, and were prepared by Gersdorf & Gersdorf, Inc. Architects and DEI Civil Engineers and Planners, for a total of six (6) attached pages.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

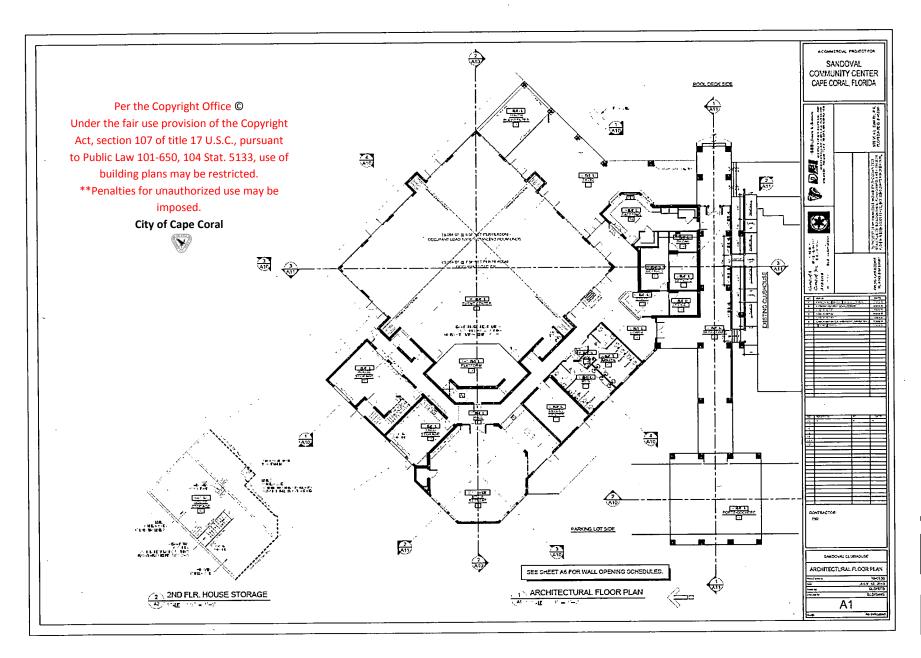
ANNE DALTON, ESQUIRE

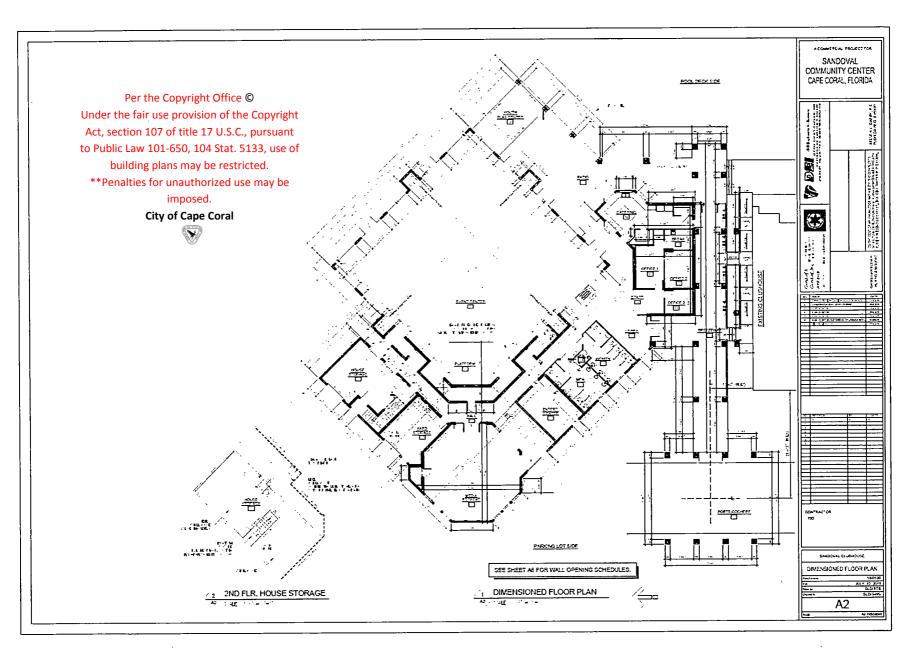
ATTESTED TO AND FILED IN MY OFFICE IN THIS 19 DAY OF July 2019

CITÝ CLERK





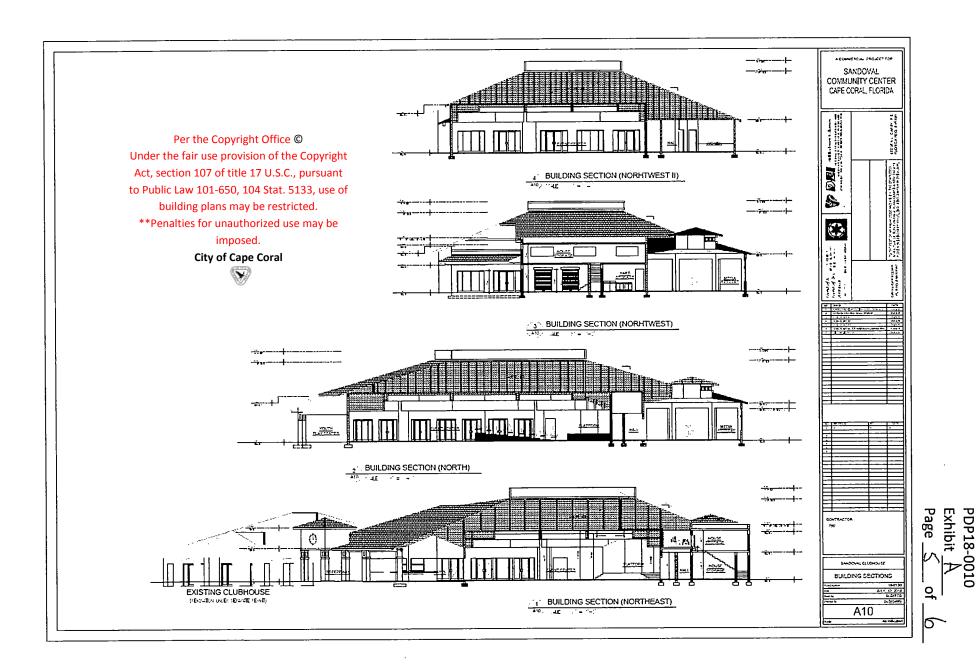




PDP18-0010 Exhibit $\frac{1}{1}$ of $\frac{1}{1}$



PDP18-0010 Exhibit A of b





Sandoval PDP Amendment for Tract RA-2 Ordinance 46-19

Cape Coral City Council Meeting
Final Public Hearing

October 7, 2019

PDP 18-0010

Owner: Sandoval Community Association, Inc.

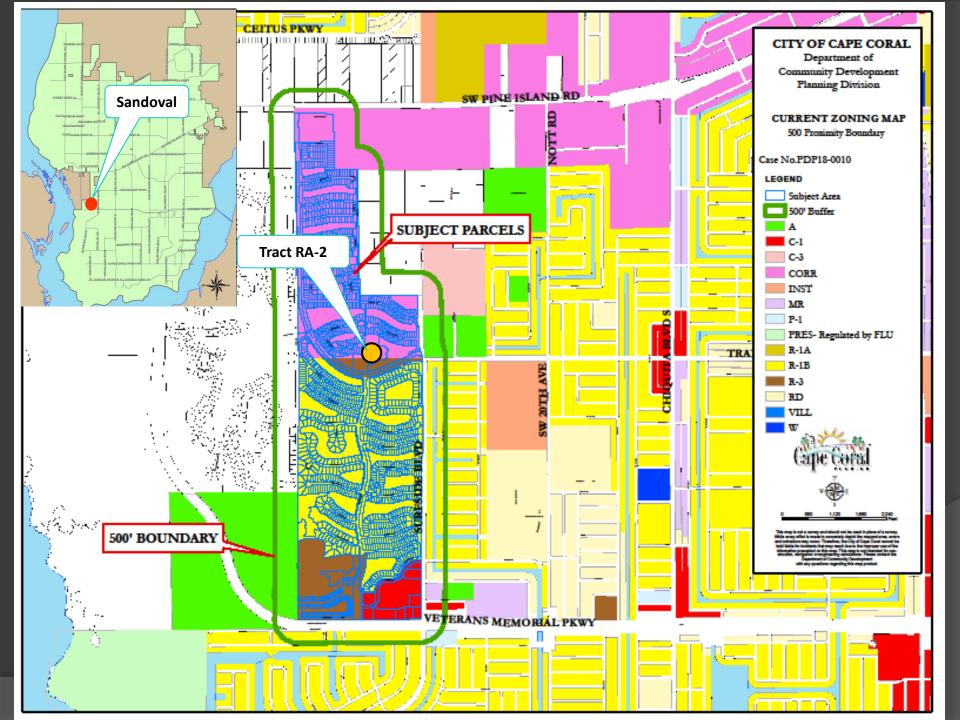
Authorized Rep: Steve Darby, Darby Engineering, Inc.

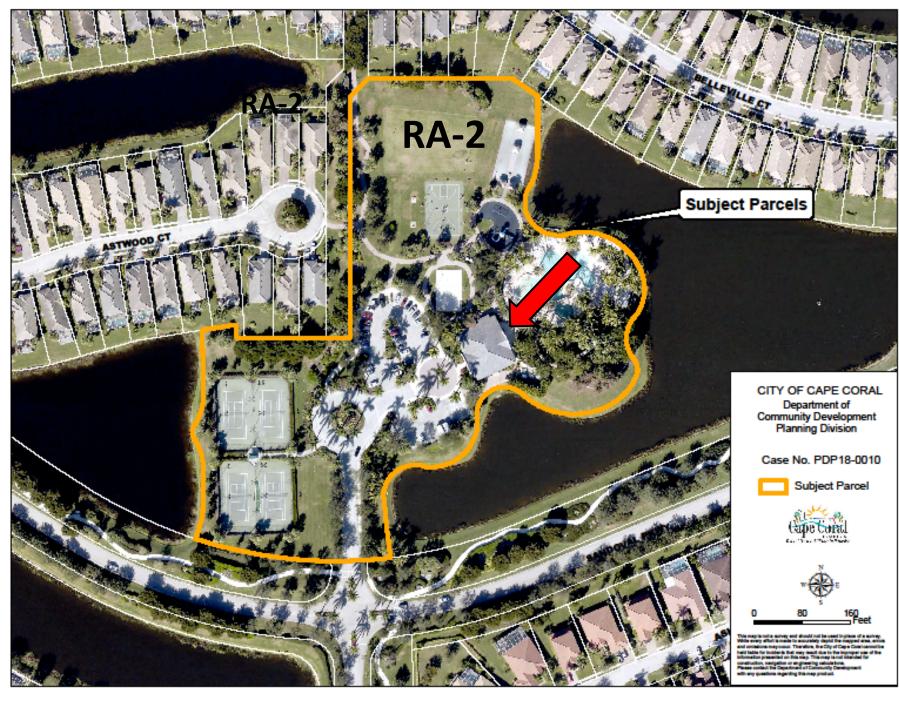
Project: Mixed-Use PDP

Location: Tract RA-2 (2753 Sandoval Parkway)

Area: 7.5 acres

Since the City received this application prior to August 5, the project was evaluated with the regulations the City was administering at that time.





Background

- Mixed-use project; approved in 2004
 - 1,219 single-family dwellings
 - 570 multi-family units
 - 236,500 sq. ft. of commercial uses

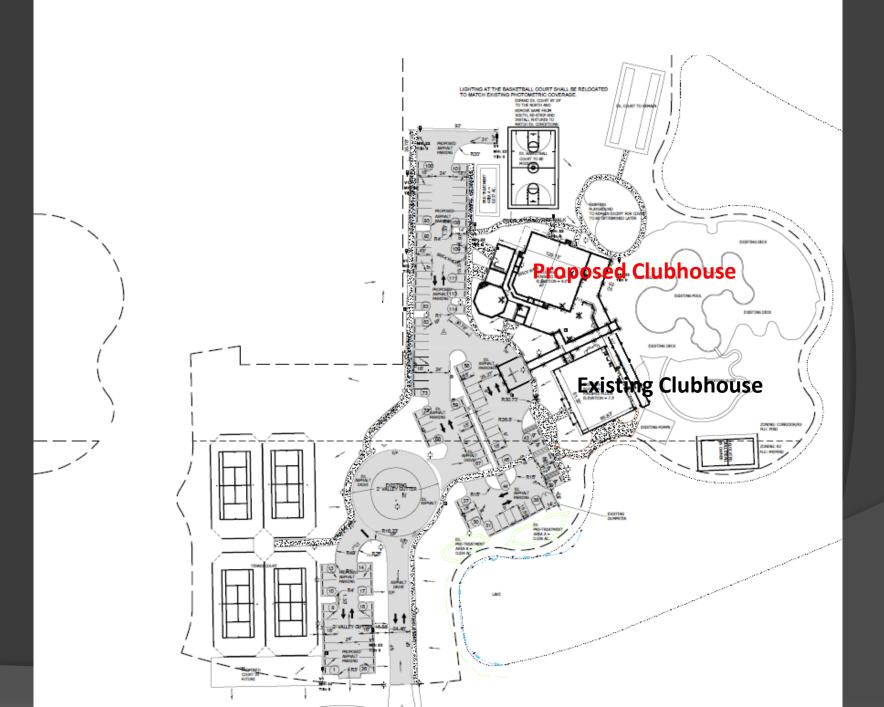
Project has been amended six times – most recently in 2015

Purpose of the PDP Amendment

- Request a private clubhouse
- Development plan approval

Private Clubhouse (LUDR, Section 3.15)

A private clubhouse may be approved within a PDP if the City Council finds the facility will serve as an integral part of the project.



Sandoval PDP Amendment





Existing clubhouse

Location of proposed clubhouse

Clubhouse Summary

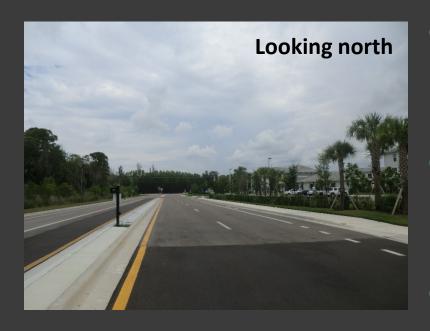
- Clubhouse will be a maximum of 11,600 sq. ft.
- New facility will be to the rear of existing clubhouse.
- Nearest SF residence is about 100 feet to the west.
- The existing clubhouse is relatively small for the size of the community.
- Parking not required but 62 new spaces are proposed.

Eliminate a Condition Appearing in ORD. 12-12

- Required developer to complete ROW improvements.
- ROW extends south of Pine Island Road about 600 ft.
- Design was to include a four-lane divided road with sidewalks.
- Improvements required when Phase IV (10.35-acre tract) was developed or no later than June 11, 2022.



Analysis



- Phase IV was developed in 2016 with 186 MF units.
- ROW improvements at the time were considered sufficient.
- The ROW has one lane on west; two lanes on east with sidewalks.
- Since Phase IV developed as a residential project, the number of trips is less than if the site developed commercially.

Recommendations

Planning Division

Staff recommends approval.

Hearing Examiner

A public hearing was held on July 16. The Hearing Examiner recommends approval with staff conditions. No speakers at public input.

Correspondence

One meeting with individual at counter - informational.

One phone call-concern expressed about parking added to RA-2.



COUNCILMEMBER LEPERA

PDP # 03-00800008 01/20/04 01/24/04 01/27/04 02/03/04 02/06/04

> 02/11/04 03/15/04

INSTR # 6194592

OR BK 04235 Pgs 1492 - 1519; (28pgs)
RECORDED 03/23/2004 01:39:17 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY, FLORIDA
RECURDING FEE 127.50
DEPUTY CLERK D Schaefer

ORDINANCE 31 - 04

AN ORDINANCE APPROVING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE

CORAL, FLORIDA ENTITLED "VETERAN'S PARKWAY WEST (AKA BONITA BAY)" MIXED-USE DEVELOPMENT; PROVIDING FOR PLANNED DEVELOPMENT PROJECT APPROVAL AND SUBDIVISION APPROVAL FOR CERTAIN PROPERTY DESCRIBED AS A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, CITY OF CAPE CORAL, LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "H"; PROPERTY LOCATED BETWEEN PINE ISLAND ROAD (SR 78) AND VETERAN'S PARKWAY WEST, WEST OF SURFSIDE BOULEVARD AND EAST OF CAPE ROYAL (FORMERLY KNOWN AS ROYAL TEE); GRANTING REZONINGS AS FOLLOWS: 180.44 ACRES, INCLUDING TRACT C 100, A PORTION OF TRACT 112, A PORTION OF AMENITY CENTER TRACT, AND TRACTS 113 THROUGH 120, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A", FROM AGRICULTURAL (A) TO CORRIDOR (CORR) ZONING DISTRICT; 13.64 ACRES, INCLUDING A PORTION OF AMENITY CENTER TRACT, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "B", FROM RESIDENTIAL DEVELOPMENT (RD) TO MULTI-FAMILY RESIDENTIAL (R-3) ZONING DISTRICT; 232.88 ACRES, INCLUDING TRACTS 101 THROUGH 105, TRACT 107 THROUGH 111, AND A PORTION OF TRACT 112, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "C", FROM RESIDENTIAL DEVELOPMENT (RD) TO SINGLE FAMILY RESIDENTIAL (R-1B) ZONING DISTRICT; 25.16 ACRES, INCLUDING TRACT 106, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "D", FROM RESIDENTIAL DEVELOPMENT (RD) TO SINGLE FAMILY RESIDENTIAL (R-1B) ZONING DISTRICT; 44.39 ACRES, INCLUDING TRACT 100 AND RECREATIONAL AREA TRACT, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "E", FROM RESIDENTIAL DEVELOPMENT (RD) TO MULTI-FAMILY RESIDENTIAL (R-3) ZONING DISTRICT; 8.24 ACRES INCLUDING TRACT C-101 AND A PORTION OF TRACT C-102, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "F" FROM RESIDENTIAL DEVELOPMENT (RD) TO PEDESTRIAN COMMERCIAL (C1) ZONING DISTRICT; 19.49 ACRES, INCLUDING A PORTION OF TRACT C 102, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "G", FROM RESIDENTIAL DEVELOPMENT (RD) TO PEDESTRIAN COMMERCIAL (C-1) ZONING DISTRICT; APPROVING A SPECIAL EXCEPTION TO ALLOW UP TO TWO (2) "GATE HOUSES" IN MULTI-FAMILY RESIDENTIAL (R-3) ZONING DISTRICT, ON ANY PROPERTY LOCATED IN THE PRIVATE RIGHT-OF-WAY BETWEEN TRACTS C-101 AND 100 AND/OR ON ANY PROPERTY LOCATED IN THE PRIVATE RIGHT-OF-WAY BETWEEN TRACTS 113 AND 111; APPROVING A SPECIAL EXCEPTION TO ALLOW A MAXIMUM OF ONE HUNDRED AND FIVE (105) "MODEL HOMES", NOT TO EXCEED FIVE (5) MODEL HOMES WITHIN THE SAME RESIDENTIAL TRACT, WHICH MAY BE LOCATED ON ANY LOT WITHIN SINGLE FAMILY RESIDENTIAL (R-1.B), MULTI-FAMILY RESIDENTIAL (R-3), AND CORRIDOR (CORR) ZONING DISTRICTS: APPROVING A SPECIAL EXCEPTION TO ALLOW A "CLUB (PRIVATE)" USE TO BE LOCATED IN THE AMENITY CENTER TRACT WITHIN MULTI-FAMIL'I RESIDENTIAL (R-3) AND CORRIDOR (CORR) ZONING DISTRICTS, AND IN THE RECREATION AREA TRACT LOCATED IN A MULTI-FAMILY RESIDENTIAL (R-3) ZONING DISTRICT; APPROVING A SPECIAL EXCEPTION TO ALLOW ESSENTIAL SERVICE FACILITIES-GROUP I (PUMPING STATIONS) USES ON PROPERTY LOCATED IN THE SINGLE FAMILY RESIDENTIAL (R-1B), MULTI-FAMILY RESIDENTIAL (R-3) AND CORRIDOR (CORR) ZONING DISTRICTS; ALLOWING CONSTRUCTION TRAILERS TO BE USED TEMPORARILY AS ADMINISTRATION, INFORMATION/SALES AND CONSTRUCTION MANAGEMENT OFFICES FOR A TOTAL OF SEVEN (7) YEARS FROM THE EFFECTIVE DATE OF THIS ORDINANCE; GRANTING DEVIATIONS FROM SECTION 2.7.1.D., TABLE R-1, OF THE LAND USE AND DEVELOPMENT REGULATIONS, FOR PROPERTIES LOCATED WITHIN A SINGLE FAMILY RESIDENTIAL (R1-B) ZONING DISTRICT AS FOLLOWS: A DEVIATION OF TEN (10) FEET TO THE REQUIRED MINIMUM FRONT YARD OF TWENTY FIVE (25) FEET TO ALLOW SINGLE FAMILY HOMES WITH A FRONT YARD OF FIFTEEN (15) FEET ON PROPERTIES LOCATED IN TRACTS 101 THROUGH 112; A DEVIATION OF TWO AND A HALF (2.5) FEET TO THE REQUIRED MINIMUM SIDE YARD OF SEVEN AND A HALF (7.5) FEET, TO ALLOW SINGLE FAMILY HOMES WITH A SIDE YARD OF FIVE (5) FEET ON PROPERTIES LOCATED IN TRACTS 101 THROUGH 112; A DEVIATION OF FIVE (5) FEET TO THE REQUIRED MINIMUM CORNER LOT SIDE YARD OF TEN (10) FEET TO ALLOW A FIVE (5) FOOT CORNER LOT SIDE YARD ON CORNER LOT PROPERTIES LOCATED IN TRACTS 101 THROUGH 112; A DEVIATION OF THIRTY SIX (36) FEET TO THE REQUIRED MINIMUM LOT WIDTH OF EIGHTY (80) FEET, TO ALLOW SINGLE FAMILY HOME SITES WITH A MINIMUM FORTY FOUR (44) FOOT LOT WIDTH ON PROPERTIES LOCATED IN TRACT 106; A DEVIATION OF THIRTY (30) FEET TO THE REQUIRED MINIMUM LOT WIDTH OF EIGHTY (80) FEET, TO ALLOW SINGLE FAMILY HOME SITES WITH A MINIMUM FIFTY (50) FOOT LOT WIDTH ON PROPERTIES LOCATED IN TRACTS 101, 102, 104, 105, 109, 110, AND 112; A DEVIATION OF TEN (10) FEET TO THE REQUIRED MINIMUM LOT WIDTH OF EIGHTY (80) FEET, TO ALLOW SINGLE FAMILY HOME SITES WITH A MINIMUM SEVENTY (70) FOOT LOT WIDTH ON PROPERTIES LOCATED IN TRACTS 103, 107, 108, AND 111; A DEVIATION OF FOUR THOUSAND TWO HUNDRED EIGHTY (4,280) SQUARE FEET TO THE REQUIRED MINIMUM LOT AREA OF TEN THOUSAND (10,000) SQUARE FEET, TO ALLOW SINGLE FAMILY HOME SITES WITH A MINIMUM LOT AREA OF FIVE THOUSAND SEVEN HUNDRED TWENTY (5,720) SQUARE FEET ON PROPERTIES LOCATED IN TRACT 106; A DEVIATION OF THREE THOUSAND FIVE HUNDRED (3,500) SQUARE FEET TO THE REQUIRED MINIMUM LOT AREA OF TEN THOUSAND (10,000) SQUARE FEET, TO ALLOW SINGLE FAMILY HOME SITES WITH A MINIMUM LOT AREA OF SIX THOUSAND FIVE HUNDRED (6,500) SQUARE FEET, ON PROPERTIES LOCATED IN TRACTS 101, 102, 104, 105, 109, 110, AND 112; A DEVIATION OF NINE HUNDRED (900) SQUARE FEET TO THE REQUIRED MINIMUM LOT AREA OF TEN THOUSAND (10,000) SQUARE FEET, TO ALLOW SINGLE FAMILY HOME SITES WITH A MINIMUM LOT AREA OF NINE THOUSAND ONE HUNDRED (9,100) SQUARE FEET, ON PROPERTIES LOCATED IN TRACTS 103, 107, 108 AND 111; GRANTING DEVIATIONS FROM SECTION 2.7.13., TABLE E.1, DIMENSIONAL REGULATIONS, (CORR DISTRICT), RESIDENTIAL, OF THE LAND USE AND DEVELOPMENT REGULATIONS, FOR RESIDENTIAL PROPERTIES LOCATED WITHIN A CORRIDOR (CORR) ZONING DISTRICT AS FOLLOWS: A DEVIATION OF FIVE (5) FEET TO THE REQUIRED MINIMUM FRONT YARD OF TWENTY (20) FEET TO ALLOW SINGLE FAMILY HOMES WITH A FRONT YARD OF FIFTEEN (15) FEET ON PROPERTIES LOCATED IN TRACTS 112, 113, 115, 118, 119, AND 120; A DEVIATION OF FIVE (5) FEET TO THE REQUIRED MINIMUM FRONT YARD OF TWENTY (20) FEET, TO ALLOW CONJOINED RESIDENTIAL AND/OR MULTI-FAMILY STRUCTURES WITH A FRONT YARD OF FIFTEEN (15) FEET ON PROPERTIES LOCATED IN TRACTS 114, 116 AND 117; A DEVIATION OF SEVEN HUNDRED EIGHTY (780) SOUARE FEET TO THE REQUIRED MINIMUM LOT AREA OF SIX THOUSAND FIVE HUNDRED (6,500) SOUARE FEET TO ALLOW SINGLE FAMILY HOME SITES WITH A MINIMUM LOT AREA OF FIVE THOUSAND SEVEN HUNDRED TWENTY (5,720) SQUARE FEET, ON PROPERTIES LOCATED IN TRACTS 113, 115 AND 120; GRANTING A DEVIATION TO THE LAND USE AND DEVELOPMENT REGULATIONS, SECTION 2.7.2.D., TABLE R-3, OF TEN (10) FEET TO THE REQUIRED MINIMUM FRONT YARD OF TWENTY FIVE (25) FEET TO ALLOW CONJOINED RESIDENTIAL AND/OR MULTI-FAMILY STRUCTURES WITH A FRONT YARD OF FIFTEEN (15) FEET, ON PROPERTIES LOCATED IN TRACT 100; GRANTING A DEVIATION TO THE LAND USE AND DEVELOPMENT REGULATIONS, SECTION 3.3.2.A. TO ALLOW THE FLORIDA BUILDING CODE TO CONTROL REQUIREMENTS FOR DISTANCE BETWEEN MULTI-FAMILY BUILDINGS IN LIEU OF THE MINIMUM 20-FOOT BUILDING SEPARATION ON PROPERTIES LOCATED IN TRACTS 100, 114, 116 AND 117; GRANTING A DEVIATION TO THE LAND USE AND DEVELOPMENT REGULATIONS, SECTION 3.8.2. GENERAL REGULATIONS, FOR LOTS AND YARDS OF TEN (10) FEET TO THE REQUIRED CORNER LOT SIDE YARD OF FIFTEEN (15) FEET TO ALLOW A FIVE (5) FOOT CORNER LOT SIDE YARD ON ALL CORNER LOT PROPERTIES LOCATED IN TRACTS 100 THRU 120 WHEN DEVELOPED AS SINGLE-EAMILY RESIDENTIAL; GRANTING A DEVIATION TO THE LAND USE AND DEVELOPMENT REGULATIONS, SECTIONS 3.9.1.A. (RESIDENTIAL ZONES) AND

3.9.6.B.1.A. (COMMERCIAL ZONES) OF NOT MORE THAN FOUR (4) FEET TO THE MAXIMUM FENCE/WALL HEIGHT OF SIX (6) FEET TO ALLOW A CONTINUOUS FENCE/WALL AT A MAXIMUM HEIGHT OF TEN (10) FEET AROUND THE PERIMETER OF THE DEVELOPMENT AND BETWEEN RESIDENTIAL TRACT 101 AND COMMERCIAL TRACTS C-101 AND C-102, AND BETWEEN RESIDENTIAL TRACT 120 AND COMMERCIAL TRACT C 100; GRANTING A DEVIATION TO THE LAND USE AND DEVELOPMENT REGULATIONS, SECTIONS 3,9.1.A. (RESIDENTIAL ZONES) AND 3.9.6.B.1.A. (COMMERCIAL ZONES) TO ALLOW FENCES/WALLS TO BE LOCATED ON FRONT AND SIDE PROPERTY LINES TO ALLOW A CONTINUOUS FENCE/WALL AROUND THE PERIMETER OF THE DEVELOPMENT AND BETWEEN RESIDENTIAL TRACT 101 AND COMMERCIAL TRACTS C-101 AND C-102 AND BETWEEN RESIDENTIAL TRACT 120 AND COMMERCIAL TRACT C 100; GRANTING A DEVIATION TO THE LAND USE AND DEVELOPMENT REGULATIONS, SECTION 2.7.13.(C), TABLE E.1., DIMENSIONAL REGULATIONS, (CORR DISTRICI), OF FIVE (5) FEET, TO THE REQUIRED MINIMUM TWENTY FIVE (25) FOOT PERIMETER BUFFER YARD AROUND RESIDENTIAL DEVELOPMENT TO ALLOW A TWENTY (20) FOOT PERIMETER BUFFER YARD AROUND RESIDENTIAL DEVELOPMENT; GRANTING A DEVIATION FROM THE ENGINEERING AND DESIGN STANDARDS, LOCAL ROADS, SHEET G-5, TO ALLOW PRIVATE ROADS WITH TYPICAL SECTIONS AS SHOWN ON THE PDP MASTER PLANS; GRANTING A DEVIATION FROM THE ENGINEERING AND DESIGN STANDARDS, DEAD-END STREETS, SHEET G-4, TO ALLOW CUL-DE-SACS WITH A MAXIMUM LENGTH OF TWO THOUSAND SEVEN HUNDRED SIXTY (2,760) FEET IN LIEU OF THE MAXIMUM FIVE HUNDRED (500) FEET; GRANTING DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE LAND USE AND DEVELOPMENT REGULATIONS, INCLUDING MASTER CONCEPT PLAN APPROVAL, MASTER UTILITY CONCEPT PLAN APPROVAL AND PDP PLAN APPROVAL; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, an application from Cape Coral Development Associates, LLC, has been received requesting approval of a Planned Development Project (PDP) for Veteran's Parkway West (AKA Bonita Bay); requesting subdivision, rezoning, special exceptions, deviations to the Land Use and Development Regulations, deviations to the City of Cape Coral Engineering and Design Standards, and Development Plan approval including Master Concept Plan approval, and Master Utility Concept Plan approval; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency, and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I.

PDP APPROVAL, SUBDIVISION, REZONINGS, SPECIAL EXCEPTIONS, DEVIATIONS TO THE LAND USE AND DEVELOPMENT REGULATIONS, DEVIATIONS TO THE CITY OF CAPE CORAL ENGINEERING DESIGN STANDARDS, MASTER CONCEPT PLAN APPROVAL, AND MASTER UTILITY CONCEPT PLAN APPROVAL.

