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CHARLOTTE COUNTY, FLORIDA  
BY: *[Signature]*  
DEPUTY CLERK

RESOLUTION NO. 96/231Aφ  
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RESOLUTION  
NUMBER 96/231Aφ

A RESOLUTION OF THE BOARD OF COUNTY  
COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA,  
ADOPTING AN INCREMENTAL DEVELOPMENT ORDER  
FOR INCREMENT IV OF THE MURDOCK CENTER  
DEVELOPMENT OF REGIONAL IMPACT (DRI)

WHEREAS, on March 3, 1987, the Board of County Commissioners of Charlotte County, Florida ("BCC"), adopted Resolution 87-48, a Master Development Order for the Murdock Center Development of Regional Impact ("DRI"), pursuant to Section 380.06(21), Florida Statutes ("F.S."), and

WHEREAS, the Master Development Order has previously been amended by Charlotte County Resolution 88-280 on December 13, 1988 (which includes by reference Resolution 88-81 on June 7, 1988); Resolution 89-142 on July 11, 1989; Resolution 89-367 on December 20, 1989; Resolution 92-146 on July 14, 1992; Resolution 92-170-B on August 18, 1992; Resolution 93-189 on October 12, 1993; and Resolution 94-102 on June 21, 1994; and

WHEREAS, the Murdock Center DRI addressed in the Master Development Order consists of approximately 646 acres located near the intersection of U.S. 41 and S.R. 776 in Charlotte County; and

WHEREAS, on June 14, 1988, the BCC adopted Resolution 88-83, a Development Order for Increment I of Murdock Center, consisting of approximately 315 acres of mixed-use development, and has furthered amended that Development Order by Resolution 89-35 on February 15, 1989; Resolution 89-143 on July 11, 1989; Resolution 89-368 on December 20, 1989; Resolution 92-147 on July 14, 1992; and Resolution 92-170A on August 18, 1992; and

WHEREAS, on November 10, 1987, the BCC adopted Resolution 87-274, a Development Order for Increment II of Murdock Center, consisting of approximately 132 acres for the Town Center Regional Mall and has further amended that Development Order by Resolution 88-281 on December 13, 1988; Resolution 91-274 on October 29, 1991; Resolution 92-255 on November 3, 1992; and Resolution 93-67 on May 11, 1993; and

WHEREAS, on October 12, 1993, the BCC adopted Resolution 93-188, a Development Order for Increment III of Murdock Center, consisting of approximately 76 acres of mixed-use development and has further amended that Development Order by Resolution 94-96 on June 14, 1994; and

WHEREAS, the Master Development Order, as amended, granted development rights applicable to all future development increments and the Increment I, II and III Development Orders, as amended, established additional development rights; and

WHEREAS, on May 4, 1995, Atlantic Gulf Communities Corporation ("AGC" or the "Applicant"), f/k/a General Development Corporation, submitted an Application for Incremental Development Approval ("AIDA") for Increment IV of Murdock Center to the BCC, Southwest Florida Regional Planning Council ("SWFRPC") and Florida Department of Community Affairs ("DCA"), as well as two (2) supplemental sufficiency responses dated August 22, 1995, and November 17, 1995 in accordance with Section 380.06(6) and (10) F.S., all of which are incorporated herein by reference; and

WHEREAS, the County had additional questions and the Applicant submitted correspondence outside the formal sufficiency review which included three letters from David

Plummer and Associates, Inc. ("DPA"), which are incorporated herein by reference. Two are letters dated January 30, 1996; one was sent to the Charlotte County Metropolitan Planning Organization ("MPO"); the other letter was sent to the SWFRPC. In addition, DPA sent a letter dated February 1, 1996 to the MPO; and

WHEREAS, the County provided additional transportation analysis prepared by Tindale-Oliver and Associates, Inc. dated June 10, 1996, which is incorporated herein by reference; and

WHEREAS, AGC is an owner and a developer of Increment IV of the Murdock Center DRI with authority to file the AIDA and to obtain a Development Order for Increment IV of Murdock Center; and

WHEREAS, Increment IV of Murdock Center is a mixed-use project consisting of two contiguous parcels containing approximately 98 acres as more specifically described in the legal description contained in Exhibit A, attached hereto and incorporated herein by reference, and in the Increment IV Conceptual Master Development Plan contained in Exhibit B, attached hereto and incorporated herein by reference; and

WHEREAS, the Applicant proposes that the Murdock Center Increment IV multi-use development consist of the land uses at the maximum square footage, hotel rooms, acreage and parking spaces set forth on Exhibit C, attached hereto and incorporated herein by reference; and

WHEREAS, on August 10, 1994, AGC and DCA entered into a Preliminary Development Agreement ("PDA") (attached hereto as Exhibit D, and incorporated herein by reference), pursuant to Sections 380.032(3) and 380.06(8), F.S., for a portion of Murdock Center Increment IV, authorizing AGC or its successors and assigns to develop up to 236,026 square feet of retail

commercial use on 25.66 acres, 1,500 parking spaces and 11.47 acres of stormwater management;  
and

WHEREAS, construction of the development authorized pursuant to the PDA has commenced and portions of the development have received required regulatory permits for construction; and

WHEREAS, the BCC, as the governing body of the local government with jurisdiction, is authorized and empowered to consider the AIDA for Increment IV; and

WHEREAS, all applicable public notice requirements of Section 380.06, F.S., and of Charlotte County, including the Charlotte County Zoning Regulations have been satisfied, and notice has been given to the DCA and SWFRPC; and

WHEREAS, the review of Murdock Center Increment IV has been conducted in accordance and compliance with Chapter 380, F.S., and the Master Development Order for the Murdock Center DRI as amended; and

WHEREAS, on June 24, 1996, the Charlotte County Planning and Zoning Board, which serves as the County's Local Planning Agency, held a duly noticed public hearing on the Murdock Center Increment IV AIDA; received relevant evidence, including the AIDA and Sufficiency Responses, the DPA letters, the Tindale-Oliver traffic analysis, the SWFRPC DRI Assessment for Murdock Center Increment IV, and recommended approval of Increment IV; and

WHEREAS, on July 22, 1996, the BCC held a duly noticed public hearing on the Murdock Center Increment IV AIDA, and reviewed and considered relevant evidence, including the AIDA and Sufficiency Responses, the DPA letters, the Tindale-Oliver traffic analysis, evidence from the

Applicant, the SWFRPC DRI Assessment, the recommendations of the Charlotte County Local Planning Agency and County staff, and other documents and public comments; and

WHEREAS, the public was offered the opportunity to participate in the hearings described above.

NOW, THEREFORE, be it resolved by the Board of County Commissioners of Charlotte County, Florida, that Increment IV of the Murdock Center DRI is hereby APPROVED, subject to the following provisions:

**Section 1. Findings of Fact.** The BCC makes the following findings of fact:

1.1 The factual content of the WHEREAS clauses set forth above is approved and incorporated by reference.

1.2 Murdock Center Increment IV is not located in an area of critical state concern designated pursuant to Section 380.05, F.S.

1.3 A comprehensive review of the impacts generated by Increment IV has been conducted by Charlotte County, SWFRPC and the DCA.

1.4 Murdock Center Increment IV is proposed to be developed with the land uses at the maximum square footage, hotel rooms, acreage and parking spaces set forth on Exhibit C, attached hereto and incorporated herein by reference. The Conceptual Master Development Plan for Increment IV is attached hereto as Exhibit B and incorporated herein by reference.

1.5 Murdock Center Increment IV consists of a single five (5)-year phase ending December 31, 2000. The Master Development Order approval projected buildout of all of Murdock Center is for 2005.

1.6 The authorized agent of the Applicant is Lisa D. Anness, Vice President for Planning and Project Management, Atlantic Gulf Communities Corporation, 2601 South Bayshore Drive, Miami, Florida 33133-5461.

1.7 The authorized agent of the County, and the person to whom notices shall be delivered for the County, is the Director of Community Development, Charlotte County Administration Building, 18500 Murdock Circle, Port Charlotte, FL 33948.

