



**ORDINANCE NO. 02- 09**

**ORDINANCE ESTABLISHING THE FLOW WAY COMMUNITY DEVELOPMENT DISTRICT; ADOPTING FINDINGS OF FACT; PROVIDING FOR AUTHORITY; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; NAMING THE DISTRICT; RECOGNIZING GOVERNING LAWS; CONSENTING TO THE EXERCISE OF CERTAIN SPECIAL POWERS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.**

**FILED**  
2002 MAR -4 PM 3:19  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

**RECITALS**

WHEREAS, Mirasol Development, L.L.C. has petitioned the Board of County Commissioners (Board) of Collier County, Florida, a political subdivision of the State of Florida, to establish the FLOW WAY COMMUNITY DEVELOPMENT DISTRICT (District); and

WHEREAS, the Board of County Commissioners, after proper published notice conducted a public hearing on the petition and determined the following with respect to the factors to be considered in Section 190.005(1)(e), as required by Section 190.005(2)(c), Florida Statutes.

1. The petition is complete in that it meets the requirements of Section 190.005 (1) (a), Florida Statutes; and all statements contained within the petition are true and correct.
2. Establishment of the proposed District is not inconsistent with any applicable element or portion of the local comprehensive plan of Collier County, known as the Collier County Growth Management Plan, or the State Comprehensive Plan.
3. The area of land within the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.
4. The District is the best alternative available for delivering community development services and facilities to the area that will be serviced by the District.
5. The community development services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. The area that will be served by the District is amenable to separate special-district government; and

WHEREAS, it is the policy of the State, as provided in Section 190.002 (2) (c), Florida Statutes, that the exercise by any independent district of its powers as set forth by uniform general law comply with all applicable governmental laws, rules, regulations, and policies governing planning and permitting of the development to be served by the district, to ensure that neither the establishment nor operation of such district is a development order under Chapter 380, Florida Statutes, and that the district so established does not have any zoning or permitting powers governing development; and

WHEREAS, Section 190.004 (3), Florida Statutes, provides that all governmental planning, environmental, and land development laws, regulations, and ordinances apply to all development of the land within a community development district; and that a

district shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of local general purpose government; and

WHEREAS, pursuant to Section 190.012, Florida Statutes, the District's special powers are subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies and special districts having authority with respect to any area included therein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA that:

**SECTION ONE: FINDINGS OF FACT.**

The foregoing Recitals are hereby adopted as if fully set forth here as findings of facts which are determined by the Board to be true and correct.

**SECTION TWO: AUTHORITY FOR ORDINANCE.**

This Ordinance is adopted pursuant to Section 190.005 (2), Florida Statutes, and other applicable provisions of law governing county ordinances.

**SECTION THREE: ESTABLISHMENT OF THE FLOW WAY COMMUNITY DEVELOPMENT DISTRICT.**

The Flow Way Community Development District is hereby established within the boundaries of the real property described in Exhibit "A" attached hereto and incorporated by reference herein.

**SECTION FOUR: DESIGNATION OF INITIAL BOARD MEMBERS.**

The following five persons are herewith designated to be the initial members of the Board of Supervisors:

- |    |   |    |  |
|----|---|----|--|
| 1. | Christopher G. Claussen<br>2074 Sevilla Way<br>Naples, FL 34109       | 3. | Bruce Bowers<br>1205 Pocantico Lane<br>Naples, FL 34110        |
| 2. | Jack Sterling<br>3221 64 <sup>th</sup> Street, SW<br>Naples, FL 34105 | 4. | Mark Alderuccio<br>5425 Park Central Court<br>Naples, FL 34109 |
| 5. | Thomas Barrett<br>132-204 Pebble Shores Drive<br>Naples, FL 34110     |    |  |

**SECTION FIVE: DISTRICT NAME.**

The community development district herein established shall henceforth be known as the "Flow Way Community Development District."

**SECTION SIX: STATUTORY PROVISIONS GOVERNING DISTRICT.**

The Flow Way Community Development District shall be governed by the provisions of Chapter 190, Florida Statutes, and all other applicable general and local law.

**SECTION SEVEN: CONSENT TO SPECIAL POWERS.**

The Board specifically consents to the District's exercise of certain additional special powers to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for: (i) parks and facilities for indoor and outdoor recreational, cultural, and educational uses; and (ii) security,

including, but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; except that the District may not exercise any police power, but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the District boundaries; all as authorized and described by Section 190.012 (2)(a) and (d), Florida Statutes. The Board further recognizes the District's right to seek consent from Collier County for further additional special powers in accordance with Section 190.012(2), Florida Statutes.

**SECTION EIGHT: CONFLICT AND SEVERABILITY.**

In the event this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

**SECTION NINE: INCLUSION IN CODE OF LAWS AND ORDINANCES.**

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinances may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

**SECTION TEN: EFFECTIVE DATE.**

This Ordinance becomes effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 26th day of February, 2002.

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA



BY: *James N. Coletta*  
JAMES N. COLETTA, CHAIRMAN

By: *Ellie Hoffman, D. C.*  
DWIGHT E. BROCK, Deputy Clerk

Attest as to Chairman's signature only.

Approved as to Form  
And Legal Sufficiency:

*Patrick G. White*  
PATRICK G. WHITE,  
Assistant County Attorney

This ordinance filed with the Secretary of State's Office the 4th day of March, 2002 and acknowledgement of that filing received this 8th day of March, 2002  
By *Ellie Hoffman*  
Deputy Clerk

**BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA**

RE: PROPOSED ORDINANCE PURSUANT TO )  
SECTION 190.005 (2), FLORIDA STATUTES )  
TO ESTABLISH THE FLOW WAY )  
COMMUNITY DEVELOPMENT DISTRICT )  
\_\_\_\_\_ )

**PETITION TO ESTABLISH  
A COMMUNITY DEVELOPMENT DISTRICT**

MIRASOL DEVELOPMENT, L.L.C., (hereinafter "Petitioner"), by and through its undersigned attorney, hereby petitions the Collier County Board of County Commissioners to adopt an ordinance: establish and recognizing a Community Development District (hereinafter "District") pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended; acknowledging the uniform district charter contained in Sections 190.006 through 190.041 as provided by Section 190.004(4), Florida Statutes, establishing the District on the property described herein within which the District may manage and finance its basic infrastructure systems, facilities and services as provided in its charter; and designating the initial District Board of Supervisors. In support of this petition, Petitioner states:

1. Location and Size. The proposed District is located entirely within Collier County, Florida. Exhibit 1 depicts the general location of the project. The proposed district covers approximately 830 acres of land. The site is located in portions of Section 15 and Section 22, near the intersection of CR 951 and Immokalee Road. The metes and bounds description of the external boundaries of the District is set forth in Exhibit 2.

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2. Excluded Parcels. There are no parcels within the external boundaries of the proposed District, which are to be excluded from the District.

3. Landowner Consent. At the time of filing this Petition, all of the land to be included in the District is owned by IMCOLLIER Joint Venture. Petitioner has obtained written consent to establish the District in accordance with Section 190.005, F.S. Documentation of this consent is contained in Exhibit 3.

4. Initial Board Members. The five persons designated to serve as the initial members of the Board of Supervisors of the proposed District is as follows:

Christopher G. Claussen  
2074 Sevilla Way  
Naples, FL 34109

Jack Sterling  
3221 64<sup>th</sup> St. SW  
Naples, FL 34105

Bruce Bowers  
1205 Pocantico Lane  
Naples FL 34110

Mark Alderuccio  
5425 Park Central Court  
Naples, FL 34109

Thomas Barrett  
132-204 Pebble Shores Drive  
Naples, FL 34110

All of the above-listed persons are residents of the State of Florida, and citizens of the United States of America.

5. Name. The proposed name of the District is the "Flow Way Community Development District."

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6. Existing Zoning. Currently, the lands to be included within the District are zoned PUD. Neighboring lands are principally zoned PUD and AG, as shown in Exhibit 4.

7. Future Land Uses. The future general distribution, location, and extent of the public and private land uses proposed for the District by future land use plan element of the County's Future Land Use Plan is identified on Exhibit 5. The construction of approximately up to 799 residential dwelling units, recreational areas, 36 holes of golf, clubhouse, a swimming and fitness facility, a tennis facility, and a network of trails and parks are authorized for the portions of the development to be included within the District. Development is projected to occur over an estimated 8-year period. The proposed land uses for the lands contained within the proposed District are consistent with the approved Collier County Future Land Use Plan.

8. Major Water and Wastewater Facilities. Exhibit 6 shows the major trunk water mains and wastewater interceptors within the currently undeveloped lands proposed to be included within the District. A portion of the storm water run-off will be reclaimed for golf course irrigation. It is currently proposed that Collier County will provide water and sewer service to the lands within the District.

9. District Facilities and Services. Exhibit 7, attached hereto, depicts the type of facilities the Petitioner presently expects the District to finance, construct and install from approximately 2001-2008. The estimated costs of construction are also described in Exhibit 7. Actual construction timetables and expenditures will likely vary, due in part to the effects of future changes in the economic conditions upon costs such as labor services materials interest rates, and market conditions.

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10. Mitigation lands for the project in Sections 10 and 15 and to the east of Section 10. The District shall have the authority, pursuant to Section 190.012 (1)(f), Florida Statutes, to exercise all powers under the Act with regard to the mitigation lands depicted as the "Upland Preserve" and "Wetland Preserve" areas on attached Exhibit 8. These mitigation lands are in addition to the mitigation lands located within the boundaries of the District and perpetual maintenance and monitoring is required by the South Florida Water Management District as a condition of Environmental Resource Permit (Application No. 000518-10). These areas are necessary to construct the public and private land uses identified in Exhibit 5. The District shall comply with all the conditions in the permit issued pursuant to Application 000518-10 regarding the perpetual maintenance and monitoring of the mitigation areas as depicted in Exhibit 8.

11. Chain (or ribbon) of lakes. The District shall have the authority, pursuant to Section 190.012 (1)(a), Florida Statutes, to exercise all powers under the Act on the water management improvements depicted as the "Flow-Way Conveyance" on attached Exhibit 8. These water conveyance improvements provide the necessary legal positive outfall to drain the land uses within the District. These conveyances are also a condition for the issuance of the South Florida Water Management District to obtain the Environmental Resource Permits (Applications No. 000518-10, 010419-6 and 970923-12) required for the lands within the District. As part of the reasonable assurances granted to the South Florida Water Management District for the referenced Environmental Resource Permit applications, the District shall comply with all the necessary and required permit conditions in the permits associated with the referenced applications, requiring perpetual maintenance and operation of the Flow-Way

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Deleted: are required by the South Florida Water Management District to obtain the Environmental Resource Permit (Application No. 000518-10)

Deleted: The District will take all required action, including the maintenance of habitat and/or plant and animal species as required by this permit to offset any unavoidable environmental impacts resulting from development of the land uses in the District.

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Conveyance area as depicted in Exhibit 8. To insure that the District has the authority to exercise its powers on all of the water management improvements located outside the geographical boundaries of the District, it has been granted a Drainage Ingress/Egress and Maintenance Easement from the adjacent landowners (Olde Cypress Development, Ltd., and Robert Vocisano, Trustee) over which a portion of these water management improvements are located which is attached as Exhibit 8A. These entities are not located within nor a part of the District, however, in order for Petitioner and these adjacent landowners to obtain their Environmental Resource Permits, the District was required to accept responsibility over the maintenance responsibilities for the Flow-Way Conveyance set forth in Exhibit 8.

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Inserted: \_\_\_\_\_. To insure that the District has the authority to exercise its powers on all of the water management improvements located outside the geographical boundaries of the District, it has been granted a Drainage Ingress/Egress and Maintenance Easement from the adjacent landowners (Olde Cypress Development, Ltd., and Robert Vocisano, Trustee) over which a portion of these water management improvements are located

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12. Statement of Estimated Regulatory Costs. Exhibit 9 is the statement of estimated regulatory costs ("SERC") prepared in accordance with the requirements of Section 120.541, Florida Statutes (1997). The SERC is based upon presently available data. The data and methodology used in preparing the SERC, accompany it.

13. Authorized Agent. The Petitioner, Mirasol Development, L.L.C., a Florida Limited Liability Company, is authorized to do business in Florida. The authorized agent for the Petitioner is:

Robert G. Claussen  
6025 Carlton Lakes Blvd.  
Naples, FL 34110

See Exhibit 10 – Authorization of Agent. Copies of all correspondence and official notices should also be sent to:

Dr. Henry Fishkind  
Fishkind & Associates, Inc.  
11869 High Tech Avenue  
Orlando, FL 32817

And:

Page 5 of 8

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Ms. Neale Montgomery, Esq.  
Pavese, Haverfield, Dalton, Harrison, & Jensen, L.L.P.  
P.O. Drawer 1507  
Ft. Myers, FL 33902-1507

14. This petition to establish the Flow Way Community Development District should be granted for the following reasons:

A. Establishment of the District and all land used and services planned within the proposed District are not inconsistent with applicable elements or portions of the effective State Comprehensive Plan or the Collier County Comprehensive Plan.

B. The area of land within the proposed District is part of a planned community. It is of a sufficient size and is sufficiently compact and contiguous to be developed as one functional and interrelated community.