Having reviewed the application requesting approval of a Planned Development Project for Veteran's Parkway West (AKA Bonita Bay) PDP number 03-0800008, requesting subdivision of a tract or parcel of land situated in the State of Florida, County of Lee, City of Cape Coral, lying in Sections 20 and 29, Township 44S, Range 23 East, as more particularly described in Exhibit "H", for a mixed-use subdivision, resulting in twenty one (21) residential tracts, labeled on Sheet 5 of 23 of the PDP Master Plans as Tracts 100 to 120 for a total of one thousand eighty one (1,081) single family residential lots, four (4) multi-family residential tracts, three (3) commercial tracts labeled C-100, C-101, and C-102, one (1) Amenity Center Tract, and one (1) Recreational Area Tract,

requesting rezoning as follows: rezoning 180.44 acres, including Tracts C-100, a portion of Tract 112, a portion of Amenity Center Tract, and Tracts 113 through 120, as more particularly described in Exhibit "A", from Agricultural (A) to Corridor (Corr) zoning district; rezoning 13.64 acres, including a portion of Amenity Center Tract as more particularly described in Exhibit "B", from Residential Development (RD) to Multi-Family Residential (R-3) zoning district; rezoning 232.88 acres, including Tracts 101 through 105, Tract 107 through 111, and a portion of Tract 112, as more particularly described in Exhibit "C", from Residential Development (RD) to Single Family Residential (R-1B) zoning district; rezoning 25.16 acres, including Tract 106 as more particularly described in Exhibit "D", from Residential Development (RD) to Single Family Residential (R-1B) zoning district; rezoning 44.39 acres, including Tract 100 and Recreational Area Tract, as more particularly described in Exhibit "E", from Residential Development (RD) to Multi-Family Residential (R-3) zoning district; rezoning 8.24 acres, including Tracts C 101 and a portion of Tract C-102, as more particularly described in Exhibit "F", from Residential Development (RD) to Pedestrian Commercial (C-1) zoning district; rezoning 19.49 acres, including a portion of Tract C-102, as more particularly described in Exhibit "G", from Residential Development (RD) to Pedestrian Commercial (C-1) zoning district; requesting special exceptions as follows: a special exception to allow up to two (2) "Gate Houses" in Multi-Family Residential (R-3) zoning district, on any property located in the private right-of-way between Tracts C-101 and 100 and/or on any property located in the private right-of-way between Tracts 113 and 111; a special exception to allow a maximum of one hundred and five (105) "Model Homes", not to exceed five (5) model homes within the same residential tract which may be located on any lot within Single Family Residential (R-1B), Multi-Family Residential (R-3), and Corridor (Corr) zoning districts; a special exception to allow a "Club (Private)" use to be located in the Amenity Center Tract within Multi-Family Residential (R-3) and Corridor (CORR) zoning districts, and in the Recreational Area Tract within a Multi-Family Residential (R-3) zoning district; a special exception to allow "Essential Service Facilities-Group I" (Pumping Stations) uses on properties located in the Single Family Residential (R-1B), Multi-Family Residential (R-3) and Corridor (Corr) zoning districts; requesting allowing construction trailers to be used temporarily as administration, information/sales and construction management offices for a total of seven (7) years from the effective date of this ordinance; requesting deviations from Section 2.7.1.D., Table R-1, of the Land Use and Development Regulations, for properties located within a Single Family Residential (R1-B) zoning district as follows: a deviation of ten (10) feet to the required minimum front yard of twenty-five (25) feet to allow single family homes with a front yard of fifteen (15) feet, on any property located in Tracts 101 through 112; a deviation of two and a half (2.5) feet to the required minimum side yard of seven and a half (7.5) feet, to allow single family homes with a side yard of five (5) feet, on any property located in Tracts 101 through 112; a deviation of five (5) feet to the required minimum corner lot side yard of ten (10) feet to allow a five (5) foot corner lot side yard, on corner lot properties located in Tracts 101 through 112; a deviation of thirty-six (36) feet to the required minimum lot width of eighty (80) feet, to allow single family home sites with a minimum forty-four (44) foot lot width, on properties located in Tract 106; a deviation of thirty (30) feet to the required minimum lot width of eighty (80) feet, to allow single family home sites with a minimum fifty (50) foot lot width, on properties located in Tracts 101, 102, 104, 105, 109, 110, and 112; a deviation of ten (10) feet to the required minimum lot width of eighty (80) feet, to allow single family home sites with a minimum seventy (70) foot lot width, on properties located in Tracts 103, 107, 108, and 111; a deviation of four thousand two hundred eighty (4,280) square feet to the required minimum lot area of ten thousand (10,000) square feet, to allow single family home sites with a minimum lot area of five thousand seven hundred twenty (5,720) square feet, on any property located in Tract 106; a deviation of three thousand five hundred (3,500) square feet to the required minimum lot area of ten thousand (10,000) square feet, to allow single family home sites with a minimum lot area of six thousand five hundred (6,500) square feet, on any property located in Tracts 101, 102, 104, 105, 109, 110, and 112; a deviation of nine hundred (900) square feet to the required minimum lot area of ten thousand (10,000) square feet, to allow single family home sites with a minimum lot area of nine thousand one hundred (9,100) square feet, on any property located in Tracts 103, 107, 108 and 111; requesting deviations from Section 2.7.13., Table E.1, Dimensional Regulations, (Corr District), Residential, of the Land Use and Development Regulations, for residential properties located within Corridor (CORR) zoning district as follows: a deviation of five (5) feet to the required minimum front yard of twenty (20) feet to allow single family homes with a front yard of fifteen (15) feet, on any property located in Tracts 112, 113, 115, 118, 119, and 120; a deviation of five (5) feet to the required minimum front yard of twenty (20) feet, to allow conjoined residential and/or multi-family structures with a front yard of fifteen (15) feet, on any property located in Tracts 114, 116 and 117; a deviation of seven hundred eighty (780) square feet to the required minimum lot area of six thousand five hundred (6,500) square feet to allow single family home sites with a minimum lot area of five thousand seven hundred twenty (5,720) square feet, on any property located in Tracts 113, 115 and 120; requesting a deviation to the Land Use and Development Regulations, Section 2.7.2.D., Table R-3, of ten (10)

feet to the required minimum front yard of twenty-five (25) feet to allow conjoined residential and/or multi-family structures with a front yard of fifteen (15) feet on any property located in Tract 100; requesting a deviation to the Land Use and Development Regulations, Section 3.3.2.A. to allow the Florida Building Code to control requirements for distance between multi-family buildings in lieu of the minimum 20 foot building separation on properties located in Tracts 100, 114, 116 and 117; requesting a deviation to the Land Use and Development Regulations, Section 3.8.2. General Regulations, for Lots and Yards of ten (10) feet to the required corner lot side yard of fifteen (15) feet to allow a five (5) foot corner lot side yard on all corner lot properties located in tracts 100 through 120, when developed as Single-Family Residential; requesting a deviation from the Land Use and Development Regulations, Sections 3.9.1.A. (residential zones) and 3.9.6.B.1.a. (commercial zones) of not more than four (4) feet to the maximum fence/wall height of six (6) feet to allow a continuous fence/wall at a maximum height of ten (10) feet around the perimeter of the entire residential development and between residential Tract 101 and commercial Tracts C-101 and C-102 and between residential Tract 120 and commercial Tract C-100; requesting a deviation to the Land Use and Development Regulations, Sections 3.9.1.A. (residential zones) and 3.9.6.B.1.a. (commercial zones) to allow fences/walls to be located on front and side property lines to allow a continuous fence/wall around the perimeter of the entire residential development and between residential Tract 101 and commercial Tracts C-101 and C-102 and between residential Tract 120 and commercial Tract C-100; requesting a deviation to the Land Use and Development Regulations, Section 2.7.13.(c), Table E.1. Dimensional Regulations, (CORR District), of five (5) feet to the required minimum twenty-five (25) foot perimeter buffer yard around residential development to allow a twenty a (20) foot perimeter buffer yard around residential development; requesting a deviation from the Engineering and Design Standards, Local Roads, Sheet G-5, to allow private roads with typical sections as shown on the PDP Master Plans; requesting a deviation from the Engineering and Design Standards, Dead-End Streets, Sheet G-4, to allow cul-de-sacs with a maximum length of two thousand seven hundred sixty (2,760) feet in lieu of the maximum five hundred (500) feet; requesting Development Plan Approval with respect to locations of densities and intensities of uses as follows: a maximum of 1,081 single family units in Tracts 101 through 113, 115, and 118 through 120; a maximum of 488 multi-family units in Tracts 100, 114, 116, and 117; a maximum of 83,500 s.f. of retail in Tract C-100; a maximum of 226,500 s.f. of retail in Tracts C-101 and C-102; and a maximum of 10,000 s.f. of office in Tracts C-101, and C-102; and requesting approval of Utility Master Concept Plan, and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP approval, and approve the aforesaid requested subdivision, rezonings, special exceptions, temporary uses, deviations to the Land Use and Development Regulations, deviations to the City of Cape Coral Engineering Design Standards, Master Plan approval and Utility Master Concept Plan approval for purposes of Development Plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations in accordance with the plan set titled Planned Development Project Master Plans for Veteran's Parkway West, Sheets 1 through 23, dated May 3, 2003, and also bearing revision dates of August 15, 2003, October 20, 2003, and December 23, 2003, and in accordance with Veteran's Park West, Greenway and Sidewalk Plan/Bike Path Map, Sheet 1 of 1, and the Exhibit "I": Landscape Buffer Plan, Veteran's Park West, Typical Cross Sections dated March 25, 2003, all prepared by Avalon Engineering, Inc., from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The Veteran's Parkway West (AKA Bonita Bay) development is a Mixed Used Planned Development Project (PDP). This development consists of mixed use subdivision with a maximum total of 1,081 single family units in Tracts 101 through 120; a maximum total of 488 multi-family units in Tracts 100, 114, 116, and 117; a maximum of 83,500 s.f. of retail in Tract C-100; a maximum total of 226,500 s.f. of retail in Tracts C-101 and C-102; a maximum total of 10,000 s.f. of office in Tracts C-101 and C-102 on 524.24 acres of land located between Pine Island Road (SR 78) and Veteran's Parkway West, west of Surfside Boulevard and east of Cape Royal (formerly known as Royal Tee). The development will occur in three (3) phases with a build out in seven (7) years.
- B. The name of the legal and equitable owner is Cape Coral Development Associates, LLC.

- C. The legal description of the property is as follows:
 - The legal description of the entire project site of the Veteran's Parkway West (AKA Bonita Bay) PDP is as indicated on the Boundary Survey prepared by Stouten and Associates dated March 15, 2003 Sheets 1 through 5 included on attached Exhibit "H", incorporated herein by reference.
 - 2. The legal description of the property rezoned by this ordinance from Agricultural (A) to Corridor (Corr) zoning district, including Tracts C-100, a portion of Tract 112, a portion of Amenity Center Tract, and Tracts 113 through 120, is as indicated on attached Exhibit "A", incorporated herein by reference.
 - The legal description of the property rezoned by this ordinance from Residential Development (RD) to Multi-Family Residential (R-3) zoning district, including a portion of Amenity Center Tract, is as indicated on attached Exhibit "B", incorporated herein by reference.
 - 4. The legal description of the property rezoned by this ordinance from Residential Development (RD) to Single Family Residential (R-1B) zoning district, including Tracts 101 through 105, Tract 107 through 111, and a portion of Tract 112, is as indicated on attached Exhibit "C", incorporated herein by reference.
 - 5. The legal description of the property rezoned by this ordinance, from Residential Development (RD) to Single Family Residential (R-1B) zoning district, including Tract 106, is as indicated on attached Exhibit "D", incorporated herein by reference.
 - 6. The legal description of the property rezoned by this ordinance, from Residential Development (RD) to Multi-Family Residential (R-3) zoning district, including Tract 100 and Recreational Area Tract, is as indicated on attached Exhibit "E", incorporated herein by reference.
 - 7. The legal description of the property rezoned by this ordinance, from Residential Development (RD) to Pedestrian Commercial (C-1) zoning district, including Tracts C-101 and a portion of Tract C-102, is as indicated on attached Exhibit "F", incorporated herein by reference.
 - 8. The legal description of the property rezoned by this ordinance, from Residential Development (RD) to Pedestrian Commercial (C-1) zoning district, including a portion of Tract C-102, is as indicated on attached Exhibit "G", incorporated herein by reference.
- D. The Veteran's Parkway West PDP subject parcel has 180.44 acres zoned Corr (Corridor), 258.04 acres zoned Single Family Residential (R1-B), 58.03 acres zoned Multi-family Residential (R-3), and 27.73 acres zoned Pedestrian Commercial (C-1), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 524.24 acres with 180.44 acres with a Future Land Use designation of Pine Island Road District, 316.07 acres with a Future Land Use designation of SF/MF (Single family/Multi-family by PDP), and 27.73 acres with a Future Land Use designation of C/P (Commercial/Professional).
- E. All existing and future structures and uses, population density, building intensity, and building height shall conform with the respective provisions of Corr (Corridor), Single Family Residential (R1-B), Multi-family Residential (R-3), and Pedestrian Commercial (C-1) zoning districts of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.

- F. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- G. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- H. The term Developer for purposes of this development order shall mean and refer to Cape Coral Development Associates, LLC, its heirs, its successors in interest, lessees, and/or assigns.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the Planned Development Project application for Development Approval submitted by Cape Coral Development, LLC, is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

A. PHASING OF DEVELOPMENT AND SUBDIVISION

The Developer shall submit Site Plan permit applications, final site construction plans, and final subdivision plats in three (3) phases as indicated on Sheet 5 of 23 of the PDP Master Plans. No construction permit shall be issued until the City has approved a Site Plan for the phase under consideration.

B. DRAINAGE/WATER QUALITY

- 1. Prior to the issuance of any site plan or building permits, a general permit and stormwater discharge certification shall be obtained from the South Florida Water Management District (SFWMD). No construction permit shall be issued until the City has received a copy of the approved South Florida Water Management District permit. With each individual site development permit submitted, the Developer shall be required to provide on-site stormwater runoff provisions, with either a letter of compliance, modification, or exemption, as applicable, from South Florida Water Management District.
- 2. Prior to the issuance of any site plan or building permits, if applicable, the Developer shall coordinate with the City of Cape Coral, the Florida Department of Environmental Protection (FDEP), and the SFWMD in the siting of any on-site temporary transfer and storage facilities for all special or hazardous waste that may be generated within the project site. Any facility constructed on-site shall be located as far away from the surface water management system as feasible.
- 3. At completion of construction of the subdivision improvements for any Phase of the Veteran's Parkway West (AKA Bonita Bay) development as shown on Sheet 5 of 23 of the PDP Master Plans, as required by the conditions imposed by SFWMD and prior to the issuance of a Certificate of Occupancy, the Developer will be required to provide certification by the Engineer of Record that all stormwater infrastructure and facilities serving such Phase of the Veteran's Parkway West (AKA Bonita Bay) have been constructed in accordance with the design approved by SFWMD and the City of Cape Coral, and should consist of the wording "Construction Compliance Certification". Such certification shall thereafter confirm completion of required stormwater management improvements for all construction to occur in such Phase of the PDP.

B. ENERGY

The Developer shall incorporate at a minimum the following energy conservation measures into this development, to the extent practicable considering the design of the PDP as shown in the Master Concept Plan. All applications for site plan approvals and building permits shall be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants or successors in title are utilized to insure compliance, such documents shall be approved by the Cape Coral City Attorney's Office prior to recording. If no deed

restrictions are approved and recorded, the following features shall be included in the development:

- a. Cooperation in the location of bus stops, shelters, and other passenger and system accommodations for a transit system to service the project area.
- Use of energy efficient features in window design (e.g., tinting and exterior shading).
- c. Use of operable windows and ceiling fans.
- Installation of energy-efficient appliances and equipment in residential uses within the PDP.
- e. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, and solar water heating systems).
- f. Reduced coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat, as determined by the Cape Coral Department of Community Development.
- Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
- h. Selection, installation, and maintenance of plants, trees, and other vegetation and landscape design features that have minimal requirements for water, fertilizer, maintenance, and other needs. A list of native plants best suited to the soil conditions of Cape Coral by section is available from the Department of Community Development.
- i. Planting of shade trees to provide shade for all street and parking areas.
- Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.
- Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
- Provision for structural shading (e.g., trellises, awnings, and roof overhangs), wherever practical when natural shading cannot be used effectively.
- m. Consideration by the project architectural review committee(s) if any exists, of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development and compliance with the above conditions.
- n. Provision of bicycle/pedestrian system connecting all land uses to be placed along arterial and collector roads within the project. The system is to be consistent with local government requirements.
- o. Provision of bicycle racks or storage facilities in recreational, commercial, and multi-family residential areas.

C. HURRICANE EVACUATION/SHELTERING

 Prior to issuance of any building permits, the Developer shall meet with the Lee County Emergency Management, and Cape Coral Emergency Management officials to discuss and identify any areas in the common portion of the project that may be utilized as public shelter. A letter documenting this meeting shall be submitted to the City. 2. The Developer shall encourage actual site users and developers to incorporate within their building design the sheltering demands of the employees and their families.

D. WETLANDS, VEGETATION, AND WILDLIFE

- Ongoing control and removal of nuisance exotic plants onsite is required, including but not limited to, Casuarina sp. (Australian Pine), Melaleuca quinquenervia (melaleuca), and schinus terebinthifolius (Brazilian Pepper), and all Category I invasive exotic plants listed by the Florida Exotic Pest Plant Council.
- All landscaping and screening required in the subject development by either this
 Development Order or the City Code of Ordinances or the City Land Use and
 Development Regulations shall be maintained in good condition throughout the life
 of this development.
- A protective barrier composed of stakes and rope and/or other suitable material with good visibility and durability shall be placed around all existing trees to remain:
 - The protective barrier shall be erected prior to land preparation or construction activities.
 - b. The protective barrier shall be placed at or greater than the full dripline of all protected trees and shall be maintained and remain in place until all major construction activity is terminated.
 - No equipment, chemicals, soil deposits or construction materials shall be placed within such protective barriers.
 - Light construction activities subsequent to the removal of protective barriers shall be accomplished with light machinery or hand labor.
- 4. The Developer shall comply with the State of Florida regulations pertaining to the protection of gopher tortoise burrows located on the site and a protective barrier composed of stakes, silt fence, and rope or other suitable materials shall be placed around all gopher tortoise burrows, including any that are discovered during the life of the project. This requirement shall be waived if the Developer provides the City with evidence of a funded permit prior to the issuance of any City of Cape Coral permit. The Developer shall seek a gopher tortoise relocation permit for some or all of the gopher tortoises that must be removed from the site, if such permit is available at the time of development. Entombment of tortoises is strictly prohibited at all times, regardless of the type of permit procured by the applicant. Only as a last resort shall the Developer seek a gopher tortoise take permit.
- In the event all or a portion of the subject property is located within an Eagle Nest Management Zone, the developer shall comply with all City laws, regulations, and guidelines that are currently in effect or that may be hereafter adopted by the City concerning the protection and management of bald eagle nests including, but not limited to Chapter 23 of the City Code of Ordinances. No development shall occur on any portion of the subject property that is within an Eagle Nest Management Zone except in accordance with a Bald Eagle Management Plan that has been approved by the City. Once an Eagle Management Plan has been approved by the City for all or a portion of the property, the Developer's ability to develop in accordance with such Plan shall not be affected by any amendment to the City's regulations concerning eagle nests, so long as no additional or "new" eagle nest need to be accommodated. In the event, however, that one or more eagle nests are hereafter established or determined to be active in locations that result in all or a portion of the subject property being located in a new or expanded Eagle Nest Management Zone, then no development shall occur in such new or expanded zone except in accordance with an Eagle Management Plan that has been approved by the City for such zone.

E. FIRE PROTECTION

- 1. Fire impact fees shall be paid as specified by City Ordinance.
- The Developer shall review site development plans with the Cape Coral Fire Department to incorporate fire protection design recommendations into the project.

F. WATER CONSERVATION

- The Developer shall incorporate the use of water conserving devices as required by state law (Section 553.14, Florida Statutes).
- 2. For the purpose of non-potable water conservation, the development should require, through the use of deed restriction, the utilization of Florida Yards and Neighborhoods, (FYN), and other xeriscape principals, where feasible, in the design and installation of the project's landscaping. FYN materials and assistance are available through the Planning Division and the Environmental Resources Division.
- Irrigation will be accomplished in accordance with City Ordinance(s) or South Florida Water Management District mandate as applicable.

G. SOLID WASTE

- The Developer and tenants of the project should investigate methods of reducing solid waste volume at the project.
- The Developer and tenants of the project shall identify to the City, the presence of
 and the proper on-site handling and temporary storage procedures for hazardous
 waste that may be generated on-site, in accordance with local, regional, and state
 hazardous waste programs.
- 3. The Developer will require that an EPA/DEP approved holding storage tank be provided on-site along with the proper monitoring devices if a prospective user has the potential for producing toxic or industrial waste. These wastes shall be disposed of off-site by a company licensed to dispose of such wastes.
- 4. The Developer shall inform the waste hauler and disposer of the nature of any hazardous waste on the site, to determine if, and the extent of, any special precautions that may be necessary.
- 5. No solid waste disposal facilities shall be located on site. Dumpsters may be located within Tracts C100, C101, C102, and Tracts 100, 114, 116 and 117.
- 6. The Developer will participate in recycling programs.
- Solid waste disposal shall be provided through Lee County, Florida pursuant to Special Act, Chapter 85-447. Current and planned facilities have sufficient capacity to meet the demands of this development.

H. WASTEWATER MANAGEMENT

- Wastewater (sewer) service is not currently available to the site. Prior to the issuance of site plan permits, the Developer shall enter into a Utilities Agreement with the City to extend sewer service.
- 2. The Developer shall design, construct and install all improvements required by the City to connect to the City's wastewater system. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.

- Wastewater containing hazardous materials shall be segregated and handled in accordance with Florida Department of Environmental Protection (DEP) criteria.
 Wastewater entering the City system shall meet quality limitations as specified by City Ordinance(s).
- Sewer impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinance(s).
- When service becomes available, the Developer shall connect to City wastewater facilities as specified by City Ordinance.
- 6. The Developer shall grant appropriate easements to City for utility service prior to issuance of a site permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the Wastewater system that were constructed by Developer by bill of sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

WATER SERVICE

- Water service from the City is not currently available to the site. Prior to the issuance of site plan permits, the Developer shall enter into a Utilities Agreement to extend water service.
- The Developer shall design, construct and install all improvements in accordance with prevailing City design criteria and shall be subject to City inspection.
- Water impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinances(s).
- 4. When service becomes available, the Developer shall connect to City water facilities as specified by City Ordinance unless the City is precluded from providing service to the Developer by a final judgment from a court of competent jurisdiction.
- 5. The Developer shall grant appropriate easements to City for utility service prior to issuance of a site plan permit. If applicable, prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the water system that were constructed by Developer by bill of sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

J. IRRIGATION SERVICE

- 1. Irrigation service is not currently available to the site. Prior to the issuance of site plan permits, the Developer shall enter into a Utilities Agreement with the City to extend irrigation service.
- 2. The Developer's connection to the City's irrigation system shall be as prescribed by City Ordinance. The Developer shall design, construct, and install all improvements required by the City to connect to the City's irrigation system in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
- Irrigation betterment fees and/or all other applicable fees shall be paid as specified by City Ordinance(s).

4. The Developer shall grant appropriate easements to the City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the irrigation system that were constructed by Developer by Bill of Sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

K. AIR QUALITY

- 1. If any of the individual tract owners/developers create a complex source of pollution as defined by DEP rules, they shall apply directly to DEP for permitting.
- Each individual tract development will be required to comply with all federal, state
 and local laws and codes governing air quality and emissions.

L. HISTORICAL/ARCHAEOLOGICAL

During the life of the project, if any historical or archaeological sites are uncovered, work in the vicinity shall cease until the proper authorities can be contacted and an evaluation of the site carried out.

M. TRANSPORTATION

- The traffic impact assessment upon which this Development Order for the Veteran's Parkway West (AKA Bonita Bay) PDP is based assumes project buildout in seven (7) years. The traffic impact assessment included the expected impacts of 1,081 single family residential units, 488 multi-family residential units, 310,000 s.f. of retail and 10,000 s.f. of office.
- The traffic impacts of this development do not degrade roadway and intersection level of service (LOS) below LOS standards adopted in the City of Cape Coral Comprehensive Plan.
- 3. Based on existing and projected volumes and conditions, the Developer shall complete the improvements listed below in order to meet the requirements of paragraph 2 above. Said improvements shall commence as indicated in the table, or when warranted as determined by the result of Annual Traffic Monitoring Report(s). Cape Coral Development Associates, LLC, shall provide the City with a performance bond, an irrevocable letter of credit, or escrow agreement for an amount specified by staff based upon engineering estimates provided by the Developer to insure completion of impact fee credit eligible projects. Upon receipt and acceptance of the performance bond, irrevocable letter of credit, or escrow agreement for the entire cost of the improvements, the City shall issue road impact fee credits to Cape Coral Development Associates, LLC in an amount equal to the percentage of improvement value eligible for impact fee credits as outlined in the chart below.

Substantially Impacted Roadway	Improvements Required	When Required	Percentage of Improvement Value Eligible for Impact Fee Credit
Trafalgar Pkwy.	Four-Lane Trafalgar from Chiquita to Project Entrance with sidewalks on both sides, and the First Lift of Asphalt. (Sidewalks on the south side adjacent to Trafalgar Middle School shall be by others.)	Within twelve (12) months of site plan approval for Phase I	50%
Chiquita Blvd./ Trafalgar Pkwy. Intersection	Traffic Signal or other traffic control device and intersection improvements	Prior to the last C.O. of Phase II Homes or when warranted	75 %
Skyline Blvd./ Trafalgar Pkwy. Intersection	Traffic Signal or other traffic control device and intersection improvements	Prior to the last C.O. of Phase II Homes or when warranted	75%
Surfside Blvd.	Four-Lane Surfside from Veteran's to Trafalgar Pkwy as urban section with median landscaping including sidewalks on Surfside (both sides) and improvements at access to the development on Trafalgar	After completion of 80% C.O. of Phase II or before, if the City chooses to initiate construction ahead of time.	75%(If City chooses to expedite construction, the Developer will be responsible for 25% at the time of construction)
Veteran'sPkwy./ Surfside Blvd. Intersection	Traffic Signal and Lane Improvements Veteran's/Surfside (including four-lane of Surfside Blvd. from Veteran's to commercial access road/SW 22 nd Terr)	Prior to Completion of Buildings in Tract C-102 or when warranted	50%
SR-78/ development access	Traffic Signal & Lane Improvements	When connected to the development or when warranted	0%

- 4. Whenever a traffic signal and/or other traffic control device and intersection improvements are required, they shall include design, installation, and roadway geometrics associated with the improvement. The design shall be provided by a professional engineer licensed in the State of Florida. The design shall include 30%, 60%, and 100% review by the Transportation Division of the City of Cape Coral.
- 5. The Developer shall maintain Surfside Boulevard in a safe condition from construction commencement until such time as roadway improvements are completed as agreed upon, from Veteran's Parkway to Trafalgar Boulevard.

- 6. The Developer shall provide an overlay of not less than one inch in thickness and restripe Trafalgar Parkway as a four-lane roadway from Chiquita Boulevard to the entrance to the development. Said improvement shall be completed within twelve (12) months of site plan approval for Phase I.
- The Developer shall direct all suppliers, contractors, subcontractors, etc. to avoid utilization of Trafalgar Boulevard until the improvements described in Article II.M.6. are complete.
- 8. The Developer shall maintain Trafalgar Parkway from Chiquita Boulevard to the entrance to the development in good condition throughout the construction period so as to mitigate any damage or negative impacts on the road related to the construction activity for this project. Furthermore, the Developer shall overlay Trafalgar Parkway from Chiquita Boulevard to the entrance to the development with asphalt not less than one inch in thickness and re-stripe as a four lane roadway at the end of the seven (7) year construction period provided for herein.
- The project spine road shall not be connected to State Road 78 (Pine Island Road), until the following two conditions are met:
 - a. Construction phase of the four-laning of State Road 78 between Chiquita Boulevard and Veterans Parkway is in the 3rd year of the FDOT Adopted Work Plan, and
 - b. Developer has provided an approved FDOT Roadway Connection Permit.
- 10. The residential portion of the development shall provide an interconnected sidewalk/greenway/bike path system that will tie to the sidewalks along the commercial tracts consistent with the Greenway/Sidewalk/Bike path map. As part of the sidewalk/greenway/bike path system, sidewalks shall be provided on both sides of the private right-of-way in Tracts 106, 113, 115 and 120. With respect to the remaining residential tracts, the Developer shall only be required to provide sidewalks on one side of the right-of-way.
- 11. In order to facilitate the improvements listed above, the Developer shall dedicate the following right-of-way to the City of Cape Coral, and upon dedication shall be entitled to road impact fee credits in the amount of the indicated percentage of the value of said property at the time of dedication or transfer of the property, as determined by a qualified land appraiser.

Location of Right-of- Way to Be Dedicated	Description of Right-of-Way to Be Dedicated	When Required	Percentage of Appraised Value Eligible for Impact Fee Credit
Surfside Blvd. South of	40-Feet Wide	Phase I	50%
Trafalgar Pkwy.	(222,419.5+/- SF)	Subdivision Plat	
Surfside Blvd. North of	100-Feet Wide	Phase II	50%
Trafalgar Pkwy.	(132,958.0+/- SF)	Subdivision Plat	
Pine Island Road Master	80-Feet Wide	Phase III	50%
Plan City Frontage Road	(62,095.4+/- SF)	Subdivision Plat	
Pine Island North/South Access Road from SR 78 to Pine Island Road Master Plan City Frontage Road	100-Feet Wide Transitioning to 80-Feet Wide (54,450 +/- SF)	Phase III Subdivision Plat	50%
SR-78 (Pine Island Road)	145-Feet Wide (121,246.1+/-SF)	Phase III Subdivision Plat	0%

12. Subsequent to the approval of this PDP by City Council, the City and Cape Coral Development Associates, LLC, shall enter into an agreement regarding issuance and utilization of road impact fee credits. However, in any event, road impact fee credits

are transferable and shall be granted as outlined in 2-24.31(B).3 and 2-24.31(B).4 of the Code of Ordinances of the City of Cape Coral, Florida.

13. The City of Cape Coral reserves the right to request Annual Traffic Monitoring Report(s) before the development reaches buildout. Preparation of the report shall not begin until the Developer provides the City of Cape Coral with an acceptable methodology for preparing the report. If this report shows impacts greater than those estimated at the time of original approval and/or determines that the LOS is degraded below adopted LOS standards, the Developer shall provide mitigation actions to assure that all roadways and intersections shall be improved so as to maintain the adopted peak hour LOS standard.

N. SUBDIVISION

- The Developers shall meet all requirements of Section 4.2.11., Minimum Design Standards, City of Cape Coral Land Use and Development Regulations.
- 2. Prior to any final Subdivision Plat approval for any Phase of the Veteran's Parkway West (AKA Bonita Bay) PDP, either the Developer shall satisfactorily complete all of the required site improvements providing service to such Phase, or the Developer shall provide a surety bond or certified check in an amount of the estimated cost to complete all required site improvements providing service to such Phase, as determined by the City. Such surety bond or certified check shall be returned to the Developer after the Director has determined that all required improvements providing service to such Phase have been satisfactorily completed.
- 3. The Director shall submit the Subdivision Plat for the Mayor's signature after all required site improvements providing service to such Phase have been satisfactorily completed or the City has received a surety bond or certified check in an amount of the estimated cost to complete of all required site improvements providing service to such Phase. Such Plat shall then be recorded with the Lee County Clerk pursuant to Chapter 177, Florida Statutes. A duplicate recorded mylar copy of the Plat shall be submitted to the City.

O. GENERAL CONSIDERATIONS

- The Developer may be entitled to credit for contributions, construction, expansion, or acquisition of public facilities, that require impact fees or exactions to meet the same needs. The local government and the Developer may enter into a capital contribution front-ending agreement to reimburse the Developer for voluntary contributions in excess of his fair share.
- Prior to issuance of a permit, the Developer shall enter into an agreement, in a form
 acceptable to the City Attorney, regarding obligations resulting from landscaping
 located in utility easements.
- 3. All residences to be constructed within Veteran's Parkway West (AKA Bonita Bay) PDP shall be prohibited from using asphalt shingles on their roofs and shall be required to include concrete tile roofs or an acceptable alternative, having similar durability and aesthetic characteristics including, but not limited to: exterior appearance and color, as approved by the Department of Community Development Director, floratam sod; automatic sprinkler system connected to either City water, an individual well, lakes within the Veteran's Parkway West (AKA Bonita Bay) project or to the City's central irrigation system at such time as it is made available; driveways constructed of stamped concrete or concrete pavers or acceptable alternative, having similar durability and aesthetic characteristics including, but not limited to: exterior appearance and color, as approved by the Department of Community Development Director.
- The landscaping in all development(s) located on Tracts 106, 113, 115 and 120 shall exceed the minimum requirements of Section 5.2.3.B of the Land Use and Development Regulations.

- All landscape improvements shall be maintained in good condition throughout the life of the development.
- 6. The Special Exceptions granted herein may be established at any time within six (6) years from the effective date of this development order. After such initial six (6) year time period, however, if an approved Special Exception use is not actively in operation or is abandoned for a period of one (1) year, then the Special Exception use(s) shall be deemed to have been abandoned and the Special Exception(s) approved herein shall terminate as provided in the City of Cape Coral Land Use and Development Regulations

P. CONCURRENCY

The Veteran's Parkway West (AKA Bonita Bay) PDP meets applicable concurrency requirements regarding sewer, water, drainage, solid waste, and parks based on the analysis of the proposed development and specific mitigation programs specified herein. The Veteran's Parkway West (AKA Bonita Bay) PDP, phases I and II are concurrent for roads. Phase III will be concurrent when SR-78 is 4-laned.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the Veteran's Parkway West (AKA Bonita Bay) PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the Veteran's Parkway West (AKA Bonita Bay) PDP.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.
- F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval shall also not obviate the duty of the Developer to comply, to the extent that compliance would not be inconsistent with or prohibit development pursuant to this development order, with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- G. Subsequent requests for local development permits shall not require further review, unless it is found by the City Council, after due notice and hearing, that one or more substantial deviation(s), or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City have occurred. Substantial deviations include but are not limited to:
 - Any change which requires a variance to code over and above those specifically incorporated herein.

- 2. An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or building square footage.
- An expiration of the period of effectiveness of this Development Order as herein provided.
- 4. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved and all local approvals have been obtained, or until the Developer brings the project into compliance with this Development Order, if possible.

- H. The physical development authorized under this Development Order shall terminate in tenyears from the date of adoption of this Development Order, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- I. The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.
 - The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports shall be required until such time as the project is complete, at which time, a final development report shall be submitted to the City.
- K. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the City.

SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION VI.

EFFECTIVE DATE.

This ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 15^{44} DAY OF 2004.

ARNOLDÆ. KEMPE, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS 19th DAY OF March 2004.

BONNIE J. VENT, CITY CLERK

HEREBY CERTIFY that I am the duly appointed and qualified Combid the City of Cape Coral, Florida, and the Report of the records and comporate search and multiplicative that this is a true.

APPROVED AS TO FORM:

DOLORES D. MENENDEZ

CITY ATTORNEY

ord/pdpQ38-8

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EXHIBIT A

REZONE AGRICULTURAL (A) TO CORRIDOR (CORR)

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN N01°47'29"W, 39.31 FEET TO THE POINT OF BEGINNING.

FROM SAID POINT OF BEGINNING RUN N89°54'03"W, 2668.58 FEET; THENCE N01°06'44"W, 5281.18 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT OF WAY OF PINE ISLAND ROAD (SR NO. 78) (66 FEET WIDE); THENCE RUN S89°37'42"E, 836.18 FEET; THENCE LEAVING SAID SOUTHERLY RIGHT OF WAY RUN S01°06'44"E, 1303.89 FEET; THENCE S89°29'26"E, 497.56 FEET; THENCE S00°28'44"E, 1337.80 FEET; THENCE S01°22'05"E, 1081.38 FEET; THENCE N89°26'26"W, 890.05 FEET; THENCE S01°27'05"E, 250.00 FEET; THENCE S89°26'26"E, 2216.95 FEET; THENCE S01°47'29"E, 1290.27 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 7,860,170 SQ. FT. (180.44 AC.±), MORE OR LESS.