**Section 2. Conclusions of Law.** The BCC adopts the following conclusions of law:

2.1 The proposed development is consistent with the State Comprehensive Plan.

2.2 The proposed development does not unreasonably interfere with the achievement of the objectives of any adopted state land development plan applicable to the area.

2.3 The proposed development is consistent with the Charlotte County Comprehensive Plan adopted pursuant to Chapter 163, F.S., and with Charlotte County local land development regulations.

2.4 The proposed development is consistent with the report and recommendations of the SWFRPC, submitted pursuant to Chapter 380.06(12), F.S.

2.5 This Development Order constitutes final DRI approval for Murdock Center Increment IV of the development set forth on Exhibit C and depicted on Exhibit B.

2.6 These proceedings have been duly conducted pursuant to all applicable laws and regulations, including but not limited to Chapter 380, F.S.

2.7 AGC has complied with all conditions of the Master Development Order, as amended, that are required to precede approval of an incremental development order.

**Section 3. Conditions.** The AIDA for Increment IV of the Murdock Center DRI is APPROVED, subject to the following conditions.

**3.1 Incorporation of AIDA.** All commitments and impact mitigating actions provided by the Applicant within the AIDA and supplemental documents that are not in conflict with conditions or stipulations specifically enumerated above are hereby adopted as part of this Development Order by reference.

**3.2 Applicant.** Wherever the term "Applicant" or "AGC" is used in the AIDA or this Development Order within a commitment or condition of development that must be satisfied, the term shall be deemed to include any successors to or assigns of AGC or any management entity succeeding to AGC's rights or obligations under this Development Order. This Development Order shall run with the land and be binding upon AGC's successors and assigns. Satisfaction of a Development Order condition by a successor or assign to AGC shall be deemed satisfaction by AGC.

**3.3 Project Description.** Murdock Center Increment IV shall consist of the land uses set forth on Exhibit C, attached hereto and incorporated herein by reference, and the land uses depicted on the Conceptual Master Development Plan for Murdock Center Increment IV (Map H) which is Exhibit B, attached hereto and incorporated herein by reference. The design standards for Murdock Center Increment IV are contained in Exhibit F which is attached hereto and incorporated herein by reference. The project shall consist of a single five (5)-year phase ending December 31, 2000.

**3.4 Hurricane Preparedness.** A representative of the developer of the hotel within Murdock Center Increment IV shall meet with the Charlotte County Office of Emergency



Management prior to the time of development for the hotel site (within Parcel 2) to coordinate the use of the hotel as an emergency shelter, refuge of last resort and/or staging area.

### 3.5 Stormwater Management.

a. The Pellam Waterway within Murdock Increment IV is a permitted stormwater management treatment facility which is designed to provide attenuation for water quantity for a 25-year, 24-hour storm event and one inch of water quality detention from the basin. Any modification from the approved plan may require a permit modification from the Southwest Florida Water Management District ("SWFWMD") and the Florida Department of Environmental Protection ("FDEP").

b. Any water discharged into the Pellam Waterway must meet the conditions of all applicable permits issued for the waterway's use as a stormwater treatment facility. The Applicant, or its successors or assigns, will be responsible for any necessary permit modifications or violations of permit conditions for the Pellam Waterway facility which are attributable to development activity.

c. The Applicant shall continue coordination with Charlotte County, the SWFWMD and other applicable entities, so as to ensure that the stormwater facility constructed by the Applicant is compatible with the adjoining portions of the Pellam Waterway Stormwater Treatment Facility.

d. During construction activities within Murdock Center Increment IV, the Applicant shall employ Best Management Practices ("BMPs") for erosion and sedimentation control. The implementation of these practices shall be reviewed by the appropriate Charlotte County Departments.

e. No commercial extraction of minerals from the subject parcels shall occur, provided, however, that materials excavated for stormwater retention facilities may be utilized as fill material elsewhere, where permitted.

f. If excavation occurs, the AIDA Applicant shall determine the concentration of the naturally occurring radioactive series in the cores taken from proposed excavation sites for lakes and/or fill materials. The results of these core samples shall be made known to the Environmental Administrator of the Charlotte County Public Health Unit (HRS) and the Charlotte County Community Development Director.

g. Littoral zone areas being constructed by the Applicant, as a portion of the Pellam Waterway Stormwater Treatment Facility, shall be constructed on slopes consistent with the existing Water Management District and FDEP permits and shall be planted in appropriate native emergent and submergent vegetation.

h. The Murdock Center Increment IV DRI shall establish deed restrictions, stipulations or similar mechanisms which require land owners within the development to comply with all requirements of the approved water management systems permitted for the Murdock Center Increment IV DRI.

i. The Applicant and/or individual property owners within the development shall conduct annual inspections of the Pellam Waterway and subsidiary stormwater management systems on the project site so as to ensure that these systems are being properly maintained in keeping with the approved stormwater management plan, and that the systems are capable of accomplishing the level of stormwater storage and treatment for which they were designed and intended. The results of these inspections shall be included with the Annual Monitoring Report

as required in Sections 380.06(15)(c)4. and (18), F.S., and Rule 9J-2.025(7), Florida Administrative Code ("F.A.C.").

j. Unless allowed by applicable permitting agencies, all project construction shall take place away from the proposed littoral zone areas, proposed buffers, lakes and swale systems, so as not to affect the intended function of the onsite stormwater management systems.

k. The Applicant or its successors and assigns shall undertake a regularly scheduled vacuum sweeping of all common streets, sidewalks and parking facilities within the development, to be incorporated as a best management practice. The Applicant shall encourage similar practices upon the part of individual lot or parcel owners within the development.

l. In areas adjacent to developed parcels the Applicant shall provide at least one-half inch of dry pre-treatment (retention or detention), or an equivalent alternative as determined by the appropriate regulatory agencies, in order to provide reasonable assurance that hazardous materials will not enter the Pellam Waterway.

m. The Applicant shall participate in any on-going or future efforts by Charlotte County to establish a county-wide surface water management system.

n. Best management practices for monitoring and maintenance of onsite stormwater management systems shall be implemented by the Applicant in accordance with Charlotte County and SWFWMD guidelines.

o. Except for the Pellam Waterway, all internal stormwater management systems shall be set aside as private drainage easements, common areas, preserves, or identified as specific tracts on the recorded final plat.

p. If any changes in water quality monitoring locations, parameters, and/or frequency are suggested by Charlotte County, the FDEP, the SWFWMD, other agencies, or the Applicant, such changes shall be coordinated with and approved by the appropriate local, regional and state agencies.

q. The Applicant shall confirm, to the satisfaction of all federal, state, and local review agencies, and the SWFWMD, that construction and maintenance of proposed stormwater management systems will not impact habitats of any state or federally listed plant and/or animal species potentially occurring onsite, or that such impacts will be mitigated to the benefit of onsite populations of those species.

r. All commitments made by the Applicant within the AIDA, and subsequent sufficiency round information, related to Question 14 (Water) and Question 19 (Stormwater Management), and not in conflict with the above conditions, are hereby incorporated into this Development Order.