C. The establishment of the District will prevent the general body of taxpayers in Collier County from bearing the burden for installation of the infrastructure and the maintenance of certain facilities with the development encompassed by the District. The District is the best alternative for delivering community development service and facilities to the proposed community without imposing an additional burden on the general population of the local general-purpose government. Establishment of the District in conjunction with a comprehensively planned community, as proposed, allows for a more efficient use of resources.

D. The community development services and facilities of the District will not be incompatible with the capacity and use of existing local and regional

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community development services and facilities. In addition, the establishment of the District will provide a perpetual entity capable of making reasonable provisions for the operation and maintenance of the District's services and facilities.

E. The area to be served by the proposed District is amenable to separate special-district government.

WHEREFORE, Petitioner respectfully requests the County Commission of Collier County, Florida to:

1. Direct its staff to schedule a public hearing in accordance with the requirements of Section 190.005 (2) (b). Florida Statutes (1997);

2. Grant the petition and adopt an ordinance to establish the District pursuant to Chapter 190, Florida Statutes;

3. Consent to the District's exercise of certain additional powers to finance, fund, plan, establish, acquire, construct, reconstruct, enlarge or extend, equip, operate and maintain systems and facilities for: (i) parks and facilities for indoor and outdoor recreational, cultural, and educational uses, (ii) security, including, but not limited to, guard-houses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies, all as authorized and described by Section 190.012 (2), Florida Statutes.

RESPECTFULLY SUBMITTED this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

By: \_\_\_\_\_  
Neale Montgomery

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Pavese, Haverfield, Dalton,  
Harrison & Jensen, L.L.P.  
1833 Hendry Street  
P.O. Drawer 1507  
Fort Myers, FL 33902-1507  
Representatives for the Petitioner

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STATE OF FLORIDA)

COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

ORDINANCE 2002-09

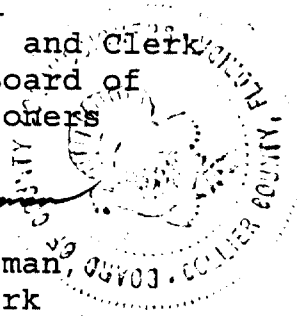
Which was adopted by the Board of County Commissioners on the 26th day of February, 2002, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 27th day of February, 2002.

DWIGHT E. BROCK  
Clerk of Courts and Clerk  
Ex-officio to Board of  
County Commissioners



By: Ellie Hoffman,  
Deputy Clerk





**COLLIER COUNTY GOVERNMENT**  
**COMMUNITY DEVELOPMENT AND ENVIRONMENTAL SERVICES DIVISION**

PLANNING SERVICES DEPARTMENT  
2800 NORTH HORSESHOE DRIVE  
NAPLES, FL 34104

April 29, 2002

Ms. Misty Pearson, Document Specialist  
Department of State, Collins Building  
Suite L 43  
107 West Gaines Street  
Tallahassee, Florida 32399-0250

**RE:** Resubmitted Flow Way Community Development District Ordinance.

Dear Ms. Pearson:

On February 26, 2002, the Collier County Board of County Commissioners approved Ordinance No. 02-09, establishing the "Flow Way Community Development District." This Ordinance was filed with your office on March 4, 2002. Unfortunately, the attachments for the Ordinance, as filed, were not correct. The attachments submitted to your office were a draft and were not the documents ultimately and actually approved by the Board of County Commissioners. Enclosed with this cover letter are the correct documents attached to a certified copy of the filed Ordinance.

It is staff's understanding that you will re-file the enclosed Ordinance and attachments and then provide a letter confirming the actions taken along with the re-filed documents. Please feel free to contact either Mr. White (number below), or myself, with any questions or comments regarding this re-filing request. As you will recall, our approach to resolving this error was agreed to by your office.

Please return the re-filed documents, and your letter detailing the actions you've taken pursuant to your office's usual procedures. Thank you for your efforts in this matter.

Sincerely,

Glenn E. Heath, AICP  
Principal Planner  
Comprehensive Planning Section

cc: w/o enclosure attachments

Mr. Patrick G. White, Assistant County Attorney (239) 659-5709  
Mr. Stan Litsinger, AICP, Planning Manager, Comprehensive Planning Section  
Ms. Ellie Hoffman, Senior Clerk, Minutes & Records, Clerk of Courts Office

**DIVISIONS OF FLORIDA DEPARTMENT OF STATE**

Office of the Secretary  
Division of Administrative Services  
Division of Corporations  
Division of Cultural Affairs  
Division of Elections  
Division of Historical Resources  
Division of Library and Information Services  
Division of Licensing

MEMBER OF THE FLORIDA CABINET



**FLORIDA DEPARTMENT OF STATE**

**Katherine Harris**

Secretary of State

DIVISION OF ELECTIONS

**HISTORIC PRESERVATION BOARDS**

Historic Florida Keys Preservation Board  
Historic Palm Beach County Preservation Board  
Historic Pensacola Preservation Board  
Historic St. Augustine Preservation Board  
Historic Tallahassee Preservation Board  
Historic Tampa/Hillsborough County  
Preservation Board

RINGLING MUSEUM OF ART



May 7, 2002

Honorable Dwight E. Brock  
Clerk to Board of Commissioners  
Collier County  
Post Office Box 413044  
Naples, Florida 34101-3044

Dear Mr. Brock:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated April 29, 2002 and corrected certified copy of Collier County Ordinance No. 2002-09, which was filed in this office on May 6, 2002.

As requested, the date stamped copy is being returned for your records.

Sincerely,

Handwritten signature of Liz Cloud in cursive.

Liz Cloud, Chief  
Bureau of Administrative Code

LC/mp

Enclosure

**BUREAU OF ADMINISTRATIVE CODE**

The Collins Building • 107 West Gaines Street • Tallahassee, Florida 32399-0250 • (850) 245-6270  
FAX: (850) 245-6282 • WWW Address: <http://www.dos.state.fl.us> • E-Mail: [election@mail.dos.state.fl.us](mailto:election@mail.dos.state.fl.us)

ORDINANCE NO. 02-09

ORDINANCE ESTABLISHING THE FLOW WAY COMMUNITY DEVELOPMENT DISTRICT; ADOPTING FINDINGS OF FACT; PROVIDING FOR AUTHORITY; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; NAMING THE DISTRICT; RECOGNIZING GOVERNING LAWS; CONSENTING TO THE EXERCISE OF CERTAIN SPECIAL POWERS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

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TALLAHASSEE, FLORIDA



RECITALS

WHEREAS, Mirasol Development, L.L.C. has petitioned the Board of County Commissioners (Board) of Collier County, Florida, a political subdivision of the State of Florida, to establish the FLOW WAY COMMUNITY DEVELOPMENT DISTRICT (District); and

WHEREAS, the Board of County Commissioners, after proper published notice conducted a public hearing on the petition and determined the following with respect to the factors to be considered in Section 190.005(1)(e), as required by Section 190.005(2)(c), Florida Statutes.

1. The petition is complete in that it meets the requirements of Section 190.005 (1) (a), Florida Statutes; and all statements contained within the petition are true and correct.
2. Establishment of the proposed District is not inconsistent with any applicable element or portion of the local comprehensive plan of Collier County, known as the Collier County Growth Management Plan, or the State Comprehensive Plan.
3. The area of land within the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.
4. The District is the best alternative available for delivering community development services and facilities to the area that will be serviced by the District.
5. The community development services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. The area that will be served by the District is amenable to separate special-district government; and

WHEREAS, it is the policy of the State, as provided in Section 190.002 (2) (c), Florida Statutes, that the exercise by any independent district of its powers as set forth by uniform general law comply with all applicable governmental laws, rules, regulations, and policies governing planning and permitting of the development to be served by the district, to ensure that neither the establishment nor operation of such district is a development order under Chapter 380, Florida Statutes, and that the district so established does not have any zoning or permitting powers governing development; and

WHEREAS, Section 190.004 (3), Florida Statutes, provides that all governmental planning, environmental, and land development laws, regulations, and ordinances apply to all development of the land within a community development district; and that a

district shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of local general purpose government; and

WHEREAS, pursuant to Section 190.012, Florida Statutes, the District's special powers are subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies and special districts having authority with respect to any area included therein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA that:

**SECTION ONE: FINDINGS OF FACT.**

The foregoing Recitals are hereby adopted as if fully set forth here as findings of facts which are determined by the Board to be true and correct.

**SECTION TWO: AUTHORITY FOR ORDINANCE.**

This Ordinance is adopted pursuant to Section 190.005 (2), Florida Statutes, and other applicable provisions of law governing county ordinances.

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The following five persons are herewith designated to be the initial members of the Board of Supervisors:

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including, but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; except that the District may not exercise any police power, but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the District boundaries; all as authorized and described by Section 190.012 (2)(a) and (d), Florida Statutes. The Board further recognizes the District's right to seek consent from Collier County for further additional special powers in accordance with Section 190.012(2), Florida Statutes.

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**SECTION TEN: EFFECTIVE DATE.**

This Ordinance becomes effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 26th day of February, 2002.

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA



BY: *James N. Coletta*  
JAMES N. COLETTA, CHAIRMAN

*Dwight E. Brock*  
DWIGHT E. BROCK, Deputy Clerk

Attest as to Chairman's signature only.

Approved as to Form  
And Legal Sufficiency:

*Patrick G. White*  
PATRICK G. WHITE,  
Assistant County Attorney

This ordinance filed with the Secretary of State's Office the 4th day of March, 2002 and acknowledgement of that filing received this 8th day of March, 2002  
By *Ellie Hoffman*  
Deputy Clerk

# PMS, Inc. of Naples

Project Management Services

February 15, 2002

Glenn Heath AICP  
Collier County Comprehensive Planning Services  
2800 North Horseshoe Drive  
Naples, FL 34104

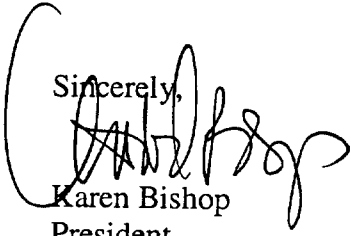
Re: Flow Way CDD – Revised Petition and Ordinance

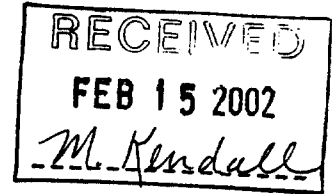
Dear Glenn:

Please find enclosed a revised petition and ordinance for the Flow Way CDD in accordance with our discussions at today's meeting. I have also included 9 copies of the complete petition package for distribution. Keep in mind that, while there is an original signed petition enclosed, the original consent form and original SERC are still in your files. If you could please incorporate those originals with the revised package, I would appreciate it.

If you have any questions or comments, please feel free to contact me.

Sincerely,

  
Karen Bishop  
President



2002 MAY -5 11 09 12  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

**BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA**

RE: PROPOSED ORDINANCE PURSUANT TO )  
SECTION 190.005 (2), FLORIDA STATUTES )  
TO ESTABLISH THE FLOW WAY )  
COMMUNITY DEVELOPMENT DISTRICT )  
\_\_\_\_\_ )

**PETITION TO ESTABLISH  
A COMMUNITY DEVELOPMENT DISTRICT**

MIRASOL DEVELOPMENT, L.L.C., (hereinafter "Petitioner"), by and through its undersigned attorney, hereby petitions the Collier County Board of County Commissioners to adopt an ordinance: 1) establishing and recognizing a Community Development District (hereinafter "District") pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended; 2) acknowledging the uniform district charter contained in Sections 190.006 through 190.041 as provided by Section 190.004(4), Florida Statutes, establishing the District on the property described herein within which the District may manage and finance its basic infrastructure systems, facilities and services as provided in its charter; and 3) designating the initial District Board of Supervisors. In support of this petition, Petitioner states:

1. Location and Size. The proposed District is located entirely within unincorporated Collier County, Florida. Exhibit 1 depicts the general location of the project. The proposed district covers approximately 830 acres of land. The site is

located in portions of Section 15 and Section 22, near the intersection of CR 951 and Immokalee Road. The metes and bounds description of the external boundaries of the District is set forth in Exhibit 2.

2. Excluded Parcels. There are no parcels within the external boundaries of the proposed District, which are to be excluded from the District.

3. Landowner Consent. At the time of filing this Petition, all of the land to be included in the District is owned by IMCOLLIER Joint Venture. Petitioner has obtained written consent to establish the District in accordance with Section 190.005, F.S. Documentation of this consent is contained in Exhibit 3.

4. Initial Board Members. The five persons designated to serve as the initial members of the Board of Supervisors of the proposed District is as follows:

Christopher G. Claussen  
2074 Sevilla Way  
Naples, FL 34109

Jack Sterling  
3221 64<sup>th</sup> St. SW  
Naples, FL 34105

Bruce Bowers  
1205 Pocantico Lane  
Naples FL 34110

Mark Alderuccio  
5425 Park Central Court  
Naples, FL 34109

Thomas Barrett  
132-204 Pebble Shores Drive  
Naples, FL 34110

All of the above-listed persons are residents of the State of Florida, and citizens of the United States of America.

5. Name. The proposed name of the District is the “Flow Way Community Development District.”

6. Existing Zoning. Currently, the lands to be included within the District are zoned PUD. Neighboring lands are principally zoned PUD and AG, as shown in Exhibit 4.