EXHIBIT B

REZONE RESIDENTIAL DEVELOPMENT (RD) TO MULTI-FAMILY RESIDENTIAL (R-3)

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: FROM THE NORTHEAST CORNER OF SAID SECTION 29 RUN S00°13'25"W, 48.49 FEET ALONG THE EAST LINE OF SAID SECTION 29; THENCE RUN N89°46'27"W, 57.62 FEET TO THE POINT OF CURVATURE OF A 870.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 22°37'16", A CHORD AND CHORD BEARING OF S78°54'38"W, 341.26 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 343.49 FEET TO THE POINT OF TANGENCY; THENCE RUN S67°35'59"W, 600.45 FEET TO THE POINT OF CURVATURE OF A 880.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 52°34'39", A CHORD AND CHORD BEARING OF N86°06'41"W, 779.50 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 807.53 FEET TO THE POINT OF COMPOUND CURVATURE OF A 1930.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 16°01'59", A CHORD AND CHORD BEARING OF N51°48'22"W, 538.31 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 540.07 FEET TO A NON TANGENT INTERSECTION WITH A LINE WHICH BEARS S89°54'03"E; THENCE RUN S89°54'03"E, 2147.36 FEET ALONG SAID LINE; THENCE S01°47'29"E, 39.93 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 593,987 SQ. FT. (13.64 AC±), MORE OR LESS.

EXHIBIT C

REZONE RESIDENTIAL DEVELOPMENT (RD) TO SINGLE-FAMILY RESIDENTIAL (R-1B)

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S00°13'25"W, 48.49 FEET TO THE POINT OF BEGINNING.

FROM SAID POINT OF BEGINNING RUN S00°13'25"W, 2029.21 FEET ALONG THE EAST LINE OF SAID SECTION 29; THENCE RUN N89°46'35"W, 90.02 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT INTERSECTION WITH A 60.61 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 85°53'29", A CHORD AND CHORD BEARING OF S41°58'56"W, 82.58 FEET, RUN ALONG THE ARC OF SAID CURVE 90.85 FEET TO THE POINT OF REVERSE CURVATURE OF A 178.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 15°04'12", A CHORD AND CHORD BEARING OF \$76°13'45"W, 46.68 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 46.82 FEET TO THE POINT OF REVERSE CURVATURE OF A 64.32 FOOT RADIUS CURVE CONCAVE TO THE NORTH, SAID CURVE HAVING A CENTRAL ANGLE OF 22°28'11", A CHORD AND CHORD BEARING OF S80°09'55"W, 25.06 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 25.22 FEET TO THE POINT OF REVERSE CURVATURE OF A 482.50 FOOT RADIUS CURVE CONCAVE TO THE SOUTH, SAID CURVE HAVING A CENTRAL ANGLE OF 19°14'51", A CHORD AND CHORD BEARING OF S85°29'41"W, 161.33 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 162.09 FEET TO THE POINT OF REVERSE CURVATURE OF A 1094.00 FOOT RADIUS CURVE CONCAVE TO THE NORTH. SAID CURVE HAVING A CENTRAL ANGLE OF 25°07'55", A CHORD AND CHORD BEARING OF S88°26'13"W, 476.03 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 479.87 FEET TO THE POINT OF REVERSE CURVATURE OF A 227.50 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 50°30'02", A CHORD AND CHORD BEARING OF S75°45'09"W, 194.09 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 200.52 FEET TO THE POINT OF REVERSE CURVATURE OF A 62.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 35°27'34", A CHORD AND CHORD BEARING OF S68°13'55"W, 37.76 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 38.37 FEET TO THE POINT OF TANGENCY; THENCE RUN S85°57'42"W, 157.37 FEET TO A NON-TANGENT INTERSECTION WITH A 1065.00 FOOT RADIUS CURVE CONCAVE TO THE WEST, SAID CURVE HAVING A CENTRAL ANGLE OF 20°42'25", A CHORD AND CHORD BEARING OF S02°46'57"W, 382.80, RUN ALONG THE ARC OF SAID CURVE FOR 384.90 FEET TO THE POINT OF TANGENCY; THENCE RUN \$13°08'09"W, 376.33 FEET; THENCE RUN S76°51'51"E, 251.63 FEET TO THE POINT OF CURVATURE OF A 1152.50 FOOT RADIUS CURVE CONCAVE TO THE NORTH, SAID CURVE HAVING A CENTRAL ANGLE OF 32°41'16", A CHORD AND CHORD BEARING OF N86°47'31"E, 648.63 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 657.51 FEET TO THE POINT OF REVERSE CURVATURE OF A 50.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH, SAID CURVE HAVING A CENTRAL ANGLE OF 17°53'55", A CHORD AND CHORD BEARING OF N79°23'51"E, 15.56 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 15.62 FEET TO THE POINT OF TANGENCY; THENCE RUN N88°20'48"E, 191.45 FEET TO A NON-TANGENT INTERSECTION WITH A 190.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 53°08'57", A CHORD AND CHORD BEARING OF S81°36'36"E, 170.00 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 176.25 FEET TO A NON-TANGENT INTERSECTION WITH A LINE WHICH BEARS S89°46'35"E; THENCE RUN S89°46'35"E, 65.02 FEET TO AN INTERSECTION WITH SAID EAST LINE OF SAID SECTION 29, THENCE RUN S00°13'25"W, 1251.66 FEET ALONG

SAID EAST LINE; THENCE N89°46'35"W, 65.00 FEET TO THE POINT OF CURVATURE OF A 430.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 70°44'25", A CHORD AND CHORD BEARING \$55°09'52"W, 497.82 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 530.90 FEET TO THE POINT OF REVERSE CURVATURE OF A 200.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 69°47'59", A CHORD AND CHORD BEARING OF S54°41'38"W, 228.86 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 243.65 FEET TO THE POINT OF TANGENCY; THENCE RUN \$89°35'38"W, 148.43 FEET TO THE POINT OF CURVATURE OF A 200.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 89°08'04", A CHORD AND CHORD BEARING OF S45°01'36"W, 280.70 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 311.14 FEET TO THE POINT OF TANGENCY; THENCE RUN S00°13'25"W, 82.64 FEET; THENCE RUN S89°35'38"W, 292.12 FEET TO A NON-TANGENT INTERSECTION WITH A 1101.48 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 03°42'59", A CHORD AND CHORD BEARING OF N11°46'02"W, 71.43 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 71.45 FEET TO A POINT OF REVERSE CURVATURE OF A 400.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 36°26'24", A CHORD AND CHORD BEARING OF N04°35'40"E, 250.13 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 254.40 FEET TO THE POINT OF REVERSE CURVATURE OF A 1165.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 25°20'46", A CHORD AND CHORD BEARING OF N10°08'30"E, 511.17 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 515.37 FEET TO A NON-TANGENT INTERSECTION WITH A LINE WHICH BEARS \$89°35'36"W; THENCE RUN S89°35'36"W, 1463.81 FEET ALONG SAID LINE; THENCE RUN N00°12"40"E, 4223.21 FEET; THENCE RUN N89°54'10"W, 521.20 FEET TO THE NON-TANGENT INTERSECTION WITH A 1930.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 16°01'59", A CHORD AND CHORD BEARING OF \$51°48'22"E, 538.31 FEET, RUN ALONG THE ARC OF SIAD CURVE FOR 540.07 FEET TO THE POINT OF COMPOUND CURVATURE OF A 880.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 52°34'39", A CHORD AND CHORD BEARING OF S86°06'41"E, 779.50 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 807.53 FEET TO THE POINT OF TANGENCY; THENCE RUN N67°35'59"E, 510.67 FEET TO THE POINT OF CURVATURE OF A 870.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 22°37'16", A CHORD AND CHORD BEARING OF N78°54'38"E, 341.26 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 343.49 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 10,144,253 SQ. FT. (232.88 AC.±), MORE OR LESS

EXHIBIT D

REZONE RESIDENTIAL DEVELOPMENT (RD) TO SINGLE-FAMILY RESIDENTIAL (R-1B)

A TRACT OR PARCEL OF LAND LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S00°13'25"W, 2029.21 FEET ALONG THE EAST LINE OF SAID SECTION 29 TO THE POINT OF BEGINNING.

FROM SAID POINT OF BEGINNING RUN S00°13'25"W, 961.35 FEET ALONG THE EAST LINE OF SAID SECTION 29; THENCE RUN N89°46'35"W, 65.02 FEET TO THE NON TANGENT POINT OF CURVATURE OF A 190.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 53°08'57", A CHORD AND CHORD BEARING OF N81°36'36"W, 170.00 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 176.25 FEET TO A NON TANGENT INTERSECTION WITH A LINE WHICH BEARS \$88°20'48"W; THENCE RUN S88°20'48"W, 191.45 FEET ALONG SAID LINE TO THE POINT OF CURVAURE OF A CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 17°53'55", A CHORD AND CHORD BEARING OF S79°23'51"W. 15.56 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 15.62 FEET TO THE POINT OF REVERSE CURVATURE OF A 1152.50 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 32°41'16", A CHORD AND CHORD BEARING OF S86°47'31"W, 648.63 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 657.51 FEET TO THE POINT OF TANGENCY; THENCE RUN N76°51'51"W, 251.63 FEET; THENCE RUN N13°08'09"E, 376.33 FEET TO THE POINT OF CURVATURE OF A 1065 FOOT RADIUS CURVE CONCAVE TO THE WEST, SAID CURVE HAVING A CENTRAL ANGLE OF 20°42'25", A CHORD AND CHORD BEARING OF N02°46'57"E, 382.80, RUN ALONG THE ARC OF SAID CURVE FOR 384.90 FEET TO A NON TANGENT INTERSECTION WITH A LINE WHICH BEARS N85°57'42"E; THENCE RUN N85°57'42"E, 157.37 FEET ALONG SAID LINE TO THE POINT OF CURVATURE OF A 62.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 35°27'34", A CHORD AND CHORD BEARING OF N68°13'55"E, 37.76 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 38.37 FEET TO THE POINT OF REVERSE CURVATURE OF A 227.50 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 50°30'02", A CHORD AND CHORD BEARING OF N75°45'09"E, 194.09 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 200.52 FEET TO THE POINT OF REVERSE CURVATURE OF A 1094.00 FOOT RADIUS CURVE CONCAVE TO THE NORTH, SAID CURVE HAVING A CENTRAL ANGLE OF 25°07'55", A CHORD AND CHORD BEARING OF N88°26'13"E, 476.03 FEET, RUN ALONG THE ARC SAID CURVE FOR 479.87 FEET TO THE POINT OF REVERSE CURVATURE OF A 482.50 FOOT RADIUS CURVE CONCAVE TO THE SOUTH, SAID CURVE HAVING A CENTRAL ANGLE OF 19°41'51", A CHORD AND CHORD BEARING OF N85°29'41"E, 161.33 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 162.09 FEET TO THE POINT OF REVERSE CURVATRE OF A 64.32 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 22°28'11", A CHORD AND CHORD BEARING OF N80°09'55"E, 25.06 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 25.22 FEET TO THE POINT OF REVERSE CURVATURE OF A 178.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 15°04'12", A CHORD AND CHORD BEARING OF N76°13'45"E, 178.00 FEET TO THE POINT OF REVERSE CURVATURE OF A 60.61 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 85°53'29", A CHORD AND CHORD BEARING OF N41°58'56"E, 82.58 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 90.85 FEET TO A NON TANGENT INTERSECTION WITH A LINE WHICH BEARS S89°46'35"E; THENCE RUN S89°46'35"E, 90.02 ALONG SAID LINE FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1,095,996 SQ.FT (25.16 AC±), MORE OR LESS.

EXHIBIT E

REZONE RESIDENTIAL DEVELOPMENT (RD) TO MULTI-FAMILY RESIDENTIAL (R-3)

A TRACT OR PARCEL OF LAND LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S00°13'25"W, 5511.95 FEET ALONG THE EAST LINE OF SAID SECTION 29 TO AN INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF VETERANS PARKWAY (230.00 FEET WIDE); THENCE RUN S89°35'38"W, 1320.00 FEET TO THE POINT OF BEGINNING.

FROM SAID POINT OF BEGINNING RUN S89°35'38"W, 1172.57 FEET ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID VETERANS PARKWAY; THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE RUN N00°12'40"E, 1390.19 FEET; THENCE RUN N89°35'38"E, 1463.81 FEET TO THE NON TANGENT POINT OF CURVATURE OF A 1165.00 FOOT RADIUS CURVE CONCAVE TO THE WEST. SAID CURVE HAVING A CENTRAL ANGLE OF 25°20'46", A CHORD AND CHORD BEARING OF \$10°08'30"W, 511.17 FEET TO THE POINT OF REVERSE CURVATURE OF A 400.00 FOOT RADIUS CURVE CONCAVE TO THE EAST, SAID CURVE HAVING A CENTRAL ANGLE OF 36°26'24", A CHORD AND CHORD BEARING OF S04°35'40"W, 250.13 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 254.40 FEET TO THE POINT OF REVERSE CURVATURE OF A 1101.48 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST. SAID CURVE HAVING A CENTRAL ANGLE OF 03°42'59", A CHORD AND CHORD BEARING OF S11°46'20"E. 71.43 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 71.45 FEET A NON TANGENT INTERSECTION WITH A LINE WHICH BEARS S89°35'38"W: THENCE RUN S89°35'38"W. 40.70 FEET TO A NON TANGENT INTERSECTION WITH A 1060.00 FOOT RADIUS CURVE CONCAVE TO THE WEST, SAID CURVE HAVING A CENTRAL ANGLE OF 10°15'52", A CHORD AND CHORD BEARING OF S05°08'11"E, 189.64 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 189.90 FEET TO THE POINT OF TANGENCY; THENCE RUN S01°12'38"W, 139.22 FEET; THENCE RUN S00°13'25"W, 249.38 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1,933,782 SQ. FT. (44.39 AC±), MORE OR LESS.

EXHIBIT F

REZONE RESIDENTIAL DEVELOPMENT (RD) TO PEDESTRIAN COMMERCIAL (C-1)

A TRACT OR PARCEL OF LAND LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: FROM THE NORTHEAST CORNER OF SAID SECTION 29 RUN S00°13'25"W, 4242.22 FEET ALONG THE EAST LINE OF SAID SECTION 29 TO THE POINT OF BEGINNING.

FROM SAID POINT OF BEGINNING RUN S00°13'25"W, 470.40 FEET ALONG THE EAST LINE OF SAID SECTION 29; THENCE RUN S89°35'38"W, 945.00 FEET; THENCE RUN S00°13'25"W, 550.00 FEET; THENCE RUN S89°35'38"W, 375.00 FEET; THENCE RUN N00°12'38"E, 139.22 FEET TO THE POINT OF CURVATURE OF A 1060.00 FOOT RADIUS CURVE CONCAVE TO THE WEST, SAID CURVE HAVING A CENTRAL ANGLE OF 10°15'52", A CHORD AND CHORD BEARING OF N05°08'11"W, 189.64 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 189.90 FEET TO THE POINT OF TANGENCY; THENCE RUN N89°35'38"E, 292.12 FEET; THENCE RUN N00°13'25"E. 82.64 FEET TO THE POINT OF CURVATURE OF A 200.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 89°08'04", A CHORD AND CHORD BEARING OF N45°01'36"E, 280.70 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 311.14 FEET TO THE POINT OF TANGENCY; THENCE RUN N89°35'38"E, 148.43 FEET TO THE POINT OF CURVATURE OF A 200.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 69°47'59", A CHORD AND CHORD BEARING OF N54°41'38"E, 228.86 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 243.65 FEET TO THE POINT OF REVERSE CURVATURE OF A 430.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 70°44'25", A CHORD AND CHORD BEARING OF N55°09'52"E, 497.82 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 530.90 FEET TO THE POINT OF TANGENCY; THENCE RUN S89°46'35"E, 65.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 359,122 SQ. FT (8.24 AC.±), MORE OR LESS.

EXHIBIT G

REZONE RESIDENTIAL DEVELOPMENT (RD) TO PEDESTRIAN COMMERCIAL (C-1)

A TRACT OR PARCEL OF LAND LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S00°13'25"W, 4712.62 FEET ALONG THE EAST LINE OF SAID SECTION 29 TO THE POINT OF BEGINNING.

FROM SAID POINT OF BEGINNING RUN S00°13'25"W, 800.00 FEET ALONG THE EAST LINE OF SAID SECTION 29 TO AN INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF VETERANS PARKWAY (230' WIDE); THENCE RUN ALONG SAID NORTHERLY LINE OF VETERANS PARKWAY S89°35'38"W, 1320.00 FEET; THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE RUN N00°13'25"E, 249.38 FEET; THENCE RUN N89°35'38"E, 375.00 FEET; THENCE RUN N00°13'25"E, 550.00 FEET; THENCE RUN N89°35'38"E, 945.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 848,873 SQ. FT (19.49 AC.±), MORE OR LESS.

EXHIBIT H

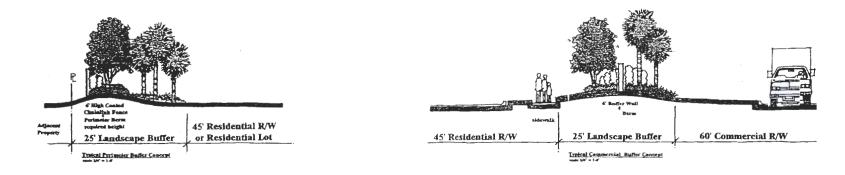
PROJECT LEGAL DESCRIPTION

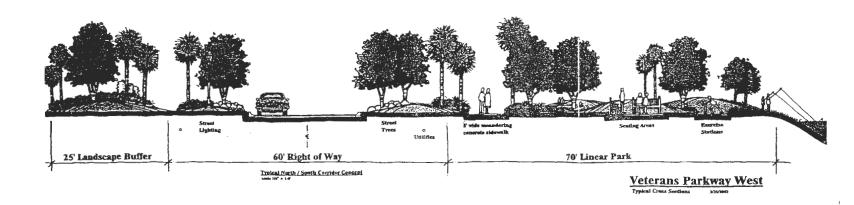
A PARCEL IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH. RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S 00° 13' 25" W ALONG THE EAST LINE OF SAID SECTION FOR 2842.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 29; THENCE CONTINUE S 00° 13' 25" W ALONG SAID EAST LINE FOR 2718.13 FEET TO AN INTERSECTION WITH THE NORTH LINE OF BURNT STORE ROAD EXTENSION AS RECORDED IN OFFICIAL RECORD BOOK 2910 BEGINNING AT PAGE 2499 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S 89° 35' 38" W ALONG THE NORTH LINE OF SAID BURNT STORE ROAD EXTENSION FOR 2492.55 FEET TO A POINT OF CURVATURE: THENCE RUN WESTERLY AND NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 1565.02 FEET (CHORD BEARING N 87° 10' 59" W) (CHORD 175.99 FEET) (DELTA 06° 26' 47" FOR 176.08 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 29; THENCE RUN N 00° 12' 40" E ALONG SAID WEST LINE FOR 5591.35 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 29; THENCE RUN N 01° 06' 44" W ALONG THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 20 FOR 5303.23 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF PINE ISLAND ROAD (66 FEET WIDE); THENCE RUN S 89° 37' 42" E ALONG SAID SOUTH LINE FOR 836.18 FEET; THENCE RUN S 01° 06' 44" E FOR 1303.89 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTH HALF (S-1/2) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 29' 26" E ALONG SAID NORTH LINE FOR 497.56 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER (SW-1/4) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20: THENCE RUN S 00° 28' 44" E ALONG THE EAST LINE OF SAID FRACTION FOR 1337.80 FEET; THENCE RUN S 01° 27' 05" E ALONG THE EAST LINE OF THE NORTHWEST QUARTER (NW-1/4 OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 1081.38 FEET TO A POINT ON SAID EAST LINE, BEING ALSO THE NORTHEAST CORNER OF A PARCEL OF LAND AS RECORDED IN OFFICIAL RECORD BOOK 1697 BEGINNING AT PAGE 3463 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N89°26'26"W ALONG THE NORTH LINE OF SAID PARCEL FOR 890.05 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE RUN S01°27'05"E ALONG THE WEST LINE OF SAID PARCEL FOR 250.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL, BEING ALSO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S89°26'26"E ALONG THE SOUTH LINE OF SAID PARCEL AND SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 890.05 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL AND SAID FRACTION; BEING ALSO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 26' 26" E ALONG THE SOUTH LINE OF SAID FRACTION FOR 1326.90 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID SECTION 20: THENCE RUN S 01° 47' 29" E ALONG SAID EAST LINE FOR 1329.58 FEET TO THE POINT OF BEGINNING.

SUBJECT TO: LEE: COUNTY ELECTRIC COOPERATIVE TRANSMISSION LINE EASEMENT OVER AND ACROSS THE EAST 100 FEET OF THE SCUTHEAST QUARTER (SE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 AS RECORDED IN OFFICIAL RECORD BOOK 1473 BEGINNING AT PAGE 1799 OF SAID PUBLIC RECORDS.

DESCRIBED PARCEL CONTAINS 524.24 ACRES, MORE OR LESS.





COUNCILMEMBER LEPERA

PDP 06-00800002 09/26/06 10/02/06 10/10/06 10/27/06

INSTR # 2006000454973, Pages 9
Doc Type GOV, Recorded 12/06/2006 at 03:38 PM,
Charlie Green, Lee County Clerk of Circuit Court
Rec. Fee \$78.00
Deputy Clerk WMILLER

ORDINANCE 143 - 06

AN ORDINANCE AMENDING ORDINANCE 31-04, A PLANNED DEVELOPMENT PROJECT ENTITLED "VETERAN'S PARKWAY WEST (AKA BONITA BAY)" FOR A PORTION OF THE PROJECT ON PROPERTY DESCRIBED AS A PARCEL OF LAND LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT 2330 SURFSIDE BOULEVARD; RENAMING A PORTION OF THE PROJECT "SHOPS AT SURFSIDE"; GRANTING SUBDIVISION APPROVAL; GRANTING A DEVIATION FROM THE REGULATION ALLOWING A REDUCTION IN THE NUMBER OF REQUIRED TREES ON PARCELS TWO (2) OR MORE ACRES IN SIZE AS REQUIRED IN SECTION 5.2.8.C. OF THE LAND USE AND DEVELOPMENT REGULATIONS TO PERMIT THE USE OF TREE CREDITS ON ALL OUT-PARCELS THAT ARE LESS THAN TWO ACRES IN SIZE; GRANTING DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Veteran's Parkway West (aka Bonita Bay)" Planned Development Project was approved by the City Council of the City of Cape Coral by Ordinance 31-04; and

WHEREAS, an application from Dodge Cape Coral, LLC, has been received requesting amendment of a portion of a Planned Development Project (PDP) for "Veteran's Parkway West (aka Bonita Bay)", renaming a portion of the project to "Shops at Surfside", requesting deviation, and subdivision approval; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I. PDP AMENDMENT APPROVAL, DEVIATION, SUBDIVISION APPROVAL, AND RENAMING THE PROJECT.

Having reviewed the application requesting approval of an amendment to Ordinance 31-04, a planned development project entitled "Veteran's Parkway West (aka Bonita Bay)", renaming a portion of the project "Shops at Surfside"; requesting subdivision approval for an 11.21 acre shopping center tract, an 0.86 acre water management tract, and six (6) out-parcels ranging in size from 1.03 acres to 2.50 acres, totaling 8.67 acres; requesting a deviation from the regulation allowing a reduction in the number of required trees on parcels two (2) or more acres in size as required in Section 5.2.8.C. of the Land Use and Development Regulations to permit the use of tree credits on all out-parcels that are less than two acres in size; requesting development plan approval; and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP approval, and approved development plan, in accordance with plan set, Sheets 1 through 7, dated 12/16/05, with the specific dates of 1726/06, & 05/24/06, prepared by Avalon Engineering, Inc., for purposes of development Plannapproval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations; approval subdivision and deviations from the Land Use and Development Regulations from the Land Use and Develop

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The "Shops at Surfside" is a Commercial Planned Development Project (PDP). The development will contain a shopping center tract (retail and office uses) totaling 11.21 acres, one (1) water management tract totaling 0.86 acre, and six (6) outparcels totaling 8.67 acres. The total development area is a portion of Phase I and identified as Tract C-102 in the extant PDP. Ordinance 31-04 allowed a maximum total of 226,500 s.f. of retail and 10,000 s.f. of office uses on parcels of land identified as Tracts C-101 and C-102. The development area subject to this PDP is a portion of Tract C-102 and is approved for 195,887 s.f. of retail and 4,732 square feet of office. That portion of Tract C-102 that is the subject of this Development Order consists of parcels now identified as Tract A, Tract B, and Outparcels 1-6. The development will occur in one phase with buildout completed simultaneously with the expiration of Ordinance 31-04, being March 15, 2014.
- B. The name(s) of the legal and equitable owner(s) is Dodge Cape Coral, LLC.
- C. The legal description of the property approved by Ordinance 31-04 is as described in attached Exhibit "A".
- D. The legal description of the property subject to this PDP amendment is as described in attached Exhibit "B".
- E. The "Shops at Surfside" PDP subject parcel has 20.74 acres zoned Pedestrian Commercial (C-1), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 20.74 acres with a Future Land Use designation of Commercial/Professional (CP).
- F. All existing and future structures and uses, population density, building intensity, and building height shall conform to the respective provisions of the Pedestrian Commercial (C-1) Zoning District of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- G. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- H. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- I. The term "Developer," for purposes of this development order shall mean and refer to Dodge Cape Coral, LLC, its successors in interest, lessees, and/or assigns.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the "Shops at Surfside" Planned Development Project application for development approval submitted by Dodge Cape Coral, LLC, is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

A. DRAINAGE/WATER QUALITY

At completion of construction of the required site improvements, the Developer shall provide certification by the Engineer of Record that all required surface water management infrastructure improvements have been constructed in accordance with the design approved by SFWMD and the City of Cape Coral. The certification shall include the wording "Construction Compliance Certification".

В. **ENERGY**

The Developer shall incorporate at a minimum the following energy conservation measures into this development, through deed restrictions and/or covenants with successors in title. All applications for site plan approvals and building permits shall be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents shall be approved by the Cape Coral City Attorney's Office prior to recording. If no deed restrictions are approved and recorded, the first alternative shall be utilized and the following features must be included:

- Cooperation in the location of bus stops, shelters, and other passenger and system accommodations for a transit system to service the project area.
- 2. Use of energy efficient features in window design (e.g., tinting and exterior shading).
- 3. Use of operable windows and ceiling fans.
- 4. Installation of energy-efficient appliances and equipment.
- 5. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, and solar water heating systems).
- 6. Reduced coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat, as determined by the Cape Coral Department of Community Development.
- 7. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
- 8. Selection, installation, and maintenance of plants, trees, and other vegetation and landscape design features that have minimal requirements for water, fertilizer, maintenance, and other needs. A list of native plants best suited to the soil conditions of Cape Coral by section is available from the Department of Community Development.
- 9. Planting of shade trees to provide shade for all streets and parking areas.
- 10. Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.
- 11. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
- Provision for structural shading (e.g., trellises, awnings, and roof overhangs), wherever 12. practical when natural shading cannot be used effectively.
- Consideration by the project architectural review committee(s) if any exists, of energy 13. conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development and compliance with the above conditions.
- Provision of bicycle/pedestrian system connecting all land uses to be placed along 14. arterial and collector roads within the project. The system is to live consistent with City of Cape Coral requirements.
- Provision of bicycle racks or storage facilities in recreational Continuous family residential areas.

 ANDS, VEGETATION, AND WILDLIFE and multi-

C. WETLANDS, VEGETATION, AND WILDLIFE

The Listed Species Survey performed August 22 2006 Yar the 1. identified one (1) snowy egret (Egretta thula), a State Species of Special Consert on the project site. No other listed species were observed durangethe survey. For aging habit at for the identified snowy egret exists within the incently constructed lekes in the adjace nt "Veterans Parkway West (AKA Bonita Bay)," commonly known as Sandoval residential development, as well as within the existing Cape Coral canal system. As such, no further management of this species is warranted on the project site and the applicant is not required to submit a listed species management plan for the snowy egret.

- The Bald Eagle Management Plan (BEMP) for Nest LE-055D dated August 2006 has 2. been received by the City of Cape Coral. The bald eagle (Haliaeetus leucocephalus) nest LE-055D, is located in Section 28, Township 44 South, Range 23 East, Lee County, on property owned by the City of Cape Coral, approximately 570 feet east of the "Shops at Surfside" property. A BEMP was previously submitted for Nest LE-055B, as part of the City of Cape Coral review and approval of the "Veterans Parkway West (AKA Bonita Bay)" Planned Development Project (PDP), which included the "Shops at Surfside" property. The nest identified at LE-055B was identified on January 11, 2004. The nest was located within the median of the main entrance road to the "Veterans Parkway West (AKA Bonita Bay)" project. The nest successfully produced and fledged a single bald eagle chick during the 2004 nesting season. Subsequent to this, the nest (LE-055B) was destroyed during Hurricane Charley on August 13, 2004. A new bald eagle nest, tentatively identified as LE-055D, was identified to the east of the "Shops at Surfside" property on January 17, 2006. This nest produced two chicks on or about March 21, 2006. The new nest number has not yet been confirmed by the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish and Wildlife Conservation Commission (FFWCC). The Developer shall comply with all provisions of the amended BEMP for LE-055B and with the BEMP for LE-055D, as may hereafter be amended.
- 3. Prior to beginning vertical construction on the subject property, the Developer shall submit site/building plans to the USFWS, the FFWCC, and the City Environmental Services Department for review and approval, relative to the structures' potential impact on nest LE-055D. Approval of such site plans and/or building plans by the City of Cape Coral shall be contingent upon receipt of letters of approval or "no objection" from the USFWS, FFWCC and the Environmental Services Department.

D. WASTEWATER MANAGEMENT

- Wastewater (sewer) service is available to the site.
- The Developer shall design, construct and install all improvements required by the City to
 connect to the City's wastewater system. Said design, construction, and installation shall be
 accomplished in accordance with prevailing City design criteria and shall be subject to City
 inspection and approval prior to acceptance.
- Wastewater containing hazardous materials shall be segregated and handled in accordance
 with Florida Department of Environmental Protection (DEP) criteria. Wastewater
 entering the City system shall meet quality limitations as specified by City Ordinance(s).
- Sewer impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinance(s).
- 5. The Developer shall connect to City wastewater facilities as specified by City Ordinance.
- 6. The Developer shall grant appropriate easements to City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the Wastewater system that were constructed by Developer by Bill of Sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

E. WATER SERVICE

- 1. Water service is available to the site.
- The Developer shall design, construct and install all improvements required by the City to
 connect to the City's water system. Said design, construction, and installation shall be
 accomplished in accordance with prevailing City design criteria and shall be subject to City
 inspection and approval prior to acceptance.

- 3. Water impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinances(s).
- 4. The Developer shall connect to City water facilities as specified by City Ordinance.
- 5. The Developer shall grant appropriate easements to City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the water system that were constructed by Developer by Bill of Sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

F. IRRIGATION SERVICE

- 1. Irrigation service is available to the site.
- Developer shall connect to the City's irrigation system as prescribed by City Ordinance.
 The Developer shall design, construct, and install all improvements required by the City to
 connect to the City's irrigation system in accordance with prevailing City design criteria and
 shall be subject to City inspection and approval prior to acceptance.
- Irrigation betterment fees and/or all other applicable fees shall be paid as specified by City Ordinance(s).
- 4. The Developer shall grant appropriate easements to the City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the irrigation system that were constructed by Developer by Bill of Sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

G. TRANSPORTATION

- Based on the Traffic Impact Statement (TIS) performed by Metro Transportation dated January 21, 2004 that addressed the impact on the surrounding network of the combined total development approved by Ordinance 31-04, the traffic generated by this development does not degrade roadway and intersection level of service (LOS) below LOS standards adopted in the City of Cape Coral Comprehensive Plan.
- 2. The project's southernmost driveway onto Surfside Boulevard shall be restricted to a right-in only movement, meaning that no traffic will be allowed to exit from this drive onto Surfside Boulevard, at such time as any of the following occur:
 - Three (3) crashes associated with exiting traffic from this driveway occur within any 12 month period.
 - Traffic volumes on southbound Surfside Boulevard, within the vicinity of this driveway, exceed 580 peak hour trips per day.
 - Surfside Boulevard is extended to connect to State Road 78.

Upon notification by City staff that one or more of the above conditions (a. - c.) has occurred, the Developer shall be required to implement the conversion of the chive into a right-in only movement. At that time, he Developer, or its successors or assigns, shall provide to the City a detailed sketch of the proposed reconfiguration of the southernmost driveway. The proposed reconfiguration shall be reviewed by the Public Work Director, or his designee. Upon notification of approval of the reconfiguration, Developer shall implement such conversion in accordance with the detailed sketch within thirty (30) days so that it clearly functions as a right-month. The driveway conversion shall be completed within 120 days of implanted in the conditions.

3. As part of the security bond or certified check referenced under section H2. Subdivision, below, the Developer shall provide sufficient winds to cover all costs and expenditures associated with the conversion of the southarminest difference in right-

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in only movement. Upon successful completion of the driveway conversion, the City will then return any unused amount of the security provided by the Developer.

- The Developer shall maintain Surfside Boulevard in a safe condition from construction commencement until such time as roadway improvements are completed as agreed upon, from Veteran's Parkway to Trafalgar Boulevard.
- 5. The "Shops at Surfside" Development shall provide sidewalks/bikepaths to interconnect with the sidewalk/greenway/bike path system within the Sandoval Residential Development, consistent with the Veteran's Parkway West (AKA Bonita Bay) PDP Greenway/Sidewalk/Bike Path map.
- The Developer shall be responsible for reconfiguring driveway connections to accommodate turn lane restrictions.