### 3.6 Transportation.

a. The Applicant or the Applicant's successors shall be fully responsible for required site-related roadway and intersection improvements associated with Murdock Center Increment IV. A summary of anticipated site-related intersection improvements is attached hereto as Exhibit G, and incorporated herein by reference. Any site-related improvements required for safe and adequate ingress to and egress from a particular development within Murdock Center Increment IV shall be constructed prior to issuance of a Certificate of Occupancy for that development. Because Exhibit G lists only anticipated improvements and construction plans are not available at this time for development of Murdock Center Increment IV, the specific improvements including

but not limited to geometric configuration, alignment, turning lanes and signalization of each site-related improvement shall be subject to review and approval by the Charlotte County Development Review Committee ("DRC").

b. The future traffic impacts of Murdock Center Increment IV through 2000 as projected by Charlotte County are identified in Exhibit H, which is attached hereto and incorporated herein by reference. The following proportional share contribution shall be provided by the Applicant as part of the mitigation for the projected future traffic impacts of Murdock Center Increment IV:

i. The Applicant shall pay for mutually agreed upon specific roadway and intersection improvements, to be constructed by the Applicant or other entities approved by Charlotte County, subject to the maximum cost contribution set forth below:

a) The mutually agreed upon improvements are to be Intersection improvements at Toledo Blade Blvd. and Lakeview Blvd. to include:

i) Adding Left Turn Lane from Eastbound on Toledo Blade to Northeast on Toledo Blade.

ii) Adding Left Turn Lane from Southbound on Toledo Blade to Southeast on Lakeview.

iii) Full signalization of the Intersection in accordance with the Charlotte County Computerized Signal System under development by FDOT.

b) At present, the estimated costs of construction of these improvements to be paid for by the Applicant is \$250,000. Final actual construction costs may

be greater or lesser, but Applicant shall not be required to contribute more than \$250,000 toward the cost of these improvements.

c) Prior to any building permit issuance for Increment IV development beyond that approved in the PDA, after the effective date of this Development Order, the Applicant shall:

i) Enter into a binding contract for the design and construction of the improvement identified in Condition 3.6 b.i.; or

ii) Establish an escrow agreement with Charlotte County and place in the escrow account funding for the estimated cost of the improvement. This amount, if paid by the Applicant to the County, shall be placed in escrow and expeditiously applied:

(a) First, for the construction of the improvement identified in Condition 3.6 b.i., and

(b) Second, to the extent any funds are remaining after construction of the improvement identified in Condition 3.6 b.i., to the improvement of other roads identified in Exhibit H, or any other road agreed to by Charlotte County and the Applicant. It should also be recognized that \$95,809 of the impact fees previously paid by a developer of a portion of the PDA parcel have been committed to the four-laning of Veteran's Boulevard (aka El Jobean Extension or the Kenilworth Extension) between Murdock Circle east of U.S. 41 and Toledo Blade Boulevard.

d) If the cost of the improvements identified in Condition 3.6 b.i. does not amount to \$250,000, the Applicant shall be responsible for contributing the difference between \$250,000 and the cost of these improvements to Charlotte County within sixty (60) days of the completion of construction and County acceptance of these improvements. Any such remaining funds shall be used as provided in Condition 3.6 b.i.c).

e) In the event of any payment by the Applicant for improvements in excess of \$250,000, the Applicant shall be credited or reimbursed as follows. The Applicant shall be eligible for credits from Charlotte County road impact fee receipts or other sources of revenue approved by the Board of County Commissioners for payments in excess of \$250,000 for improvements provided pursuant to this condition. Credits shall be based upon the Charlotte County Impact Fee Ordinance as identified in Chapter 3-3.5, Code of Laws and Ordinances, Charlotte County, Florida (Ordinance 86-28 as amended by Ordinances 87-42, 89-85, 93-22 and 94-16) and in accordance with Section 380.06(16), F.S. The Applicant shall have the right to assign all or any part of its credits for payments in excess of \$250,000 to any tract, lot or parcel or to any developer, purchaser or lessee within the area located north of the Peace River and east of the Myakka River. The Applicant shall notify the County in writing of any assignment so made. Assignments shall be made in accordance with the procedure set forth in Charlotte County Resolution 93-118.

f) For the purpose of this section of the Development Order, the Applicant's total proportional share for roadway improvements required to mitigate the traffic impacts

of Murdock Center Increment IV (prior to gas tax and license credits) has been calculated for each road segment and intersection based on the following formula:

$$P.S. = T.C.I.P. \times \% \text{ Project Traffic}$$

Where:

P.S. is the Murdock Center Increment IV Applicant's proportionate share prior to gas tax and license credits for each improvement.

T.C.I.P. is the total cost of each improvement.

% Project Traffic is the percentage of total traffic on a particular road link which has been identified as being attributable to Murdock Center Increment IV.

c. Development within Increment IV authorized under the Preliminary Development Agreement (PDA) has paid \$690,581.71 in road impact fees as of the date of adoption of this Development Order. In addition, a bank under development within Increment IV by a successor of the Applicant's is obligated to pay \$22,785.97 in road impact fees. Those impact fee payments from PDA development have been devoted to and acknowledged to offset the construction of Veterans Boulevard (aka El Jobean Extension).

d. The applicant and the County have agreed that the total remaining road impact fees due from development within Increment IV under the Charlotte County Impact Fee Ordinance of 1994 are \$1,500,000. As part of the mitigation for potential future traffic impacts of Murdock Center Increment IV, the Applicant also shall contribute to Charlotte County Road Impact Fee Credits held by the Applicant in the amount of \$1,500,000 subject to the following conditions:



i. \$1,000,000 of Road Impact Fee Credits shall be transferred to Charlotte County by Applicant within sixty (60) days of the effective date of this Development Order. The rights to the Applicant's use of this \$1,000,000 in Road Impact Fee Credits shall be extinguished and expire on the date of their transfer.

ii. The remaining \$500,000 of Road Impact Fee Credits shall be transferred to Charlotte County by the Applicant within 120 days of the effective date of this Development Order. The rights to the Applicant's use of this \$500,000 in Road Impact Fee Credits shall be extinguished and expire on the date of their transfer.

iii. The impact fee credits provided for in this sections of the Development Order are devoted to and are acknowledged to offset the cost of construction of Veterans Boulevard (aka El Jobean Extension).

iv. No further road impact fees will be due for future development of Increment IV unless there is a proposed intensification of land use that would increase the amount payable under the Charlotte County Impact Fee Ordinance of 1994 as it is in effect at the time of adoption of this Development Order. Unless there is such intensification of land use, the mitigation provided for in this Development Order shall fully discharge the obligations of all development within Increment IV for payment of road impact fees.

e. As provided for elsewhere in this Development Order, the Applicant shall submit an Annual Report pursuant to the requirements of Section 380.06(18), F.S., Chapter 9J-2, F.A.C., and Sec 4.1 and 4.2 of the Master Development Order. In addition to those requirements, the Annual Monitoring Report shall include:

i. An update showing the consistency and compliance of Murdock Center Increment IV with the Transportation Capital Facilities Plan;

ii. An update and assessment of road construction and traffic improvements, including existing levels of service on regionally significant and locally significant roadways and intersections (as shown in Exhibit H).

iii. A measure of the total number of external vehicle trips generated by Murdock Center Increment IV, and a measure of the total number of external vehicle trips generated by Murdock Center Increments I-IV.

f. The Applicant has submitted, consistent with MDO General Condition 17 of Exhibit 2, a Transportation Capital Facilities Plan, attached hereto as Exhibit E. This Transportation Capital Facilities Plan was submitted to all appropriate agencies for review and comment and Charlotte County for approval. This Transportation Capital Facilities Plan is consistent with this Development Order and addresses the provision of public transportation facilities and services deemed necessary to mitigate the transportation impacts of the Murdock Center Increment IV development through December 31, 2000.

g. Full satisfaction of the mitigation options required and compliance with the transportation related provisions of this Development Order shall satisfy the road or traffic concurrency requirements of the Charlotte County Comprehensive Plan, Charlotte County Land Development Regulations, and the Charlotte County Concurrency Management System, as amended, for Murdock Center Increment IV, through December 31, 2000 (the buildout date of Murdock Center Increment IV). If the Applicant proposes to extend the buildout date of Murdock Center Increment IV beyond December 31, 2000, the Applicant and the review agencies, during

the development order amendment process pursuant to Section 380.06(19), Florida Statutes, shall re-evaluate the future traffic impacts of the development in a manner consistent with the Master Development Order, and shall re-evaluate the concurrency status of Murdock Center Increment IV on all roadway segments listed on Table 1.2 of the Capital Facilities Plan attached as Exhibit E.

h. The Applicant shall participate in any ongoing planning (either on a County-wide or sub-County wide basis) or other future program efforts by Charlotte County to provide a coordinated network of sidewalks, bikeways, and other non-motorized facilities interconnecting the development within Murdock Center Increment IV to the other Murdock Center Increments and to other Charlotte County bicycle/pedestrian facilities.