7. Future Land Uses. The future general distribution, location, and extent of the public and private land uses proposed for the District by future land use plan element of the County’s Future Land Use Plan is identified on Exhibit 5. The construction of approximately up to 799 residential dwelling units, recreational areas, 36 holes of golf, clubhouse, a swimming and fitness facility, a tennis facility, and a network of trails and parks are authorized for the portions of the development to be included within the District. Development is projected to occur over an estimated 8-year period. The proposed land uses for the lands contained within the proposed District are consistent with the approved Collier County Future Land Use Plan.

8. Major Water and Wastewater Facilities. Exhibit 6 shows the major trunk water mains and wastewater interceptors within the currently undeveloped lands proposed to be included within the District. A portion of the storm water run-off will be reclaimed for golf course irrigation. It is currently proposed that Collier County will provide water and sewer service to the lands within the District.

9. District Facilities and Services. Exhibit 7, attached hereto, depicts the type of facilities the Petitioner presently expects the District to finance, construct and install from approximately 2001-2008. The estimated costs of construction are also described in Exhibit 7. Actual construction timetables and expenditures will likely vary, due in part to the effects of future changes in the economic conditions upon costs such as labor services materials interest rates, and market conditions.

10. Mitigation lands for the project in Sections 10 and 15 and to the east of Section 10. The District shall have the authority, pursuant to Section 190.012 (1)(f), Florida Statutes, to exercise all powers under the Act with regard to the mitigation lands depicted as the “Upland Preserve” and “Wetland Preserve” areas on attached Exhibit 8. These mitigation lands are in addition to the mitigation lands located within the boundaries of the District and perpetual maintenance and monitoring is required by the South Florida Water Management District as a condition of Environmental Resource Permit (Application No. 000518-10). These areas are necessary to construct the public and private land uses identified in Exhibit 5. The District shall comply with all the conditions in the permit issued pursuant to Application 000518-10 regarding the perpetual maintenance and monitoring of the mitigation areas as depicted in Exhibit 8.

11. Chain (or ribbon) of lakes. The District shall have the authority, pursuant to Section 190.012 (1)(a), Florida Statutes, to exercise all powers under the Act on the water management improvements depicted as the “Flow Way Conveyance” on attached Exhibit 8. These water conveyance improvements provide the necessary legal positive outfall to drain the land uses within the District. These conveyances are also a condition

for the issuance of the South Florida Water Management District to obtain the Environmental Resource Permits (Applications No. 000518-10, 010419-6 and 970923-12) required for the lands within the District. As part of the reasonable assurances granted to the South Florida Water Management District for the referenced Environmental Resource Permit applications, the District shall comply with all the necessary and required permit conditions in the permits associated with the referenced applications, requiring perpetual maintenance and operation of the Flow Way Conveyance area as depicted in Exhibit 8. To insure that the District has the authority to exercise its powers on all of the water management improvements located outside the geographical boundaries of the District, it has been granted a Drainage Ingress/Egress and Maintenance Easement from the adjacent landowners (Olde Cypress Development, Ltd., and Robert Vocisano, Trustee) over which a portion of these water management improvements are located which is attached as Exhibit 8A. These entities are not located within nor a part of the District, however, in order for Petitioner and these adjacent landowners to obtain their Environmental Resource Permits, the District was required to accept responsibility over the maintenance responsibilities for the Flow Way Conveyance set forth in Exhibit 8.

12. Statement of Estimated Regulatory Costs. Exhibit 9 is the statement of estimated regulatory costs (“SERC”) prepared in accordance with the requirements of Section 120.541, Florida Statutes (1997). The SERC is based upon presently available data. The data and methodology used in preparing the SERC, accompany it.

13. Authorized Agent. The Petitioner, Mirasol Development, L.L.C., a Florida Limited Liability Company, is authorized to do business in Florida. The authorized agent for the Petitioner is:

Robert G. Claussen  
6025 Carlton Lakes Blvd.  
Naples, FL 34110

See Exhibit 10 – Authorization of Agent. Copies of all correspondence and official notices should also be sent to:

Dr. Henry Fishkind  
Fishkind & Associates, Inc.  
11869 High Tech Avenue  
Orlando, FL 32817

And:

Ms. Neale Montgomery, Esq.  
Pavese, Haverfield, Dalton, Harrison, & Jensen, L.L.P.  
P.O. Drawer 1507  
Ft. Myers, FL 33902-1507

14. This petition to establish the Flow Way Community Development District should be granted for the following reasons:

A. Establishment of the District and all land used and services planned within the proposed District are not inconsistent with applicable elements or portions of the effective State Comprehensive Plan or the Collier County Comprehensive Plan.

B. The area of land within the proposed District is part of a planned community. It is of a sufficient size and is sufficiently compact and contiguous to be developed as one functional and interrelated community.



C. The establishment of the District will prevent the general body of taxpayers in Collier County from bearing the burden for installation of the infrastructure and the maintenance of certain facilities with the development encompassed by the District. The District is the best alternative for delivering community development service and facilities to the proposed community without imposing an additional burden on the general population of the local general-purpose government. Establishment of the District in conjunction with a comprehensively planned community, as proposed, allows for a more efficient use of resources.

D. The community development services and facilities of the District will not be incompatible with the capacity and use of existing local and regional community development services and facilities. In addition, the establishment of the District will provide a perpetual entity capable of making reasonable provisions for the operation and maintenance of the District's services and facilities.

E. The area to be served by the proposed District is amenable to separate special-district government.

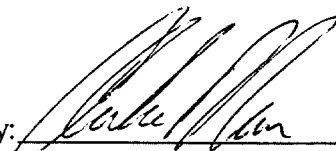
WHEREFORE, Petitioner respectfully requests the County Commission of Collier County, Florida to:

1. Direct its staff to schedule a public hearing in accordance with the requirements of Section 190.005 (2) (b). Florida Statutes (1997);

2. Grant the petition and adopt an ordinance to establish the District pursuant to Chapter 190, Florida Statutes;

3. Consent to the District's exercise of certain additional special powers to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain additional systems and facilities for: (i) parks and facilities for indoor and outdoor recreational, cultural, and educational uses; and (ii) security, including, but not limited to, guard-houses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; except that the district may not exercise any police power, but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the District boundaries, all as authorized and described by Section 190.012 (2)(a) and (d), Florida Statutes.

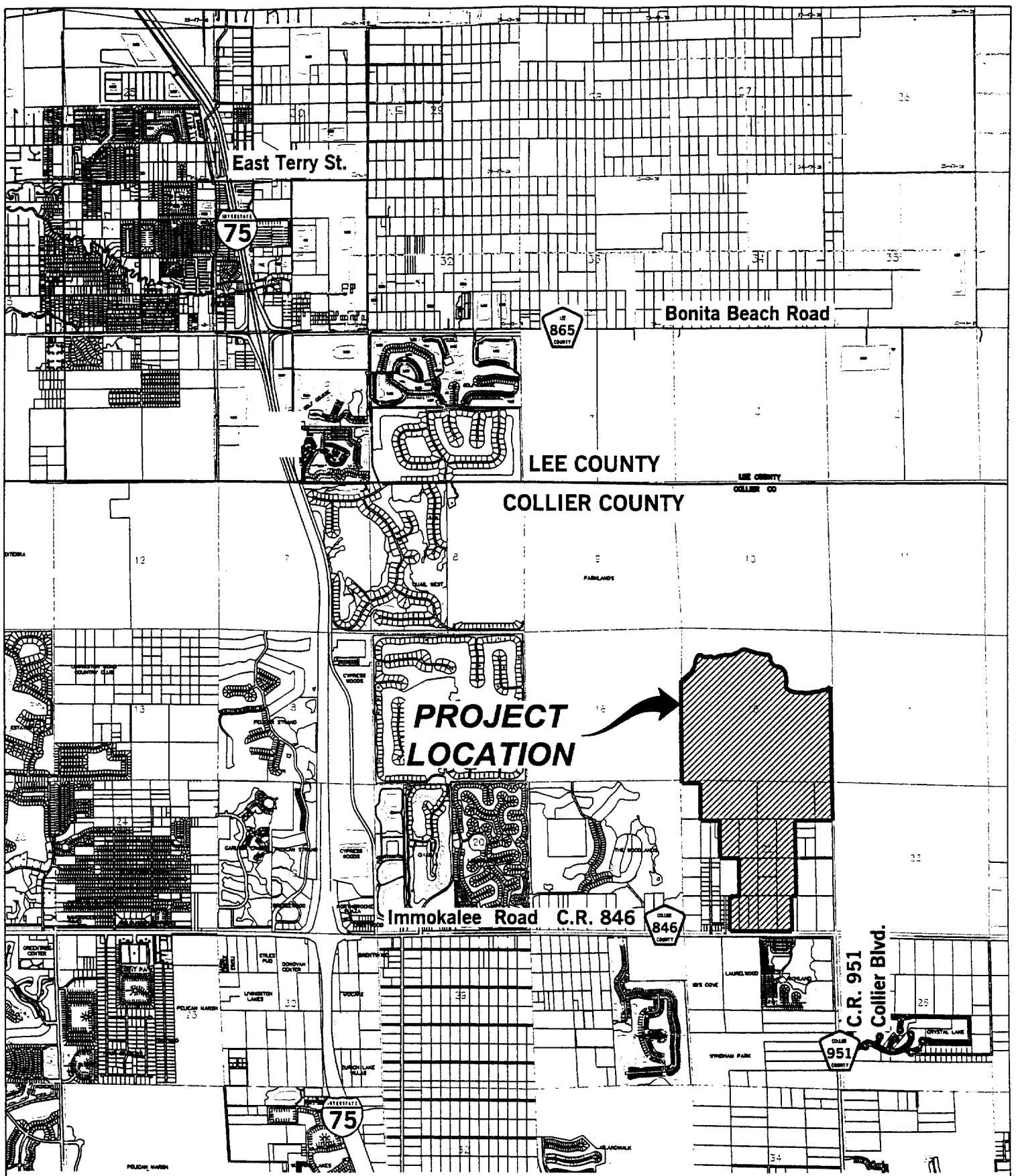
RESPECTFULLY SUBMITTED this 15<sup>th</sup> day of February,  
2002.

By:   
Charles Mann for  
Neale Montgomery  
Pavese, Haverfield, Dalton,  
Harrison & Jensen, L.L.P.  
1833 Hendry Street  
P.O. Drawer 1507  
Fort Myers, FL 33902-1507  
Representatives for the Petitioner

**List of Exhibits for  
PETITION TO ESTABLISH  
A COMMUNITY DEVELOPMENT DISTRICT (Flow Way CDD)**

- Exhibit 1, Depicts the general location of the project
- Exhibit 2, The metes and bounds description of the external boundaries of the district
- Exhibit 3, Documentation of consent of landowners
- Exhibit 4, A map showing existing land use and zoning information within and adjacent to the proposed District
- Exhibit 5, The future general distribution, location, and extent of the public and Private land uses proposed for the District by future land use plan element of the County's Future Land Use Plan
- Exhibit 6, Major trunk water mains and wastewater interceptors within the currently undeveloped lands proposed to be included within the District
- Exhibit 7, Depiction of type of facilities to be built, and estimated timetable and costs of construction
- Exhibit 8, Mitigation Lands, Water management improvements
- Exhibit 8A, Drainage, Ingress/Egress and Maintenance Easement
- Exhibit 9, Statement of estimated regulatory costs ("SERC") prepared in accordance with the requirements of Section 120.541, Florida Statutes (1997)
- Exhibit 10, Authorization of agent