H. SUBDIVISION

- The Developers shall meet all requirements of Section 4.2.11., Minimum Design Standards, City of Cape Coral Land Use and Development Regulations.
- 2. Prior to any final Subdivision Plat approval for the "Shops At Surfside" PDP, either the Developer shall satisfactorily complete all of the required site improvements providing service to the PDP, or the Developer shall provide a surety bond or certified check in an amount of the estimated cost to complete all required site improvements providing service to the project, as determined by the City. The amount of the surety shall also include the amount required for driveway relocation as specified in Section G.3. above. Such surety bond or certified check shall be returned to the Developer after the Director has determined that all required improvements providing service to the "Shops at Surfside" have been satisfactorily completed.
- 3. The Director shall submit the Subdivision Plat for the Mayor's signature after all required site improvements providing service to the PDP have been satisfactorily completed or the City has received a surety bond or certified check in an amount of the estimated cost to complete all required site improvements providing service to the PDP. Such plat shall then be recorded with the Lee County Clerk pursuant to Chapter 177, Florida Statutes. A duplicate recorded mylar copy of the Plat shall be submitted to the City.

GENERAL CONSIDERATIONS

All provisions and conditions contained in Ordinance 123-00 shall remain in full force and effect, except as otherwise stated in this Development Order.

J. CONCURRENCY

The "Shops at Surfside" PDP is concurrent for roads, sewer, water, drainage, solid waste, and parks based on the analysis of the proposed development and specific mitigation programs specified herein.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the "Shops at Surfside" PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the "Shops at Surfside" PDP.
- C. The physical development authorized under this Development Order shall terminate simultaneously with the expiration of Ordinance 31-04, being March 15, 2014, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions,

and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.

- D. The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- E. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the City.

SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION VI. EFFECTIVE DATE.

The effective date of this Ordinance shall be one day subsequent to the effective date of the future land use map amendment approved pursuant to Ordinance 38 - 06. There is a thirty (30) day appeal period subsequent to the effective date of this Ordinance. Permits obtained prior to the expiration of the appeal period of this Ordinance are obtained solely at the risk of the Developer.

This ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS AT A DAY OF Mountain, 2006.

ERICP. FEICHTHALER, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS THE DAY OF Documen, 2006.

BONNIE J. VENE CITY CLERK

APPROVED AS TO FORM:

DOLORES D. MENENDEZ

CITY ATTORNEY ord/pdpC68-2

I HEREBY OCETIFICATION AND OUT appointe and power clerk of the City, Ocethe Core Core Core and Telephone of the Jecores and City ale passes of the Telephone of the City and passes of the Telephone of the City and passes of the Telephone of the City and the City and

EXHIBIT "A"

A PARCEL IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S 00° 13' 25" W ALONG THE EAST LINE OF SAID SECTION FOR 2842.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 29; THENCE CONTINUE \$ 00° 13' 25" W ALONG SAID EAST LINE FOR 2718.13 FEET TO AN INTERSECTION WITH THE NORTH LINE OF BURNT STORE ROAD EXTENSION AS RECORDED IN OFFICIAL RECORD BOOK 2910 BEGINNING AT PAGE 2499 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S 89° 35' 38" W ALONG THE NORTH LINE OF SAID BURNT STORE ROAD EXTENSION FOR 2492.55 FEET TO A POINT OF CURVATURE; THENCE RUN WESTERLY AND NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 1565.02 FEET (CHORD BEARING N 87° 10' 59" W) (CHORD 175.99 FEET) (DELTA 06° 26' 47" FOR 176.08 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 29; THENCE RUN N 00° 12' 40" E ALONG SAID WEST LINE FOR 5591.35 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 29; THENCE RUN N 01° 06' 44" W ALONG THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 20 FOR 5303.23 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF PINE ISLAND ROAD (66 FEET WIDE); THENCE RUN S 89° 37' 42" E ALONG SAID SOUTH LINE FOR 836.18 FEET; THENCE RUN S 01° 06' 44" E FOR 1303.89 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTH HALF (S-1/2) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 29' 26" E ALONG SAID NORTH LINE FOR 497.56 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER (SW-1/4) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 00° 28' 44" E ALONG THE EAST LINE OF SAID FRACTION FOR 1337.80 FEET; THENCE RUN S 01° 27' 05" E ALONG THE EAST LINE OF THE NORTHWEST QUARTER (NW-1/4 OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 1081.38 FEET TO A POINT ON SAID EAST LINE, BEING ALSO THE NORTHEAST CORNER OF A PARCEL OF LAND AS RECORDED IN OFFICIAL RECORD BOOK 1697 BEGINNING AT PAGE 3463 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N89°26'26"W ALONG THE NORTH LINE OF SAID PARCEL FOR 890.05 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE RUN S01°27'05"E ALONG THE WEST LINE OF SAID PARCEL FOR 250.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL, BEING ALSO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN \$89°26'26"E ALONG THE SOUTH LINE OF SAID PARCEL AND SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 890.05 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL AND SAID FRACTION; BEING ALSO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 26' 26" E ALONG THE SOUTH LINE OF SAID FRACTION FOR 1326,90 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID SECTION 20; THENCE RUN S 01° 47' 29" E ALONG SAID EAST LINE FOR 1329.58 FEET TO THE POINT OF BEGINNING.

SUBJECT TO: LEE COUNTY ELECTRIC COOPERATIVE TRANSMISSION LINE EASEMENT OVER AND ACROSS THE EAST 100 FEET OF THE SOUTHE AST. QUARTER (SE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20- AS RECORDED IN OFFICIAL RECORD BOOK 1473 BEGINNING AT PAGE 1799 OF SAID PUBLIC RECORDS.

DESCRIBED PARCEL CONTAINS 524.24 ACRES, MORE OR LESS.

PUBLIC RECORDS.

EXHIBIT "B"

A TRACT OR PARCEL OF LAND LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, RUN NO0°13'25"E FOR 186.01 FEET TO A SET CONCRETE MONUMENT; THENCE RUN S89°35'38"W, 89.28 FEET TO THE POINT OF BEGINNING, SAID POINT LYING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF VETERANS PARKWAY.

FROM SAID POINT OF BEGINNING CONTINUE ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF VETERANS PARKWAY S89°35'38"W, 979.14 FEET; THENCE LEAVING SAID RIGHT-OF-WAY RUN NO0°24'20"W, 272.42 FEET INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF HEYDON LANE (60' RIGHT-OF-WAY), BEING A PART OF SANDOVAL, PHASE 1, AS RECORDED IN PB 79, PG 15-31 OF THE PUBLIC RECORDS OF LEE COUNTY, AND THE NON-TANGENT POINT OF CURVATURE OF A 230.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST SAID CURVE HAVING A CENTRAL ANGLE OF 63°16'22", A CHORD AND CHORD BEARING OF N31°51'36"E, 241.28 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 253.99 FEET; THENCE CONTINUE ALONG SAID SOUTH RIGHT-OF-WAY LINE NO0°13'25"E, 183.79 FEET TO THE POINT OF CURVATURE OF A 140.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 89°22'13", A CHORD AND CHORD BEARING OF N44°54'32"E, 196.90 FEET. RUN ALONG THE ARC OF SAID CURVE FOR 218.37 FEET; THENCE RUN N89°35'38"E, 148.43 FEET TO THE POINT OF CURVATURE OF A 260.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 69°47'59", A CHORD AND CHORD BEARING OF N54°41'38"E, 297.52 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 316.74 FEET TO THE POINT OF REVERSE CURVATURE OF A 370.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 70°43'28", A CHORD AND CHORD BEARING OF N55°09'23"E, 428.27 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 456.72 FEET; THENCE RUN S89°46'35"E, 25.43 FEET TO AN INTERSECTION WITH A 40' R.O.W. RESERVATION AS RECORDED IN O.R. BOOK 4432, PAGES 1448-1450, THENCE RUN ALONG SAID 40' R.O.W. RESERVATION S00°13'25"W, 1161.43 FEET TO THE POINT OF CURVATURE OF A 50.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 89°22'13", A CHORD AND CHORD BEARING OF \$44°54'32"W FOR 70.32 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 77.99 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 903,239 SQ. FT (20.74 ACRES), MORE OR LESS.



INSTR # 2008000056096, Pages 9
Doc Type GOV, Recorded 03/03/2008 at 03:26 PM,
Charlie Green, Lee County Clerk of Circuit Court
Rec. Fee \$78.00
Deputy Clerk LWHEAT

COUNCILMEMBER GRILL

PDP 06-00800008 12/23/07 2/22/08

ORDINANCE 156 - 07

AN ORDINANCE AMENDING ORDINANCE 31-04 AS AMENDED BY ORDINANCE 143-06 WHICH APPROVED A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "VETERANS PARKWAY WEST (AKA BONITA BAY)" FOR CERTAIN PROPERTY DESCRIBED AS A PARCEL OF LAND IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A"; PROPERTY LOCATED BETWEEN PINE ISLAND ROAD AND VETERAN'S PARKWAY WEST, WEST OF BRIDLE LANE AND EAST OF CAPE ROYAL (FORMERLY KNOWN AS ROYAL TEE); RENAMING A PORTION OF THE PROJECT FROM "VETERANS PARKWAY WEST", AS NAMED IN ORDINANCE 31-04, TO "SANDOVAL PDP AMENDMENT FOR PHASE III"; APPROVING AN AMENDED MASTER SUBDIVISION PLAN PREVIOUSLY APPROVED BY ORDINANCE 31-04, SO AS TO REPLACE SHEETS 5 THROUGH 7, WITH A REVISED PLAN SET DATED FEBRUARY 14, 2006, ENTITLED "SANDOVAL-PHASE 3" TO RECONFIGURE TRACTS 117, 118, 119 AND 120; GRANTING A SPECIAL EXCEPTION TO ALLOW A MODEL HOME USE FOR PHASE III; APPROVING AN AMENDMENT TO REQUIRE SIDEWALKS ON BOTH SIDES OF THE PRIVATE RIGHT OF WAY ON TRACT 118 RATHER THAN TRACT 120; GRANTING A DEVIATION OF SEVEN HUNDRED EIGHTY (780) SQUARE FEET FROM THE REQUIRED MINIMUM LOT AREA OF SIX THOUSAND FIVE HUNDRED (6,500) SQUARE FEET WITHIN THE CORRIDOR (CORR) DISTRICT, TO ALLOW FORTY-FOUR (44) LOTS IN TRACT 118 TO HAVE A MINIMUM LOT AREA OF FIVE THOUSAND SEVEN HUNDRED TWENTY (5,720) SQUARE FEET; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Veteran's Parkway West (aka Bonita Bay)" Planned Development Project (PDP), was approved by the City Council of the City of Cape Coral by Ordinance by 31-04, as amended by Ordinance 143-06; and

WHEREAS, an application from Cape Coral Development Associates, LLC has been received requesting amendment of Ordinance 31-04, requesting deviations and name change for a portion of the project to "Sandoval PDP Amendment For Phase III"; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I. PDP APPROVAL, DEVIATIONS.

Having reviewed the application requesting the amendment of a Planned Development Project for "Veteran's Parkway West (aka Bonita Bay)", requesting amendment of Ordinance 31-04, as amended by Ordinance 143-06, to include renaming a portion of the project to "Sandoval PDP Amendment For Phase III"; requesting approval to amend Master Subdivision Plan previously approved by Ordinance 31-04, so as to replace sheets 5 through 7, with a revised plan set dated February 14, 2006, entitled "Sandoval-Phase 3" to reconfigure Tracts 117, 118, 119 and 120; requesting a Special Exception to allow Model Home uses for the future development of Phase III; requesting an amendment to require sidewalks on both sides of the private right of way on Tract 118 rather than

Tract 120; approval of a deviation of seven hundred eighty (780) square feet to the required minimum lot area of six thousand five hundred (6,500) square feet within the Corridor (CORR) District, to allow forty-four (44) lots in Tract 118 to have a minimum lot area of five thousand seven hundred twenty (5,720) square feet; and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The "Sandoval PDP Amendment for Phase III" development is a Residential Planned Development Project (PDP). This development is located on land between Pine Island Road and Veteran's Parkway West, west of Bridle Lane and east of Cape Royal (formerly known as Royal Tee). The proposed development will contain a total of 1,579 dwelling units for Phases I, II, and III. When platted, Phase II included two (2) additional lots within Tract 112. The PDP amendment shall divide Phase III as approved by Ordinance 31-04, to create an amended phase three and a fourth development phase. The amended Phase III will contain a total of 459 dwelling units. The fourth development phase shall be a commercial tract, noted as Commercial Tract C-100, on the amended Master Subdivision Plan, dated February 14, 2006, sheet 5 of 45. The fourth development phase shall require future site plan approval for associated infrastructure and future commercial uses. The development will occur in four phase(s) with a build out in ten years from the March 15, 2004 approval date of Ordinance 31-04, being March 15, 2014. This amendment reconfigures Phase III, approving an increase of eight (8) lots.
- B. The name(s) of the legal and equitable owner(s) are Cape Coral Development Associates, LLC.
- C. The legal description of the project site of Veterans Parkway West (aka Bonita Bay) as approved by Ordinance 31-04, is as described in Exhibit "A," attached hereto and incorporated herein by reference.
- D. The legal description of the portion of the property for which the Planned Development Project is being amended is as described in Exhibit "B", attached hereto and incorporated herein by reference.
- E. The "Sandoval PDP Amendment for Phase III" subject parcel has a total of 98.47 +/- acres zoned Corridor District (CORR), with a Future Land Use Designation of Pine Island Road District (PIRD). Phase III encompasses approximately 89.98 +/- acres and Phase IV has a total of 8.49 +/- acres, pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, FL, as same may hereafter be amended.
- F. All existing and future structures and uses, population density, building intensity, and building height shall conform to the respective provisions of the respective zoning district of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- G. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- H. All provision and conditions contained in Ordinance 31-04, as amended by Ordinance 143-06, shall remain in full force and effect, except as otherwise stated in this Development Order.

- I. The "Sandoval PDP Amendment for Phase III", as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- J. The term Developer for purposes of this development order shall mean and refer to Cape Coral Development Associates, LLC, its successors in interest, lessees, and/or assigns.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL.

NOW, THEREFORE, be it resolved by the Cape Coral Planning and Zoning Commission/Local Planning Agency of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the Planned Development Project application for Development Approval submitted by Cape Coral Development Associates, LLC, is hereby approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

A. PHASING OF DEVELOPMENT AND SUBDIVISION

The Developer shall submit Site Plan permit applications and a final subdivision plat for Phase III as indicated on the amended Master Subdivision Plan, dated February 14, 2006, sheet 5 of 45. No construction permits or site plans shall be issued until the City has approved a final subdivision plat, pursuant to Section 4.2.5.H.2 of the Land Use and Development Regulations.

B. DRAINAGE/WATER QUALITY

- 1. Prior to the issuance of any site plan or building permits, a general permit and stormwater discharge certification shall be obtained from the South Florida Water Management District (SFWMD). No construction permit shall be issued until the City has received a copy of the approved South Florida Water Management District permit. With each individual site development permit submitted, the Developer shall be required to provide on-site stormwater runoff provisions, with either a letter of compliance, modification, or exemption, as applicable, from South Florida Water Management District.
- 2. Prior to the issuance of any site plan or building permits, if applicable, the Developer shall coordinate with the City of Cape Coral, the Florida Department of Environmental Protection (FDEP), and the SFWMD in the siting of any on-site temporary transfer and storage facilities for all special or hazardous waste that may be generated within the project site. Any facility constructed on-site shall be located as far away from the surface water management system as feasible.
- 3. At completion of construction of the subdivision improvements for any Phase of the Veteran's Parkway West (AKA Bonita Bay) development as shown on Sheet 5 of 23 of the PDP Master Plans, as required by the conditions imposed by SFWMD and prior to the issuance of a Certificate of Occupancy, the Developer will be required to provide certification by the Engineer of Record that all stormwater infrastructure and facilities serving such Phase of the Veteran's Parkway West (AKA Bonita Bay) have been constructed in accordance with the design approved by SFWMD and the City of Cape Coral, and should consist of the wording "Construction Compliance Certification". Such certification shall thereafter confirm completion of required stormwater management improvements for all construction to occur in such Phase of the PDP.

C. ENERGY

Where feasible, the Developer shall incorporate at a minimum the following energy conservation measures into this development:

1. Use of energy efficient features in window design (e.g., tinting and exterior shading).

- Use of operable windows and ceiling fans.
- 3. Installation of energy-efficient appliances and equipment.
- Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
- 5. Cooperation in the location of bus stops, shelters, and other passenger and system accommodations for a transit system to service the project area.
- 6. Selection, installation, and maintenance of plants, trees, and other vegetation and landscape design features that have minimal requirements for water, fertilizer, maintenance, and other needs. A list of native plants best suited to the soil conditions of Cape Coral by section is available from the Department of Community Development.
- 7. Planting of shade trees to provide shade for all street and parking areas.
- Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.
- 9. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
- Provision for structural shading (e.g., trellises, awnings, and roof overhangs), wherever practical when natural shading cannot be used effectively.
- Provision of bicycle racks or storage facilities in recreational, commercial, and multifamily residential areas.

D. WASTEWATER MANAGEMENT

- Wastewater (sewer) service is available to the site.
- 2. The Developer shall design, construct and install all improvements required by the City to connect to the City's wastewater system. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
- Wastewater containing hazardous materials shall be segregated and handled in accordance with Florida Department of Environmental Protection (DEP) criteria.
 Wastewater entering the City system shall meet quality limitations as specified by City Ordinance(s).
- Sewer impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinance(s).
- The Developer shall connect to City wastewater facilities as specified by City Ordinance.
- 6. The Developer shall grant appropriate easements to City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the Wastiewater system that were constructed by Developer by Billi of Sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

E. WATER SERVICE

Water service is available to the site.

- The Developer shall design, construct and install all improvements required by the City
 to connect to the City's water system. Said design, construction, and installation shall
 be accomplished in accordance with prevailing City design criteria and shall be subject
 to City inspection and approval prior to acceptance.
- Water impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinances(s).
- 4. The Developer shall connect to City water facilities as specified by City Ordinance.
- 5. The Developer shall grant appropriate easements to City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the water system that were constructed by Developer by Bill of Sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

F. IRRIGATION SERVICE

- 1. Irrigation service is available to the site.
- Developer shall connect to the City's irrigation system as prescribed by City Ordinance.
 The Developer shall design, construct, and install all improvements required by the City
 to connect to the City's irrigation system in accordance with prevailing City design
 criteria and shall be subject to City inspection and approval prior to acceptance.
- Irrigation betterment fees and/or all other applicable fees shall be paid as specified by City Ordinance(s).
- 4. The Developer shall grant appropriate easements to the City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the irrigation system that were constructed by Developer by Bill of Sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

G. TRANSPORTATION

The sidewalk/greenway/bike path system that requires sidewalks be provided on both sides of the private right-of-way shall be required in Tracts 106, 113, 115, and 118. All other requirements pertaining to the sidewalk/greenway/bike path system and all transportation requirements and conditions shall remain in effect as stated in Ordinance 31-04. With respect to the remaining residential tracts, the developer shall only be required to provide sidewalks on one side of the right of way.

H. SUBDIVISION

- The Developers shall meet all requirements of Section 4.2.11., Minimum Design Standards, City of Cape Coral Land Use and Development Regulations.
- 2. Prior to any final Subdivision Plat approval for the "Sandoval PDP Amendment for Phase III" PDP, either the Developer shall satisfactorily complete all of the required site improvements providing service to the PDP, or the Developer shall provide a surety bond or certified check in an amount of the estimated cost to complete all required site improvements providing service to the project, as determined by the City. Such surety bond or certified check shall be returned to the Developer after the Director has determined that all required improvements providing service to the "Sandoval PDP Amendment for Phase III" have been satisfactorily completed.
- The Director shall submit the Subdivision Plat for the Mayor's signature after all
 required site improvements providing service to the PDP have been satisfactorily
 completed or the City has received a surety bond or certified check in an amount of

the estimated cost to complete all required site improvements providing service to the PDP. Such plat shall then be recorded with the Lee County Clerk pursuant to Chapter 177, Florida Statutes. A duplicate recorded mylar copy of the Plat shall be submitted to the City.

I.. GENERAL CONSIDERATIONS

The Special Exception granted herein may be established at any time within six (6) years from the effective date of this development order. After such initial six (6) year time period, however, if an approved Special Exception use is not actively in operation or is abandoned for a period of one (1) year, then the Special Exception use(s) shall be deemed to have been abandoned and the Special Exception(s) approved herein shall terminate as provided in the City of Cape Coral Land Use and Development Regulations.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the "Sandoval PDP Amendment for Phase III" PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the "Sandoval PDP Amendment for Phase III" PDP.
- C. The physical development authorized under this Development Order shall terminate simultaneously with the expiration of Ordinance 31-04, being March 15, 2014, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been executed, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- D. The Director of the Cape Coral Department of Community Development of his/her designee shall be the local official responsible for assuring compliance with this Development Order. Upon the reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- E. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Developer Order to the City.

SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION VI. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS AGO, DAY OF CONTUNED, 2008.

VOTE OF MAYOR AND COUNCILMEMBERS:

FEICHTHALER	aye
BURCH	alic
BRANDT	alic
DEILE	aire
BERTOLINI	0116
GRILL	246
DAY	aust
DONNELL	ave

ATTESTED TO AND FILED IN MY OFFICE THIS 38th DAY OF February

BONNIE J. POTTER, CITY CLERK

APPROVED AS TO FORM:

DOLORES D. MENENDEZ CITY ATTORNEY

ord/pdp068-8

per de the records and

EXHIBIT "A"

A PARCEL IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S 00° 13' 25" W ALONG THE EAST LINE OF SAID SECTION FOR 2842.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 29; THENCE CONTINUE S 00° 13' 25" W ALONG SAID EAST LINE FOR 2718.13 FEET TO AN INTERSECTION WITH THE NORTH LINE OF BURNT STORE ROAD EXTENSION AS RECORDED IN OFFICIAL RECORD BOOK 2910 BEGINNING AT PAGE 2499 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S 89° 35' 38" W ALONG THE NORTH LINE OF SAID BURNT STORE ROAD EXTENSION FOR 2492,55 FEET TO A POINT OF CURVATURE; THENCE RUN WESTERLY AND NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 1565.02 FEET (CHORD BEARING N 87° 10' 59" W) (CHORD 175.99 FEET) (DELTA 06° 26' 47" FOR 176.08 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 29; THENCE RUN N 00° 12' 40" E ALONG SAID WEST LINE FOR 5591.35 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 29; THENCE RUN N 01° 06' 44" W ALONG THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 20 FOR 5303.23 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF PINE ISLAND ROAD (66 FEET WIDE); THENCE RUN S 89° 37' 42" E ALONG SAID SOUTH LINE FOR 836.18 FEET; THENCE RUN S 01° 06' 44" E FOR 1303.89 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTH HALF (S-1/2) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 29' 26" E ALONG SAID NORTH LINE FOR 497.56 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER (SW-1/4) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 00° 28' 44" E ALONG THE EAST LINE OF SAID FRACTION FOR 1337.80 FEET; THENCE RUNS 01° 27' 05" E ALONG THE EAST LINE OF THE NORTHWEST QUARTER (NW-1/4 OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 1081.38 FEET TO A POINT ON SAID EAST, LINE, BEING ALSO THE NORTHEAST CORNER OF A PARCEL OF LAND AS REGORDED IN OFFICIAL RECORD BOOK 1697 BEGINNING AT PAGE 3463 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N89°26'26"W ALONG THE NORTH LINE OF SAID PARCEL FOR 890.05 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE RUN S01°27'05"E ALONG THE WEST LINE OF SAID PARCEL FOR 250.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL, BEING ALSO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER (NW-1/4)! OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S89°26'26' E, ALONG THE SOUTH LINE OF SAID PARCEL AND SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 890.05 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL AND SAID FRACTION; BEING ALSO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 26' 26" E ALONG THE SOUTH LINE OF SAID FRACTION FOR 1326.90 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID SECTION 20; THENCE RUN S 01° 47' 29" E ALONG SAID EAST LINE FOR 1329.58 FEET TO THE POINT OF BEGINNING.

SUBJECT TO: LEE COUNTY ELECTRIC COOPERATIVE TRANSMISSION LINE EASEMENT OVER AND ACROSS THE EAST 100 FEET OF THE SOUTHEAST QUARTER (SE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 AS RECORDED IN OFFICIAL RECORD BOOK 1473 BEGINNING AT PAGE 1799 OF SAID PUBLIC RECORDS.

DESCRIBED PARCEL CONTAINS 524.24 ACRES, MORE OR LESS.

EXHIBIT B

A TRACT OR PARCEL OF LAND LYING IN SECTION 20, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE S 1/4 (SOUTH ONE-QUARTER) CORNER OF SAID SECTION 20, BEING ALSO A POINT ON THE WESTERLY LINE OF SANDOVAL PHASE 2, A SUBDIVISION AS RECORDED IN INSTRUMENT NO. 2005000167039 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THENCE RUN NO1006'44"W ALONG SAID WESTERLY LINE, BEING ALSO THE WEST LINE OF THE EAST HALF OF SAID SECTION 20 FOR 499.03 FEET TO THE NORTHWEST CORNER OF SAID SANDOVAL-PHASE 2, BEING ALSO THE POINT OF BEGINNING; THENCE CONTINUE RUNNING N01°06'44"W ALONG SAID WEST LINE OF THE EAST HALF OF SAID SECTION 20 FOR 4071.51 FEET; THENCE RUN N88°53'16"E, LEAVING SAID WEST LINE OF THE EAST HALF OF SAID SECTION 20, FOR 835.90 FEET; THENCE RUN S01°06'44"E FOR 592.86 FEET; THENCE RUN S89°29'26"E FOR 497.56 FEET; THENCE RUN S00°28'44"E FOR 1337.80 FEET; THENCE RUN S01°27'05"E FOR 1081.38 FEET; THENCE RUN N89°26'26"W FOR 890.05 FEET; THENCE RUN S01°27'05"E FOR 250.00 FEET; THENCE RUN S89°26'26"E FOR 906.85 FEET TO THE NORTHWEST CORNER OF BLOCK 8031 (TRACT 114) OF SAID SANDOVAL-PHASE 2; THENCE RUN S00°33'34"W ALONG THE WEST LINE OF SAID BLOCK 8031 FOR 285.66 FEET TO A POINT ON THE NORTHERLY LINE OF LAKE TRACT "2-F" OF SAID SANDOVAL-PHASE 2; THENCE RUN ALONG THE NORTHERLY AND WESTERLY LINES OF SAID TRACT "2-F" FOR THE FOLLOWING EIGHT (8) COURSES: RUN N70°39'55"W FOR 3.57 FEET TO THE POINT OF CURVATURE OF A 160.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 18°46'32", A CHORD AND CHORD BEARING OF N80°03'11"W, 52.20 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 52.43 FEET TO THE POINT OF TANGENCY, THEN RUN N89°26'26"W FOR 776.60 FEET TO THE POINT OF CURVATURE OF A 1010.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH, SAID CURVE HAVING A CENTRAL ANGLE OF 02°50'54", A CHORD AND CHORD BEARING OF S89°08'07"W, 50.20 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 50.21 FEET TO THE POINT OF TANGENCY, THEN RUN S87°42'40" W FOR 64.63 FEET TO THE POINT OF CURVATURE OF A 1010.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 04°24'02", A CHORD AND CHORD BEARING OF S85°30'39"W, 77.55 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 77.57 FEET TO THE POINT OF TANGENCY, THEN RUN \$83°18'37"W FOR 147.76 FEET TO THE NON-TANGENT POINT OF CURVATURE OF A 1800.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, THE RADIUS POINT OF WHICH BEARS N79°23'32"E, 1800.00 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 14°32'31", A CHORD AND CHORD BEARING OF S17°52'44"E, 455.62 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 456.85 FEET TO A NON-TANGENT INTERSECTION WITH A LINE WHICH BEARS \$64°51'01"W, SAID LINE BEING THE NORTHWESTERLY LINE OF TRACT "LP-9" OF SAID SANDOVAL-PHASE 2; THENCE RUN S64°51'01"W ALONG SAID NORTHWESTERLY LINE AND THE NORTHWESTERLY LINES OF TRACT R-S3 (SANDOVAL PARKWAY) AND TRACT "CA-2" OF SAID SANDOVAL-PHASE 2 FOR 213.78 FEET; THENCE RUN S88°53'16"W ALONG THE NORTHERLY LINE OF SAID TRACT "CA-2" FOR 100.85 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL CONTAINS 98.47 ACRES, MORE OR LESS.

COUNCILMEMBER KUEHN

PDP 10-0004 08/24/10 09/01/10 INSTR # 2010000274006, Pages 9
Doc Type GOV, Recorded 11/03/2010 at 12:46 PM,
Charlie Green, Lee County Clerk of Circuit Court
Rec. Fee \$78.00
Deputy Clerk VBADKE
#1

ORDINANCE 77 - 10

AN ORDINANCE AMENDING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "VETERAN'S PARKWAY WEST (AKA BONITA BAY)" FOR CERTAIN PROPERTY DESCRIBED AS A PARCEL OF LAND LOCATED IN SECTION 20, TOWNSHIP 44, RANGE 23 EAST, CAPE CORAL, LEE COUNTY, FLORIDA AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT ANGUILLA DRIVE; RENAMING A PORTION OF THE PROJECT "SANDOVAL TRACT 114"; GRANTING A DEVIATION OF 1,900 SQUARE FEET FROM THE REQUIRED MINIMUM LOT SIZE OF 6,500 SQUARE FEET WITHIN THE CORRIDOR DISTRICT, TO ALLOW THE MINIMUM LOT SIZE OF 4,600 SQUARE FEET ON ALL SINGLE FAMILY LOTS WITHIN TRACT 114, GRANTING A DEVIATION OF FIVE FEET FROM THE REQUIRED MINIMUM FRONT YARD OF TWENTY FEET IN THE CORRIDOR DISTRICT, TO ALLOW A MINIMUM FRONT YARD OF FIFTEEN FEET ON ALL LOTS WITHIN TRACT 114; APPROVING AN INCREASE TO THE MAXIMUM NUMBER OF SINGLE-FAMILY RESIDENTIAL UNITS AND A DECREASE IN THE MAXIMUM NUMBER OF MULTI-FAMILY UNITS ALLOWED IN THE DEVELOPMENT; GRANTING REPLAT AND SUBDIVISION APPROVAL; GRANTING DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL: PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Veterans Parkway West (aka Bonita Bay)" Planned Development Project was approved by the City Council of the City of Cape Coral by Ordinance 31-04, as amended by Ordinance 143-06 and Ordinance 156-07; and

WHEREAS, an application from Pulte Home Corporation has been received requesting amendment of a portion of a Planned Development Project (PDP) for "Veteran's Parkway West (aka Bonita Bay)", renaming a portion of the project to "Sandoval Tract 114", requesting deviations, requesting replat and subdivision, and development plan approval; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I. PDP AMENDMENT APPROVAL, DEVIATIONS, REPLAT AND SUBDIVISION, DEVELOPMENT PLAN APPROVAL, AND RENAMING THE PROJECT.

Having reviewed the application requesting approval for an amendment of a Planned Development Project for "Veteran's Parkway West (Aka Bonita Bay)" PDP; requesting amendment of Ordinance 31-04, as amended by Ordinances 143-06 and 156-07, to include renaming a portion of the project to "Sandoval Tract 114"; requesting a deviation of 1,900 square feet from the required minimum lot size of 6,500 square feet within the Corridor district, to allow the minimum lot size of 4,600 square feet on all single family lots within Tract 114 pursuant to Section 2.7.13.E of the City of Cape Coral Land Use and Development Regulations; requesting a deviation of five feet from the required minimum front yard of twenty feet in the Corridor district, to allow a minimum front yard of fifteen

feet on all single-family residential lots within Tract 114 pursuant to Section 2.7.13.E of the City of Cape Coral Land Use and Development Regulations; requesting an increase in the maximum number of single-family residential units from 1,081 to 1,129, and decreasing the number of multifamily residential units from 488 to 384; requesting replat and subdivision, and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP amendment approval, and approve amended development plan, in accordance with plan set, Sheet 1, dated May 27, 2010, prepared by Waldrop Engineering for purposes of development plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

A. The "Veteran's Parkway West (aka Bonita Bay)" development is a mixed-used Planned Development Project that was approved by Ordinance 31-04, as amended by Ordinance 143-06 and Ordinance 156-07. The PDP approved the construction of 1,081 single-family units, 488 multi-family units, 310,000 square feet of retail uses and 10,000 square feet of office space.

Tract 114, formerly approved as a multi-family residential tract for 104 multi-family units, is amended herein to a single-family residential tract for 48 single-family lots, increasing the number of single family residential units in the development from 1,081 to 1,129. The maximum total of multi-family units in Tracts 100, 116, and 117 is 384. The 104 multi-family units formerly approved for Tract 114 are rescinded in order to develop Tract 114 as single-family lots. Tract 114 is currently vacant and all required infrastructure has been installed. The development will occur in one phase with a buildout date of March 15, 2016.

- The name of the legal and equitable owner is Pulte Homes Corporation.
- C. The legal description of the project site of Veterans Parkway West (aka Bonita Bay) as approved by Ordinance 31-04, is as described in Exhibit "A", attached hereto and incorporated herein by reference.
- D. The legal description of the portion of the property for which the Planned Development Project is being amended is described as follows:

BLOCK 8031, TRACT 114, SANDOVAL PHASE 2, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED AS INSTRUMENT NO. 2005000167039, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

- E. The "Sandoval Tract 114" PDP subject parcel has 8.9 acres zoned Corridor (CORR) pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 8.9 acres with a Future Land Use designation of Pine Island Road District (PIRD).
- F. All future structures and uses, population density, building intensity, and building height and any other dimensional regulations shall conform to the provisions of the respective zoning district of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- G. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- H. All provisions and conditions contained in Ordinance 31-04, as amended by Ordinance 143-06 and Ordinance 156-07 shall remain in full force and effect, except as otherwise stated in this Development Order.