3.7 Vegetation and Wildlife.

a. Tree preservation will be accomplished in accordance with the tree preservation requirements (Chapter 3-2, Article IX) of the Charlotte County Code. The Applicant or its successors and assigns shall preserve some of the oak trees on the Murdock Center Increment IV site either by incorporating them into the site plan in the parking areas and the peripheral boundaries on the site, or by relocating them as part of the final landscaping. Also, the sabal palms shall be relocated into the landscaping or along the sides of the new Pellam Waterway section where applicable, and all sabal palms that contain listed epiphytes shall be incorporated into landscaping plans.

b. If, during development of Increment IV, any listed wildlife are discovered within the Murdock Center Increment IV site, the Applicant shall obtain any necessary permits from or provide other mitigation acceptable to the Florida Game and Fresh Water Fish Commission prior

to undertaking any activities disturbing or otherwise adversely impacting such listed wildlife or their habitats.

### 3.8 Wastewater Management/Water Supply.

- a. The Applicant shall pursue alternative methods for obtaining non-potable water. These methods may include, but should not be limited to, reclaimed water from a regional resource, or any comprehensive approach that will eliminate the need to use potable water for uses for which water of a lesser quality is sufficient.
- b. For the purpose of potable water conservation, Murdock Center Increment IV shall utilize high efficiency (low volume) plumbing fixtures, appliances, and other water conserving devices. Such devices shall include toilets which require no more than 1.6 gallons per flush.
- c. For the purpose of non-potable and/or reclaimed water conservation, Murdock Center Increment IV shall utilize xericape principles in all landscaped areas. Ecologically viable portions of existing native vegetation shall be incorporated into the landscape design consistent with good site plan design.
- d. In order to facilitate concurrency requirements, building permits for any portion of Murdock Increment IV shall not be issued until such time as the developer of such portion can demonstrate that adequate potable water and wastewater treatment capacities exist to serve such portion of the development.
- e. The project shall obtain potable water, and wastewater treatment, from Charlotte County Utilities if Charlotte County Utilities determines that it has sufficient permitted capacity to serve the project. Should Charlotte County Utilities determine that it does not have sufficient

permitted capacity, the Applicant shall either construct interim potable water and wastewater treatment facilities, or shall postpone development until such time as Charlotte County Utilities' service capacity is available to serve the project. Any interim facilities constructed by the Applicant shall be constructed to Charlotte County Utilities standards and shall be dismantled, at the Applicant's expense, upon connection to the County facilities. Whether potable water and wastewater facilities are provided onsite or offsite, the Applicant shall demonstrate to Charlotte County that adequate potable water and wastewater treatment capacity is available at the time of final site plan submittal.

f. If at any time in the future, the Murdock Center Increment IV development utilizes treated effluent for irrigation, the Applicant shall ensure that onsite Pellam Waterway and internal stormwater management systems are adequately buffered from possible effluent contamination.

g. The Applicant shall provide assurance that commercial and medical effluents, if generated by the project, will be treated separately from domestic wastewater and handled in accordance with Florida Department of Environmental Protection or Department of Health and Rehabilitative Services criteria.

h. Septic tanks shall not be allowed, except for construction or sales offices, due to the possibility of hazardous wastewater generation by the commercial/office portion of the project. In this regard, it is noted that the Applicant has committed to not utilizing septic tanks on the development site.

i. All construction plans, technical specifications, and proposed plats, if applicable, for the proposed water distribution and wastewater collections systems, and any possible onsite

treatment facilities, shall be reviewed and approved by Charlotte County Utilities prior to commencement of construction.

j. All potable water facilities, including the possible onsite/offsite potable water treatment system, shall be properly sized to supply average and peak day domestic demand, in addition to fire flow demand, at a rate approved by the appropriate Fire Control District servicing the project area.

k. The lowest acceptable quality of water as designated by Chapter 62-302, F.A.C., shall be utilized for all non-potable water uses.

l. All commitments made by the Applicant, within the AIDA and subsequent sufficiency round information, related to Question 18 (Wastewater Management), and Question 17 (Water Supply), and not in conflict with the above conditions, are hereby incorporated in this Development Order by reference.

### 3.9 Solid, Hazardous and Medical Wastes.

a. The Applicant shall incorporate the solid waste demands of Murdock Center Increment IV into the County solid waste management program, and the Applicant or its successors and assigns shall participate in the County's recycling and other programs, if any, intended to reduce the volume of solid waste entering the County landfill.

b. Loading, off-loading, and storage areas for regulated substances shall be curbed and provided with impervious bases, free of cracks and gaps, to fully contain spills and leaks.

c. If any hazardous or toxic waste generators are developed within Murdock Increment IV, they shall comply with all applicable local, state and federal regulations regarding the handling of these substances.

d. The Applicant shall abide by any county-wide ordinance regarding the matter of a 5% exceedance of the project's estimated solid waste going into the landfill.

e. The Applicant shall abide by any county-wide ordinance regarding recycling activities to aid in the reduction of solid waste potentially going to the Charlotte County Landfill.

f. The developer shall mulch trees onsite, provided the cost of doing so is less than or equal to the cost of removing cleared vegetation to the County landfill or other appropriate facility.

g. The onsite hotel developer shall abide by Florida law for pool operations if there is a pool component, including the decision as to what type of chlorine to use and the type of device used to monitor it.

### **3.10 Police and Fire Protection.**

a. To assure the project does not dilute the delivery of service during the site and development/construction plan approval process, the Applicant shall meet with the Office of the Sheriff to ensure that security features are incorporated within the project design.

b. Fire protection shall be provided according to existing standards of the National Fire Protection Association and Charlotte County Fire Prevention Ordinances as promulgated by Charlotte County.

c. Facilities qualifying under the Superfund Amendments Reauthorization Act (SARA), Title III and the Florida Hazardous Materials Emergency Response and Community Right to Know Act of 1988, shall file hazardous material reporting applications in accordance with sections 302, 303, 304, or 311-312. Applications must be updated annually by each reporting facility.

d. Facilities qualifying under SARA Title III shall prepare a plan for the evacuation of employees.

### 3.11 Local Monitoring.

a. The County Administrator or his authorized designee shall be responsible for ensuring compliance with this Development Order.

b. Data necessary for monitoring shall include building permits, certificates of occupancy, approval of site plans, the annual report provided by the Applicant and on-site observations.

c. Enforcement of the terms of this Development Order shall be through such means as are authorized and envisioned by Chapter 380, F.S., and through the Charlotte County Code, including building permits, and project review by the County Development Review Committee. All development permits issued within Increment IV shall comply with applicable provisions of this Development Order.

### 3.12 Compliance Dates.

a. Physical development of Increment IV has commenced pursuant to the August 10, 1994, PDA between AGC and the DCA. Therefore, no further deadline for commencing physical development is necessary.

b. Increment IV consists of a single five (5)-year phase. The phase end date and Increment IV buildout dates are December 31, 2000.

c. The development phasing schedule presented within the AIDA shall be incorporated as a condition of approval. If development order conditions and Applicant commitments incorporated within the development order, AIDA, or sufficiency round responses



to mitigate regional impacts are not carried out as indicated to the extent or in accord with the timing schedules specified within the development order and this phasing schedule, then this shall require a substantial deviation determination for this increment pursuant to Chapter 380, F.S.