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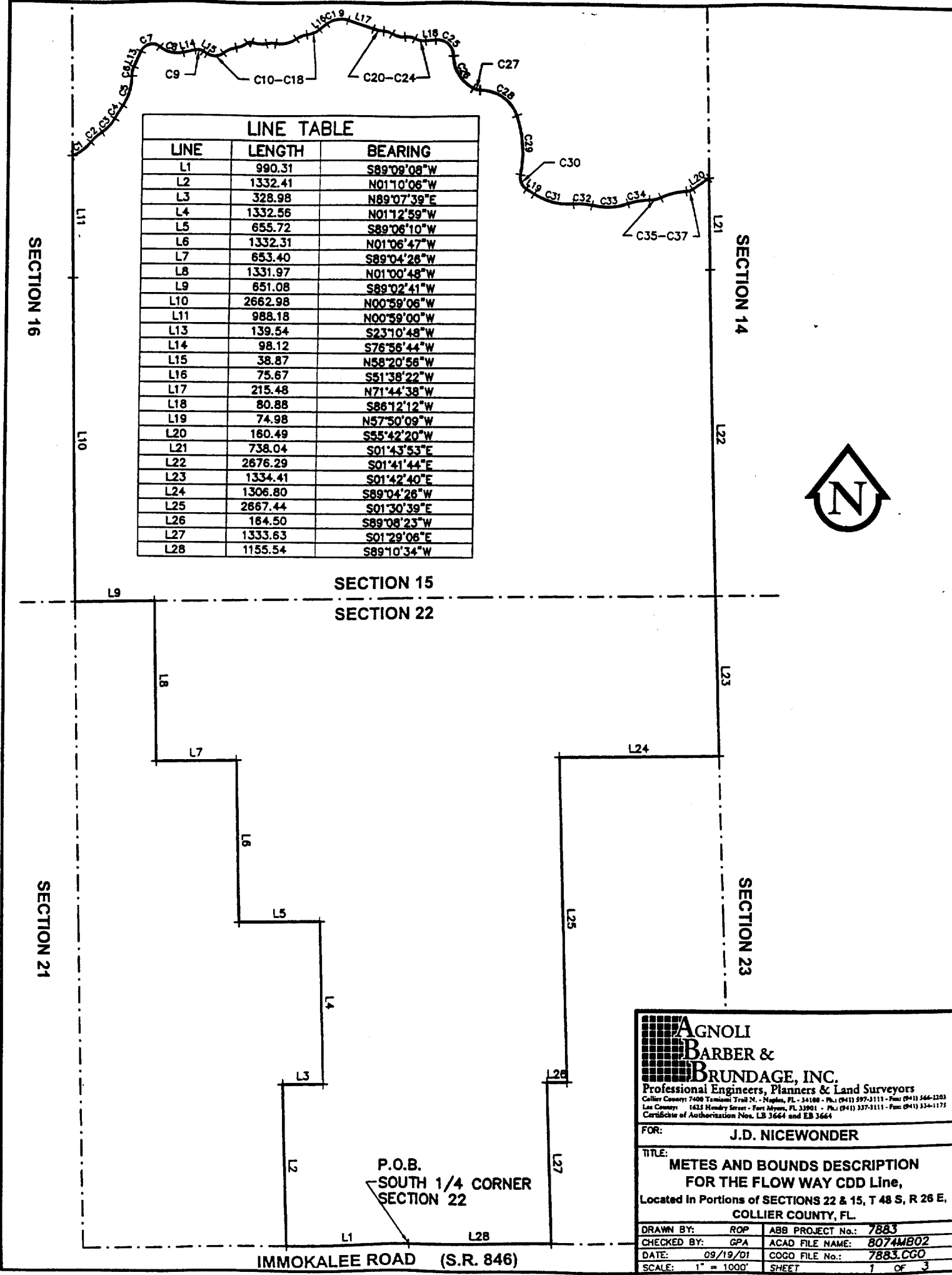


**AGNOLI  
BARBER &  
BRUNDAGE, INC.**

Professional Engineers, Planners & Land Surveyors  
 Collier County: 7400 Tamiami Trail N. - Naples, FL - 34108 - Ph.: (941) 597-3111 - Fax: (941) 566-2203  
 Lee County: 1625 Hendry Street - Fort Myers, FL 33901 - Ph.: (941) 337-3111 - Fax: (941) 334-1175

**FLOW WAY CDD LINE  
LOCATION MAP  
EXHIBIT 1**

LINE TABLE		
LINE	LENGTH	BEARING
L1	990.31	S89°09'08"W
L2	1332.41	N01°10'06"W
L3	328.98	N89°07'39"E
L4	1332.56	N01°12'59"W
L5	655.72	S89°06'10"W
L6	1332.31	N01°06'47"W
L7	653.40	S89°04'26"W
L8	1331.97	N01°00'48"W
L9	651.08	S89°02'41"W
L10	2662.98	N00°59'06"W
L11	988.18	N00°59'00"W
L13	139.54	S23°10'48"W
L14	98.12	S76°56'44"W
L15	38.87	N58°20'56"W
L16	75.67	S51°38'22"W
L17	215.48	N71°44'38"W
L18	80.88	S86°12'12"W
L19	74.98	N57°50'09"W
L20	160.49	S55°42'20"W
L21	738.04	S01°43'53"E
L22	2676.29	S01°41'44"E
L23	1334.41	S01°42'40"E
L24	1306.80	S89°04'26"W
L25	2667.44	S01°30'39"E
L26	164.50	S89°08'23"W
L27	1333.63	S01°29'08"E
L28	1155.54	S89°10'34"W



**AGNOLI BARBER & BRUNDAGE, INC.**  
Professional Engineers, Planners & Land Surveyors  
Callier Company: 7400 Tamiami Trail N. - Naples, FL - 34108 - Ph: (941) 597-3111 - Fax: (941) 546-1203  
Lee County: 1425 Hendry Street - Fort Myers, FL 33901 - Ph: (941) 337-3111 - Fax: (941) 334-1175  
Certificate of Authorization Nos. LB 3664 and EB 3664

FOR: **J.D. NICEWONDER**

TITLE: **METES AND BOUNDS DESCRIPTION FOR THE FLOW WAY CDD Line, Located in Portions of SECTIONS 22 & 15, T 48 S, R 26 E, COLLIER COUNTY, FL.**

DRAWN BY: <b>ROP</b>	ABB PROJECT No.: <b>7883</b>
CHECKED BY: <b>GPA</b>	ACAD FILE NAME: <b>8074MB02</b>
DATE: <b>09/19/01</b>	COGO FILE No.: <b>7883.CGO</b>
SCALE: <b>1" = 1000'</b>	SHEET <b>1 OF 3</b>

**LEGAL DESCRIPTION OF NICEWONDER PROPERTY SOUTH**

A PARCEL OF LAND LYING IN SECTIONS 15 AND 22, TOWNSHIP 48 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;


Beginning at the South Quarter Corner of said Section 22; thence S.89°09'08"W., a distance of 990.31 feet; thence N.01°10'06"W., a distance of 1,332.41 feet; thence N.89°07'39"E., a distance of 328.98 feet; thence N.01°12'59"W., a distance of 1,332.56 feet; thence S.89°06'10"W., a distance of 655.72 feet; thence N.01°06'47"W., a distance of 1,332.31 feet; thence S.89°04'26"W., a distance of 653.40 feet; thence N.01°00'48"W., a distance of 1,331.97 feet; thence S.89°02'41"W., a distance of 651.08 feet; thence N.00°59'06"W., a distance of 2,662.98 feet; thence N.00°59'00"W., a distance of 988.18 feet to the point of curve of a non tangent curve to the left, of which the radius point lies N.21°31'58"W., a radial distance of 359.00 feet; thence northeasterly along the arc, through a central angle of 29°40'27", a distance of 185.93 feet to a point of reverse curve to the right having a radius of 381.00 feet and a central angle of 18°46'56"; thence northeasterly along the arc, a distance of 124.90 feet to a point of reverse curve to the left having a radius of 312.00 feet and a central angle of 27°38'40"; thence northeasterly along the arc, a distance of 150.54 feet to a point of reverse curve to the right having a radius of 1,988.00 feet and a central angle of 03°33'22"; thence northeasterly along the arc, a distance of 123.39 feet to a point of reverse curve to the left having a radius of 412.00 feet and a central angle of 35°06'17"; thence northerly along the arc, a distance of 252.43 feet to a point of reverse curve to the right having a radius of 188.00 feet and a central angle of 24°47'52"; thence northerly along the arc, a distance of 81.37 feet; thence N.23°10'48"E., a distance of 139.54 feet to a point of curve to the right having a radius of 98.00 feet and a central angle of 107°41'02"; thence easterly along the arc a distance of 184.18 feet to a point of reverse curve to the left having a radius of 212.00 feet and a central angle of 53°55'06"; thence easterly along the arc, a distance of 199.50 feet; thence N.76°56'44"E., a distance of 98.12 feet to a point of curve to the right having a radius of 88.00 feet and a central angle of 44°42'20"; thence easterly along the arc a distance of 68.66 feet; thence S.58°20'56"E., a distance of 38.87 feet to a point of curve to the left having a radius of 112.00 feet and a central angle of 71°41'55"; thence easterly along the arc a distance of 140.15 feet to a point of reverse curve to the right having a radius of 225.00 feet and a central angle of 28°55'44"; thence northeasterly along the arc, a distance of 113.60 feet to a point of reverse curve to the left having a radius of 212.00 feet and a central angle of 27°20'10"; thence northeasterly along the arc, a distance of 101.15 feet to a point of reverse curve to the right having a radius of 38.00 feet and a central angle of 58°26'43"; thence easterly along the arc, a distance of 38.76 feet to a point of reverse curve to the left having a radius of 212.00 feet and a central angle of 32°15'37"; thence easterly along the arc, a distance of 119.37 feet to a point of reverse curve to the right having a radius of 188.00 feet and a central angle of 23°02'51"; thence easterly along the arc, a distance of 75.62 feet to a point of reverse curve to the left having a radius of 212.00 feet and a central angle of 46°44'53"; thence easterly along the arc, a distance of 172.97 feet to a point of reverse curve to the right having a radius of 188.00 feet and a central angle of 28°19'29"; thence easterly along the arc, a distance of 92.94 feet to a point of reverse curve to the left having a radius of 212.00 feet and a central angle of 30°42'52"; thence northeasterly along the arc, a distance of 113.65 feet; thence N.51°38'22"E., a distance of 75.67 feet to a point of curve to the right having a radius of 188.00 feet and a central angle of 56°37'01"; thence easterly along the arc a distance of 185.77 feet; thence S.71°44'38"E., a distance of 215.48 feet to a point of curve to the left having a radius of 312.00 feet and a central angle of 15°36'30"; thence easterly along the arc a distance of 84.99 feet to a point of reverse curve to the right having a radius of 138.00 feet and a central angle of 30°18'09"; thence easterly along the arc, a distance of 72.99 feet to a point of reverse curve to the left having a radius of 162.00 feet and a central angle of 38°42'28"; thence easterly along the arc, a distance of 109.44 feet to a point of reverse curve to the right having a radius of 138.00 feet and a central angle of 34°16'32"; thence easterly along the arc, a distance of 82.55 feet to a point of reverse curve to the left having a radius of 162.00 feet and a central angle of 32°18'53"; thence easterly along the arc, a distance of 91.37 feet; thence N.86°12'12"E., a distance of 80.88 feet to a point of curve to the right having a radius of 138.00 feet

(SEE SHEET 3 OF 3 FOR CONTINUATION)

**GENERAL NOTES:**

1. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
2. R.O.W. = RIGHT-OF-WAY.
3. CURVE DIMENSIONS ARE AS FOLLOWS:  
 Δ = DELTA, R = RADIUS, A = ARC, CH = CHORD,  
 AND CHB = CHORD BEARING
4. BEARINGS ARE ASSUMED BASED ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 22, TOWNSHIP 48 SOUTH, RANGE 26 EAST, BEING N 89°10'34" E.
5. TOTAL AREA = 829.74 ACRES MORE OR LESS.

**\* NOT A SURVEY \***

 <b>AGNOLI BARBER &amp; BRUNDAGE, INC.</b> Professional Engineers, Planners & Land Surveyors <small>Collier County: 7600 Tamiami Trail N., Naples, FL 34108 - Ph: (941) 397-3111 - Fax: (941) 566-2203                  Lee County: 1625 Hendry Street - Fort Myers, FL 33901 - Ph: (941) 337-3111 - Fax: (941) 334-1175                  Certificate of Authorization No. LB 3664 and EB 3664</small>	
FOR: <b>J.D. NICEWONDER</b>	
TITLE: <b>METES AND BOUNDS DESCRIPTION FOR THE FLOW WAY CDD Line, Located in Portions of SECTIONS 22 &amp; 15, T 48 S, R 26 E, COLLIER COUNTY, FL.</b>	
DRAWN BY: <b>ROP</b>	ABB PROJECT No.: <b>7883</b>
CHECKED BY: <b>GPA</b>	ACAD FILE NAME: <b>8074MB02</b>
DATE: <b>09/19/01</b>	COGO FILE No.: <b>7883.CGO</b>
SCALE: <b>1" = 1000'</b>	SHEET <b>2</b> OF <b>3</b>

CURVE TABLE					
CURVE	RADIUS	LENGTH	DELTA	TANGENT	CHORD BEARING
C1	359.00	185.93	29°40'27"	95.10	N53°37'49"E
C2	381.00	124.90	18°48'56"	63.01	S48°11'03"W
C3	312.00	150.54	27°38'40"	78.76	N43°45'11"E
C4	1988.00	123.39	3°33'22"	61.71	S31°42'32"W
C5	412.00	252.43	35°06'17"	130.32	N15°56'05"E
C6	188.00	81.37	24°47'52"	41.33	S10°46'52"W
C7	98.00	184.19	107°41'02"	134.11	S77°01'19"W
C8	212.00	199.50	53°55'06"	107.83	S78°05'43"E
C9	88.00	68.66	44°42'20"	36.19	N80°42'06"W
C10	112.00	140.15	71°41'55"	80.92	N85°48'06"E
C11	225.00	113.60	28°55'44"	58.04	S64°25'01"W
C12	212.00	101.15	27°20'10"	51.55	N65°12'47"E
C13	38.00	38.76	58°26'43"	21.26	S80°46'04"W
C14	212.00	119.37	32°15'37"	61.31	S86°08'24"E
C15	188.00	75.62	23°02'51"	38.33	S89°15'13"W
C16	212.00	172.97	48°44'53"	91.63	N77°24'12"E
C17	188.00	92.94	28°19'29"	47.44	S68°11'29"W
C18	212.00	113.65	30°42'52"	58.22	N66°59'48"E
C19	188.00	185.77	56°37'01"	101.26	S79°56'52"W
C20	312.00	84.99	15°36'30"	42.76	S79°32'53"E
C21	138.00	72.99	30°18'09"	37.37	N72°12'03"W
C22	162.00	109.44	38°42'28"	56.90	S78°24'13"E
C23	138.00	82.55	34°16'32"	42.55	N78°37'11"W
C24	162.00	91.37	32°18'53"	46.93	S77°38'22"E
C25	138.00	224.07	93°01'46"	145.50	N47°16'55"W
C26	312.00	330.36	60°40'03"	182.57	S31°06'04"E
C27	112.00	57.69	29°30'43"	29.50	S76°11'27"E
C28	308.00	383.12	71°16'11"	220.79	N55°18'43"W
C29	908.00	484.40	30°33'57"	248.11	N04°23'39"W
C30	112.00	134.34	68°43'29"	76.58	S23°28'25"E
C31	512.00	333.98	37°22'29"	173.18	S78°31'24"E
C32	488.00	155.66	18°16'33"	78.50	N86°04'22"W
C33	512.00	297.82	33°19'39"	153.25	N86°24'05"E
C34	488.00	178.15	20°54'59"	90.08	S80°11'45"W
C35	212.00	94.41	25°30'56"	48.00	N77°53'47"E
C36	588.00	217.08	21°09'09"	109.79	S75°42'53"W
C37	103.00	54.98	30°35'07"	28.16	N70°59'54"E