- The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- J. The term Developer for purposes of this development order shall mean and refer to Pulte Home Corporation, its successors in interest, lessees, and/or assigns.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the Planned Development Project application for Development Approval submitted by Pulte Home Corporation, is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

A. DRAINAGE/WATER QUALITY

- Prior to the issuance of any site plan approval by the DCD Director for the
 construction of the surface water management system and the subdivision
 infrastructure, a South Florida Water Management District (SFWMD) construction
 permit for the proposed improvements shall be obtained and a copy provided to the
 City.
- If the SFWMD construction permit plan differs from the plan submitted to the City for PDP approval, the Developer will not be required to amend the PDP unless a substantial deviation occurs as provided in Section IV. G.
- 3. At completion of construction of the required site improvements, the Developer shall provide certification by the Engineer of Record that all required surface water management infrastructure improvements have been constructed in accordance with the design approved by SFWMD and the City of Cape Coral. The certification shall include the wording "Construction Compliance Certification".
- 4. With each individual site development submitted, the Developer shall be required to either provide on-site surface water management facilities or demonstrate that the master system provides the required water quality and attenuation requirements. A copy of the permit modification from the South Florida Water Management District shall be provided.

B. ENERGY

Where feasible, the Developer shall incorporate at a minimum the following energy conservation measures into this development:

- Cooperation in the location of bus stops, shelters, and other passenger and system
 accommodations for a transit system to service the project area.
- Use of energy efficient features in window design (e.g., tinting and exterior shading).
- Use of operable windows and ceiling fans.
- Installation of energy-efficient appliances and equipment.
- 5. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, and solar water heating systems).
- Reduced coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat, as determined by the Cape Coral Department of Community Development.
- Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.

- Selection, installation, and maintenance of plants, trees, and other vegetation and landscape design features that have minimal requirements for water, fertilizer, maintenance, and other needs. A list of native plants best suited to the soil conditions of Cape Coral by section is available from the Department of Community Development.
- 9. Planting of shade trees to provide shade for all street and parking areas.
- Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.
- 11. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
- Provision for structural shading (e.g., trellises, awnings, and roof overhangs), wherever practical when natural shading cannot be used effectively.
- 13. Consideration by the project architectural review committee(s) if any exists, of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development and compliance with the above conditions.
- 14. Provision of bicycle/pedestrian system connecting all land uses to be placed along arterial and collector roads within the project. The system is to be consistent with local government requirements.
- Provision of bicycle racks or storage facilities in recreational, commercial, and multifamily residential areas.

C. SOLID WASTE

Dumpsters may not be located in Tract 114.

D. WASTEWATER MANAGEMENT

- 1. Wastewater (sewer) service is available to the site.
- 2. The Developer shall design, construct and install all improvements required by the City to connect to the City's wastewater system. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
- Wastewater containing hazardous materials shall be segregated and handled in accordance with Florida Department of Environmental Protection (DEP) criteria. Wastewater entering the City system shall meet quality limitations as specified by City Ordinance(s).
- 4. Sewer impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinance(s).
- The Developer shall connect to City wastewater facilities as specified by City Ordinance.
- 6. The Developer shall grant appropriate easements to City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the Wastewater system that were constructed by Developer by bill of sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

E. WATER SERVICE

Water service is available to the site.

- 2. The Developer shall design, construct and install all improvements required by the City to connect to the City's water system. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
- Water impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinances(s).
- 4. The Developer shall connect to City water facilities as specified by City Ordinance.
- 5. The Developer shall grant appropriate easements to City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the water system that were constructed by Developer by bill of sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

F. IRRIGATION SERVICE

- 1. Irrigation service is available to the site.
- 2. The Developer shall connect to the City's irrigation system as prescribed by City Ordinance. The Developer shall design, construct, and install all improvements required by the City to connect to the City's irrigation system in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
- Irrigation betterment fees and/or all other applicable fees shall be paid as specified by City Ordinance(s).
- 4. The Developer shall grant appropriate easements to the City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the irrigation system that were constructed by Developer by Bill of Sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

G. SUBDIVISION

- The Developer shall meet all requirements of Section 4.2.11., Minimum Design Standards, City of Cape Coral Land Use and Development Regulations.
- 2. Prior to any final Subdivision Plat approval, either the Developer shall satisfactorily complete all of the required site improvements, or the Developer shall provide a surety bond or certified check in an amount of the estimated cost to complete all required site improvements, as determined by the City. Such surety bond or certified check shall be returned to the Developer after the Director has determined that all required improvements have been satisfactorily completed.
- 3. The Director shall submit the Subdivision Plat for the Mayor's signature after all required site improvements have been satisfactorily completed or the City has received a surety bond or certified check in an amount of the estimated cost to complete of all required site improvements. Such Plat shall then be recorded with the Lee County Clerk pursuant to Chapter 177, Florida Statutes. A duplicate recorded mylar copy of the Plat shall be submitted to the City.

H. CONCURRENCY

The "Sandoval Tract 114" PDP is concurrent for roads, sewer, water, drainage, solid waste, and parks based on the analysis of the proposed development and specific mitigation programs specified herein.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project application filed for the "Sandoval Tract 114" PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the PDP.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.
- F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- G. Subsequent requests for local development permits shall not require further review, unless it is found by the City Council, after due notice and hearing, that one or more substantial deviation(s), or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City have occurred. Substantial deviations include but are not limited to:
 - Any change which requires a variance to code and above those specifically incorporated herein.
 - 2. An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or building square footage.
 - 3. An expiration of the period of effectiveness of this Development Order as herein provided.
 - 4. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved and all local approvals have been obtained.

H. The physical development authorized under this Development Order shall terminate on March 15, 2016, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time

shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.

- I. The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time a final development report shall be submitted to the City.

K. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the City.

SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION VI. EFFECTIVE DATE.

This ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 15T DAY OF NOVEMBER, 2010.

John J. SULLIVAN, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SULLIVAN	alle
MOCLAIN	aux
BRANDT	alie
DEILE	ace
CHULAKES-LEETZ	aue
KUEHN	aise
MOGRAIL	alie
DONNELL	aye

ATTESTED TO AND FILED IN MY OFFICE THIS 2nd DAY OF November, 2010.

REBECCA VANDEUTEKOM CITY CLERK

APPROVED AS TO FORM:

Olores D. Menendez CITY ATTORNEY

ORD/pdp10-0004

and qualited Costs of the City of Glos Coulty-Florida and the keeper of the feegeds and companie seed of mild municipality, that this is done and count copy of Ordinance 77-10

Beherra van Deuteron

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A PARCEL IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S 00° 13' 25" W ALONG THE EAST LINE OF SAID SECTION FOR 2842.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 29; THENCE CONTINUE S 00° 13' 25" W ALONG SAID EAST LINE FOR 2718.13 FEET TO AN INTERSECTION WITH THE NORTH LINE OF BURNT STORE ROAD EXTENSION AS RECORDED IN OFFICIAL RECORD BOOK 2910 BEGINNING AT PAGE 2499 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S 89° 35' 38" W ALONG THE NORTH LINE OF SAID BURNT STORE ROAD EXTENSION FOR 2492.55 FEET TO A POINT OF CURVATURE; THENCE RUN WESTERLY AND NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 1565.02 FEET (CHORD BEARING N 87° 10' 59" W) (CHORD 175.99 FEET) (DELTA 06° 26' 47" FOR 176.08 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 29; THENCE RUN N 00° 12' 40" E ALONG SAID WEST LINE FOR 5591.35 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 29; THENCE RUN N 01° 06' 44" W ALONG THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 20 FOR 5303.23 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF PINE ISLAND ROAD (66 FEET WIDE); THENCE RUN S 89° 37' 42" E ALONG SAID SOUTH LINE FOR 836.18 FEET; THENCE RUN S 01° 06' 44" E FOR 1303.89 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTH HALF (S-1/2) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 29' 26" E ALONG SAID NORTH LINE FOR 497.56 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER (SW-1/4) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 00° 28' 44" E ALONG THE EAST LINE OF SAID FRACTION FOR 1337.80 FEET; THENCE RUN S 01° 27' 05" E ALONG THE EAST LINE OF THE NORTHWEST QUARTER (NW-1/4 OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 1081.38 FEET TO A POINT ON SAID EAST LINE, BEING ALSO THE NORTHEAST CORNER OF A PARCEL OF LAND AS RECORDED IN OFFICIAL RECORD BOOK 1697 BEGINNING AT PAGE 3463 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N89°26'26"W ALONG THE NORTH LINE OF SAID PARCEL FOR 890.05 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE RUN S01°27'05"E ALONG THE WEST LINE OF SAID PARCEL FOR 250.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL, BEING ALSO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S89°26'26"E ALONG THE SOUTH LINE OF SAID PARCEL AND SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 890.05 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL AND SAID FRACTION; BEING ALSO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 26' 26" E ALONG THE SOUTH LINE OF SAID FRACTION FOR 1326,90 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID SECTION 20; THENCE RUN S 01° 47' 29" E ALONG SAID EAST LINE FOR 1329.58 FEET TO THE POINT OF BEGINNING.

SUBJECT TO: LEE COUNTY ELECTRIC COOPERATIVE TRANSMISSION LINE EASEMENT OVER AND ACROSS THE EAST 100 FEET OF THE SOUTHEAST QUARTER (SE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 AS RECORDED IN OFFICIAL RECORD BOOK 1473 BEGINNING AT PAGE 1799 OF SAID PUBLIC RECORDS.

DESCRIBED PARCEL CONTAINS 524.24 ACRES, MORE OR LESS.

COUNCILMEMBER NESTA

PDP 11-0008 04/13/12 05/02/12 06/07/12 06/08/12

06/11/12

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ORDINANCE 12 - 12

AN ORDINANCE AMENDING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "SANDOVAL PDP AMENDMENT FOR PHASE III" FOR CERTAIN PROPERTY DESCRIBED AS A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A"; PROPERTY LOCATED BETWEEN PINE ISLAND ROAD AND VETERANS PARKWAY WEST, WEST OF SURFSIDE BOULEVARD AND EAST OF CAPE ROYAL (FORMERLY KNOWN AS ROYAL TEE); GRANTING AN EXTENSION OF A SPECIAL EXCEPTION USE FOR MODEL HOMES; GRANTING DEVIATIONS FOR MINIMUM LOT AREA, AND MINIMUM FRONT, REAR, AND SIDE YARDS, GRANTING MASTER SUBDIVISION PLAN APPROVAL; GRANTING DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Veterans Parkway West (aka Bonita Bay)" Planned Development Project was approved by Ordinance 31-04, as amended by Ordinance 143-06, Ordinance 77-10, and Ordinance 156-07 which renamed that portion of the PDP subject to this amendment to "Sandoval PDP Amendment for Phase III"; and

WHEREAS, an application from Cape Coral Development Associates, LLC and Taylor Morrison of Florida, Inc. has been received requesting amendment of a portion of a Planned Development Project (PDP) for "Sandoval PDP Amendment for Phase III"; requesting deviations, subdivision and development master plan approval; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I. PDP AMENDMENT APPROVAL, AMENDED PDP MASTER PLAN, SPECIAL EXCEPTION, DEVIATIONS, SUBDIVISION APPROVAL.

Having reviewed the application requesting approval of an amendment of a Planned Development Project for "Sandoval PDP Amendment for Phase III" PDP; requesting an extension of two years from the date of approval for a special exception use for model homes within the tracts subject to this amendment; requesting a deviation of 1000 square feet from the required minimum lot area of 6,500 square feet pursuant to Section 2.7.13.E.1. of the Land Use and Development Regulations to allow a minimum lot area of 5,500 square feet, requesting a deviation of five (5) feet from the minimum front yard requirement of twenty (20) feet pursuant to Section 2.7.13.E.1. of the Land Use and Development Regulations to allow a minimum front yard of fifteen (15) feet, requesting a deviation of five (5) feet from the required minimum rear yard of fifteen (15) feet for Single-Family

Residential and Conjoined Residential and a deviation of ten (10) feet from the required minimum rear yard of twenty (20) feet for Multi-Family Residential pursuant to Section 2.7.13.E.1 of the Land Use and Development Regulations to allow a minimum rear yard of ten (10) feet, requesting a deviation of five (5) feet from the minimum side yard of ten (10) feet when on a corner lot pursuant to Section 3.8.2.B. of the Land Use and Development Regulations to allow a minimum side yard of five (5) feet on a corner lot; requesting subdivision approval; and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP approval, and approve development plan in accordance with plan set, Sheets 1 thru 9, bearing a final revision date of February 9, 2012, prepared by Avalon Engineering for purposes of development plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations; approving deviations and subdivision from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

A. The "Veteran's Parkway West (aka Bonita Bay)" development is a mixed-use Planned Development Project (PDP) that was approved by Ordinance 31-04, as amended by Ordinance 143-06, Ordinance 156-07 and Ordinance 77-10. The PDP approved the construction of 1,081 single-family units, 488 multi-family units, 310,000 square of retail uses and 10,000 square feet of office space. Ordinance 77-10 increased the amount of single-family units to 1,129 units while decreasing the amount of multi-family units to 384 units for Tract 114.

The portion of the development that is the subject of this amendment was amended pursuant to Ordinance 156-07, in which that portion was renamed to "Sandoval PDP Amendment for Phase III". Ordinance 156-07 approved the development of Phase III within Tracts 116 through 120 and the construction of 459 single-family and multi-family dwelling units. The portion of property in Phase III consists of 98.47 acres of land.

This amendment of "Sandoval PDP Amendment for Phase III" increases the maximum number of single-family and multi-family dwelling units to 515 units within Tracts 116 through 120. Development within Phase III will consist of the following:

- 1. Tract 116 a maximum of 56 conjoined residential dwelling units
- 2. Tract 117 a maximum of 56 single-family dwelling units.
- 3. Tract 118A a maximum of 47 single-family dwelling units.
- 4. Tract 118B a maximum of 54 conjoined residential dwelling units.
- 5. Tract 119 a maximum of 94 single-family dwelling units.

The developer has the option of developing Tract 120 according to two (2) options:

Option A Tract 120 - a maximum of 87 single-family dwelling units

Option B Tract 120A – a maximum of 47 single-family dwelling units Tract 120B – a maximum of 161 multi-family dwelling units.

Option A contains a maximum of 284 single-family dwelling units and 110 conjoined residential dwelling units for a total of 394 dwelling units. Option B contains a maximum of 244 single-family dwelling units, 110 conjoined residential dwelling units, and 161 multifamily dwelling units for a total of 515 dwelling units. No conjoined residential dwelling units shall be allowed in Tract 120.

The minimum for size for single-family dwelling units at 5,500 sq. ft. and for conjoined residential dwelling units, an average of 4000 sq. ft. in Tracts 116 through 119.

- B. The name(s) of the legal and equitable owner(s) are Cape Coral Development Associates, LLC and Taylor Morrison of Florida, Inc.
- C. The legal description of the property subject to the extant "VETERAN'S PARKWAY WEST (AKA BONITA BAY)" PDP Development Order is described in attached Exhibit "A".

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- D. The legal description of the portion of the property for which the "SANDOVAL PDP AMENDMENT FOR PHASE III" Planned Development Project is being amended is described in attached Exhibit "B".
- E. The "Sandoval PDP Amendment for Phase III" PDP subject parcel has 98.47 acres zoned Corridor (CORR) pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 98.47 acres with a Future Land Use designation of Pine Island Road District (PIRD).
- F. All future structures and uses, population density, building intensity, and building height and any other dimensional regulations shall conform to the provisions of the respective zoning district of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- G. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- H. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- I. The term Developer for purposes of this development order shall mean and refer to Cape Coral Development Associates, LLC and Taylor Morrison of Florida, Inc., its successors in interest, lessees, and/or assigns.
- J. All provisions and conditions contained in Ordinance 31-04, as amended by Ordinance 143-06, Ordinance 156-07, and Ordinance 77-10 shall remain in full force and effect, except as otherwise stated in this Development Order.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the Planned Development Project application for Development Approval submitted by Cape Coral Development Associates, LLC and Taylor Morrison of Florida, Inc., is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

A. PHASING OF DEVELOPMENT

No construction permits for a tract shall be issued or approved until the City has approved a final subdivision plat, pursuant to Section 4.2.5.H.2 of the Land Use and Development Regulations for the tract within Phase III being developed. The Developer shall submit each final subdivision plat as indicated on the amended master Subdivision Plan using either Option A or Option B.

Tracts 116 through 120 in Phase III must be developed sequentially with Tract 116 being the first developed, then 117, 118A, 118B, 119, and 120, with 120A prior to 120B if Opuon B is exercised. In the event the Developer chooses to develop the tracts in a different order, the roadway running along the western side of the parcels shall be completed prior to any tracts being developed.

B. DRAINAGE/WATER QUALITY

1. Prior to the issuance of any site plan approval by the DCD Director for the construction of the surface water management system, a South Florida Water Management District (SFWMD) construction permit for the proposed improvements shall be obtained and a copy provided to the City.

- 2. If the SFWMD construction permit plan differs from the plan submitted to the City for PDP approval, the Developer will not be required to amend the PDP unless a substantial deviation occurs as provided in Section IV. G.
- 3. At completion of construction of the required site improvements, the Developer shall provide certification by the Engineer of Record that all required surface water management infrastructure improvements have been constructed in accordance with the design approved by SFWMD and the City of Cape Coral. The certification shall include the wording "Construction Compliance Certification".

C. WETLANDS, VEGETATION AND WILDLIFE

The Developer shall comply with the State of Florida regulations pertaining to the protection of gopher tortoise burrows located on the site and a protective barrier composed of stakes, silt fence, and rope or other suitable materials shall be placed around all existing gopher tortoise burrows, including any that are discovered during the life of the project. This requirement shall be waived if the Developer provides the City with evidence of a funded incidental take/mandatory relocation permit prior to the issuance of a City of Cape Coral permit for the excavation, grading, clearing, or any similar disturbance of the ground. Entombment of tortoises is strictly prohibited at all times, regardless of the type of permit procured by the applicant.

When gopher tortoise burrows are located on the site, the Developer shall seek a gopher tortoise relocation permit from the State of Florida for some or all of the gopher tortoises that must be relocated on-site or removed from the site, and provide a copy to the City prior to issuance of a permit. In the event gopher tortoise relocation is off-site, then the Developer shall provide the City of Cape Coral with a signed letter(s) of acceptance from the owner(s) of the property upon which the gopher tortoises will be relocated. The letter must state the number of gopher tortoises each property owner is willing to accept in accordance with the State of Florida regulations in effect at the time of relocation.

D. WASTEWATER MANAGEMENT

Wastewater (sewer) service is available to the site. Developer shall enter into an On-Site Utilities Agreement, prior to issuance of site plan permit, regarding the on-site utilities to be conveyed to the City.

E. WATER SERVICE

Water service is available to the site. Developer shall enter into an On-Site Utilities Agreement, prior to issuance of site plan permit, regarding the on-site utilities to be conveyed to the City.

F. IRRIGATION SERVICE

Irrigation service is available to the site. Developer shall enter into an On-Site Utilities Agreement, prior to issuance of site plan permit, regarding the on-site utilities to be conveyed to the City.

G. TRANSPORTATION

- 1. The following roadway improvements were required to be completed pursuant to Ordinance 31-04, Section III.M.3. These improvements have been completed and accepted by the City and the associated road impact fee credits have been issued to the developer.
 - a. Chiquita Blnd,/Trafalgar Pkwy. Intersection: Traffic signal and lane improvements
 - b. Skyline Blvd./Trafalgar Pkwy. Intersection: Traffic signal and lane improvements
 - c. Surfside Blvd.: Four-Lane Surfside Boulevard from Veteran's to Trafalgar Pkwy as urban section with median landscaping including sidewalks on Surfside (both sides) and improvements at access to the development on Trafalgar Parkway

- d. Veteran's Pkury. / Surfside Blvd. Intersection: Traffic signal and lane improvements
- 2. Ordinance 31-04, Section III.M.3. also required improvements on Trafalgar Parkway from Chiquita Parkway to the project entrance. Partial improvements on Trafalgar Parkway west of Chiquita have been completed and accepted by the City. The City agrees to relieve the Developer from any additional work on Trafalgar Parkway from Chiquita Boulevard to the project entrance. The City does not owe any road impact fee credits to the Developer for the partial improvements completed, nor shall the developer have any additional responsibilities for improvements on Trafalgar Parkway. The City also agrees to release performance bond #1009496 which was tendered to the City by the Developer to guarantee completion of the Trafalgar Parkway improvements.
- 3. The following right-of-way dedications required in Ordinance 31-04, Section III.M.11. have been accepted by the City and the associated road impact fee credits have been issued to the developer:
 - a. Surfside Blvd. South of Trafalgar Pkwv. (40-foot wide)
 - b. Surfside Blvd. North of Trafalgar Pkwy. (100-foot wide)
 - Pine Island North/South Access Road from SR-78 to Pine Island Road Master Plan City Frontage Road (100-foot wide)
 - d. SR-78 (Pine Island road) (145-foot wide)
- 4. The Pine Island Road Master Plan City Frontage Road required in Section III.M.11. of Ordinance 31-04 is no longer required by the City.
- 5. The Developer shall not be entitled to any additional road impact fee credits specified in Section III.M.3. and III.M.11. of Ordinance 31-04. The City shall not pay any additional impact fees to developer other than those already credited and paid as of the date of adoption of this amendment.
- 6. The following off-site improvements shall be completed by the Developer:

Substantially Impacted Roadway or intersection	Improvements Required	When Required	Percentage of Improvement Value Eligible for Impact Fee Credits
SR-78 Development Access	Traffic Signal and Lane Improvements	When warranted	00,0
City ROW Pine Island Road North/South 4- lane connector	2 lanes of the 4- lane connector road constructed per cross-section attached as Exhibit "C"	No later than June 11, 2017, subject to FDOT approval	00/0
City ROW Pine Island Road North/South 4- lane connector.	4 lane divided roadway with sidewalks on both sides	Prior to the commercial tract by SR-78 being developed or no later than June 11, 2022, whichever occurs first	0%

7. Prior to the City's acceptance of the subdivision plat for any of the tracts subject to this amendment, the Developer shall post a security bond or other financial security acceptable to the City in an amount equal to 110 percent of the estimated cost of construction of the projects listed below. The cost of construction shall be determined based upon a cost estimate signed and scaled by a professional engineer licensed in the State of Florida. Said amount shall be approved by the Public Works

Director or his designee. The bond or other financial security is required for the following:

Substantially Impacted Roadway or Intersection	Improvements Required	Exception
City ROW Pine Island Road North/South 4- lane connector	2-lanes of the 4-lane connector road constructed per cross- section attached as Exhibit "C"	
City ROW Pine Island Road North/South 4- lane connector.	4 lane divided roadway with sidewalks on both sides	The bond or financial security for this section must be provided prior to acceptance of the subdivision plat for Phase IV.
Section of Sandoval Boulevard within Phase III	2-lane roadway within Phase III of the subdivision	In the event that a section of Sandoval Boulevard located within Phase III is constructed prior to acceptance of the subdivision plat for any of the tracts in Phase III, no bond or financial security shall be required for that section of Sandoval Boulevard.

- 8. The developer shall work to obtain from FDOT a temporary construction access entrance off Pine Island Road (SR 78). If obtained, this access shall be the primary entrance for the construction of Phase III.
- The developer shall be required to provide sidewalks only on one side of the right of
 way in all tracts subject to this amendment, including Tracts 118 and 120. All other
 requirements pertaining to the sidewalk/greenway/bike path system shall remain in
 effect as stated in Ordinance 31-04.

H. SUBDIVISION

- 1. The Developer shall meet all requirements of Section 4.2.11., Minimum Design Standards, City of Cape Coral Land Use and Development Regulations.
- 2. Prior to any final Subdivision Plat approval, either the Developer shall satisfactorily complete all of the required site improvements, or the Developer shall provide a surety bond or certified check in an amount of the estimated cost to complete all required site improvements, as determined by the City. Such surety bond or certified check shall be returned to the Developer after the Director has determined that all required improvements have been satisfactorily completed.
- 3. The Director shall submit the Subdivision Plat for the Mayor's signature after all required site improvements have been satisfactorily completed or the City has received a surety bond or certified check in an amount of the estimated cost to complete of all required site improvements. Such Plat shall then be recorded with the Lee County Clerk pursuant to Chapter 177, Florida Statutes. A duplicate recorded mylar copy of the Plat shall be submitted to the City.
- 4. The size and dimension of each lot or tract may increase in size from what is shown on pages 4A and 4B of the Amended PDP Master Plans, however the total number of lots in each Tract shall not be more than that specified in Section II.A. above. Upon the increase any lot size, there shall be a decrease in the number of units in the corresponding tract. The City shall review the final subdivision plan upon submittal for final plat review.

I. GENERAL CONSIDERATIONS

1. The information/sales office located in Tract C101 was approved for use in Ordinance 31-04 for a period of seven years. The information/sales office may be

utilized throughout the period of development of the tracts subject to this amendment.

The special exception use for model homes is extended until February 25, 2016. The
extension applies to model homes within the tracts subject to this amendment of the
development order.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project application filed for the "Sandoval Phase III" PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the PDP.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.
- F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- G. Subsequent requests for local development permits shall not require further review, unless it is found by the City Council, after due notice and hearing, that one or more substantial deviation(s), or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City have occurred. Substantial deviations include but are not limited to:
 - Any change which requires a variance to code and above those specifically incorporated herein.
 - 2. An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or building square footage.
 - 3. An expiration of the period of effectiveness of this Development Order as herein provided.
 - 4. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved and all local approvals have been obtained.

- H. The physical development authorized under this Development Order shall terminate in ten years from the date of adoption of this amendment to the Development Order, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time a final development report shall be submitted to the City.

K. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the Circ.

SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION VI. EFFECTIVE DATE.

This ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 11 DAY OF June , 2012.

JOHN J. SULLIVAN, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SULLIVAN	ausl
McCLAIN	_aul
CARIOSCIA	ause
NESTA	ahl
CHULAKES-LEETZ	and
ERBRICK	aire
McGRAIL	ause
DONNELL	ane
	Ø

ATTESTED TO AND FILED IN MY OFFICE THIS 15th DAY OF GUNE 2012.

REBECCA VAN DEUTEKOM

Octog CITY CLERK

APPROVED AS TO FORM:

DOLORES D. MENENDEZ

CITY ATTORNEY

ord/pdp11-8

I HERCOY CENTIFY that I am the duly appointed and qualified (Dierk of the City of Cape Const. Floridacing, the keeper of the records and gorporale, sector cell municipality; that the is a tree and correct certy/ ORDEN ANCE 12-12

POP SANDOVAL PRASE III

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A PARCEL IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S 00° 13' 25" W ALONG THE EAST LINE OF SAID SECTION FOR 2842.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 29; THENCE CONTINUE S 00° 13' 25" W ALONG SAID EAST LINE FOR 2718.13 FEET TO AN INTERSECTION WITH THE NORTH LINE OF BURNT STORE ROAD EXTENSION AS RECORDED IN OFFICIAL RECORD BOOK 2910 BEGINNING AT PAGE 2499 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S 89° 35' 38" W ALONG THE NORTH LINE OF SAID BURN'T STORE ROAD EXTENSION FOR 2492.55 FEET TO A POINT OF CURVATURE; THENCE RUN WESTERLY AND N'ORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 1565.02 FEET (CHORD BEARING N 87° 10' 59" W) (CHORD 175.99 FEET) (DELTA 06° 26' 47" FOR 176.08 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 29; THENCE RUN N 00° 12' 40" E ALONG SAID WEST LINE FOR 5591.35 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 29; THENCE RUN N 01° 06' 44" W ALONG THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 20 FOR 5303.23 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF PINE ISLAND ROAD (66 FEET WIDE); THENCE RUN S 89° 37' 42" E ALONG SAID SOUTH LINE FOR 836.18 FEET; THENCE RUN S 01° 06' 44" E FOR 1303.89 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTH HALF (S-1/2) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 29' 26" E ALONG SAID NORTH LINE FOR 497.56 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER (SW-1/4) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 00° 28' 44" E ALONG THE EAST LINE OF SAID FRACTION FOR 1337.80 FEET; THENCE RUN S 01° 27' 05" E ALONG THE EAST LINE OF THE NORTHWEST QUARTER (NW-1/4 OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 1081.38 FEET TO A POINT ON SAID EAST LINE, BEING ALSO THE NORTHEAST CORNER OF A PARCEL OF LAND AS RECORDED IN OFFICIAL RECORD BOOK 1697 BEGINNING AT PAGE 3463 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N89°26'26"W ALONG THE NORTH LINE OF SAID PARCEL FOR 890.05 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE RUN S01°27'05"E ALONG THE WEST LINE OF SAID PARCEL FOR 250.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL, BEING ALSO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN \$89°26'26"E ALONG THE SOUTH LINE OF SAID PARCEL AND SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 890.05 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL AND SAID FRACTION; BEING ALSO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN \$ 89° 26' 26" E ALONG THE SOUTH LINE OF SAID FRACTION FOR 1326.90 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID SECTION 20; THENCE RUN S 01° 47' 29" E ALONG SAID EAST LINE FOR 1329.58 FEET TO THE POINT OF BEGINNING.

SUBJECT TO: LEE COUNTY ELECTRIC COOPERATIVE TRANSMISSION LINE EASEMENT OVER AND ACROSS THE EAST 100 FEET OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 AS RECORDED IN OFFICIAL RECORD BOOK 1473 BEGINNING AT PAGE 1799 OF SAID PUBLIC RECORDS.

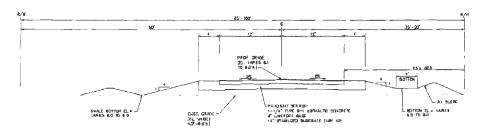
DESCRIBED PARCEL CONTAINS 524.24 ACRES, MORE OR LESS.

A TRACT OR PARCEL OF LAND LYING IN SECTION 20, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE \$ 1/4 (SOUTH ONE-QUARTER) CORNER OF SAID SECTION 20, BEING ALSO A POINT ON THE WESTERLY LINE OF SANDOVAL-PHASE 2, A SUBDIVISION AS RECORDED IN INSTRUMENT NO. 2005000167039 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THENCE RUN N01°06'44"W ALONG SAID WESTERLY LINE, BEING ALSO THE WEST LINE OF THE EAST HALF OF SAID SECTION 20 FOR 499.03 FEET TO THE NORTHWEST CORNER OF SAID SANDOVAL-PHASE 2, BEING ALSO THE POINT OF BEGINNING; THENCE CONTINUE RUNNING N01°06'44"W ALONG SAID WEST LINE OF THE EAST HALF OF SAID SECTION 20 FOR 4071.51 FEET; THENCE RUN N88°53'16"E, LEAVING SAID WEST LINE OF THE EAST HALF OF SAID SECTION 20, FOR 835.90 FEET; THENCE RUN S01°06'44"E FOR 592.86 FEET; THENCE RUN \$89°29'26"E FOR 497.56 FEET; THENCE RUN \$00°28'44"E FOR 1337.80 FEET; THENCE RUN S01°27'05"E FOR 1081.38 FEET; THENCE RUN N89°26'26"W FOR 890.05 FEET; THENCE RUN S01°27'05"E FOR 250.00 FEET; THENCE RUN S89°26'26"E FOR 906.85 FEET TO THE NORTHWEST CORNER OF BLOCK 8031 (TRACT 114) OF SAID SANDOVAL-PHASE 2; THENCE RUN S00°33'34"W ALONG THE WEST LINE OF SAID BLOCK 8031 FOR 285.66 FEET TO A POINT ON THE NORTHERLY LINE OF LAKE TRACT "2-F" OF SAID SANDOVAL-PHASE 2; THENCE RUN ALONG THE NORTHERLY AND WESTERLY LINES OF SAID TRACT "2-F" FOR THE FOLLOWING EIGHT (8) COURSES: RUN N70°39'55"W FOR 3.57 FEET TO THE POINT OF CURVATURE OF A 160.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 18°46'32", A CHORD AND CHORD BEARING OF N80°03'11"W, 52.20 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 52.43 FEET TO THE POINT OF TANGENCY, THEN RUN N89°26'26"W FOR 776.60 FEET TO THE POINT OF CURVATURE OF A 1010.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH, SAID CURVE HAVING A CENTRAL ANGLE OF 02°50'54", A CHORD AND CHORD BEARING OF \$89°08'07"W, 50.20 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 50.21 FEET TO THE POINT OF TANGENCY, THEN RUN S87°42'40"W FOR 64.63 FEET TO THE POINT OF CURVATURE OF A 1010.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 04°24'02", A CHORD AND CHORD BEARING OF S85°30'39"W, 77.55 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 77.57 FEET TO THE POINT OF TANGENCY, THEN RUN S83°18'37"W FOR 147.76 FEET TO THE NON-TANGENT POINT OF CURVATURE OF A 1800.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, THE RADIUS POINT OF WHICH BEARS N79°23'32"E, 1800.00 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 14°32'31", A CHORD AND CHORD BEARING OF S17°52'44"E, 455.62 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 456.85 FEET TO A NON-TANGENT INTERSECTION WITH A LINE WHICH BEARS \$64°51'01"W, \$AID LINE BEING THE NORTHWESTERLY LINE OF TRACT "LP-9" OF SAID SANDOVAL-PHASE 2: THENCE RUN S64°51'01"W ALONG SAID NORTHWESTERLY LINE AND THE NORTHWESTERLY LINES OF TRACT R-S3 (SANDOVAL PARKWAY) AND TRACT "CA-2" OF SAID SANDOVAL-PHASE 2 FOR 213.78 FEET; THENCE RUN S88°53'16"W ALONG THE NORTHERLY LINE OF SAID TRACT "CA-2" FOR 100.85 FEET TO THE POINT OF BEGINNING.