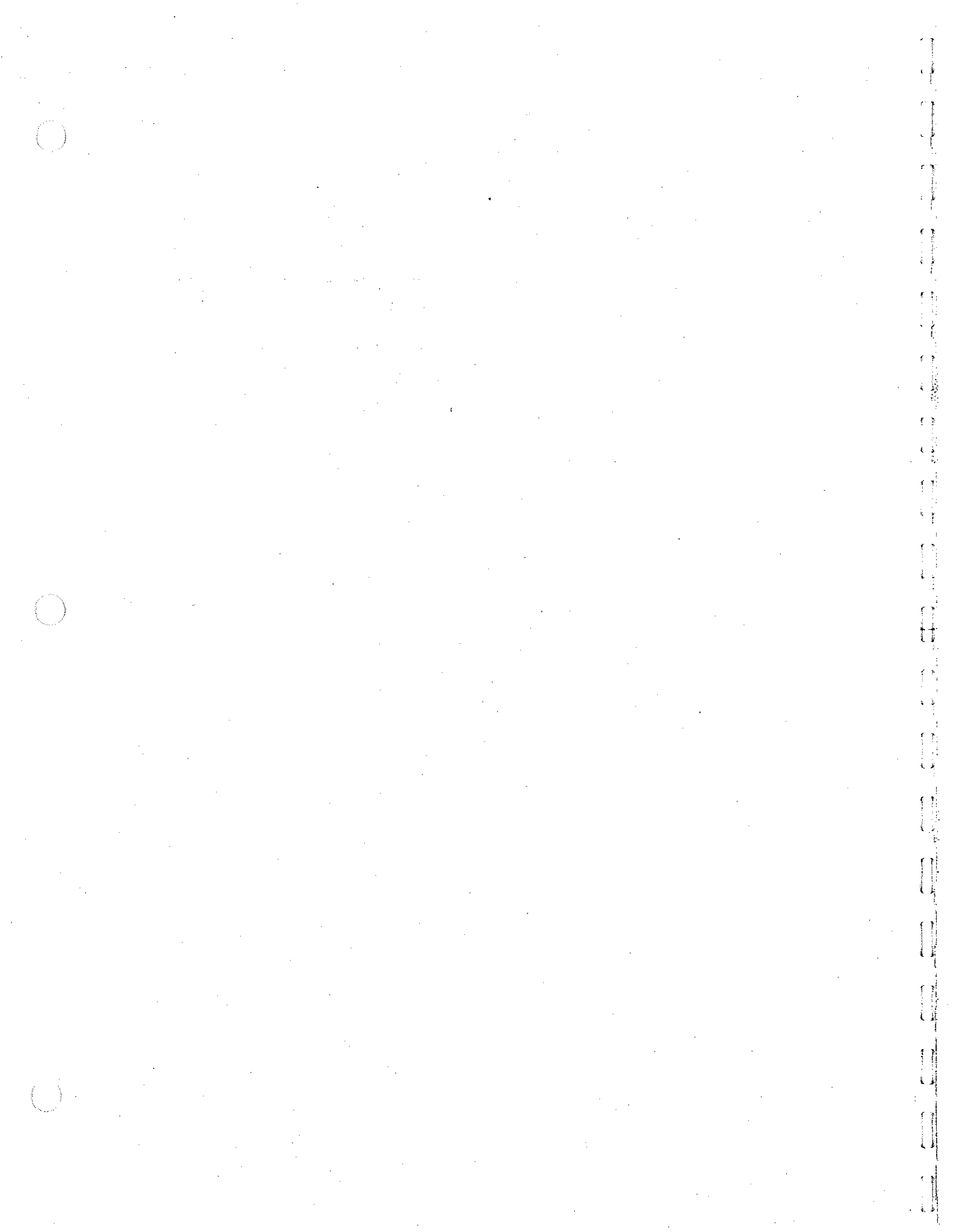
d. Increment IV shall terminate and this Development Order expire on December 31, 2000.

e. The local government agrees that, until December 31, 2000, Increment IV of the Murdock Center DRI shall not be subject to downzoning, unit density reduction or intensity reduction as a result of any local government action, including any action pursuant to Chapter 163, F.S., unless the local government can demonstrate that substantial changes in the conditions underlying the approval of this Development Order have occurred or the Development Order was based on substantially inaccurate information provided by the Applicant or that the change is clearly established by the local government to be essential to the public health, safety, or welfare.

f. If the local government, during the course of monitoring the development, can demonstrate that substantial changes in the conditions underlying the approval of the Development Order has occurred or that the Development Order was based on substantially inaccurate information provided by the developer, resulting in additional substantial regional impacts, then a substantial deviation shall be deemed to have occurred. The monitoring checklist contained in Appendix IV of the SWFRPC report shall be used as a guide by the local government in determining additional substantial regional impacts.

### 3.13 Annual Report.

By each annual anniversary date for the Murdock Center Increment IV Development Order, the Applicant shall provide an Annual Report as required in Sections



380.06(15)(c)4.,(18), F.S., and Rule 9J-2.025(7), Florida Administrative Code. Requirements for the content and dissemination of this report shall be as follows:

a. Dissemination: The Annual Report, on Form RPM-BSP-ANNUAL REPORT 1, shall be sent to the following agencies: Charlotte County Community Development Planning and Development Review Departments or any successor thereto; SWFRPC; DCA; Florida Department of Transportation; the City of North Port; and all affected permit agencies.

b. Content: The Applicant shall include the following information related to Increment IV in the Annual Report:

- i. Changes in the plan of development or in the representations contained in the AIDA or in the phasing for the reporting year and for the next year;
- ii. A summary comparison of development activity proposed and actually conducted for the year;
- iii. Identification of undeveloped tracts of land, other than individual single family lots, that have been sold to a separate entity or developer;
- iv. Identification and intended use of lands purchased, leased or optioned by the Applicant adjacent to the Increment IV site since the Development Order was issued;
- v. A specific assessment of the Applicant's and the local government's compliance with each condition of approval contained in the Development Order and the commitments which are contained in the AIDA;
- vi. Any known incremental DRI applications for development approval or requests for a substantial deviation determination that were filed in the reporting year and to be filed during the next year;

vii. An indication of a change, if any, in local government jurisdiction for any portion of the development since the Increment IV Development Order was issued;

viii. A list of significant local, state and federal permits which have been obtained or which are pending by agency, type of permit, permit number and purpose of each within Increment IV;

ix. A statement that all persons have been sent copies of the Annual Report in conformance with Sections 380.06(15) and (18), F.S.;

x. A copy of any recorded notice of the adoption of the Development Order or a subsequent modification of the Development Order that was recorded by the Applicant pursuant to Section 380.06(15)(f), F.S.

xi. A list of all developers or assigns, in addition to AGC, who have an ownership interest in the project and written verification that they have been provided a copy of the adopted Murdock Center Increment IV Development Order.

**3.14 Substantial Deviations.** Further review pursuant to Chapter 380 may be required if a substantial deviation, as defined in Section 380.06(19), F.S., occurs. The Applicant shall comply with that section concerning substantial and non-substantial deviations or development order amendments. The Applicant shall be given due notice of and have an opportunity to be heard at any hearing to determine whether or not a proposed change to the development is a substantial deviation.

**3.15 Impact Fees; Credits.**

a. Except as otherwise provided in this Development Order, development within Murdock Center Increment IV shall be subject to the impact fees imposed under the Charlotte

County Impact Fee Ordinance of 1994 as identified in Chapter 3-3.5, Code of Laws and Ordinances, Charlotte County, Florida (Ordinance 86-28, as amended by Ordinances 87-42, 89-85, 93-22 and 94-16) as amended from time to time.

b. In compliance with Section 380.06(16)(a), F.S., Charlotte County shall credit under the Impact Fee Ordinance of 1994, any exaction or contribution of lands or funds for land acquisition, construction or expansion of a public facility, or portion thereof, required by the Murdock Center Increment IV, if the contribution, payment or construction meets the same need as a component of the impact fee established by the Charlotte County Impact Fee Ordinance.

c. If Charlotte County imposes or increases an impact fee or exaction by local ordinance after this Development Order becomes effective, the Applicant may petition Charlotte County and Charlotte County shall modify the affected provisions of this Development Order to give the Applicant credit for any contribution of lands or funds for land acquisition, construction or expansion of a public facility, or portion thereof, required by this Development Order toward an impact fee or exaction for the same need.

d. Charlotte County and the Applicant may enter into a capital contribution front-ending agreement to reimburse the Applicant for voluntary contributions in excess of its proportionate fair share.