(CONTINUED FROM SHEET 2 OF 3)


and a central angle of 93°01'46"; thence southeasterly along the arc a distance of 224.07 feet to a point of reverse curve to the left having a radius of 312.00 feet and a central angle of 60°40'03"; thence southeasterly along the arc, a distance of 330.36 feet to a point of compound curve to the left having a radius of 112.00 feet and a central angle of 29°30'43"; thence easterly along the arc, a distance of 57.69 feet to a point of reverse curve to the right having a radius of 308.00 feet and a central angle of 71°16'11"; thence southeasterly along the arc, a distance of 383.12 feet to a point of compound curve to the right having a radius of 908.00 feet and a central angle of 30°33'57"; thence southerly along the arc, a distance of 484.39 feet to a point of reverse curve to the left having a radius of 112.00 feet and a central angle of 68°43'29"; thence southeasterly along the arc, a distance of 134.34 feet; thence S.57°50'09"E., a distance of 74.98 feet to a point of curve to the left having a radius of 512.00 feet and a central angle of 37°22'29"; thence easterly along the arc a distance of 333.98 feet to a point of reverse curve to the right having a radius of 488.00 feet and a central angle of 18°16'33"; thence easterly along the arc, a distance of 155.66 feet to a point of reverse curve to the left having a radius of 512.00 feet and a central angle of 33°19'39"; thence easterly along the arc, a distance of 297.82 feet to a point of reverse curve to the right having a radius of 488.00 feet and a central angle of 20°54'59"; thence easterly along the arc, a distance of 178.15 feet to a point of reverse curve to the left having a radius of 212.00 feet and a central angle of 25°30'56"; thence easterly along the arc, a distance of 94.41 feet to a point of reverse curve to the right having a radius of 588.00 feet and a central angle of 21°09'09"; thence easterly along the arc, a distance of 217.08 feet to a point of reverse curve to the left having a radius of 103.00 feet and a central angle of 30°35'07"; thence easterly along the arc, a distance of 54.98 feet; thence N.55°42'20"E., a distance of 160.49 feet; thence S.01°43'53"E., a distance of 738.04 feet; thence S.01°41'44"E., a distance of 2,676.29 feet; thence S.01°42'40"E., a distance of 1,334.41 feet; thence S.89°04'26"W., a distance of 1,306.80 feet; thence S.01°30'39"E., a distance of 2,667.44 feet; thence S.89°08'23"W., a distance of 164.50 feet; thence S.01°29'06"E., a distance of 1,333.63 feet; thence S.89°10'34"W., a distance of 1,155.54 feet to the POINT OF BEGINNING.

Containing 829.74 acres, more or less;  
subject to easements and restrictions of record.

\* NOT A SURVEY \*

AGNOLI, BARBER & BRUNDAGE, INC.  
Professional Engineers, Planners & Land Surveyors

BY    
Guy P. Adams, P.S.M. # 4390

 <b>AGNOLI BARBER &amp; BRUNDAGE, INC.</b> Professional Engineers, Planners & Land Surveyors <small>Collier County 7400 Tenthon Trail N., Naples, FL - 34108 - Ph: (941) 597-3111 - Fax: (941) 566-2303          Lee County 1425 Hendry Street - Fort Myers, FL 33901 - Ph: (941) 237-3111 - Fax: (941) 334-1175          Certificate of Authorization Nos. LB 3664 and EB 3664</small>	
FOR:	<b>J.D. NICEWONDER</b>
TITLE:	
<b>METES AND BOUNDS DESCRIPTION FOR THE FLOW WAY CDD Line,</b>	
Located in Portions of SECTIONS 22 & 15, T 48 S, R 26 E, COLLIER COUNTY, FL.	
DRAWN BY:	ROP      ABB PROJECT No.: <b>7883</b>
CHECKED BY:	GPA      ACAD FILE NAME: <b>8074MB02</b>
DATE:	09/19/01      COGO FILE No.: <b>7883.CGO</b>
SCALE:	1" = 1000'      SHEET <b>3</b> OF <b>3</b>

**EXHIBIT 3**  
**Consent and Joinder of Landowners**  
**To Establishment of a Community Development District**

The undersigned is the owner of certain lands more fully described on Exhibit 2 attached hereto and made a part hereof ("Property").

The undersigned understands and acknowledges that Mirasol Development, L.L.C. ("Petitioner") intends to submit an application to establish a Community Development District in accordance with the provisions of Chapter 190 of the Florida Statutes.

As an owner of lands which are intended to constitute the Community Development District, the undersigned understands and acknowledges that pursuant to the provisions of Section 190.0005, Florida Statutes, the Petitioner is required to include the written consent to the establishment of the Community Development District of one Kindred percent (100%) of the owners of the lands to be included within the Community Development District.


The undersigned hereby consents to the establishment of a Community Development District which will include the Property within the lands to be part of the Community Development District and agrees to further execute any documentation necessary or convenient to evidence this consent and joinder during the application process for the establishment of the Community Development District.

The undersigned acknowledges that the consent will remain in full force and effect until the Community Development District is established or three years from the date hereof, which ever shall first occur. The undersigned further agrees that it will provide to the next purchaser or successor in interest of all or any portion of the Property a copy of this consent form obtain, if requested by Petitioner, a consent to establishment of the Community Development District in substantially this form.

The undersigned hereby represents and warrants that it has taken all actions and obtained all consents necessary to duly authorize the execution of this consent and joinder by the officer executing this instrument.

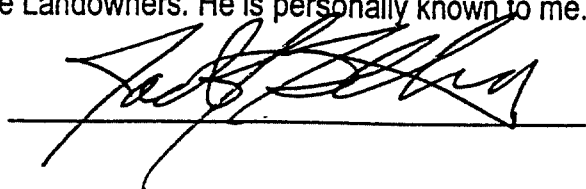
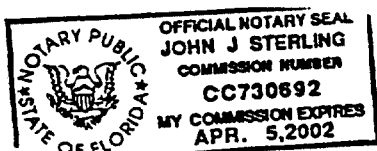
Executed this day , September 1, 2001

IMCOLLIER JOINT VENTURE,  
A Florida General Partnership,  
By: Mirasol Development, LLC  
A Florida Limited Liability Company,  
Managing Venturer

BY:   
Robert G. Claussen, Managing Member

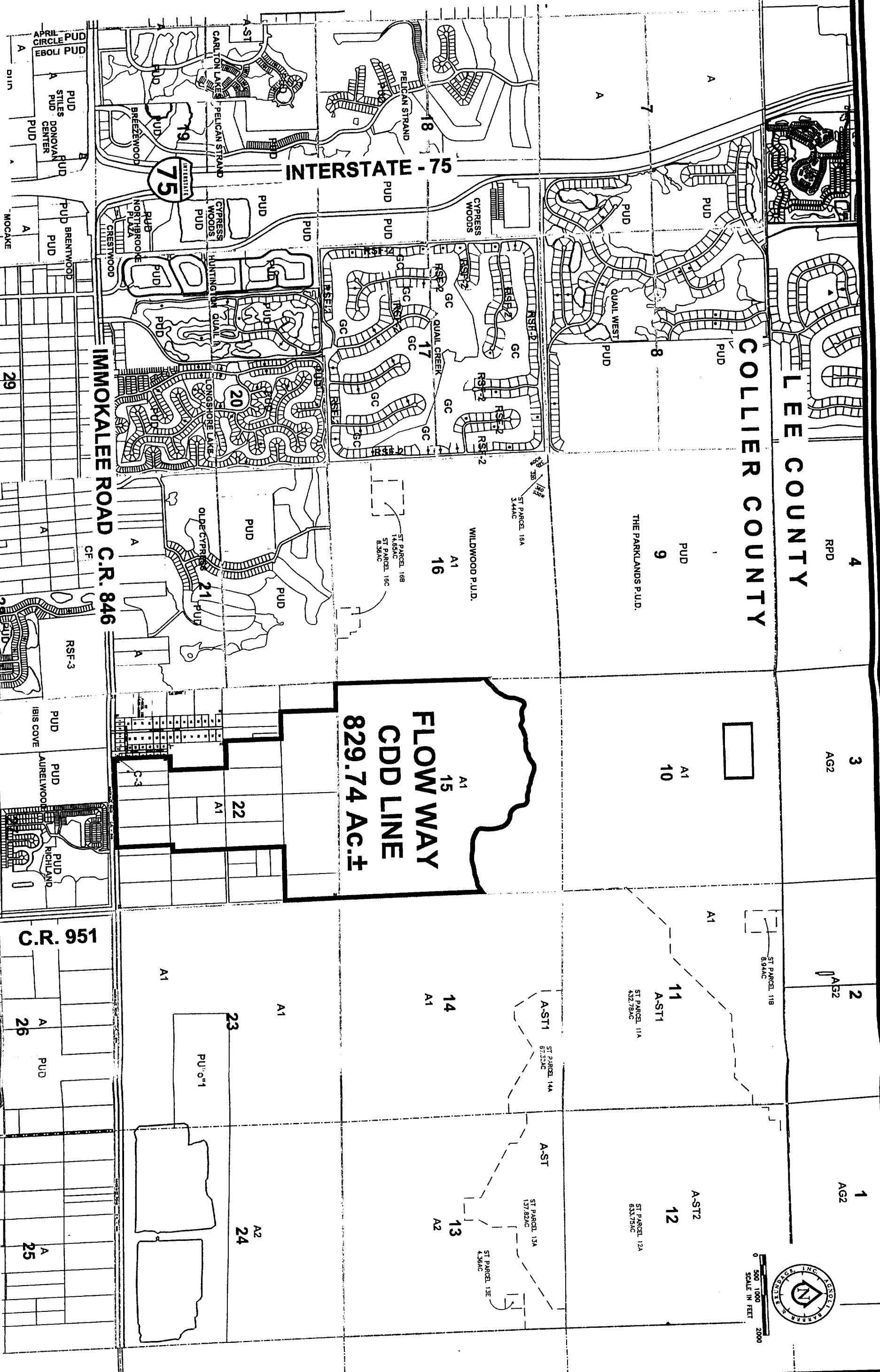
STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 1 day of September, 2001, by Robert G. Claussen, Managing Member, on behalf of the Landowners. He is personally known to me.

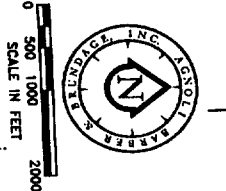




**AGNOU  
BARBER &  
BRUNDAGE, INC.**  
Professional Engineers, Planners & Land Surveyors  
1400 West 15th Street, Suite 1110, Fort Lauderdale, FL 33304  
Tel: 954-581-1111 Fax: 954-581-1117  
www.brundage.com