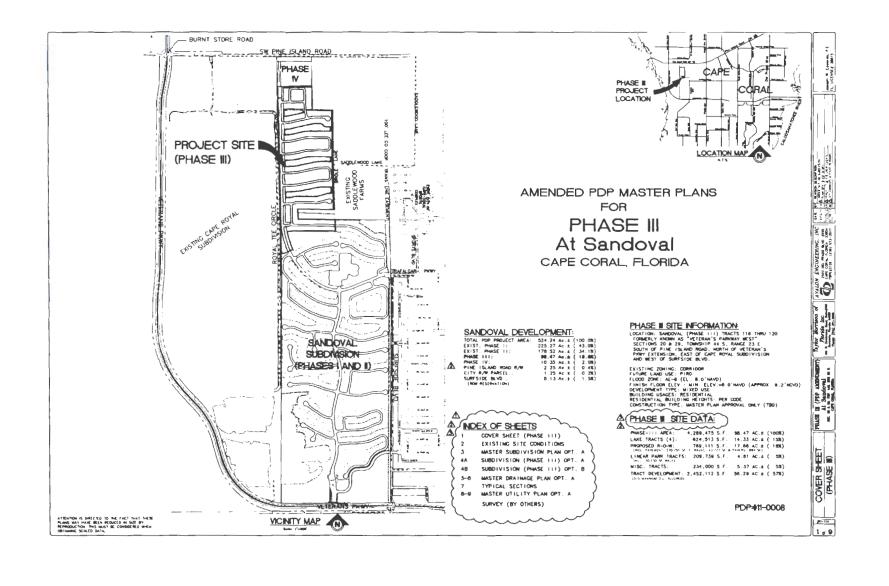
SAID TRACT OR PARCEL CONTAINS 98.47 ACRES, MORE OR LESS.

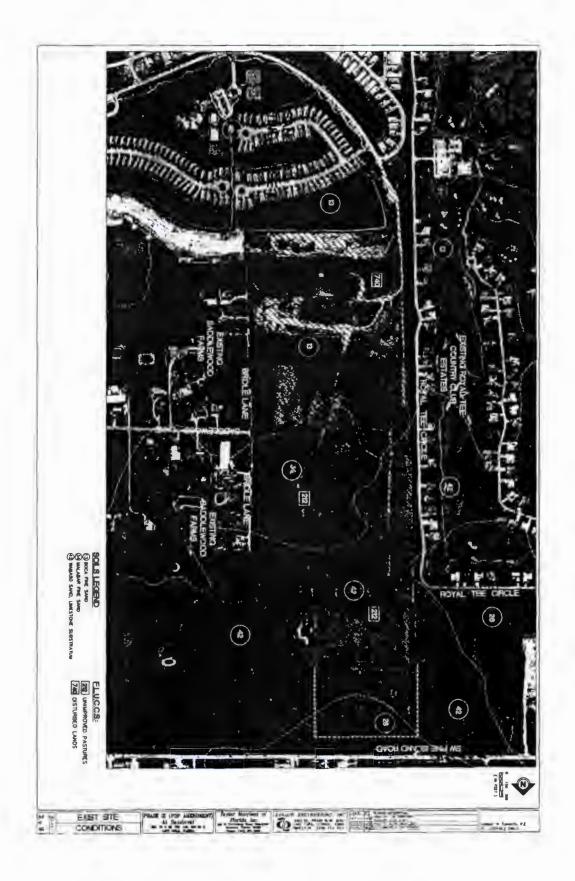
EXHIBIT 'C'

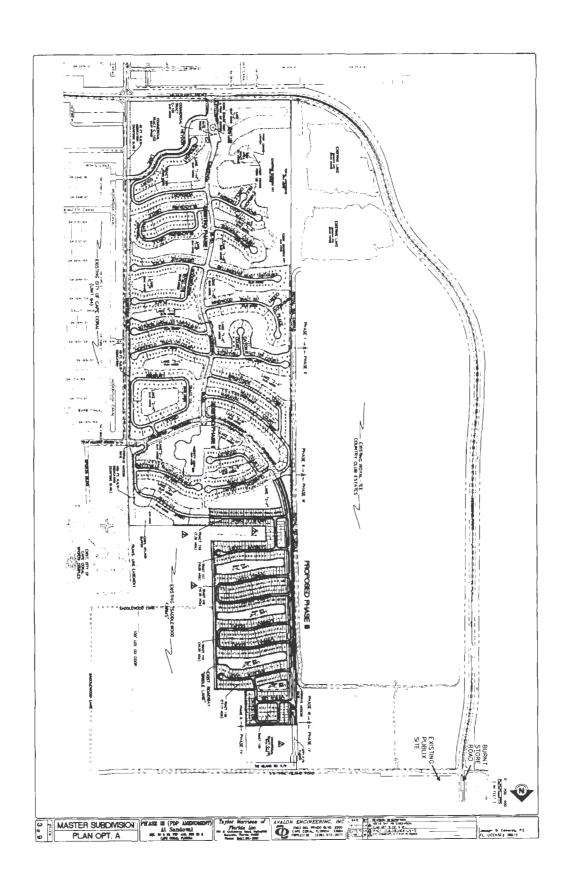


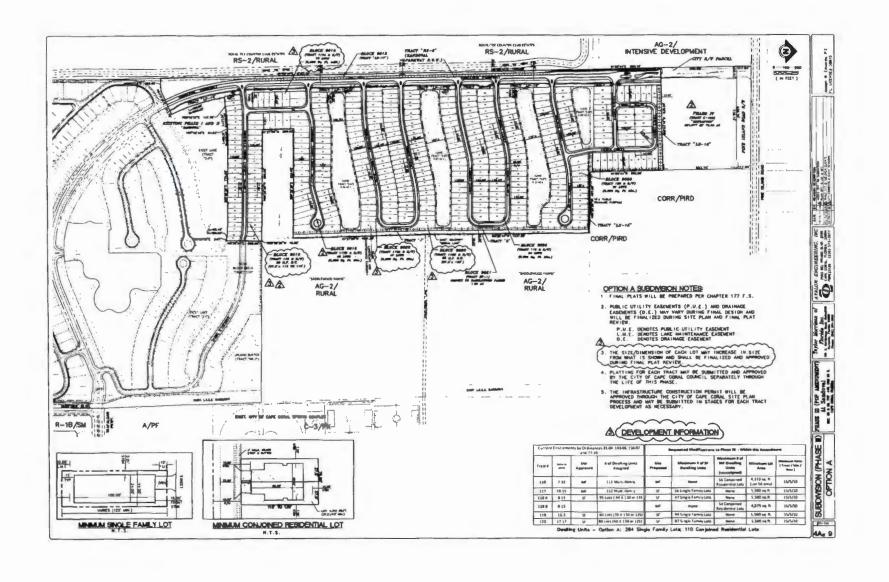
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TEMPORARY PAVED CONSTRUCTION ENTRANCE
ROADWAY WITHIN CITY OF CAPE CORAL RAW
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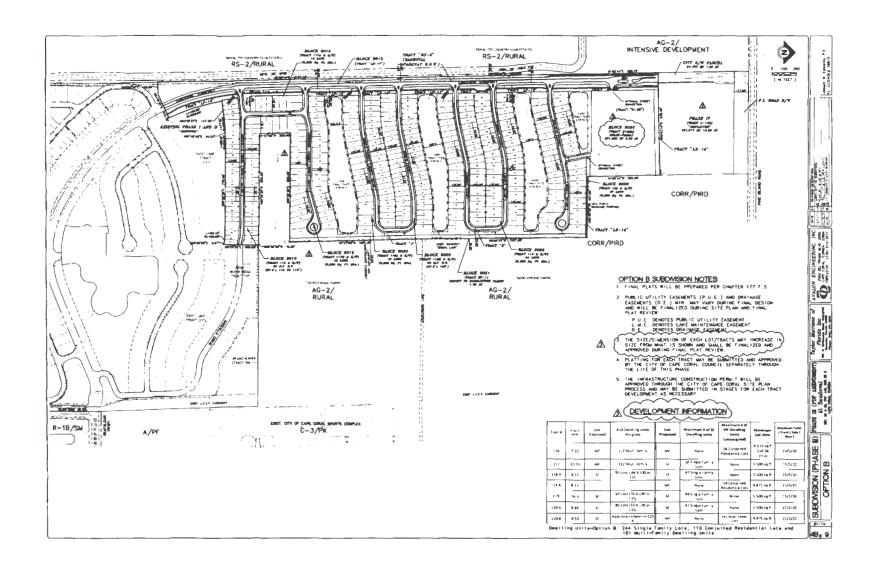
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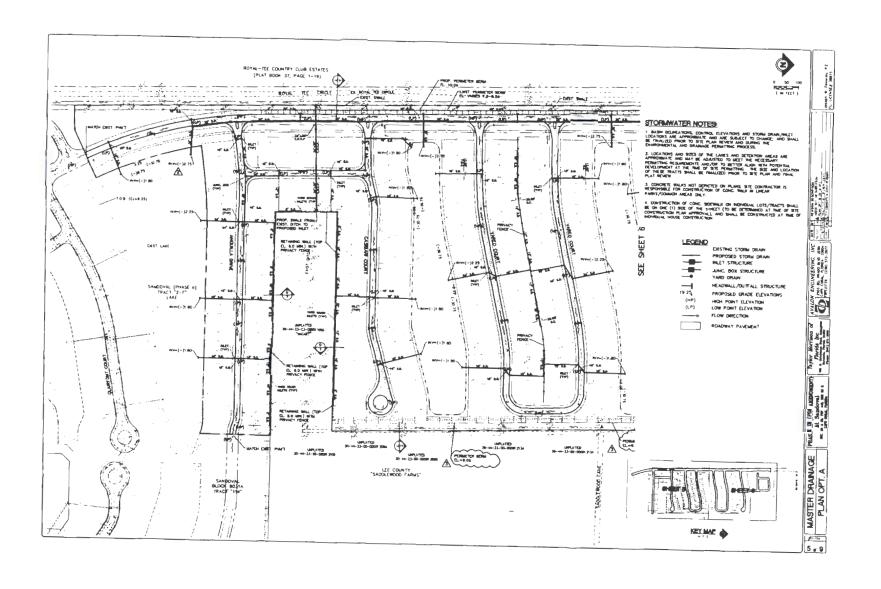


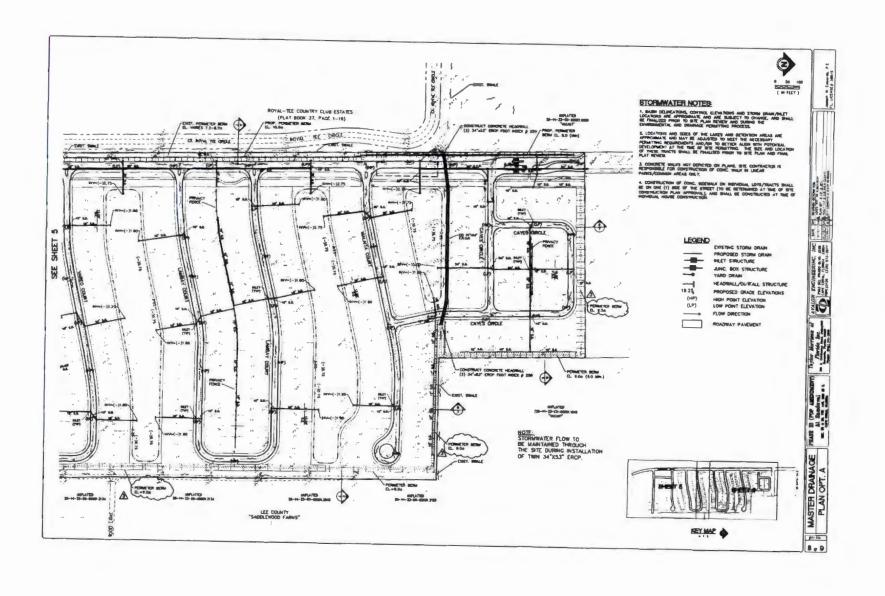


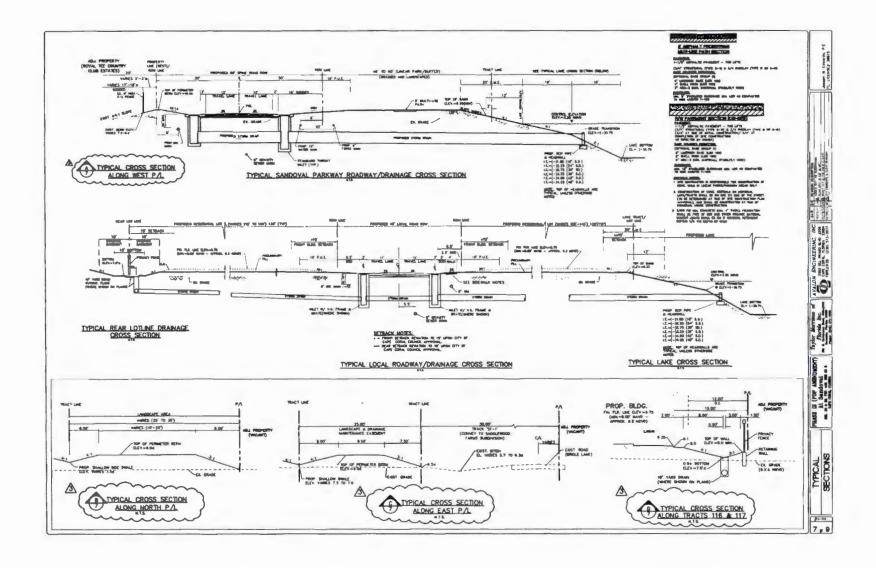


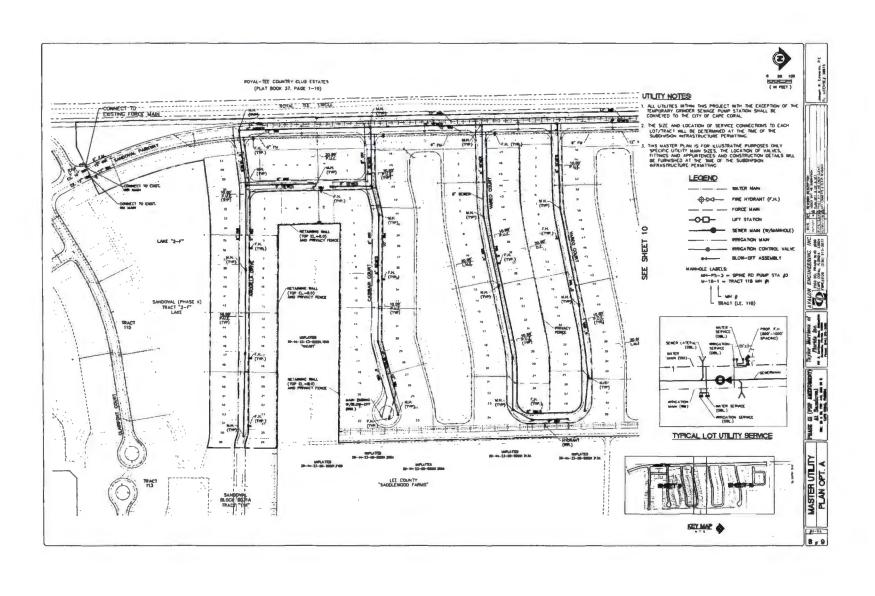


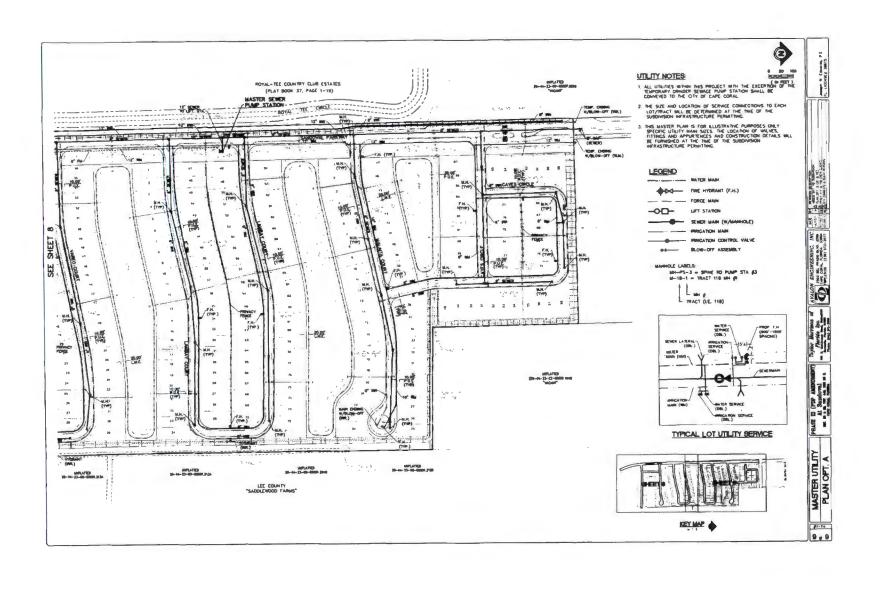


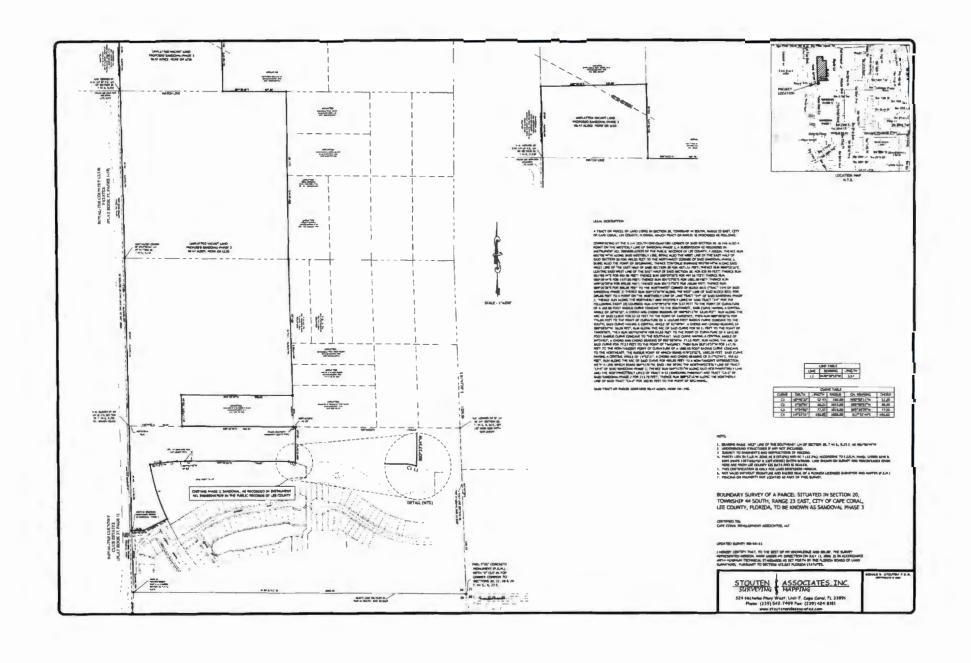












COUNCILMEMBER NESTA

PDP 12-0003 12/21/12 01/15/13 02/21/13 03/11/13

ORDINANCE 4 - 13

AN ORDINANCE AMENDING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "SANDOVAL PDP AMENDMENT FOR PHASE III" FOR CERTAIN PROPERTY DESCRIBED AS A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED BETWEEN PINE ISLAND ROAD AND VETERANS PARKWAY WEST, WEST OF SURFSIDE BOULEVARD AND EAST OF CAPE ROYAL (FORMERLY KNOWN AS ROYAL TEE); GRANTING THE EXPANSION OF THE PROJECT TO INCLUDE AN ADDITIONAL 5.1 ACRES WITHIN PHASE III; GRANTING THE EXTENSION OF DEVIATIONS ONTO THE EXPANDED AREA FOR MINIMUM LOT AREA, AND MINIMUM FRONT, REAR AND SIDE YARD REQUIREMENTS; GRANTING SUBDIVISION AND REPLAT APPROVAL; GRANTING DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Veterans Parkway West (aka Bonita Bay)" Planned Development Project was approved on by the City Council of the City of Cape Coral by Ordinance 31-04, as amended by Ordinance 143-06 and Ordinance 156-07, Ordinance 77-10, and Ordinance 12-12; and

WHEREAS, an application from Taylor Morrison of Florida, Inc. has been received requesting amendment of a Planned Development Project (PDP) for "Sandoval PDP Amendment for Phase III"; requesting deviations, subdivision and development plan approval; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I. PDP AMENDMENT, DEVIATIONS, SUBDIVISION APPROVAL

Having reviewed the application requesting approval of a Planned Development Project amendment for "Sandoval PDP Amendment for Phase III", requesting expansion of the project onto an additional 5.1 acres as described in Exhibit "B", requesting the extension of a deviation of 1000 square feet from the required minimum lot area of 6,500 square feet for Single-Family Residential pursuant to Section 2.7.13.E.1. of the Land Use and Development Regulations to allow a minimum lot area of 5,500 square feet for parcels in the additional 5.1 acres, requesting the extension of a deviation of five (5) feet from the minimum front yard requirement of twenty (20) feet pursuant to Section 2.7.13.E.1. of the Land Use and Development Regulations to allow a minimum front yard of fifteen (15) feet for parcels in the additional 5.1 acres, requesting the extension of a deviation of five (5) feet from the required minimum rear yard of fifteen (15) feet for Single-Family Residential and Conjoined Residential pursuant to Section 2.7.13.E.1 of the Land Use and Development Regulations to allow a minimum rear yard of ten (10) feet for parcels in the additional 5.1 acres, requesting an extension of a deviation of five (5) feet from the minimum side yard of ten (10) feet when on a corner lot pursuant to Section 3.8.2.B. of the Land Use and Development Regulations to allow a minimum side yard of five (5) feet on a corner lot for parcels in the additional 5.1 acres; requesting subdivision and replat approval, and having considered the recommendations of the Plauning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral,

*

Florida, does hereby grant the aforesaid PDP approval, and approve development plan including site plan, in accordance with plan set titled "Phase III - PDP Amendment Master Plans at Sandoval", Sheets 1-7, dated August 16, 2012, and also bearing revision dates of September 17, 2012 and October 31, 2012, prepared by Avalon Engineering, Inc. for purposes of development plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

A. The "Veteran's Parkway West (aka Bonita Bay)" development is a mixed-use Planned Development Project (PDP) that was approved by Ordinance 31-04, as amended by Ordinance 143-06, Ordinance 156-07, Ordinance 77-10, and Ordinance 12-12. The PDP approved the construction of 1,081 single-family units, 488 multi-family units, 310,000 square of retail uses and 10,000 square feet of office space. Ordinance 77-10 increased the amount of single-family units to 1,129 units while decreasing the amount of multi-family units to 384 units.

The portion of the development that is the subject of this amendment was amended pursuant to Ordinance 156-07, and renamed that portion to "Sandoval PDP Amendment for Phase III". The development approved for Phase III consisted of 98.47 acres of land. Ordinance 156-07 approved the development of Phase III within Tracts 116 through 120 and the construction of 459 single-family and multi-family dwelling units. Ordinance 12-12 increased the number of single-family and multi-family dwelling units within Tract 116 through 120 to a maximum of 515.

This amendment of "Sandoval PDP Amendment for Phase III" adds an additional 5.1 acres to the entire project, increasing the area of Tracts 116 from 7.32 acres to 10.49 acres, and decreasing the area of Tract 117 from 10.55 acres to 9.32 acres.

Development within Phase III is hereby amended as follows:

- Tract 116 was previously approved for a maximum of 56 conjoined residential dwelling units and is hereby increased to 70 conjoined residential dwelling units
- Tract 117 was previously approved for a maximum of 56 single-family dwelling units and is hereby decreased to 52 single-family dwelling units
- 3) Tract 118A a maximum of 47 single-family dwelling units
- 4) Tract 118B a maximum of 54 conjoined residential dwelling units
- 5) Tract 119 a maximum of 94 single-family dwelling units

The developer has the option of developing Tract 120 according to two (2) options:

Option A: Tract 120 – a maximum of 87 single-family dwelling units
Option B: Tract 120A – a maximum of 47 single-family dwelling unit

Tract 120A – a maximum of 47 single-family dwelling units

Tract 120B was previously approved for a maximum of 161 multi-family
dwelling units and is hereby decreased to 151 multi-family units.

Development under Option A provides a maximum of 280 single-family units and 124 conjoined residential dwelling units. Option B provides a maximum of 240 single-family dwelling units, 124 conjoined residential dwelling units, and 151 multi-family dwelling units.

All deviations as specified in Section I above that were approved for lots within Tracts 116 and 117 are hereby approved for the lots within the 5.1 acre expansion area.

B. Development will occur in phases as described in Ordinance 12-12 with a buildout date of June 11, 2022.

The name(s) of the legal and equitable owner(s) are Taylor Morrison of Florida, Inc.

- D. The legal description of the property subject to the extant "Veteran's Parkway West (aka Bonita Bay)" PDP is as described in attached Exhibit "A".
 - The legal description of the 5.1 acres onto which the project is being expanded is as described in attached Exhibit "B".

- F. The legal description of the resultant parcel comprising the extant PDP plustogether with the additional 5.1 acre tract is as described in attached Exhibit "C".
- G. The "Sandoval PDP Amendment for Phase III" PDP subject parcel has approximately 103.6 acres zoned Corridor(CORR) pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 103.6 acres with a Future Land Use designation of Pine Island Road District (PIRD).
- H. All future structures and uses, population density, building intensity, and building height and any other dimensional regulations shall conform to the provisions of the respective zoning district of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- The proposed development does not unreasonably interfere with the achievement of the
 objectives of the adopted State Land Development Plan applicable to the area.
- J. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- K The term Developer for purposes of this development order shall mean and refer to Taylor Morrison of Florida, Inc, its successors in interest, lessees, and/or assigns.
- L. All provisions and conditions contained in Ordinance 31-04, as amended by Ordinance 143-06, Ordinance 156-07, Ordinance 77-10, and Ordinance 12-12, shall remain in full force and effect, and any provisions that apply to Tracts 116 and 117 shall also apply to the additional 5.1 acres within Tracts 116 and 117, except as otherwise stated in this Development Order.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in a public meeting duly advertised, constituted and assembled, that the "Sandoval PDP Amendment for Phase III" Planned Development Project application for development approval submitted by Taylor Morrison of Florida, Inc, is hereby ordained and approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

A. WETLANDS, VEGETATION, AND WILDLIFE

The Developer shall comply with the State of Florida regulations pertaining to the protection of gopher tortoise burrows located on the site and a protective barrier composed of stakes, silt fence, and rope or other suitable materials shall be placed around all existing gopher tortoise burrows, including any that are discovered during the life of the project. This requirement shall be waived if the Developer provides the City with evidence of a funded incidental take/mandatory relocation permit prior to the issuance of a City of Cape Coral permit for the excavation, grading, clearing, or any similar disturbance of the ground. Entombment of tortoises is strictly prohibited at all times, regarlless of the type of permit procured by the applicant.

When gopher tortoise burrows are located on the site, the Developer shall seek a gopher tortoise relocation permit from the State of Florida for some or all of the gopher tortoises that must be relocated on-site or removed from the site, and provide a copy to the City prior to issuance of a permit. In the event gopher tortoise relocation is off-site, then the Developer shall provide the City of Cape Coral with a signed letter(s) of acceptance from the owner(s) of the property upon which the gopher tortoises will be relocated. The letter must state the number of copher tortoises each property owner is willing to accept in accordance with the state of Florida regulations in effect at the time of relocation.

In the event all or a portion of the subject property is located within an Eagle Nest Management Zone, the developer shall comply with all City laws, regulations, and guidelines that are currently in effect or that may be hereafter adopted by the City concerning the protection and management of bald eagle nests including, but not limited to Chapter 23 of the City Code of Ordinances. No development shall occur on any portion of the subject property that is within an Eagle Nest Management Zone except in accordance with a Bald Eagle Management Plan that has been approved by the City. Once an Eagle Management Plan has been approved by the City for all or a portion of the property, the Developer's ability to develop in accordance with such Plan shall not be affected by any amendment to the City's regulations concerning eagle nests, so long as no additional or "new" eagle nest need to be accommodated. In the event, however, that one or more eagle nests are hereafter established or determined to be active in locations that result in all or a portion of the subject property being located in a new or expanded Eagle Nest Management Zone, then no development shall occur in such new zone except in accordance with an Eagle Management Plan that has been approved by the City for such zone.

B. WASTEWATER MANAGEMENT

- 1. Wastewater (sewer) service is available to the site.
- The Developer shall design, construct and install all improvements required by the City
 to connect to the City's wastewater system. Said design, construction, and installation
 shall be accomplished in accordance with prevailing City design criteria and shall be
 subject to City inspection and approval prior to acceptance.
- Wastewater containing hazardous materials shall be segregated and handled in accordance with Florida Department of Environmental Protection (DEP) criteria.
 Wastewater entering the City system shall meet quality limitations as specified by City Ordinance(s).
- Sewer impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinance(s).
- The Developer shall connect to City wastewater facilities as specified by City Ordinance.
- 6. The Developer shall grant appropriate easements to City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the Wastewater system that were constructed by Developer by bill of sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

C. WATER SERVICE

- 1. Water service is available to the site.
- The Developer shall design, construct and install all improvements required by the City
 to connect to the City's water system. Said design, construction, and installation shall
 be accomplished in accordance with prevailing City design criteria and shall be subject
 to City inspection and approval prior to acceptance.
- Water impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinances(s).
- 4. The Developer shall connect to City water facilities as specified by City Ordinance.
- 5. The Developer shall grant appropriate easements to City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the water system that were constructed by Developer by bill of sale in a form satisfactory to the

City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

D. IRRIGATION SERVICE

- Irrigation service is available to the site.
- Developer shall connect to the City's irrigation system as prescribed by City Ordinance.
 The Developer shall design, construct, and install all improvements required by the City to connect to the City's irrigation system in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
- Irrigation betterment fees and/or all other applicable fees shall be paid as specified by City Ordinance(s).
- 4. The Developer shall grant appropriate easements to the City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the irrigation system that were constructed by Developer by Bill of Sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

E. SUBDIVISION

- The Developer shall meet all requirements of Section 4.2.11., Minimum Design Standards, City of Cape Coral Land Use and Development Regulations.
- 2. Prior to any final Subdivision Plat approval, either the Developer shall satisfactorily complete all of the required site improvements, or the Developer shall provide a surety bond or certified check in an amount of the estimated cost to complete all required site improvements, as determined by the City. Such surety bond or certified check shall be returned to the Developer after the Director has determined that all required improvements have been satisfactorily completed.
- 3. The Director shall submit the Subdivision Plat for the Mayor's signature after all required site improvements have been satisfactorily completed or the City has received a surety bond or certified check in an amount of the estimated cost to complete of all required site improvements. Such Plat shall then be recorded with the Lee County Clerk pursuant to Chapter 177, Florida Statutes. A duplicate recorded mylar copy of the Plat shall be submitted to the City.
- 4. The size and dimension of each lot subject to this amendment shall be as shown on the proposed replat titled Sandoval-Phase 3A, a replat of Lots 3 through 22, Block 9015; Lots 1 through 10 and Tract LP-14, Block 9011; Lots 1 through 26, Block 9010; and a portion of Tract "R-17", as shown on the Plat of Sandoval-Phase 3, recorded as Instrument Number 2012000231575 of the Public Records of Lee County, Florida; together with a portion of Section 20, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida.

F. GENERAL CONSIDERATIONS

The Tract identified as Tract SF-1, a linear tract of land along the eastern side of Tracts 116 through 120 shall not be developed with any type of building.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

A. This Development Order shall constitute an ordinance of the City of Cape Coal adopted by this Council in response to the Planned Development Project application and Sandoval Phase III Amendment - Tract 115 and 117" PDP.

William CORP

- B. This Development Order shall be binding on the Developer.
- C. The terms and conditions set our in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.
- F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- G. Subsequent requests for local development permits shall not require further review, unless it is found by the City Council, after due notice and hearing, that one or more substantial deviation(s), or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City have occurred. Substantial deviations include but are not limited to:
 - Any change which requires a variance to code and above those specifically incorporated herein.
 - An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or building square footage.
 - An expiration of the period of effectiveness of this Development Order as herein provided.
 - 4. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved and all local approvals have been obtained.

- H. The physical development authorized under this Development Order shall terminate ten years from the date of adoption of Ordinance 12-12, being June 11, 2022, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- I. The Director of the Cape Coral Department of Community Development or his/her designce, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.

J. The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time a final development report shall be submitted to the City.

K. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the

SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION VI. EFFECTIVE DATE.

This ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to the expiration of the appeal period provided for in connection with this Ordinance are obtained solely at the risk of the Developer.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS __//- DAY OF __March_ JOHN J. SULLIVAN, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SULLIVAN McCLAIN CARIOSCIA NESTA CHULAKES-LEETZ **ERBRICK** McGRAIL DONNELL

attested to and filed in my office this 22

CITY CLERK

APPROVED AS TO FORM:

DOLORES D. MENENDEZ CITY ATTORNEY

ORD/pdp12-3Sandoval Phase III

EXHIBIT A

PARCEL IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S 00° 13' 25" W ALONG THE EAST LINE OF SAID SECTION FOR 2842.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 29; THENCE CONTINUE S 00° 13' 25" W ALONG SAID EAST LINE FOR 2718.13 FEET TO AN INTERSECTION WITH THE NORTH LINE OF BURN'T STORE ROAD EXTENSION AS RECORDED IN OFFICIAL RECORD BOOK 2910 BEGINNING AT PAGE 2499 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S 89° 35' 38" W ALONG THE NORTH LINE OF SAID BURNT STORE ROAD EXTENSION FOR 2492.55 FEET TO A POINT OF CURVATURE; THENCE RUN WESTERLY AND NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 1565.02 FEET (CHORD BEARING N 87° 10' 59" W) (CHORD 175.99 FEET) (DELTA 06° 26' 47" FOR 176.08 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 29; THENCE RUN N 00° 12' 40" E ALONG SAID WEST LINE FOR 5591.35 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 29; THENCE RUN N 01° 06' 44" W ALONG THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 20 FOR 5303.23 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF PINE ISLAND ROAD (66 FEET WIDE); THENCE RUN S 89° 37' 42" E ALONG SAID SOUTH LINE FOR 836.18 FEET; THENCE RUN S 01° 06' 44" E FOR 1303.89 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTH HALF (S-1/2) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 29' 26" E ALONG SAID NORTH LINE FOR 497.56 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER (SW-1/4) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 00° 28' 44" E ALONG THE EAST LINE OF SAID FRACTION FOR 1337.80 FEET; THENCE RUN S 01° 27' 05" E ALONG THE EAST LINE OF THE NORTHWEST QUARTER (NW-1/4 OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 1081.38 FEET TO A POINT ON SAID EAST LINE, BEING ALSO THE NORTHEAST CORNER OF A PARCEL OF LAND AS RECORDED IN OFFICIAL RECORD BOOK 1697 BEGINNING AT PAGE 3463 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N89°26'26"W ALONG THE NORTH LINE OF SAID PARCEL FOR 890.05 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE RUN S01°27'05"E ALONG THE WEST LINE OF SAID PARCEL FOR 250.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL, BEING ALSO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S89°26'26"E ALONG THE SOUTH LINE OF SAID PARCEL AND SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 890.05 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL AND SAID FRACTION; BEING ALSO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 26' 26" E ALONG THE SOUTH LINE OF SAID FRACTION FOR 1326.90 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID SECTION 20; THENCE RUN S 01° 47' 29" E ALONG SAID EAST LINE FOR 1329.58 FEET TO THE POINT OF BEGINNING.

SUBJECT TO: LEE COUNTY ELECTRIC COOPERATIVE TRANSMISSION LINE EASEMENT OVER AND ACROSS THE EAST 100 FEET OF THE SOUTHEAST QUARTER (SE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 AS RECORDED IN OFFICIAL RECORD BOOK 1473 BEGINNING AT PAGE 1799 OF SAID AGE TOO OF SAID PUBLIC RECORDS.

DESCRIBED PARCEL CONTAINS 524.24 ACRES, MORE OR LESS.

EXHIBIT B

THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA. LESS AND EXCEPT THE WESTERLY 30 FEET THEREOF.

LESS AND EXCEPT THAT PORTION THEREOF CONVEYED BY EDWARD F. LYONS AND ELAINE H. LYONS, SET FORTH AND DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 2741, PAGE 466, TO WIT:

A TRACT OF PARCEL OF LAND LYING IN THE SOUTH HALF (\$1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (\$E 1/4) OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 23, EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND CONCRETE POST (TOP BROKEN) MARKING THE SOUTH QUARTER (\$ 1/4) CORNER OF SAID SECTION 20; THENCE NORTH 01 DEG.21'59" WEST ALONG THE WEST LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF SAID SECTION 20 FOR 1330.47 FEET TO THE SOUTHWEST CORNER OF THE SOUTH HALF (S 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST OUARTER (SE 1/4) OF SAID SECTION 20; THENCE SOUTH 89 DEG.44'56" EAST ALONG THE SOUTH LINE OF SAID FRACTION OF A SECTION FOR 30.01 FEET TO THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL "A"; THENCE NORTH 01 DEG.21'59" WEST ALONG A LINE PARALLEL TO AND 30.00 FEET EAST OF (AS MEASURED AT RIGHT ANGLES) THE WEST LINE OF SAID FRACTION OF A SECTION FOR 665.23 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTH HALF (S 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SAID SECTION 20; THENCE SOUTH 89 DEG.44'04" EAST ALONG SAID NORTH LINE FOR 1292.94 FEET TO A FOUND IRON PIN 5/8" DIAMETER, STAMPED LB 597 AND MARKING THE NORTHEAST CORNER OF SAID FRACTION OF A SECTION; THENCE SOUTH 01 DEG.42'22" EAST ALONG THE EAST LINE OF SAID FRACTION OF A SECTION FOR 415.03 FEET; THENCE NORTH 89 DEG.44'56" WEST FOR 889.50 FEET; THENCE SOUTH 01 DEG.42'22" EAST FOR 250.00 FEET TO THE SOUTH LINE OF SAID FRACTION OF A SECTION; THENCE NORTH 89 DEG.44'56" WEST FOR 407.37 FEET TO THE POINT OF BEGINNING.



EXHIBIT C

LEGAL DESCRIPTION

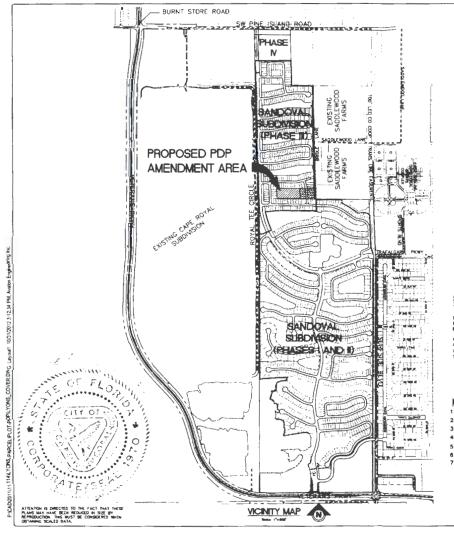
PARCEL IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S 00° 13' 25" W ALONG THE EAST LINE OF SAID SECTION FOR 2842.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 29; THENCE CONTINUE S 00° 13' 25" W ALONG SAID EAST LINE FOR 2718.13 FEET TO AN INTERSECTION WITH THE NORTH LINE OF BURNT STORE ROAD EXTENSION AS RECORDED IN OFFICIAL RECORD BOOK 2910 BEGINNING AT PAGE 2499 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S 89° 35' 38" W ALONG THE NORTH LINE OF SAID BURNT STORE ROAD EXTENSION FOR 2492.55 FEET TO A POINT OF CURVATURE; THENCE RUN WESTERLY AND NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 1565.02 FEET (CHORD BEARING N 87° 10' 59" W) (CHORD 175.99 FEET) (DELTA 06° 26' 47" FOR 176.08 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 29; THENCE RUN N 00° 12' 40" E ALONG SAID WEST LINE FOR 5591.35 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 29; THENCE RUN N 01° 06' 44" W ALONG THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 20 FOR 5303.23 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF PINE ISLAND ROAD (66 FEET WIDE); THENCE RUN S 89° 37' 42" E ALONG SAID SOUTH LINE FOR 836.18 FEET; THENCE RUN S 01° 06' 44" E FOR 1303.89 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTH HALF (S-1/2) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 29' 26" E ALONG SAID NORTH LINE FOR 497.56 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER (SW-1/4) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 00° 28' 44" E ALONG THE EAST LINE OF SAID FRACTION FOR 1337.80 FEET; THENCE RUN S 01° 27' 05" E ALONG THE EAST LINE OF THE NORTHWEST QUARTER (NW-1/4 OF THE SOUTHEAST OUARTER (SE-1/4) OF SAID SECTION 20 FOR 13.31.38 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL AND SAID FRACTION; BEING ALSO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 26' 26" E ALONG THE SOUTH LINE OF SAID FRACTION FOR 1326.90 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID SECTION 20; THENCE RUN S 01° 47' 29" E ALONG SAID EAST LINE FOR 1329.58 FEET TO THE POINT OF BEGINNING.

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DESCRIBED PARCEL CONTAINS 529.35 ACRES, MORE OR LESS.







PHASE III - PDP AMENDMENT MASTER PLANS

Sandoval

CAPE CORAL, FLORIDA

(AMENDMENT INCLUDES SUBDIVISION OF 5.104 Ac. ± INTO A 2.9 Ac. ± LAKE, 0.3 Ac.± R/W, 1.8 Ac.± OF CONJOINED RESIDENTIAL LOTS AND RECONFIGURATION OF LOTS & R/W IN TRACTS 116 & 117.)

SANDOVAL DEVELOPMENT:

TOTAL POP PROJECT AREA:	
(EXISTING POP: 524.24 AC.z)	(ADDITIONAL 5.104 AC.a)
EXIST. PHASE 1:	225.27 Ac.± (42.6%)
EXIST. PHASE 11:	178.52 Ac.± (33.7%)
PHASE 111:	103.58 Ac.± (18.6%)
(EXISTING POP: 98 472 AL ±)	(ADDITIONAL 5.104 AC ±)
PHASE IV:	10.35 Ac.± (2.0%)
PINE ISLAND ROAD R/W	2,25 Ac. ± (0.4%)
CITY R/W PARCEL .:	1.25 Ac.± (0.2%)
SURFSIDE BLVD.	8 13 Ac ± (1.5%)

INDEX OF SHEETS

- 1 COVER SHEET
- 2 EXISTING SITE CONDITIONS
- MASTER SUBDIVISION PLAN
- MASTER SITE LAYOUT PLAN
- MASTER DRAINAGE PLAN TYPICAL SECTIONS
- MASTER UTILITY PLAN
 - SURVEY (BY DTHERS)

EXISTING PHASE III SITE INFORMATION:

LOCATION: SANDOVAL TRACTS 118 THRU 120
FORBERTY KNOWN AS "VETERAN'S PARKNAY WEST"
SECTIONS 20, TOMOSHIP 44 S, RANGE 23 E
SOUTH OF PINE ISLAND ROAD, NORTH OF VETERAN'S
PROMY EXTENSION, EAST OF CAPE ROYAL SUBDIVISION
AND WEST OF SURFSIDE BLYD.

EXISTING ZONING. CORRIDOR
FUTURE LAND USE: PIRD
FLOOD ZONE: RE-8 (EL 8 0'NAVD)
FINISH FLOOR ELEV.: MIN. ELEV. #8.0'NAVD (APPROX. 9.2'NGVD)
DEVELOPMENT TYPE: MIRED USE
BUILDING USANES: RESIDENTIAL
RESIDENTIAL BUILDING HELPOTTS: PER CODE
MAX. D.U. 515
CONSTRUCTION TYPE. MASTER PLAN APPROVAL ONLY

PHASE III AMENDED POP SITE DATA:

PHASE II AMENIA 4.511, 180 S.F. 10.3 S.B.AC.± (100X)

[EXISTING PROF. 18 517 24.3] (A00110MA, 5:104.45.4)

[EXISTING PROF. 18 517 24.3] (A00110MA, 5:104.45.4)

[EXISTING PROF. 627.514.57] (A00110MA, 128, 286.57)

[EXISTING PROF. 627.514.57] (A00110MA, 128, 286.57)

[EXISTING PROF. 627.514.57] (A00110MA, 128, 286.57)

[EXISTING PROF. 189, 111.57] (A00110MA, 13, 184.57, 347.0)

[EXISTING PROF. 189, 111.57] (A00110MA, 10, 174.57)

[EXISTING PROF. 23.6,00.57] (A00110MA, 10, 174.57)

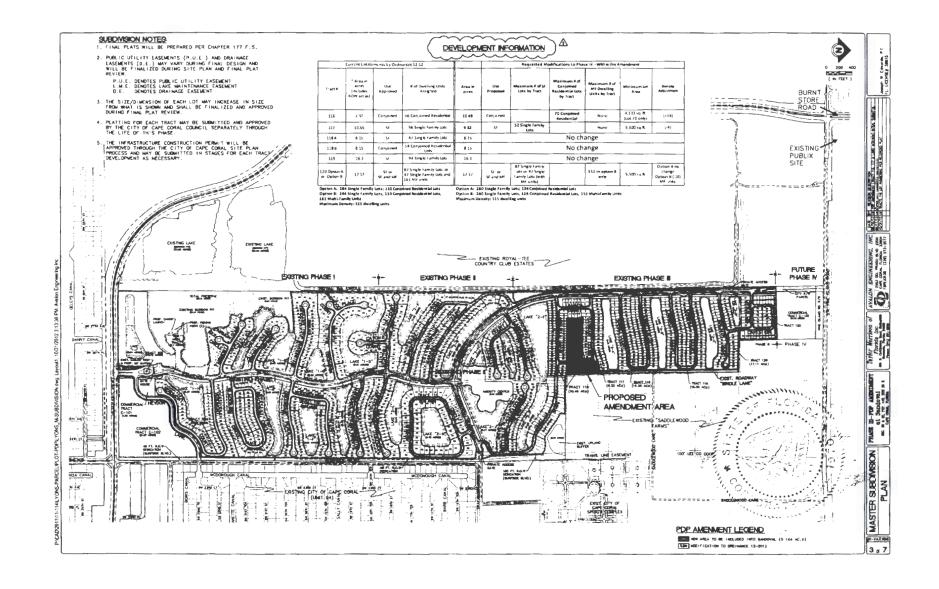
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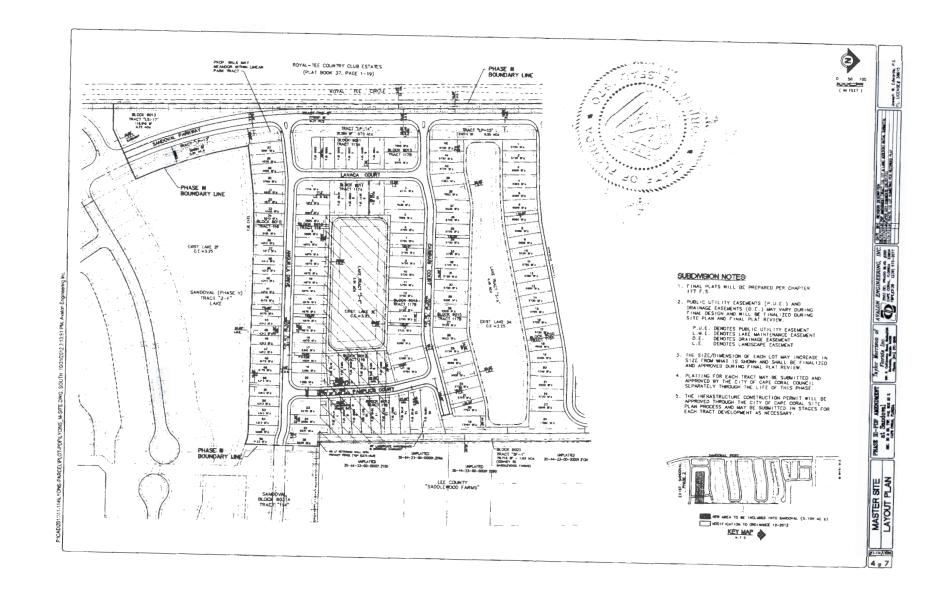
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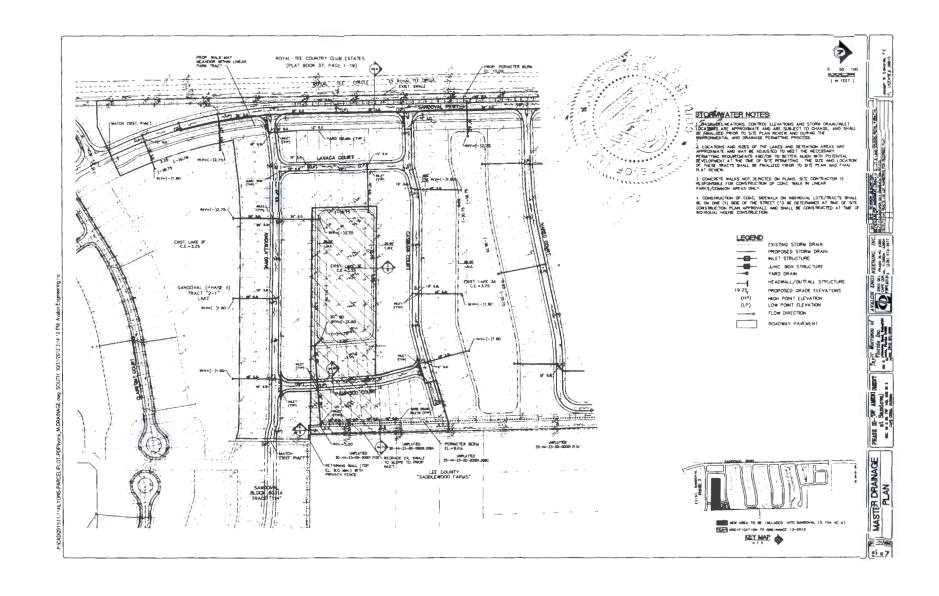
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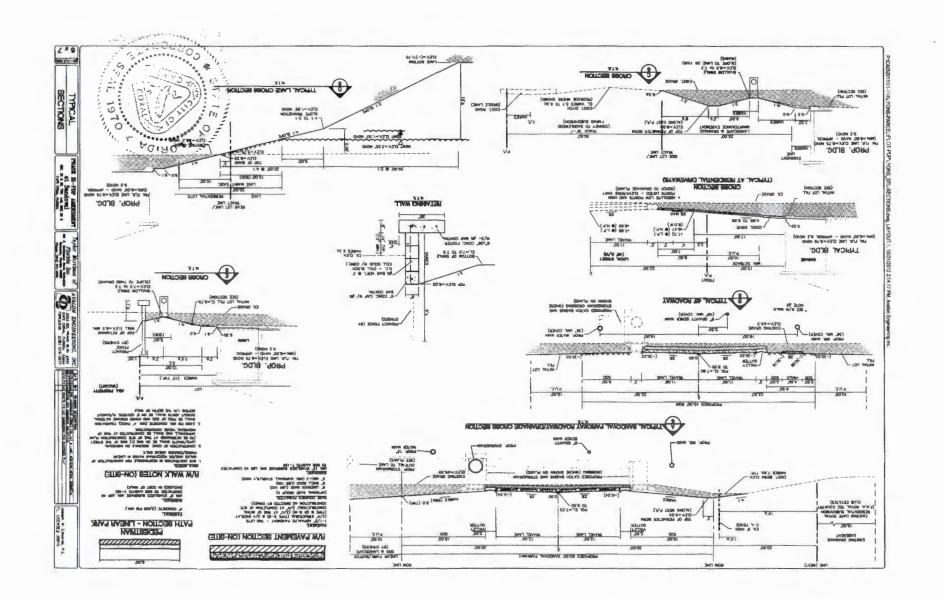
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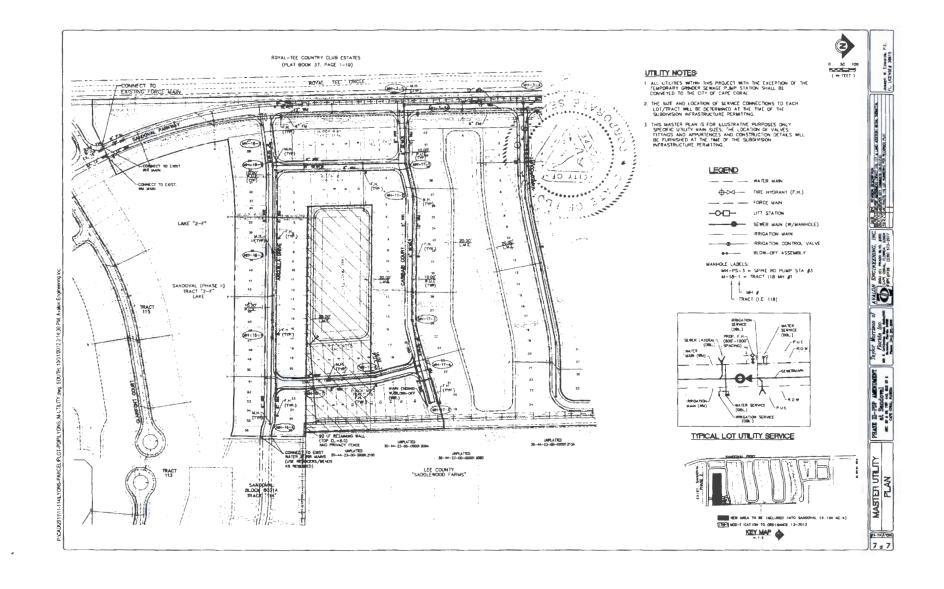












PDP 15-0001

ORDINANCE 31 - 15

AN ORDINANCE AMENDING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "SANDOVAL PDP AMENDMENT FOR PHASE IV" FOR CERTAIN PROPERTY DESCRIBED AS A PARCEL OF LAND LOCATED IN SECTION 20, TOWNSHIP 44, RANGE 23 EAST, CAPE CORAL, LEE COUNTY, FLORIDA AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED BETWEEN PINE ISLAND ROAD AND VETERANS PARKWAY WEST, WEST OF SURFSIDE BOULEVARD AND EAST OF CAPE ROYAL (FORMERLY KNOWN AS ROYAL TEE); GRANTING APPROVAL TO AMEND THE TYPE OF DEVELOPMENT, ALLOWING EITHER COMMERCIAL, MULTI-FAMILY, OR MIXED USE FOR PHASE IV; GRANTING DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Veterans Parkway West (aka Bonita Bay)" Planned Development Project was approved on by the City Council of the City of Cape Coral by Ordinance 31-04, as amended by Ordinance 143-06, Ordinance 156-07, Ordinance 77-10, Ordinance 12-12 and Ordinance 4-13; and

WHEREAS, an application from Cape Coral Development Associates, LLC, has been received requesting amendment of a Planned Development Project (PDP) for "Sandoval PDP Amendment for Phase IV"; requesting to amend the type of development allowed for Phase IV and development plan approval; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I. PDP APPROVAL.

Having reviewed the application requesting approval for an amendment of a Planned Development Project for "Sandoval Amendment for Phase IV" PDP, requesting amendment of Ordinance 31-04, requesting to allow three (3) development options for Phase IV: Option 1 would allow 83,500 square feet of commercial development, Option 2 would allow 186 multi-family dwelling units, Option 3 would allow a mixture of commercial and multi-family dwelling units; and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP approval, and approve development plan in accordance with plan set, Sheets 1 through 5, dated January 20, 2015, and also bearing a revision date of April 23 2015, prepared by Avalon Engineering, Inc., for purposes of development plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

A. The "Veteran's Parkway West (aka Bonita Bay)" development is a mixed-use Planned Development Project (PDP) that was approved by Ordinance 31-04, as amended by Ordinance 143-06, Ordinance 156-07, Ordinance 77-10, Ordinance 12-12 and Ordinance 4
13. The PDP approved the construction of 1,081 single-family units, 488 multi-family units, 310,000 square of retail uses and 10,000 square feet of office space. Ordinance 31-04 has

been amended several times resulting in the approval of 1,219 single-family dwelling units and 384 multi-family units.

Ordinance 31-04 required for Phase IV to be developed with a maximum of 83,500 square feet of commercial uses. The developer seeks approval to amend this requirement and be granted the ability to develop Phase IV with one of the following options:

- 1) Develop Phase IV with 83,500 square feet of commercial uses;
- Develop Phase IV with a maximum of 186 multi-family dwelling units;
- 3) Develop Phase IV as a mixed-use development with commercial square footage and multi-family dwelling units. The density or intensity of the development would determined by the requirements of the Cornidor district.
- B. The name of the legal and equitable owner is Cape Coral Development Associaties, LLC.
- C. The legal description of the property subject to the extant "Veteran's Parkway West (aka Bonita Bay)" PDP is as follows:

LEGAL DESCRIPTION

PARCEL IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S 00° 13' 25" W ALONG THE EAST LINE OF SAID SECTION FOR 2842.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 29; THENCE CONTINUE \$ 00° 13' 25" W ALONG SAID EAST LINE FOR 2718.13 FEET TO AN INTERSECTION WITH THE NORTH LINE OF BURNT STORE ROAD EXTENSION AS RECORDED IN OFFICIAL RECORD BOOK 2910 BEGINNING AT PAGE 2499 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S 89° 35' 38" W ALONG THE NORTH LINE OF SAID BURNT STORE ROAD EXTENSION FOR 2492.55 FEET TO A POINT OF CURVATURE; THENCE RUN WESTERLY AND NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 1565.02 FEET (CHORD BEARING N 87° 10' 59" W) (CHORD 175.99 FEET) (DELTA 06° 26' 47" FOR 176.08 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 29; THENCE RUN N 00° 12' 40" E ALONG SAID WEST LINE FOR 5591.35 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 29; THENCE RUN N 01° 06' 44" W ALONG THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 20 FOR 5303.23 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF PINE ISLAND ROAD (66 FEET WIDE); THENCE RUN S 89° 37' 42" E ALONG SAID SOUTH LINE FOR 836.18 FEET; THENCE RUN S 01° 06' 44" E FOR 1303.89 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTH HALF (S-1/2) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 29' 26" E ALONG SAID NORTH LINE FOR 497.56 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER (SW-1/4) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 00° 28' 44" E ALONG THE EAST LINE OF SAID FRACTION FOR 1337.80 FEET; THENCE RUN S 01° 27' 05" E ALONG THE EAST LINE OF THE NORTHWEST QUARTER (NW-1/4 OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 1081.38 FEET TO A POINT ON SAID EAST LINE, BEING ALSO THE NORTHEAST CORNER OF A PARCEL OF LAND AS RECORDED IN OFFICIAL RECORD BOOK 1697 BEGINNING AT PAGE 3463 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N89°26'26"W ALONG THE NORTH LINE OF SAID PARCEL FOR 890.05 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE RUN S01°27'05"E ALONG THE WEST LINE OF SAID PARCEL FOR 250.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL, BEING ALSO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID

SECTION 20; THENCE RUN S89°26'26"E ALONG THE SOUTH LINE OF SAID PARCEL AND SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 890.05 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL AND SAID FRACTION; BEING ALSO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 26' 26" E ALONG THE SOUTH LINE OF SAID FRACTION FOR 1326.90 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID SECTION 20; THENCE RUN S 01° 47' 29" E ALONG SAID EAST LINE FOR 1329.58 FEET TO THE POINT OF BEGINNING.

SUBJECT TO: LEE COUNTY ELECTRIC COOPERATIVE TRANSMISSION LINE EASEMENT OVER AND ACROSS THE EAST 100 FEET OF THE SOUTHEAST QUARTER (SE-1/4) OF THE SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 20 AS RECORDED IN OFFICIAL RECORD BOOK 1473 BEGINNING AT PAGE 1799 OF SAID PUBLIC RECORDS.

DESCRIBED PARCEL CONTAINS 524.24 ACRES, MORE OR LESS.

D. The legal description of the portion of the property for which the "Sandoval PDP Amendment for Phase IV" PDP is being amended is as follows:

SANDOVAL PHASE IV - TRACT C-100 LEGAL DESCRIPTION

A PORTION OF THE NORTHEAST 1/4 OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA.

BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 20; THENCE ALONG THE WEST LINE OF SAID NORTHEAST 1/4, S01°06'31"E A DISTANCE OF 150.86 FEET; THENCE LEAVING SAID LINE RUN S89°36'38"E FOR 100.03 FEET TO THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING, RUN S89°36'38"E FOR 736.15 FEET TO THE WEST LINE OF THAT PARCEL DESCRIBED IN INSTRUMENT NUMBER 2010000267961 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN ALONG SAID LINE S01°06'44"E FOR 593.73 FEET; THENCE RUN S88°53'16"W FOR 750.95 FEET TO THE EAST LINE OF THAT RIGHT-OF-WAY PARCEL RECORDED IN INSTRUMENT NUMBER 2012000017805; THENCE RUN ALONG THE EAST SIDE OF SAID PARCEL THE FOLLOWING THREE (3) COURSES: N01°06'31"W FOR 440.40 FEET; N15°35'15"E FOR 52.21 FEET; N01°06'31"W FOR 122.62 FEET TO THE POINT OF BEGINNING.

CONTAINS 10.35 ACRES, MORE OR LESS.

- E. The "Sandoval PDP Amendment for Phase IV" PDP subject parcel has 10.35 acres zoned Corrdor (CORR), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 10.35 acres with a Future Land Use designation of Pine Island Road District (PIRD).
- F. All existing and future structures and uses, population density, building intensity, and building height shall conform to the respective provisions of the Corridor (CORR) zoning district of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- G. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.

- H. The "Sandoval PDP Amendment for Phase IV" PDP, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- I. The term Developer for purposes of this development order shall mean and refer to Cape Coral Development Associates, LLC, its successors in interest, lessees, and/or assigns.
- J. All provisions and conditions contained in Ordinance 31-04, as amended by Ordinance 143-06, Ordinance 156-07, Ordinance 77-10, Ordinance 12-12, and Ordinance 4-13 shall remain in full force and effect, except as otherwise stated in this Development Order.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the Planned Development Project application for development approval submitted by Cape Coral Development Associates, LLC, is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

A. GENERAL CONSIDERATIONS

- Prior to issuance of a permit, the Developer shall enter into an agreement, in a form
 acceptable to the City Attorney, regarding obligations resulting from landscaping
 located in utility easements.
- Future development within Phase IV shall provide pedestrian connectivity in the form of sidewalks and/or cross walks to Sandoval Phase III.
- Future development within Phase IV shall provide a Type "C" buffer along the southern boundary of Phase IV.
- Landscaping along Sandoval Parkway within Phase IV shall be consistent with the landscaping along Sandoval Parkway in Phase III.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the "Sandoval PDP Amendment for Phase IV" PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the PDP.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.
- F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such

approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.

- G. Subsequent requests for local development permits shall not require further review, unless it is found by the City Council, after due notice and hearing, that one or more substantial deviation(s), or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City have occurred. Substantial deviations include but are not limited to:
 - Any change which requires a variance to code and above those specifically incorporated herein.
 - An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or building square footage.
 - An expiration of the period of effectiveness of this Development Order as herein provided.
 - 4. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved, and all local approvals have been obtained.

- H. The physical development authorized under this Development Order shall terminate in ten years from the date of adoption of this Development Order, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- I. The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time, a final development report shall be submitted to the City.

K. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the City.

SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION VI. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 3rd DAY OF AUGUST, 2015.

VOTE OF MAYOR AND COUNCILMEMBERS

SAWICKI BURCH CARIOSCIA NESTA LEON ERBRICK WILLIAMS DONNELL

ATTESTED TO AND FILED IN MY OFFICE THIS 13th DAY OF August 2015.

CITY CLERK

APPROVED AS TO FORM:

DOLORES D. MENENDEZ CITY ATTORNEY

ore/PDP15-0001 Sandoval Phase IV Amendment 06/:10/15

I HEREBY CERTIFY that I am the and qualified Clerk of the City of City Florida and the keaper of the rec

Item

10.A.

Number:

Meeting

9/9/2019

Date:

Item Type:

UNFINISHED

BUSINESS

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Water Quality - Update

REQUESTED ACTION:

STRATEGIC PLAN INFO:

- 1. Will this action result in a Budget Amendment?
- 2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Water Quality Memo

PREPARED BY:

Division-Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description **Type**

Water Quality Memo **Backup Material**

MEMORANDUM

CITY OF CAPE CORAL PUBLIC WORKS DEPARTMENT

TO:

John Szerlag, City Manager

FROM:

Paul Clinghan, Public Works Director PR C

Michael Ilczyszyn, Senior Public Works Manager Maya Robert, Environmental Resources Manager MR

DATE:

September 6, 2019

SUBJECT: Lake Okeechobee Level and Release Information

As of Friday, September 6, 2019, the weekly average flows exceeded 2,597 cfs (approximately 7,000 cfs last week) at the Franklin Lock (S-79). Those high flows are lowering salinities and water clarity along the Caloosahatchee Estuary and therefore harmful to the health of the ecosystem. However, those high flows are only comprised of watershed runoffs occurring upstream of S-79. Water releases from Lake Okeechobee by the US Army Corps of Engineers are only being moved south. As of Friday, September 6, 2019, the Lake was receiving 6,841 cfs and releasing 1,523 cfs. The Lake level raised from 13.21 ft last week to 13.96, placing it in the Operational Management Band.

Blue Green Algae is still present in Lake Okeechobee and expanding. However, no toxins are present in recent water samples from either Lake Okeechobee or the Caloosahatchee River.

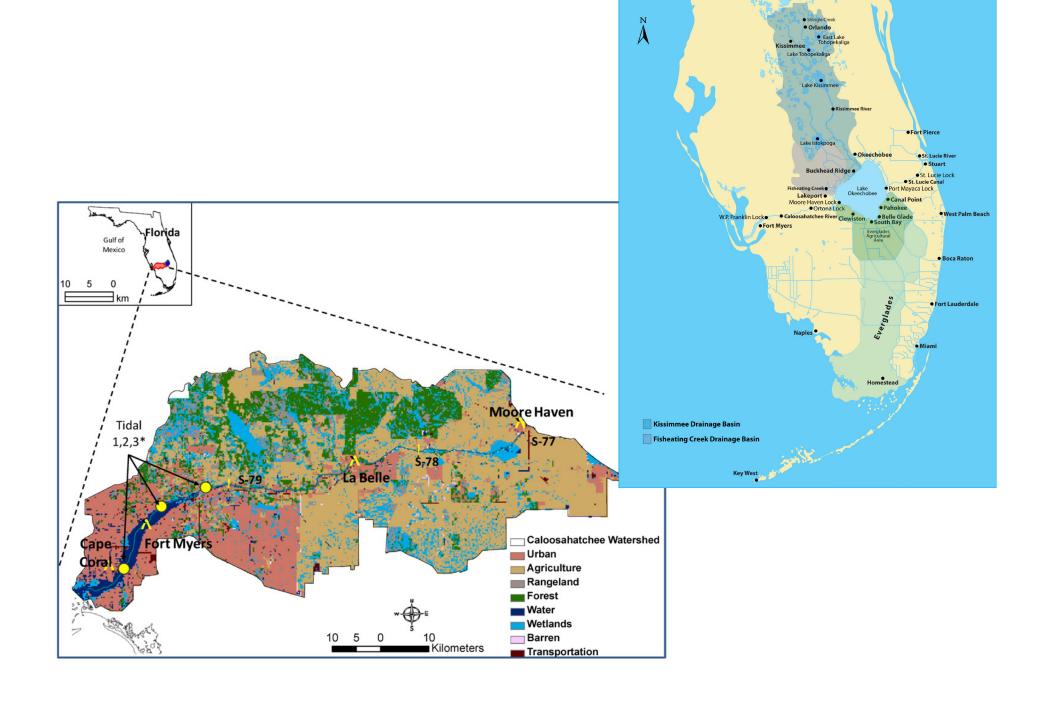
The Fertilizer Black-out Period per City Code began on June 1st and will continue until September 30th. Fertilizer containing nitrogen and phosphorus may not be applied during this time city-wide.