**3.16 Legal Status of Approved DRI Development.** Charlotte County recognizes that this Murdock Center Increment IV Development Order is afforded all rights to develop the Murdock Center Increment IV parcels pursuant to Section 163.3167(8), F.S.

**3.17 Provision of Infrastructure.** Nothing in this Development Order shall preclude or exempt the Applicant from establishing or participating in any duly established

municipal or local taxing or service unit, dependent or independent special district, or Community Development District established pursuant to Chapter 190, FS, for the purpose of providing infrastructure or services. This Development Order approves the construction or funding of any impact-related mitigation or project required under this Development Order by a Community Development District or other taxing unit. The Applicant shall ensure that any Community Development District that may be established and carry out development as defined in Section 380.04, FS, is bound by the terms of this Development Order as a successor or assign.

**3.18 Recordation.** Notice of the adoption of this Development Order or any subsequent modification of this Development Order, in accordance with Section 28.222, FS, shall be recorded by the Applicant with the Clerk of the Circuit Court for Charlotte County, Florida, at the Applicant's expense within thirty (30) days of the effective date of this Development Order or any subsequent modification of this Development Order in compliance with Section 380.06(15)(f), FS. The recording of this notice shall not constitute a lien, cloud or encumbrance on Increment IV, or actual or constructive notice of any such lien, cloud or encumbrance.

**Section 4. Rendition.** Within 10 days of the date of its adoption, a copy of this Resolution certified as complete and accurate with all pertinent attachments shall be forwarded by certified mail return receipt requested, by the Clerk's office to the Applicant; Southwest Florida Regional Planning Council, 4980 Bayline Drive, North Fort Myers, Florida 33918-3455; and to the Department of Community Affairs, Division of Resource Planning, 2740 Centerview Drive, Rhyne Building--Room 200, Tallahassee, Florida 32399-2100; to the City of North Port, Samuel K. Jones, Planning, Building and Development services, Municipal Building, 5650 North Port

Boulevard, North Port, Florida 34287-3103; and to the Charlotte County Community Development Division.

**Section 5. Severability.** If any section, subsection, sentence, clause, phrase, or part of this Murdock Center Increment IV Development Order is, for any reason, held or declared to be invalid, inoperative or void, the remaining portion, if any, of this order shall remain valid and continue in full force and effect. Nothing in the foregoing shall override the effect of an appeal pursuant to Section 380.07(2), FS.

**Section 6. Resolution as Development Order.** This Resolution, and its accompanying exhibits and references, shall be deemed the Incremental Development Order for Increment IV of the Murdock Center DRI.

**Section 7. Effective Date.** The effective date of this Incremental Development Order shall be the date of its transmittal to all necessary parties, as set forth in Rule 9J-2.025(5), Florida Administrative Code. Any timely appeal of this Incremental Development Order, pursuant to Section 380.07, FS, shall, during the pendency of such appeal, stay the effective date of this Incremental Development Order.

**Section 8. Consent to Provisions of Incremental Development Order.** AGC, by signing this document in the space hereinafter provided, signifies its consent to the provisions of this Incremental Development Order.

PASSED AND DULY ADOPTED this 22<sup>nd</sup> day of July, 1996.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

BY: Matthew D. DeBoer  
Matthew D. DeBoer  
Chairman

ATTEST:

Barbara T. Scott  
Clerk of Circuit Court  
and Ex-Officio Clerk to the  
Board of County Commissioners

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

By: *Laura Mitchell*  
Deputy Clerk

By: *Renee Francis Lee*  
Renee Francis Lee  
County Attorney

The Applicant hereby approves and assents to all of the terms, conditions, and provisions of the above and foregoing Incremental Development Order, and acknowledge that the same are binding upon the Applicant and their successors and assigns.

ATLANTIC GULF COMMUNITIES CORPORATION

By: *[Signature]*  
As Its Senior Vice President

Witnesses to Atlantic Gulf Communities Corporation:

*[Signature]*  
Name: CHRISTOPHER J. MACNAIR

*[Signature]*  
Name: ALAN L. MITCHELL



## TABLE OF EXHIBITS

<b>Exhibit A</b>	Legal Description, Increment IV of Murdock Center
<b>Exhibit B</b>	Murdock Center AIDA-Increment IV Conceptual Master Development Plan Map H
<b>Exhibit C</b>	Table 10-1A-1 Project Description
<b>Exhibit D</b>	Preliminary Development Agreement for Murdock Center Increment IV dated August 10, 1994
<b>Exhibit E</b>	Capital Facilities Plan
<b>Exhibit F</b>	Design Standards
<b>Exhibit G</b>	Anticipated Site Related Improvements Table
<b>Exhibit H</b>	Future Traffic Impacts Table

## Exhibit A

### INCREMENT IV DRI

#### LEGAL DESCRIPTION

A portion of the Sections 7 and 8, Township 40 South, Range 22 East, Charlotte County, Florida and being described as follows:

BEGINNING at the intersection of the Easterly Right-of-Way of MURDOCK CIRCLE as described in Official Records Book 1028 at Page 968 of the Public Records of Charlotte County, Florida with the Southerly Right-of-Way line of EL JOBEAN ROAD as described in Official Records Book 995 at Page 644 of the of the Public Records of Charlotte County, Florida; thence  $N69^{\circ}01'46''E$ , along the Southerly Right-of-Way line of said EL JOBEAN ROAD, for a distance of 693.23 feet to a point on the East line of said Section 7; thence continue  $N69^{\circ}01'46''E$ , parallel with and 100.00 feet Southerly of, as measured at right angles to, the Southerly Right-of-Way line of the abandoned RAILROAD RIGHT-OF-WAY as described in Official Records Book 814 at Page 1983 of the Public Records of Charlotte County, Florida; thence for a distance of 371.43 feet; thence  $S20^{\circ}58'14''E$  for a distance of 776.83 feet; thence  $S00^{\circ}04'54''E$  for a distance of 965.78 feet to the South line of the Northwest 1/4 of said Section 8; thence  $N89^{\circ}56'35''W$ , along the South line of the Northwest 1/4 of said Section 8, for a distance of 624.00 feet to Southwest corner of the Northwest 1/4 of said Section 8; thence continue  $N89^{\circ}56'35''W$  for a distance of 50.00 to a point 50.00 feet West of, the East line of said Section 7; thence  $S00^{\circ}04'54''E$ , parallel with and 50.00 feet West of, as measured at right angles to, the East line of said Section 7, for a distance of 186.47 feet; to a point on the Northerly Right-of-Way line of U.S. HIGHWAY No. 41 (TAMIAMI TRAIL); thence  $N62^{\circ}52'14''W$ , along the Northerly Right-of-Way line of said U.S. HIGHWAY No. 41, for a distance of 420.55 feet to a point on the Easterly Right-of-Way line of said MURDOCK CIRCLE; thence  $N27^{\circ}07'46''E$  for a distance of 106.36 feet to a point of curvature of a circular curve to the left having a radius 533.00 feet; thence Northeasterly, Northerly and Northwesterly along the arc of said curve having a central angle of  $48^{\circ}06'13''$  for a distance of 447.49 feet to a point of tangency; thence  $N20^{\circ}58'27''W$  for a distance of 830.70 feet to the Point of Beginning (the last described three courses also being coincident with the Easterly Right-of-Way line of said MURDOCK CIRCLE).

#### TOGETHER WITH

A portion of the Sections 8, Township 40 South, Range 22 East, Charlotte County, Florida and being bounded as follows:

On the North by the Southerly Right-of-Way line of the abandoned RAILROAD RIGHT-OF-WAY as described in Official Records Book 814 at Page 1983 of the Public Records of Charlotte County, Florida;

On the East by the Westerly Right-of-Way line of TOLEDO BLADES BOULEVARD as described in Official Records Book 1028 at Pages 2031 through 2034 of the Public Records of Charlotte County, Florida;

On the West by the East line of the PROPOSED PELLAM WATERWAY as described in Official Records Book 1342 at Pages 2065 through 2085 of the of the Public Records of Charlotte County, Florida;

And on the South by the South line of the Northwest 1/4 of said Section 8.