**ZONING MAP - EXHIBIT 4**

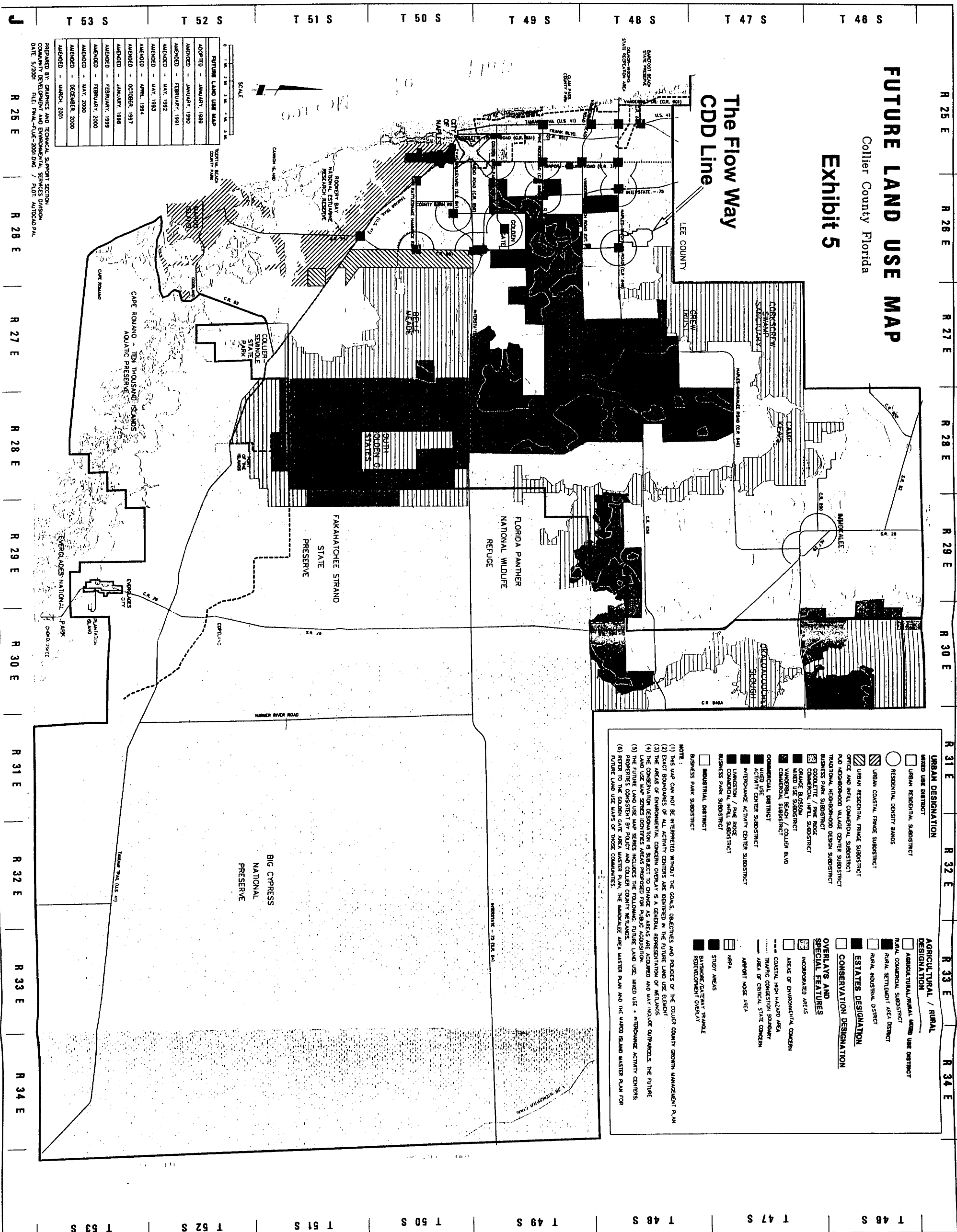


# FUTURE LAND USE MAP

## Collier County Florida

### Exhibit 5

The Flow Way  
CDD Line



**NOTE :**

- (1) THIS MAP CAN NOT BE INTERPRETED WITHOUT THE GOALS, OBJECTIVES AND POLICIES OF THE COLLIER COUNTY GROWTH MANAGEMENT PLAN
- (2) EXACT BOUNDARIES OF ALL ACTIVITY CENTERS ARE IDENTIFIED IN THE FUTURE LAND USE ELEMENT
- (3) THE AREAS OF ENVIRONMENTAL CONCERN OVERLAY IS A GENERAL REPRESENTATION OF WETLANDS
- (4) THE CONSERVATION DESIGNATION IS SUBJECT TO CHANGE AS AREAS ARE ACQUIRED AND MAY INCLUDE OUTPARCELS. THE FUTURE LAND USE MAP SERIES IDENTIFIES AREAS PROPOSED FOR PUBLIC ACQUISITION.
- (5) THE FUTURE LAND USE MAP SERIES INCLUDES THE FOLLOWING: FUTURE LAND USE; MIXED USE - INTERCHANGE ACTIVITY CENTERS
- (6) REPORTS CONSISTENT BY POLICY AND COLLIER COUNTY WETLANDS
- (7) THE WETLANDS AREA MASTER PLAN AND THE MARSHLAND MASTER PLAN FOR
- (8) FUTURE LAND USE MAPS OF THESE COMMUNITIES.

<input type="checkbox"/> MIXED USE DISTRICT	<input type="checkbox"/> AGRICULTURAL/RURAL MIXED USE DISTRICT
<input type="checkbox"/> URBAN RESIDENTIAL SUBDISTRICT	<input type="checkbox"/> RURAL COMMERCIAL SUBDISTRICT
<input type="checkbox"/> RESIDENTIAL DENSITY BANDS	<input type="checkbox"/> RURAL SETTLEMENT AREA DISTRICT
<input type="checkbox"/> URBAN CASTLE FRINGE SUBDISTRICT	<input type="checkbox"/> RURAL INDUSTRIAL DISTRICT
<input type="checkbox"/> URBAN RESIDENTIAL FRINGE SUBDISTRICT	<input type="checkbox"/> ESTATES DESIGNATION
<input type="checkbox"/> OFFICE AND RETAIL COMMERCIAL SUBDISTRICT	<input type="checkbox"/> CONSERVATION DESIGNATION
<input type="checkbox"/> PAD NEIGHBORHOOD WILDLIFE CENTER SUBDISTRICT	<input type="checkbox"/> OVERLAYS AND SPECIAL FEATURES
<input type="checkbox"/> TRADITIONAL NEIGHBORHOOD DESIGN SUBDISTRICT	<input type="checkbox"/> INCORPORATED AREAS
<input type="checkbox"/> BUSINESS PARK SUBDISTRICT	<input type="checkbox"/> AREAS OF ENVIRONMENTAL CONCERN
<input type="checkbox"/> COMMERCIAL/INTEL SUBDISTRICT	<input type="checkbox"/> COASTAL HIGH HAZARD AREA
<input type="checkbox"/> ORANGE BLOSSOM	<input type="checkbox"/> TRADING CONGESTION BOUNDARY
<input type="checkbox"/> VANDERBILT BEACH / COLLIER BLVD	<input type="checkbox"/> AREA OF CRITICAL STATE CONCERN
<input type="checkbox"/> MIXED USE SUBDISTRICT	<input type="checkbox"/> APPROPRIATE NOISE AREA
<input type="checkbox"/> COMMERCIAL DISTRICT	<input type="checkbox"/> NEPA
<input type="checkbox"/> MIXED USE	<input type="checkbox"/> STUDY AREAS
<input type="checkbox"/> ACTIVITY CENTER SUBDISTRICT	<input type="checkbox"/> BAYSHORE/GATEWAY TRAIL
<input type="checkbox"/> INTERCHANGE ACTIVITY CENTER SUBDISTRICT	<input type="checkbox"/> REDEVELOPMENT OVERLAY
<input type="checkbox"/> LINCOLN / PINE ROSE	
<input type="checkbox"/> COMMERCIAL/INTEL SUBDISTRICT	
<input type="checkbox"/> BUSINESS PARK SUBDISTRICT	
<input type="checkbox"/> INDUSTRIAL DISTRICT	
<input type="checkbox"/> BUSINESS PARK SUBDISTRICT	

SCALE

0 1/4" = 1 MILE

0 1/2" = 1/2 MILE

1" = 1/4 MILE

2" = 1/2 MILE

3" = 3/4 MILE

4" = 1 MILE

5" = 1 1/4 MILES

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95" = 23 3/4 MILES

96" = 24 MILES

97" = 24 1/4 MILES

98" = 24 1/2 MILES

99" = 24 3/4 MILES

100" = 25 MILES

PREPARED BY: GRAPHICS AND TECHNICAL SUPPORT SECTION  
 COMMUNITY DEVELOPMENT AND ENVIRONMENTAL SERVICES DIVISION  
 DATE: 3/2001 FILE: PLAN-7406-2001BWS / P01: A01000.PAI

- a. Presently developed sites;
- b. Sites where water-dependent or water-related uses have been previously established;
- c. Sites where shoreline improvements are in place;
- d. Sites where damage to viable, naturally functioning wetlands, or other environmentally sensitive features, could be minimized.

Port of the Islands is a unique development, which is located within the Urban Designated Area, but is also totally within the Big Cypress Area of Critical State Concern. However, a portion of the development was determined "vested" by the State of Florida, thus exempting it from the requirements of Chapter 380, Florida Statutes. Further, there is an existing Development Agreement between Port of the Islands, Inc. and the State of Florida Department of Community Affairs dated July 2, 1985, which regulates land uses at Port of the Islands. Port of the Islands is eligible for all provisions of the Urban - Mixed Use District in which it is located to the extent that the overall residential density and commercial intensity does not exceed that permitted under zoning at time of adoption of this Plan.

### **1. Urban Residential Subdistrict**

The purpose of this Subdistrict is to provide for higher densities in an area with fewer natural resource constraints and where existing and planned public facilities are concentrated. This Subdistrict comprises approximately 93,000 acres and 80% of the Urban Mixed Use District. Maximum eligible residential density shall be determined through the Density Rating System but shall not exceed 16 dwelling units per acre except in accordance with the Transfer of Development Rights Section of the Land Development Code.

### **(IV) 2. Urban Coastal Fringe Subdistrict**

The purpose of this Subdistrict is to provide transitional densities between the Conservation Designated Area and the Urban Designated Area. It includes that area south of US 41 between the City of Naples and Collier-Seminole State Park, including Marco Island and comprises approximately 18,000 acres and 15% of the Urban Mixed Use District. In order to facilitate hurricane evacuation and to protect the adjacent environmentally sensitive Conservation Designated Area, residential densities shall be limited to a maximum of 4 dwelling units per acre, except as allowed in the Density Rating System to exceed 4 units per acre through provision of Affordable Housing and Transfer of Development Rights, and except as provided in the Bayshore/Gateway Triangle Redevelopment Overlay. Rezones are recommended to be in the form of a Planned Unit Development. The Marco Island Master Plan shall provide for density, intensity, siting criteria and specific standards for land use districts on Marco Island.

### **3. Urban Residential Fringe Subdistrict**

The purpose of this Subdistrict is to provide transitional densities between the Urban Designated Area and the Agricultural/Rural Area and comprises approximately 5,500 acres and 5% of the Urban Mixed Use District. Residential land uses may be allowed at a maximum density of 1.5 units per gross acre, subject to the following conditions: and are not subject to the Density Rating System:

- a. All rezones are encouraged to be in the form of a Planned Unit Development; and
- b. Proposed development in the area shall be fully responsible for all necessary water management improvements, including the routing of all on-site and appropriate off-site water through the project's water management system, and a fair share cost of necessary improvements to the CR 951 canal/out-fall system made necessary by new development in the area.

the asphalt plant: is compatible with surrounding land uses; is not located in a County, State or Federal jurisdictional wetland area and any required buffer zones; is not located within 1,000 feet of a Florida State Park; is not located within the Area of Critical State Concern as depicted on the Future Land Use Map; and, is not located within 1,000 feet of a natural reservation

- i. Commercial uses accessory to other permitted uses, such as restaurant accessory to golf course or retail sales of produce accessory to farming, so long as restrictions or limitations are imposed to insure the commercial use functions as an accessory, subordinate use. Such restrictions or limitations could include limiting the size and/or location of the commercial use and/or limiting access to the commercial use;
- m. Commercial uses, within the Rural Commercial Subdistrict, based upon criteria;
- n. Industrial uses within the Rural - Industrial District;
- o. Travel trailer recreational vehicle parks, provided the following criteria are met:
  - 1. The density is consistent with the Land Development Code;
  - 2. The site has direct principal access to a road classified as an arterial in the Traffic Circulation Element, direct principal access defined as a driveway and/or roadway connection to the arterial road, with no access points from intervening properties; and,
  - 3. The use will be compatible with surrounding land uses.

**(I) A. Agricultural/Rural - Mixed Use District**

The purpose of this District is to protect and encourage agricultural activities, conserve and preserve environmentally sensitive areas, provide for low density residential development, and other uses identified under the Agricultural/Rural Designation. These areas generally lack public facilities and services. Urbanization is not promoted, therefore most allowable land uses are of low intensity in an effort to maintain and promote the rural character of these lands. Residential uses are allowed as follows, subject to the Interim Development Provisions:

- a. Low density residential dwelling units, at a maximum density of one dwelling unit per five gross acres, except for legal non-conforming lots of record.,
- b. Dormitories, duplexes and other staff housing, as may be provided in conjunction with conservation uses, at a density in accordance with the Land Development Code;
- c. Group housing uses at a density in accordance with that permitted in the Land Development Code;
- d. Staff housing in conjunction with safety service facilities and essential services, at a density in accordance with the Land Development Code;
- e. Farm labor housing in accordance with the Farm Labor Housing provision in the Land Development Code;
- f. Recreation camps as defined in, and at the density allowed by, the Land Development Code.
- g. Existing units approved for the Fiddler's Creek DRI may be reallocated to those parts of Sections 18 and 19, Township 51 South, Range 27 East added to Fiddler's Creek DRI together with part of Section 29, Township 51 South, Range 27 East, at a density greater than 1 unit per 5 gross acres provided that no new units are added to the 6,000 previously approved units, which results in a gross density of 1.6 units per acre for the Fiddler's Creek DRI; and further provided that no residential units shall be located on that part of Section 29 within the Fiddler's Creek DRI; and further provided that South Florida Water Management District jurisdictional wetlands impacted by the DRI in said Sections do not exceed 10 acres.

**(I) 1. Rural Commercial Subdistrict**

Within the Agricultural/Rural - Mixed Use District, commercial development, up to a maximum of 200 acres, may be allowed providing the following standards for intensity of use are met and subject to the Interim Development Provisions:

- a. The project, or that portion of a larger project, which is devoted to commercial



0 300 600 1200  
SCALE IN FEET

9

THE PARKLANDS P.U.D.