Several of our freshwater lakes and canals have had fragmented tape grass floating at the surface. This natural phenomenon is being addressed by the Lee County Hyacinth Control District in collaboration with City staff.

Red Tide was detected at background concentrations offshore in Lee County this week.

Attached is a map showing drainage basins of the Lake Okeechobee and the current Lake's inflows and outflows from the USACOE.

PC/MI:mr (Weekly Lake Okeechobee Level and Release Information) Attachments; Lake Okeechobee drainage basins, USACOE inflows and outflows report





Daily averages for 06 September 2019

Lake Okeechobee stage: 13.96 ft
Previous day: 13.97 ft
One week ago: 13.66 ft
(1965-2007 avg for today): 14.33 ft

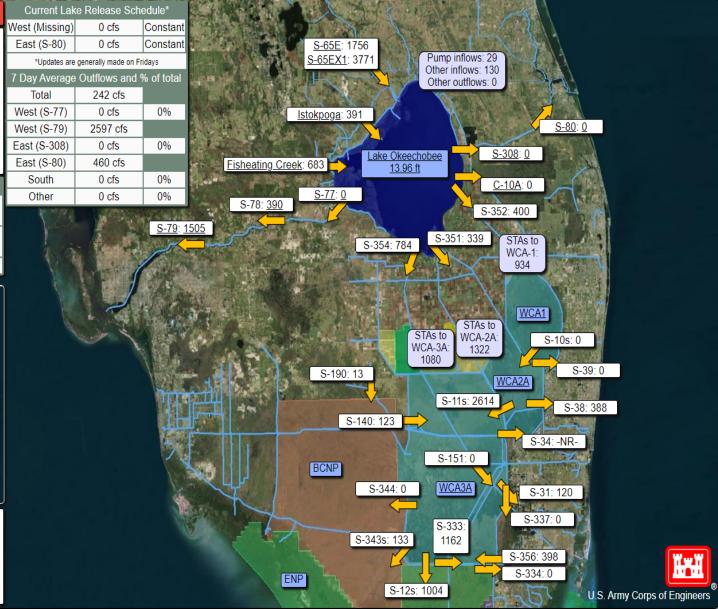
Total Structure/Creek Inflows: 6761 cfs Total Structure Outflow: 1523 cfs

Area	Stages (hover for notes)	Schedule
WCA-1	Site 1-8C: 16.36 ft 3-Station: 16.56 ft	17.08 ft
WCA-2A	Site 2-17: 13.25 ft S-11B HW: 11.86 ft	12.46 ft
WCA-3A	10.59 ft	9.63 ft



Water Management Main Page Status Update Archives

Elevations are ft-NGVD.
Flows are average daily CFS.
Data is provisional and subject to revision.
Report generated: 06 SEP 2019 @ 08:55



Item Number: 11.A. Meeting Date: 9/9/2019

Item Type: NEW BUSINESS

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 291-19 Master Interlocal Agreement Regarding Distribution of Local Option Gas Tax; Department: Public Works; Dollar Value: Approximately additional \$850,000 Per Year from Fiscal Year 2020-2023; (Fund: Six-cent and Five-cent Local Option Gas Tax)

REQUESTED ACTION:

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? Yes

2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of

the Strategic Plan?

ELEMENT B: ENHANCE FINANCIAL SUSTAINABILITY DURING ALL ECONOMIC TIMES

ELEMENT C: INVEST IN COMMUNITY INFRASTRUCTURE INCLUDING UTILITIES EXPANSION IMPROVEMENTS TO ENHANCE THE CITY'S ABILITY TO MEET THE NEEDS OF ITS CURRENT AND FUTURE RESIDENTS AND BUSINESSES

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

In May 1989, the City of Cape Coral entered into an Interlocal Agreement with Lee County to provide for the distribution of the six-cent and five-cent local option gas tax as a percentage of Cape Coral's population relative to Lee County's total population. As the population grew, the initial 17% City's share grew to the current 24.95% share.

In 2017, the City negotiated with the County to keep the 24.95% share fixed until December 31, 2023.

Currently, the six incorporated municipalities that receive a portion of the local option gas tax use different distribution formulas and time-frames.

For the past year, Lee County has been working on a Master Interlocal Agreement with all six jurisdictions to bring all parties under the same countywide formula and time-frame.

The new formula would increase Cape Coral's allocation from the current 24.95% to 29.68%. Lee County also would receive an increased allocation.

To help mitigate reduced allocations to Sanibel, Fort Myers and Fort Myers Beach, Cape Coral and Lee County would agree to contribute 2.39% and 2.40%, respectively, of their increased gas tax allocations to these municipalities.

Even with the mitigation, Cape Coral still will receive a significant increase to its share from the current 24.95% to 27.29%. The three-year Master Interlocal Agreement will increase Cape Coral's current distribution by approximately \$850,000/year starting January 1, 2020 until December 31, 2022 or \$2.55 million over the life of the agreement.

If the City chooses not to agree to the proposed Master Interlocal Agreement, the current allocation of 24.95% will remain in place until December 31, 2023, when a new Interlocal Agreement will have to be negotiated.

This Agreement can be effected only with concurrence of all parties. As such, the Agreement cannot be terminated or modified without the concurrence of all parties.

In absence of an Interlocal Agreement between the parties, Florida Statutes provide a default formula for distributing the local gas tax revenues. This default formula would not be favorable to the City of Cape Coral and would result in much less revenue than the City currently receives.

EXHIBITS:

Memo

Resolution 291-19

PREPARED BY:

Persides Zambrano, Public Works
Planning and Permitting

DivisionPlanning and
Permitting

DepartmentWorks

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description

☐ Memo
☐ Resolution 291-19
☐ Resolution
☐ Resolution

MEMORANDUM

CITY OF CAPE CORAL

TO:

Mayor Coviello and Council Members

FROM:

John Szerlag, City Manager

Connie Barron, Assistant City Manager

Paul Clinghan, Public Works Director PRG

Persides Zambrano, PW Planning and Permitting Manager

DATE:

September 4, 2019

SUBJECT:

Master Interlocal Agreement Regarding Distribution of Revenue

from Local Option Gas Tax

Recommendation

City Management recommends approval of the attached Master Interlocal Agreement finalizing the distribution of the proceeds from the six-cent and five-cent local option gas tax between Lee County, Cape Coral, Fort Myers, Sanibel, Bonita Springs, Town of Fort Myers Beach and Village of Estero.

This Master Interlocal Agreement will increase Cape Coral's current distribution by approximately \$850,000/year or \$2.55 million over the three-year life of the Agreement.

This Agreement can be effected only with concurrence of all parties. As such, the Agreement cannot be terminated or modified without the concurrence of all parties.

Background

In May 1989, the City of Cape Coral entered into an Interlocal Agreement with Lee County to provide for the distribution of the six-cent and five-cent local option gas tax. The distribution was calculated as a percentage of Cape Coral's population relative to Lee County's total population. As the population grew, the initial 17% of the City's share grew to the current 24.95% share.

In 2017, the City negotiated with the County to keep the 24.95% share fixed until December 31, 2023.

Mayor and Council - Master Interlocal Agreement - Local Option Gas Tax September 4, 2019 Page 2 of 2

Currently, five other jurisdictions have agreements with the County for distributing the proceeds using different distribution formulas and timeframes. For the past year, Lee County has been working on a Master Interlocal Agreement to bring the six jurisdictions under a common countywide formula and timeframe.

The new formula would increase Cape Coral's allocation from the current 24.95% to 29.68%. Lee County also would receive an increased allocation. To help mitigate reduced allocations to Sanibel, Fort Myers and Fort Myers Beach, Cape Coral and Lee County would agree to contribute 2.39% and 2.40%, respectively, of their increased gas tax allocations to these municipalities.

Even with the mitigation, Cape Coral still will receive a significant increase to its share from the current 24.95% to 27.29%. The three-year Master Interlocal Agreement will start January 1, 2020 and end December 31, 2022.

If the City chooses not to agree to the proposed Master Interlocal Agreement, the current allocation of 24.95% will remain in place until December 31, 2023, when a new Interlocal Agreement will have to be negotiated. This would cost the City approximately \$850,000/year for a total of \$2.55 million over three years.

In absence of an interlocal agreement between the parties, Florida Statutes provide a default formula for distributing the local gas tax revenues. This default formula would not be favorable to the City of Cape Coral and would result in much less revenue than the City currently receives.

Please know per Florida Statutes, the six-cent local option gas tax is to be used to fund transportation expenditures including maintenance, while the five-cent local option gas tax is to be used to fund projects that are in the City's Capital Improvement Plan.

Currently the local option gas tax revenue split is about 58% for the six-cent and 42% for the five-cent.

Please let us know if you have any questions.

JS/CB/PC/VB/PZ:sk

Attachments: Master Interlocal Agreement & Attachment A

Cc: Dolores Menendez, City Attorney

MASTER INTERLOCAL AGREEMENT REGARDING DISTRIBUTION FORMULA FOR ALLOCATION OF REVENUE FROM LOCAL OPTION FUEL TAX LEVIED PURSUANT TO SECTION 336.025(1)(a) AND 336.025(1)(b), FLORIDA STATUTES, AMONG LEE COUNTY, CITY OF BONITA SPRINGS, CITY OF CAPE CORAL, CITY OF FORT MYERS, CITY OF SANIBEL, TOWN OF FORT MYERS BEACH AND VILLAGE OF ESTERO

This Interlocal Agreement is entered into by and among: LEE COUNTY, a political subdivision of the State of Florida ("County"), CITY OF BONITA SPRINGS, CITY OF CAPE CORAL, CITY OF FORT MYERS, CITY OF SANIBEL, TOWN OF FORT MYERS BEACH, and VILLAGE OF ESTERO, all municipal corporations organized and existing under the laws of the State of Florida (collectively referred to as the "Municipalities") (County and Municipalities are collectively referred to as the "Parties").

RECITALS

WHEREAS, Section 336.025(1)(a), Florida Statutes, authorizes the County to levy and re-impose, in addition to other taxes allowed by law, a six-cent local option fuel tax, upon every gallon of motor fuel and special fuels sold in the county and taxed under Chapter 206, Florida Statutes; and

WHEREAS, Lee County adopted Ordinance 19-06 re-imposing the six-cent (6 cent) fuel tax becoming effective from September 1, 2019 to August 31, 2049; and

WHEREAS, Section 336.025(1)(b), Florida Statutes, authorizes the County to levy and re-impose an additional five-cent (5 cent) local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provision of Chapter 206, Florida Statute; and

WHEREAS, the County adopted Ordinance 19-07 re-imposing the additional five-cent (5 cent) fuel tax becoming effective from September 1, 2019 to August 31, 2049; and

WHEREAS, Section 336.025(1)(b)(2), Florida Statutes, authorizes the County to enter into interlocal agreements with one or more municipalities located therein, representing a majority of the population of the incorporated area within the county, setting forth a distribution formula for dividing the entire proceeds of the taxes among county government and all eligible municipalities within the county; and

WHEREAS, the County and Municipalities entered into Interlocal Agreements Relating to Local Option Fuel Tax that expire August 31, 2019, setting forth a formula for distribution of the six-cent and five-cent local option fuel tax; and

WHEREAS, the Municipalities desire to reestablish the Interlocal Agreement with each other and with the County in order to distribute the proceeds of the five-cent and six-cent local option fuel tax; and

NOW, THEREFORE, IN CONSIDERATION, of the mutual terms, understandings, conditions, premises and covenants hereinafter set forth, and pursuant to Section 336.025, Florida Statutes, the County and Municipalities hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and incorporated herein.

- 2. <u>Authority</u>. The County and Municipalities enter into this Interlocal Agreement pursuant to the authority provided by Section 336.025, Florida Statutes.
- 3. Scope of Agreement. This Agreement shall apply to the six-cent gas tax authorized in Section 336.025(1)(a), Florida Statutes, as well as the additional five-cent gas tax authorized by Section 336.025(1)(b), Florida Statutes.
- 4. <u>Effective Date.</u> This Agreement shall be effective and continue from and including September 1, 2019, through and including December 31, 2022.
- 5. <u>Existing Agreements</u>. The previous Agreements between the Parties relating to local option fuel tax or gas tax shall be terminated and be of no further force or effect and replaced by this Agreement upon its Effective Date.
- 6. <u>Distribution of Proceeds</u>. The County and Municipalities agree that from September 1, 2019 to December 31, 2019, the proceeds of the local option gas taxes will be distributed at the percentages in effect August 31, 2019. The County and Municipalities further agree that from January 1, 2020 to December 31, 2022, the proceeds of the local option gas taxes levied upon every gallon of motor fuel and diesel fuel sold in Lee County shall be distributed between the County and Municipalities using a blended percentage allocation of each entity's maintained centerline miles of roadways as a percent of total maintained roadways and each entity's population as a percentage of the county's total population. Centerline miles and population will be weighted 50%/50% for the blended percentage allocation (see Attachment A).
 - 6.1 The population figures for the Municipalities will be based upon the latest University of Florida Bureau of Economics and Business Research ("BEBR") population figures, pursuant to Section 336.025, Florida Statutes, as may be amended.
 - 6.2 The County shall forward the finalized allocation percentages to the State of Florida Department of Revenue for distributing the proceeds of the local option gas tax in accordance with the distribution formula established pursuant to this Agreement.
 - 6.3 Starting January 1, 2020, the City of Cape Coral and the County will contribute 2.39 percent and 2.40 percent, respectively, of their local gas tax allocation for a total of 4.79 percent to the City of Sanibel, City of Fort Myers, and Town of Fort Myers Beach 2.08% to Sanibel, 2.42% to Fort Myers, and 0.29% to Fort Myers Beach until December 31, 2022, to help mitigate the reduction in gas tax percentage to those cities based on the agreed upon formula. This means for the three years beginning January 1, 2020, Sanibel will receive a total of 3.5% gas tax, Fort Myers will receive a total 10.67% gas tax, and Fort Myers Beach will receive a total of 1.0% gas tax (see Attachment A).
 - 6.4 Any new municipality incorporated in the County during the term of this Agreement, which is eligible for participation in the distribution of the local option gas tax shall result in recalculation of the fifty percent (50%) of the proceeds based on the total population distribution among each Municipality and unincorporated Lee County, and fifty percent (50%) of the proceeds based upon centerline miles of roadway maintained by Lee County and each Municipality. Such redistribution shall become effective upon entering into an agreement with the new municipality.

- 6.5 The Parties agree and confirm that all Local Option Gas Tax proceeds, as distributed by the State pursuant to this Agreement, will be utilized for only those purposes and uses as provided for by law.
- 7. Ongoing Obligations. This Interlocal Agreement is expressly contingent upon the County's continued levy by County Ordinances of the Local Option Gas Taxes as authorized by law, for the term of this Agreement. If the County's Local Option Gas Tax, for any lawful reason(s), is repealed, sunset, or otherwise terminated by the County as to their effectiveness, this Interlocal Agreement will automatically terminate and shall be of no further force or effect.
- **8.** <u>Amendment To Agreement.</u> This Interlocal Agreement may be modified or terminated only by agreement in writing and approved by the Parties.
- 9. <u>Integration of Document</u>. This Interlocal Agreement, including any incorporated exhibits or amendments, constitutes the entire Agreement between the Parties and shall supersede and control over any or all prior Agreements or understandings, written or oral, relating to the matters herein.
- 10. <u>Notices</u>. Whenever any Party desires to give notice to any other Party or Parties, such notice must be in writing, mailed, and sent by email to the designated representative(s) of the respective Parties. Any Party may change its designated representative(s) for notice purposes by providing notice thereof to all other Parties in accordance with this paragraph.
- 11. <u>Counterparts</u>. This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall constitute an original, but such counterparts shall together constitute one and the same instrument.
- 12. <u>Ineligibility</u>. If, during the term of the imposition of this local option gas tax, any of the Municipalities become ineligible to receive a share of the proceeds of the local option gas tax for any reason, any funds otherwise undistributed because of such ineligibility shall be distributed by the Florida Department of Revenue to the remaining Municipalities in proportion to the distribution formula then in effect.

13. Miscellaneous.

- A. The Parties represent that they have full authority to enter into and execute this Interlocal Agreement.
- **B.** The terms and conditions of this Interlocal Agreement shall extend to and bind the successors and assigns of the County and the Municipalities.
- C. The drafting of this Interlocal Agreement has been a joint endeavor between the Parties and shall not, solely as a matter of judicial construction, be interpreted more strictly against one Party than the other.
- D. The invalidity of any provision hereof as may be found by a court of competent jurisdiction shall in no way affect or invalidate the remaining provisions of the Agreement.

- **E.** In no case shall the Parties be liable for either consequential or special damages of any kind whatsoever, including, but not limited to, lost revenues, or any other damages of any kind relating to this Agreement.
- F. Disputes arising under this Interlocal Agreement shall be resolved pursuant to Florida law. Venue shall be the Twentieth Judicial Circuit Court, in Lee County, Florida.

IN WITNESS WHEREOF, the Parties hereto have cause this Interlocal Agreement to be executed on the respective dates under each signature.

ATTEST: LINDA DOGGETT CLERK OF THE COURTS	BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA
By: Deputy Clerk	By: Brian Hamman, Acting Chair
	APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY:
	By: Office of the County Attorney
	Date:

ATTEST:	TOWN OF FORT MYERS BEACH
By: Clerk, Town of Fort Myers Beach	By: Anita T. Cereceda, Mayor
	APPROVED AS TO FORM:
	By: Town Attorney
	Date:

ATTEST:	CITY OF FORT MYERS
By: Clerk, City of Fort Myers	By: Randall Henderson, Jr., Mayor
	APPROVED AS TO FORM:
	By: City Attorney
	Date:

ATTEST:	CITY OF CAPE CORAL
By: Clerk, City of Cape Coral	By: Joe Coviello, Mayor
	APPROVED AS TO FORM:
	By: City Attorney
	Date:

ATTEST:	CITY OF BONITA SPRINGS
By: Clerk, City of Bonita Springs	By: Peter Simmons, Mayor
	APPROVED AS TO FORM:
	By: City Attorney
	Date:

ATTEST:	VILLAGE OF ESTERO
By: Clerk, Village of Estero	By: Steven Sarkozy, Village Manager
	APPROVED AS TO FORM:
	By: Village Attorney
	Date:

.

ATTEST:	CITY OF SANIBEL
By: Clerk, City of Sanibel	By: Judith A. Zimomra, City Manager
	APPROVED AS TO FORM:
	By:City Attorney
	Date:

ATTACHMENT A

LOCAL OPTION GAS TAX DISTRIBUTION									
	POPULATION 2019 BEBR		CENTERLINE MILES		BASED ON 50/50 SPLIT BETWEEN CENTERLINE MILES AND POPULATION	LEE COUNTY AND CAPE CORAL SUBSIDY TO FT MYERS AND SANIBEL	PROPOSED	CURRENT	CONTRACT END
	Population	Percent Allocation	Centerline Miles	Percent Allocation	Percent Allocation	Percent Adjustment	Percent Allocation	Percent Allocation	
Cape Coral	180,204	25.24	1,559.0	34.11	29.68	(2.39)	27.29	24.95	12/31/22
Fort Myers	81,868	11.47	230.0	5.03	8.25	2.42	10.67	14.00	12/31/22
Sanibel	6,701	0.94	86.9	1.90	1.42	2.08	3.50	5.00	12/31/22
Fort Myers Beach	6,406	0.90	23.9	0.52	0.71	0.29	1.00	1.17	12/31/22
Bonita Springs	51,181	7.17	86.7	1.90	4.53		4.53	4.54	12/31/22
Estero	31,806	4.46	26.9	0.59	2.52		2.52	2.54	12/31/22
Lee County	355,737	49.83	2,556.7	55.94	52.89	(2.40)	50.49	47.80	
	713,903	100.00	4,570	100.00	100.00	0.00	100.00	100.00	

RESOLUTION 291 - 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING THE MASTER INTERLOCAL AGREEMENT REGARDING DISTRIBUTION FORMULA FOR ALLOCATION OF REVENUE FROM LOCAL OPTION FUEL TAX LEVIED PURSUANT TO SECTION 336.025(1)(a) AND 336.025(1)(b), FLORIDA STATUTES, AMONG LEE COUNTY, CITY OF BONITA SPRINGS, CITY OF CAPE CORAL, CITY OF FORT MYERS, CITY OF SANIBEL, TOWN OF FORT MYERS BEACH AND VILLAGE OF ESTERO TO DISTRIBUTE THE PROCEEDS OF THE FIVE-CENT AND SIX-CENT LOCAL OPTION FUEL TAX; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Lee County provided for the imposition of a six-cent Local Option Gas Tax in Ordinance 89-21, and a five-cent Local Option Gas Tax in Ordinance 93-28; and

WHEREAS, the City entered into an Interlocal Agreement with Lee County dated May 31, 1989, and two subsequent agreements dated August 30, 1993 and June 1, 1994, providing for the distribution of local option gas taxes; and

WHEREAS, on August 21, 2017, the City Council adopted Resolution 152-17, extending the Interlocal Agreement for distribution of the gas tax proceeds to the City of Cape Coral through December 31, 2023, to engage in discussions to develop a fair and equitable distribution of gas tax proceeds throughout all of Lee County; and

WHEREAS, City Council desires to approve the Master Interlocal Agreement attached hereto as Exhibit 1 setting forth the formula for the distribution of the proceeds from the six-cent and five-cent local option gas taxes among Lee County and the six municipalities located within its boundaries.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby approves the Master Interlocal Agreement Regarding Distribution Formula for Allocation of Revenue from Local Option Fuel Tax Levied Pursuant to Section 336.025(1)(a) and 336.025(1)(b), Florida Statutes, among Lee County, City of Bonita Springs, City of Cape Coral, City of Fort Myers, City of Sanibel, Town of Fort Myers Beach and Village of Estero. A copy of the Interlocal Agreement is attached hereto as Exhibit 1.

Section 2. The City Council hereby authorizes the Mayor to execute the Interlocal Agreement.

Section 3. This Resolution shall take effect immediately upon its adoption.

		F THE CITY OF CAPE CORAL AT ITS REGULAR OF, 2019.
		JOE COVIELLO, MAYOR
VOTE OF MAY	OR AND COUNCILMEN	ABERS:
COVIELLO GUNTER CARIÓSCIA STOUT	AND EILED IN MY OF	NELSON STOKES WILLIAMS COSDEN FICE THIS DAY OF
2019.	AND FILED IN MY OF.	FICE THIS,
		KIMBERLY BRUNS CITY CLERK

APPROVED AS TO FORM:

DOLORES D. MENEND CITY ATTORNEY

res\Interlocal-Gas Tax

MASTER INTERLOCAL AGREEMENT REGARDING DISTRIBUTION FORMULA FOR ALLOCATION OF REVENUE FROM LOCAL OPTION FUEL TAX LEVIED PURSUANT TO SECTION 336.025(1)(a) AND 336.025(1)(b), FLORIDA STATUTES, AMONG LEE COUNTY, CITY OF BONITA SPRINGS, CITY OF CAPE CORAL, CITY OF FORT MYERS, CITY OF SANIBEL, TOWN OF FORT MYERS BEACH AND VILLAGE OF ESTERO

This Interlocal Agreement is entered into by and among: LEE COUNTY, a political subdivision of the State of Florida ("County"), CITY OF BONITA SPRINGS, CITY OF CAPE CORAL, CITY OF FORT MYERS, CITY OF SANIBEL, TOWN OF FORT MYERS BEACH, and VILLAGE OF ESTERO, all municipal corporations organized and existing under the laws of the State of Florida (collectively referred to as the "Municipalities") (County and Municipalities are collectively referred to as the "Parties").

RECITALS

WHEREAS, Section 336.025(1)(a), Florida Statutes, authorizes the County to levy and re-impose, in addition to other taxes allowed by law, a six-cent local option fuel tax, upon every gallon of motor fuel and special fuels sold in the county and taxed under Chapter 206, Florida Statutes; and

WHEREAS, Lee County adopted Ordinance 19-06 re-imposing the six-cent (6 cent) fuel tax becoming effective from September 1, 2019 to August 31, 2049; and

WHEREAS, Section 336.025(1)(b), Florida Statutes, authorizes the County to levy and re-impose an additional five-cent (5 cent) local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provision of Chapter 206, Florida Statute; and

WHEREAS, the County adopted Ordinance 19-07 re-imposing the additional five-cent (5 cent) fuel tax becoming effective from September 1, 2019 to August 31, 2049; and

WHEREAS, Section 336.025(1)(b)(2), Florida Statutes, authorizes the County to enter into interlocal agreements with one or more municipalities located therein, representing a majority of the population of the incorporated area within the county, setting forth a distribution formula for dividing the entire proceeds of the taxes among county government and all eligible municipalities within the county; and

WHEREAS, the County and Municipalities entered into Interlocal Agreements Relating to Local Option Fuel Tax that expire August 31, 2019, setting forth a formula for distribution of the six-cent and five-cent local option fuel tax; and

WHEREAS, the Municipalities desire to reestablish the Interlocal Agreement with each other and with the County in order to distribute the proceeds of the five-cent and six-cent local option fuel tax; and

NOW, THEREFORE, IN CONSIDERATION, of the mutual terms, understandings, conditions, premises and covenants hereinafter set forth, and pursuant to Section 336.025, Florida Statutes, the County and Municipalities hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and incorporated herein.

- **2.** <u>Authority</u>. The County and Municipalities enter into this Interlocal Agreement pursuant to the authority provided by Section 336.025, Florida Statutes.
- 3. Scope of Agreement. This Agreement shall apply to the six-cent gas tax authorized in Section 336.025(1)(a), Florida Statutes, as well as the additional five-cent gas tax authorized by Section 336.025(1)(b), Florida Statutes.
- 4. <u>Effective Date.</u> This Agreement shall be effective and continue from and including September 1, 2019, through and including December 31, 2022.
- 5. <u>Existing Agreements</u>. The previous Agreements between the Parties relating to local option fuel tax or gas tax shall be terminated and be of no further force or effect and replaced by this Agreement upon its Effective Date.
- 6. <u>Distribution of Proceeds</u>. The County and Municipalities agree that from September 1, 2019 to December 31, 2019, the proceeds of the local option gas taxes will be distributed at the percentages in effect August 31, 2019. The County and Municipalities further agree that from January 1, 2020 to December 31, 2022, the proceeds of the local option gas taxes levied upon every gallon of motor fuel and diesel fuel sold in Lee County shall be distributed between the County and Municipalities using a blended percentage allocation of each entity's maintained centerline miles of roadways as a percent of total maintained roadways and each entity's population as a percentage of the county's total population. Centerline miles and population will be weighted 50%/50% for the blended percentage allocation (see Attachment A).
 - 6.1 The population figures for the Municipalities will be based upon the latest University of Florida Bureau of Economics and Business Research ("BEBR") population figures, pursuant to Section 336.025, Florida Statutes, as may be amended.
 - 6.2 The County shall forward the finalized allocation percentages to the State of Florida Department of Revenue for distributing the proceeds of the local option gas tax in accordance with the distribution formula established pursuant to this Agreement.
 - 6.3 Starting January 1, 2020, the City of Cape Coral and the County will contribute 2.39 percent and 2.40 percent, respectively, of their local gas tax allocation for a total of 4.79 percent to the City of Sanibel, City of Fort Myers, and Town of Fort Myers Beach 2.08% to Sanibel, 2.42% to Fort Myers, and 0.29% to Fort Myers Beach until December 31, 2022, to help mitigate the reduction in gas tax percentage to those cities based on the agreed upon formula. This means for the three years beginning January 1, 2020, Sanibel will receive a total of 3.5% gas tax, Fort Myers will receive a total 10.67% gas tax, and Fort Myers Beach will receive a total of 1.0% gas tax (see Attachment A).
 - 6.4 Any new municipality incorporated in the County during the term of this Agreement, which is eligible for participation in the distribution of the local option gas tax shall result in recalculation of the fifty percent (50%) of the proceeds based on the total population distribution among each Municipality and unincorporated Lee County, and fifty percent (50%) of the proceeds based upon centerline miles of roadway maintained by Lee County and each Municipality. Such redistribution shall become effective upon entering into an agreement with the new municipality.

- 6.5 The Parties agree and confirm that all Local Option Gas Tax proceeds, as distributed by the State pursuant to this Agreement, will be utilized for only those purposes and uses as provided for by law.
- 7. Ongoing Obligations. This Interlocal Agreement is expressly contingent upon the County's continued levy by County Ordinances of the Local Option Gas Taxes as authorized by law, for the term of this Agreement. If the County's Local Option Gas Tax, for any lawful reason(s), is repealed, sunset, or otherwise terminated by the County as to their effectiveness, this Interlocal Agreement will automatically terminate and shall be of no further force or effect.
- **8.** <u>Amendment To Agreement</u>. This Interlocal Agreement may be modified or terminated only by agreement in writing and approved by the Parties.
- Integration of Document. This Interlocal Agreement, including any incorporated exhibits or amendments, constitutes the entire Agreement between the Parties and shall supersede and control over any or all prior Agreements or understandings, written or oral, relating to the matters herein.
- 10. <u>Notices</u>. Whenever any Party desires to give notice to any other Party or Parties, such notice must be in writing, mailed, and sent by email to the designated representative(s) of the respective Parties. Any Party may change its designated representative(s) for notice purposes by providing notice thereof to all other Parties in accordance with this paragraph.
- 11. <u>Counterparts</u>. This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall constitute an original, but such counterparts shall together constitute one and the same instrument.
- 12. <u>Ineligibility</u>. If, during the term of the imposition of this local option gas tax, any of the Municipalities become ineligible to receive a share of the proceeds of the local option gas tax for any reason, any funds otherwise undistributed because of such ineligibility shall be distributed by the Florida Department of Revenue to the remaining Municipalities in proportion to the distribution formula then in effect.

13. Miscellaneous.

- A. The Parties represent that they have full authority to enter into and execute this Interlocal Agreement.
- **B.** The terms and conditions of this Interlocal Agreement shall extend to and bind the successors and assigns of the County and the Municipalities.
- C. The drafting of this Interlocal Agreement has been a joint endeavor between the Parties and shall not, solely as a matter of judicial construction, be interpreted more strictly against one Party than the other.
- D. The invalidity of any provision hereof as may be found by a court of competent jurisdiction shall in no way affect or invalidate the remaining provisions of the Agreement.

- E. In no case shall the Parties be liable for either consequential or special damages of any kind whatsoever, including, but not limited to, lost revenues, or any other damages of any kind relating to this Agreement.
- F. Disputes arising under this Interlocal Agreement shall be resolved pursuant to Florida law. Venue shall be the Twentieth Judicial Circuit Court, in Lee County, Florida.

IN WITNESS WHEREOF, the Parties hereto have cause this Interlocal Agreement to be executed on the respective dates under each signature.

ATTEST: LINDA DOGGETT CLERK OF THE COURTS	BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA
By: Deputy Clerk	By: Brian Hamman, Acting Chair
	APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY:
	By: Office of the County Attorney
	Date:

ATTEST:	TOWN OF FORT MYERS BEACH
By: Clerk, Town of Fort Myers Beach	By: Anita T. Cereceda, Mayor
	APPROVED AS TO FORM:
	By: Town Attorney
	Date:

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ATTEST:	CITY OF FORT MYERS
By: Clerk, City of Fort Myers	By: Randall Henderson, Jr., Mayor
	APPROVED AS TO FORM:
	By:City Attorney
	Date:

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ATTEST:	CITY OF CAPE CORAL
By: Clerk, City of Cape Coral	By: Joe Coviello, Mayor
	APPROVED AS TO FORM: By: Gity Attorney Date: 9/4/7019

ATTEST:	CITY OF BONITA SPRINGS
By: Clerk, City of Bonita Springs	By: Peter Simmons, Mayor
	APPROVED AS TO FORM:
	By: City Attorney
	Date:

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ATTEST:	VILLAGE OF ESTERO				
By: Clerk, Village of Estero	By:* Steven Sarkozy, Village Manager				
	APPROVED AS TO FORM:				
	By: Village Attorney				
	Date:				

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ATTEST:	CITY OF SANIBEL
By: Clerk, City of Sanibel	By: Judith A. Zimomra, City Manager
	APPROVED AS TO FORM:
	By: City Attorney
	Date:

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ATTACHIVENT A

LOCAL OPTION GAS TAX DISTRIBUTION									
	POPULATION 2019 BEBR		CENTERLINE MILES		BASED ON 50/50 SPLIT BETWEEN CENTERLINE MILES AND POPULATION	LEE COUNTY AND CAPE CORAL SUBSIDY TO FT MYERS AND SANIBEL	PROPOSED	CURRENT	CONTRACT END
	Population	Percent Allocation	Centerline Miles	Percent Allocation	Percent Allocation	Percent Adjustment	Percent Allocation	Percent Allocation	
Cape Coral	180,204	25.24	1,559.0	34.11	29.68	(2.39)	27.29	24.95	12/31/22
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Fort Myers Beach	6,406	0.90	23.9	0.52	0.71	0.29	1.00	1.17	12/31/22
Bonita Springs	51,181	7.17	86.7	1.90	4.53		4.53	4.54	12/31/22
Estero	31,806	4.46	26.9	0.59	2.52		2.52	2.54	12/31/22
Lee County	355,737	49.83	2,556.7	55.94	52.89	(2.40)	50.49	47.80	
	713,903	100.00	4,570	100.00	100.00	0.00	100.00	100.00	