SUBJECT to a Florida Power and Light Company EASEMENT, recorded in Official Records Book 1414, at Pages 1698 through 1704, of the Public Records of Charlotte County, Florida.

LESS AND EXCEPT

The lands described in Official Records Book 1189 at Page 2009 of the Public Records of Charlotte County, Florida, (QUESADA AVENUE).

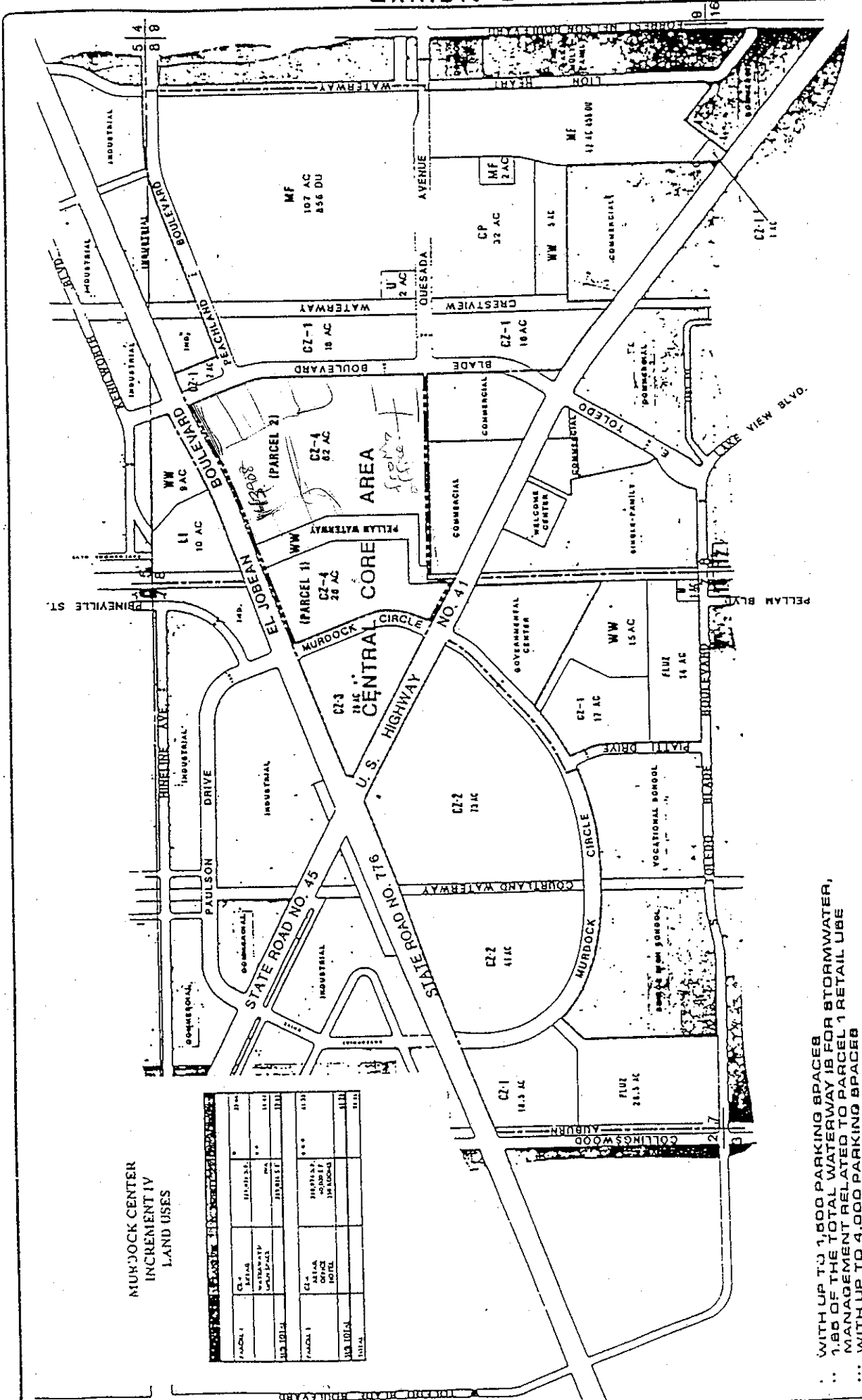
Said lands situate, lying and being in Charlotte County, Florida.

All of the above subject to any easements and/or Rights-of-Way of record.

DRI Acreage = 98.36

Exhibit B

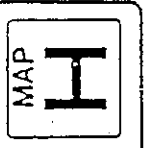
22-1018



MURDOCK CENTER  
INCREMENT IV  
LAND USES

Parcel	Area	Use	Notes
Parcel 1	107 AC	MF	856 DU
Parcel 2	32 AC	CP	
Parcel 3	18 AC	C2-1	
Parcel 4	82 AC	C2-4	
Parcel 5	28 AC	C2-4	
Parcel 6	13 AC	C2-2	
Parcel 7	41 AC	C2-2	
Parcel 8	18.5 AC	C2-1	
Parcel 9	21.5 AC	FLUZ	
Parcel 10	15 AC	WW	
Parcel 11	14 AC	FLUZ	
Parcel 12	17 AC	C2-1	
Parcel 13	15 AC	WW	
Parcel 14	32 AC	CP	
Parcel 15	11 AC	LI	
Parcel 16	8 AC	WW	
Parcel 17	2 AC	U	
Parcel 18	42 AC	MF	
Parcel 19	11 AC	C2-11	
Parcel 20	11 AC	C2-11	
Parcel 21	11 AC	C2-11	
Parcel 22	11 AC	C2-11	
Parcel 23	11 AC	C2-11	
Parcel 24	11 AC	C2-11	
Parcel 25	11 AC	C2-11	
Parcel 26	11 AC	C2-11	
Parcel 27	11 AC	C2-11	
Parcel 28	11 AC	C2-11	
Parcel 29	11 AC	C2-11	
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Parcel 32	11 AC	C2-11	
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Parcel 36	11 AC	C2-11	
Parcel 37	11 AC	C2-11	
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Parcel 90	11 AC	C2-11	
Parcel 91	11 AC	C2-11	
Parcel 92	11 AC	C2-11	
Parcel 93	11 AC	C2-11	
Parcel 94	11 AC	C2-11	
Parcel 95	11 AC	C2-11	
Parcel 96	11 AC	C2-11	
Parcel 97	11 AC	C2-11	
Parcel 98	11 AC	C2-11	
Parcel 99	11 AC	C2-11	
Parcel 100	11 AC	C2-11	

WITH UP TO 1,600 PARKING SPACES  
1.80 OF THE TOTAL WATERWAY 1B FOR 8TORMWATER,  
MANAGEMENT RELATED TO PARCEL 1 RETAIL USE  
... WITH UP TO 4,000 PARKING SPACES



2000 BETWEEN INDICATED TOWNSHIP  
CONDITION, CURRENT STATUS MAY BE  
PLANNED OR OPERATED, CONTINGENT  
ON PLANNING  
SEE ALSO MAP TABLE 12-1

ANGLO BOUNDARY  
ADA INCREMENT IV BOUNDARY  
WELL LOCATIONS  
ATLANTIC GULF  
COMMUNITY

REV. 10/19/94  
REV. 04/11/94

**MURDOCK CENTER  
AIDA - INCREMENT IV  
CONCEPTUAL MASTER DEVELOPMENT PLAN**



Murdock Center Increment IV

TABLE 10-1A-1  
PROJECT DESCRIPTION

PARCEL	LAND USE	DENSITY	ACRES
PARCEL 1	CZ-4 RETAIL	219,026 S.F.	25.66*
	WATERWAYS/ OPEN SPACE	N/A	11.47**
SUB-TOTAL		219,026 S.F.	37.13
PARCEL 2	CZ-4 RETAIL OFFICE HOTEL	- 310,974 S.F. 60,000 S.F. 250 ROOMS	61.23***
SUB-TOTAL			61.23
TOTAL			98.36

\* With up to 1,500 parking spaces

\*\* 1.85 of the total waterway is for stormwater, management related to Parcel 1 retail use

\*\*\* With up to 4,000 parking spaces

Preliminary Development Agreement

For

Murdock Center Increment IV

THIS AGREEMENT is entered into between Atlantic Gulf Communities Corporation ("Atlantic Gulf") ("Owner/Developer") and the State of Florida, Department of Community Affairs ("Department"), subject to all other governmental approvals and solely at the risk of the Owner/Developer.