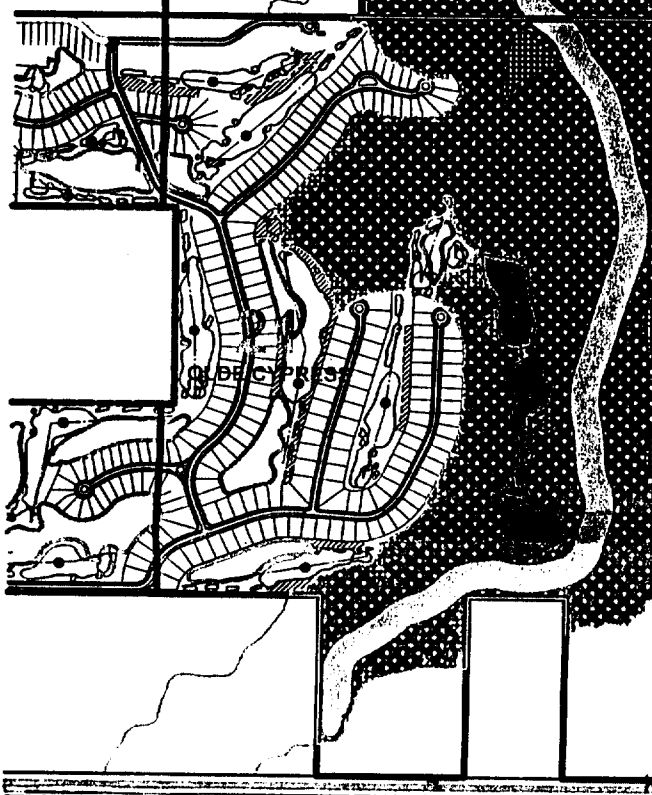
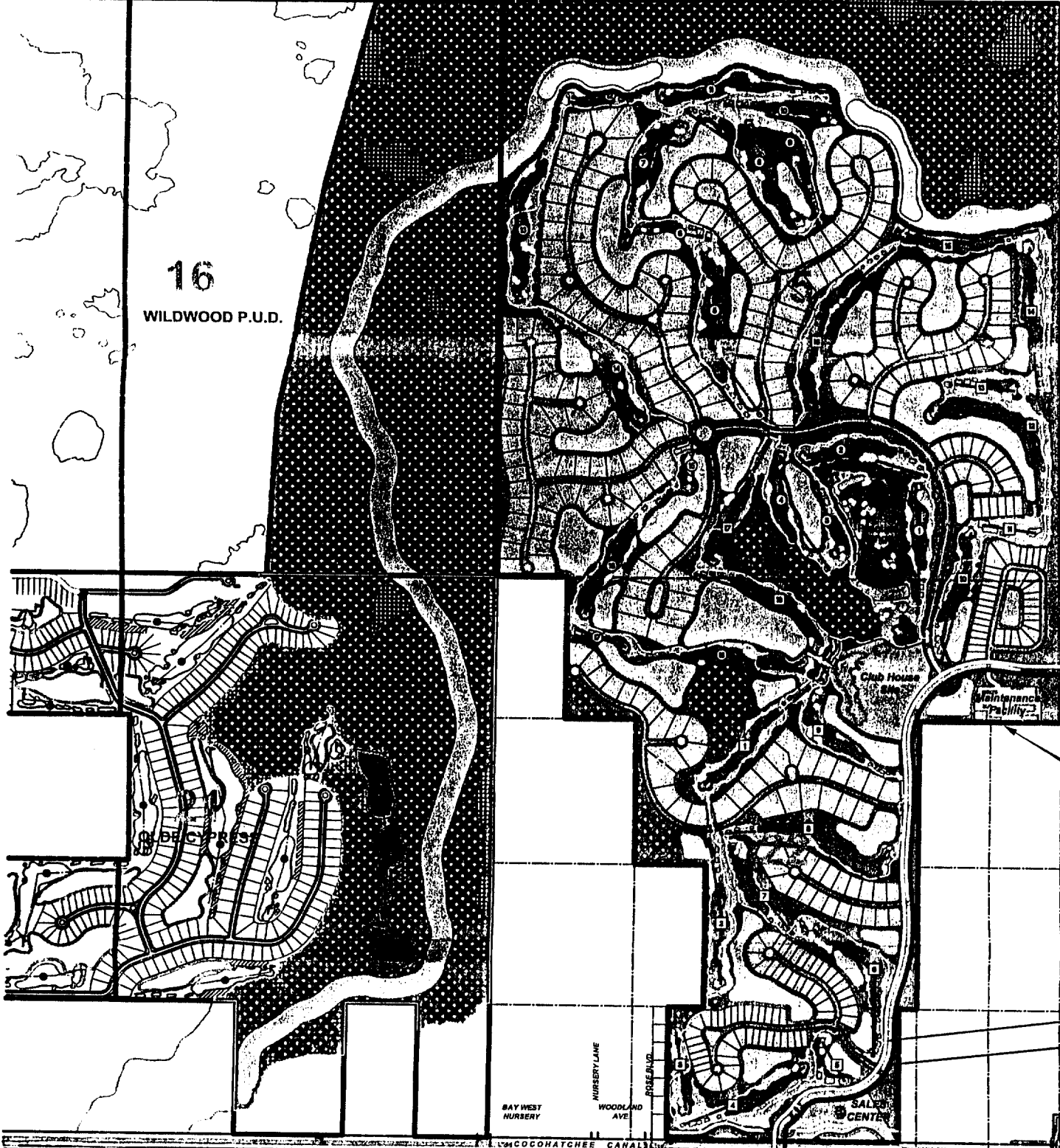
OUTPARCEL NOT  
CURRENTLY OWNED  
BY DEVELOPER  
18.8 Ac.±

OUTPARCEL  
NOT  
CURRENTLY  
OWNED BY  
DEVELOPER

OUTPARCEL NOT  
CURRENTLY OWNED BY  
DEVELOPER

16

WILDWOOD P.U.D.



**DENOTES CDD LINE  
829.74 Ac.±**

PROPOSED W.M.  
PROPOSED F.M.

EXISTING 24" W.M.  
EXISTING 12" F.M.

C.R.  
951

**AGNOLI  
BARBER &  
BRUNDAGE, INC.**  
Professional Engineers, Planners & Land Surveyors  
Culver County 7409 Tammam Trail P.O., Naples, FL - 34108 Ph: (941) 397-3111 Fax: (941) 354-1301  
Lee County 1422 Hensley Drive - Fort Myers, FL - 33901 Ph: (941) 397-3111 Fax: (941) 354-1323  
Certificate of Authorization No. L.R. 1664 and 88 3664

# The Flow Way CCD Line - EXHIBIT 6

## EXHIBIT 7

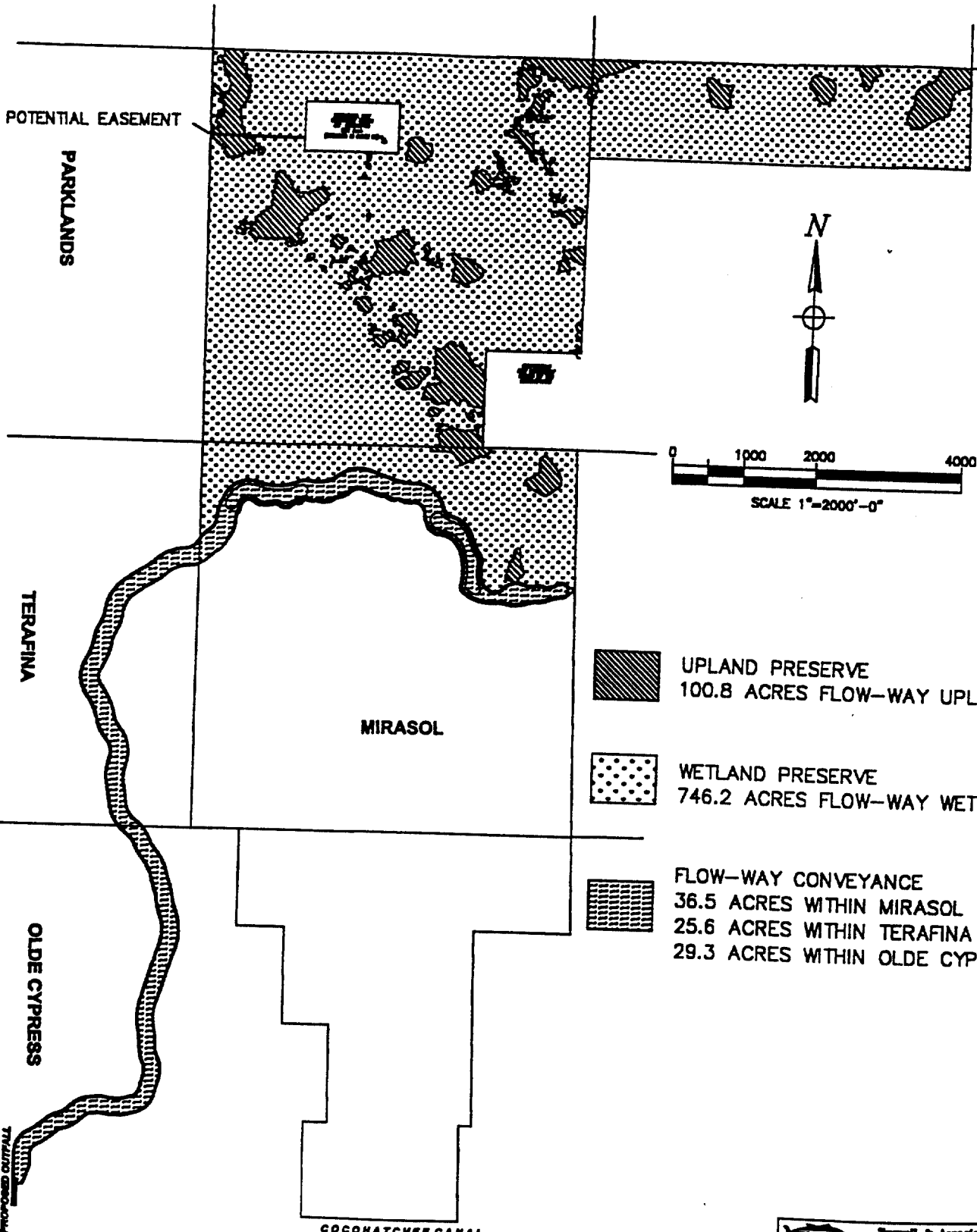
## FLOW WAY COMMUNITY DEVELOPMENT DISTRICT




11-Sep-2001

Summary of probable costs and Estimated Timetable

ITEM	DESCRIPTION	2002	2003	2004	2005	2006	TOTAL
1	LAND CLEARING	\$1,021,667	\$175,386	\$350,772			\$1,547,825
2	UTILITIES	\$4,455,786	\$488,807	\$2,284,211	\$899,349	\$2,778,990	\$10,887,143
3	INFRASTRUCTURE	\$3,880,473	\$455,127	\$1,469,995	\$444,956	\$1,273,617	\$7,524,168
4	MITIGATION & ACQUISITION	\$4,000,000	\$1,000,000	\$1,000,000	\$1,000,000		\$7,000,000
5	WATER MANAGEMENT SYSTEM	\$10,328,947		\$3,098,945			\$13,427,892
6	LANDSCAPE	\$3,084,053	\$182,037	\$2,094,064	\$125,860	\$177,876	\$5,663,890
7	ENGINEERING	\$2,761,794	\$350,097	\$1,179,560	\$336,082	\$941,156	\$5,568,689
8	PERMITTING	\$200,000	\$164,800	\$169,744	\$174,836	\$135,061	\$844,441
9	CONTINGENCY	\$1,752,970	\$317,904	\$692,025	\$130,986	\$211,524	\$3,105,409
TOTALS		\$31,485,690	\$3,134,158	\$12,319,316	\$3,112,069	\$5,518,224	\$55,569,457

# EXHIBIT 8



-  UPLAND PRESERVE  
100.8 ACRES FLOW-WAY UPLAND
-  WETLAND PRESERVE  
746.2 ACRES FLOW-WAY WETLAND
-  FLOW-WAY CONVEYANCE  
36.5 ACRES WITHIN MIRASOL  
25.6 ACRES WITHIN TERAFINA  
29.3 ACRES WITHIN OLDE CYPRESS

 Turrell & Associates, Inc.  
 Marine & Environmental Consulting  
 6804 Sandridge Ave. Suite B, Dunedin, FL 34626  
 Tel: (813) 442-4242, Fax: (813) 442-4242

**MIRASOL & FLOW-WAY**

**CDD PRESERVE BOUNDARIES**

REVISION	DATE	BY	DESCRIPTION

DATE: 11/14/08  
 DRAWN BY: JAC  
 CHECKED BY: JAC

**EXHIBIT 8A**

Prepared by and return to:  
Kenneth W. Dodge  
LEWIS, LONGMAN & WALKER, P.A.  
1700 Palm Beach Lakes Blvd. #1000  
West Palm Beach, FL 33401

**DRAINAGE, INGRESS/EGRESS AND  
MAINTENANCE EASEMENT**

THIS EASEMENT, granted this \_\_\_\_ day of \_\_\_\_, 2001, by and between Robert Vocisano, as Co-Trustee under Land Trust Agreement dated May 24, 1995, and OLDE CYPRESS DEVELOPMENT, LTD., hereinafter collectively called "Grantors" and J.D. Nicewonder, hereinafter called "Grantee" and his successors and assigns.

WHEREAS, Grantors Vocisano is Co-Trustee of certain property known as TERAFINA, a portion of which is described in Exhibit "A" attached and incorporated herein, with full powers to protect, conserve, sell, encumber or otherwise dispose of same; and to which certain property was issued District ERP Permit # \_\_\_\_.

WHEREAS, Grantor Olde Cypress is the owner of certain property known as OLDE CYPRESS, a portion of which is described in Exhibit "B" attached and incorporated herein, with full powers to protect, conserve, sell, encumber or otherwise dispose of same; and to which certain property was issued Permit # \_\_\_\_.

WHEREAS, Grantee Nicewonder is the owner of certain property known as MIRASOL which desires to construct a flow way for the drainage of surface water to the Cocohatchee Canal: and to which certain property was issued District ERP Permit # \_\_\_\_.

**WITNESSETH**

That for and in consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, the Grantors hereby grant to Grantee and its successors and assigns, a Drainage Ingress and Egress and Maintenance Easement ("Easement") over their respective properties described in the attached Exhibits A & B for the purpose of the drainage of surface waters, together with an easement for ingress and egress to enter upon the above described lands and to construct, operate and maintain these lands in accordance with this Drainage, Ingress/Egress and Maintenance Easement and Permit # \_\_\_\_ and Permit # \_\_\_\_ and Permit # \_\_\_\_ in perpetuity.

This Easement granted herein is subject to the following terms and limitations:

1. In the event an entity is created to operate and maintain the above referenced lands in Exhibits A and B in accordance with this Easement, and Permit # \_\_\_\_ and Permit # \_\_\_\_ and Permit # \_\_\_\_, Grantee shall assign this Easement to said entity together with all rights of access, maintenance and construction



contained herein. Failure to do so may result in violation of the above referenced ERP permits.

- 2. Should Grantee be required to access lands immediately adjacent to the Easement area in the course of constructing, operating or maintaining said Easement, Grantors shall not unreasonably withhold the granting of temporary construction Easements to accomplish same.

IN WITNESS WHEREOF, the Grantors have executed this instrument or caused the same to be executed by their representatives, there unto duly authorized on the day and year first above written.

OLDE CYPRESS  
DEVELOPMENT, LTD.

Witnesses:

\_\_\_\_\_  
  
\_\_\_\_\_

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

STATE OF FLORIDA  
COUNTY OF

BEFORE ME, the undersigned authority, duly authorized to take oaths, appeared \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification and has signed the foregoing instrument.

SWORN TO AND SUBSCRIBED BEFORE ME this \_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
NOTARY PUBLIC/ STATE OF FLORIDA

My commission expires:

Witnesses:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
ROBERT VOCISANO  
Co-Trustee under Land Trust  
Agreement dated May 24, 1995  
of TeraFina Development

STATE OF FLORIDA  
COUNTY OF

BEFORE ME, the undersigned authority, duly authorized to take oaths, appeared \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification and has signed the foregoing instrument.

SWORN TO AND SUBSCRIBED BEFORE ME this \_\_\_\_ day of \_\_\_\_\_,  
2001.

\_\_\_\_\_  
NOTARY PUBLIC/ STATE OF FLORIDA

My commission expires:

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## STATEMENT OF ESTIMATED REGULATORY COSTS

### 1.0 Introduction

#### 1.1 Purpose and Scope

This Statement of Estimated Regulatory Costs ("SERC") supports the petition to form the Flow Way Community Development District ("District"). The proposed District comprises approximately 950 acres of land located in Collier County, Florida. The limitations on the scope of this SERC are explicitly set out in Section 190.002(2)(d), F.S. (governing District formation or alteration) as follows:

"That the process of establishing such a district pursuant to uniform general law shall be fair and based only on factors material to managing and financing the service delivery function of the district, so that any matter concerning permitting or planning of the development is not material or relevant (emphasis added.)"

#### 1.2 Overview of the Flow Way Community Development District

The District is designed to provide community infrastructure, services, and facilities along with their operations and maintenance, to the proposed Mirasol development. Flow Way Community Development District will be an upscale, fully amenitized, residential golf course community.

The proposed development plan for the lands within the District include the construction of up to 799 single family residential dwelling units, recreational areas, 36 holes of golf, a golf clubhouse, a swim and fitness facility, a tennis facility, and a network of trails and parks, is authorized for portions of the development to be included within the District.

#### 1.3 Requirements for Statement of Estimated Regulatory Costs

Section 120.541(2), F.S. (1997), defines the elements a statement of estimated regulatory costs must contain:

(a) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.

(b) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state and local revenues.

(c) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governmental entities, required to comply with the requirements of the rule. As used in this paragraph, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, and the cost of monitoring and reporting.

(d) An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S. Collier County is not defined as a small county for purposes of this requirement.

(e) Any additional information that the agency determines may be useful.

(f) In the statement or revised statement, whichever applies, a description of any good faith written proposal submitted under paragraph (1) (a) and either a statement adopting the alternative or statement of the reasons for rejecting the alternative in favor of the proposed rule.

**2.0 A good faith estimate of the number of individuals and entities likely to be required to comply with the ordinance, together with a general description of the type of individuals likely to be affected by the ordinance.**

As noted above, Flow Way Community Development District is a residential community designed for up to 799 total residential units. Formation of the proposed District would put all of these households under the jurisdiction of the proposed District.

**3.0 Good Faith estimate of the cost to state and local government entities, of implementing and enforcing the proposed ordinance, and any anticipated effect on state and local revenues.**

**3.1 Costs to Governmental Agencies of Implementing and Enforcing Ordinance**

State Governmental Entities

There will be only modest costs to various State governmental entities to implement and enforce the proposed formation of the District. The District has fewer than 1,000 acres, so Collier County is the establishing entity under 190.005 (2), F.S. The modest costs to various State entities to implement and enforce the proposed ordinance relate strictly to the receipt and processing of various reports that the proposed District is required to file with the State and its various entities. Appendix A lists the reporting requirements. The costs to those State agencies that will receive and process the District's reports are very small, because the District is only one of many governmental units that are required to submit the various reports. Therefore, the marginal cost of processing one additional set of reports is inconsequential. Additionally, pursuant to section 189.412, F.S., the proposed district must pay an annual fee to the State of Florida Department of Community Affairs, which offsets such costs.

Collier County

Since the proposed District is in Collier County and consists of less than 1,000 acres, Collier County and its staff will process, analyze and vote upon the petition to establish the District. These activities will absorb some resources.

Furthermore, even these costs to the County are modest for a number of reasons. First, review of the petition to establish the District does not include analysis of the project itself. Second, the petition itself provides much of the information needed for a staff review. Third, local governments routinely

process similar petitions for land uses and zoning changes that are far more complex than is the petition to establish a community development district.

### 3.2 Impact on State and Local Revenues

Adoption of the proposed ordinance will have no negative impact on State or local revenues. The District is an independent unit of local government. It is designed to provide community facilities and services to serve the Mirasol development project. It has its own sources of revenue. No State or local subsidies are required or expected.

In this regard it is important to note than any debt obligations incurred by the District to construct its infrastructure, or for any other reason, are not debts of the State of Florida or any unit of local government. In accordance with State law, debts of the District are strictly its own responsibility.

### 4.0 A good faith estimate of the transactional costs likely to be incurred by individuals and entities required to comply with the requirements of the ordinance.

Table 1 provides an outline of the various facilities and services the proposed District may provide. The drainage facilities will all be funded, operated and owned by the District. The District will also fund the construction of the water and sewer distribution system. However, the County will own and operate the water and sewer system serving the District.

**Table 1. Flow Way Community Development District  
Proposed Facilities and Services**

<b>FACILITY</b>	<b>FUNDED BY</b>	<b>O &amp; M BY</b>	<b>OWNERSHIP</b>
Drainage	CDD	CDD	CDD
Water/Sewer	CDD	County	County
Roadways/Street Lighting	CDD	CDD	CDD
Recreation	CDD	CDD	CDD
Mitigation	CDD	CDD	CDD
Landscaping	CDD	CDD	CDD

The petitioner has estimated the design and development costs for providing the capital facilities outlined in Table 2. The cost estimates are shown in Table 2 below. Total design and development costs for these facilities are estimated to be approximately \$55,694,575. The District may issue special assessment or other revenue bonds to fund the development of these facilities. These bonds would be repaid through non ad valorem assessments levied on all properties in the District that may benefit from the District's capital improvement program as outlined in Table 2.

Prospective future landowners in the District may be required to pay non-ad valorem assessments levied by the District to secure the debt incurred through bond issuance. In addition to the levy of non ad valorem assessments for debt service, the District may also impose a non ad valorem assessment to fund the operations maintenance of the District and its facilities and services.

Furthermore, locating in the District by new residents is completely voluntary. So, ultimately, all owners and users of the affected property choose to accept the non-ad valorem assessments as tradeoff for the numerous benefits and facilities that the District provides.

A Community Development District ("CDD") provides residents with the option of having higher level of facilities and services financed through self-imposed charges. The District is an alternative means to finance necessary community services. District financing is no more expensive, and often less expensive, than the alternatives of a municipal service taxing unit (MSTU), a neighborhood association, County provision, or through developer equity and/or bank loans.

In considering these costs it shall be noted that occupants of the lands to be included within the District will receive three major classes of benefits.

First, those residents and businesses in the District will receive a higher level of public services and amenities sooner than would otherwise be the case.

Second, a CDD is a mechanism for assuring that the community services and amenities will be completed concurrently with development of lands within the District. This satisfies the revised growth management legislation, and it assures that growth pays for itself without undue burden on other consumers. Establishment of the District will ensure that these landowners pay for the provision of facilities, services and improvements to these lands.

Third, A CDD is the sole form of governance which allows District landowners, through landowner voting and ultimately electoral voting for resident elected boards, to determine the type, quality and expense of District services they receive, provided they meet the County's overall requirements.

The cost impact on the ultimate landowners in the District is not the total cost for the District to provide infrastructure services and facilities. Instead, it is the incremental costs above what the landowners would have paid to install infrastructure via an alternative financing mechanism. Given the low cost of capital for a CDD, the cost impact to landowners is negligible. This incremental cost of the high quality infrastructure provided by the District is likely to be fairly low.

**Table 2. Cost Estimate for District Facilities**

<b>CATEGORY</b>	<b>COST</b>
<b>Roadways</b>	
Land Clearing	\$ 1,547,825
Utilities	\$ 10,887,143
Infrastructure	\$ 7,524,168
Mitigation & Acquisition	\$ 7,000,000
Water Management System	\$ 13,427,892
Landscape	\$ 5,663,890
Engineering	\$ 5,568,689
Permitting	\$ 844,441
Contingency	<u>\$ 3,105,409</u>
<b>TOTAL</b>	<b>\$ 55,694,575</b>

**Table 3. Probable Cost Estimate and Estimated Timetable.**

Attached is Table 3, which is an estimate of probable costs and timetable of improvements.

**5.0 An analysis of the impact on small businesses as defined by Section 288.703, F.S. and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S.**

There will be no impact on small business because of the formation of the proposed District. anything, the impact may be positive. This is because the District must competitively bid all of its contracts. This affords small businesses the opportunity to bid on District work.

Collier County has an estimated population (not incarcerated) in 1998 that is greater than 75,000. Therefore the County is not defined as a "small" county according to **Section 120.52, F.S.**

**6.0 Any additional useful information.**

The analysis provided above is based on a straightforward application of economic theory, especially as it relates to tracking the incidence of regulatory costs and benefits. Inputs were received from the Developer's Engineer and other professionals associated with the Developer.

Prepared by:



\_\_\_\_\_  
Jack J. Sterling, CFO

EXHIBIT 10

I, Robert G. Claussen, Managing Member of Mirasol Development L.L.C., hereby authorizes the following individuals as authorized agents in matters involving Mirasol Development L.L.C., and/or Flow Way Community Development District, and /or IMCOLLIER Joint Venture, with any Governmental Agency, including but not limited to Collier County Board of County Commissioners.

Dr. Henry Fishkind  
Fishkind & Associates, Inc.  
11869 High Tech Avenue  
Orlando, FL 32817

and

Ms. Neale Montgomery, Esq.  
Pavese, Haverfield, Dalton, Harrison, Jensen, LLP.  
1833 Hendry Street,  
Ft. Myers, FL 33902

Executed this day , September 1, 2001

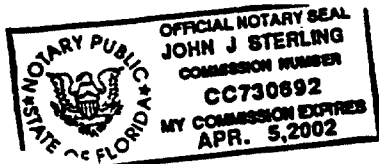
IMCOLLIER JOINT VENTURE,  
A Florida General Partnership,  
By: Mirasol Development, LLC  
A Florida Limited Liability Company,  
Managing Venturer

BY: Robert G. Claussen

Robert G. Claussen, Managing Member

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 1 day of September, 2001, by Robert G. Claussen, Managing Member Mirasol Development LLC, on behalf of IMCOLLIER Joint Venture and/or Mirasol Development LLC. He is personally known to me.



[Signature]