WHEREAS, the Department is the state land planning agency having the power and duty to exercise general supervision of the administration and enforcement of Chapter 380, Florida Statutes (1993) (F.S.), which includes provisions relating to developments of regional impact ("DRIs"); and

WHEREAS, the Department is authorized to enter into preliminary development agreements ("PDAs") pursuant to Sections 380.032(3) and 380.06(8), F.S., and Rule 9J-2.0185, Florida Administrative Code (F.A.C.); and

WHEREAS, the Owner/Developer represents and states that:

A. The Owner/Developer is a Delaware corporation, which owns in fee simple absolute approximately 98.36 acres located in Charlotte County, Florida, more particularly depicted and legally described in Exhibit A to this agreement; and

B. The Owner/Developer proposes to develop Increment IV ("Increment IV Project") of Murdock Center on the property described in Exhibit A. The Increment IV Project is proposed to

include retail commercial, office and hotel uses as shown on Exhibit B; and

C. The Increment IV Project is a part of the Murdock Center Master Incremental Development of Regional Impact (DRI) which was approved March 3, 1987, in accordance with Chapter 380.06(21), F.S. Increments I, II and III have previously been approved pursuant to Chapter 380, F.S.; and

D. The Owner/Developer proposes to develop a portion of the Increment IV Project ("preliminary development") prior to issuance of the final DRI development order for the Increment IV Project as shown on Exhibits B and C; and

E. The Owner has a fee simple interest in certain lands within five (5) miles of the Increment IV Project, which are the subject of a separate "Atlantic Gulf Communities Amended and Restated Agreement" between Atlantic Gulf and the Department dated August 3, 1992, which establishes the DRI requirements for all of Owner/Developer's property located in Charlotte County; and

F. The preliminary development to be authorized by this Agreement pursuant to Section 380.06(8), F.S., is limited to lands which are suitable for development; and

G. The public infrastructure will accommodate the uses planned for the preliminary development authorized by this Agreement; and

H. The proposed preliminary development will not result in material adverse impacts to existing regional resources or existing or planned facilities.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, it is hereby understood and agreed:

1. The Owner/Developer asserts and warrants that all the representations and statements concerning the Increment IV Project made to the Department and contained in this Agreement are true, accurate, and correct. Based upon said representations and statements, the Department concludes that this Agreement is in the best interest of the State, is necessary and beneficial to the Department in its role as the State agency with the responsibility for the administration and enforcement of Chapter 380, F.S., and reasonably applies and effectuates the provisions and intent of Chapter 380, F.S., including Section 380.06(8), F.S.
2. The Increment IV Project is a development of regional impact ("DRI") subject to review pursuant to Section 380.06, F.S. The Owner/Developer will comply with the preapplication conference requirements of Section 380.06(7), F.S., within 45 days after the execution of this agreement.
3. If Charlotte County, pursuant to Section 380.06(7)(a), F.S. (1993), certifies that the Increment IV Project is consistent with the Charlotte County Comprehensive Plan



adopted under Chapter 163, F.S. (which has been found in compliance with State law) and the project will not require a local comprehensive plan amendment, the Increment IV Project may proceed with expedited DRI review pursuant to Section 380.06(7)(a), including use of a short form application for incremental development approval (AIDA). The short form application, however, shall include any additional information required by the Master Development Order (DO) for the Murdock Center DRI that is pertinent to the Increment IV Project. Owner/Developer shall file the AIDA for the Increment IV project within three months after the execution of this agreement. The AIDA shall include all of the land legally described and depicted in Exhibit A.

4. Time is of the essence. Failure to diligently proceed in good faith to obtain a final development order for the Increment IV Project shall constitute a breach of this Agreement. In the event of such a breach, the Owner/Developer shall immediately cease all development of the Increment IV Project, including the preliminary development authorized by this Agreement.
5. After the date of execution of this Agreement and prior to the issuance of a final development order for the Increment IV Project, the Owner/Developer or its successors or assigns, may undertake the preliminary

development of 236,026 square feet of retail commercial use with 1,500 parking spaces on 25.66 acres and 11.47 acres of stormwater management use in the Pellam Waterway, all on a total of 37.13 acres, as legally described in Exhibit D and shown on Exhibit C. For purposes of DRI review, 1.85 acres of the stormwater management facility has been allocated to the preliminary development retail commercial use based on need.

6. No other development as defined by Section 380.04, F.S., unless authorized by an amendment to this Agreement or otherwise under Section 380.032, F.S., shall occur until such time as a final development order is approved for this Increment IV Project. In the event of a breach of this paragraph, the Owner/Developer shall immediately cease all development of the Increment IV Project, including the preliminary development authorized by this agreement. The preliminary development authorized by this paragraph shall be subject to the terms and conditions of the final development order.
7. The preliminary development authorized by this Agreement is equal to or less than 80% of any applicable numerical guideline or standard contained in Section 380.0651, F.S., and Rule 28-24, F.A.C.

8. The Owner/Developer shall not claim vested rights, or assert equitable estoppel, arising from this Agreement or any expenditures or actions taken in reliance on this Agreement to continue with the total proposed development beyond the preliminary development. This Agreement shall not entitle the Owner/Developer to a final DRI development order approving the total proposed development nor to particular conditions in a final development order, nor does this Agreement entitle the Owner/Developer to any other necessary approvals or permits from any other authority or in any other jurisdiction prior to the preliminary development being undertaken, such as zoning and land use approvals, building permits, or state regulatory agency permits.
9. In the event of a breach of this Agreement or failure to comply with any conditions of this Agreement, or if this Agreement is based upon materially inaccurate information, the Department may terminate this Agreement or file suit to enforce this Agreement as provided in Sections 380.06 and 380.11, F.S., including a suit to enjoin all development with the Increment IV Project.
10. Nothing in this Agreement shall constitute a waiver by any party of the right to appeal any development order pursuant to Section 380.07, F.S.

11. The restrictions and conditions of the final development order issued pursuant to Chapter 380, F.S., shall supersede the restrictions and conditions upon development set forth in this Agreement.
12. This Agreement affects the rights and obligations of the parties under Chapter 380, F.S. It is not intended to determine or influence the authority or decisions of any other state or local government or agency in issuance of any other permits or approvals which might be authorized by this Agreement. This Agreement shall not prohibit the regional planning agency from reviewing or commenting on any regional issue that the regional agency determines should be included in the regional agency's report on the AIDA.
13. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. The Owner/Developer shall ensure and provide that any successor in interest in any lands affected by this Agreement is bound by the terms of this Agreement. The Owner/Developer shall record Notice of this Agreement which complies with Section 380.06(8)(a)10., F.S., in the Official Records of Charlotte County, Florida, and shall provide the Department with a copy of the recorded Notice including Book and Page number within four (4) weeks of the date of execution of this Agreement.

14. The date of execution of this Agreement shall be the date that the last party signs and acknowledges this Agreement.

[Signature]  
Witness

ATLANTIC GULF COMMUNITIES CORPORATION  
OWNER/DEVELOPER

[Signature]  
Witness

BY: [Signature]

Kimball D. Woodbury  
Atlantic Gulf Communities Corporation  
2601 South Bayshore Drive  
Miami, FL 33133

STATE OF FLORIDA  
COUNTY OF DADE

The foregoing instrument was acknowledged before me this the 2 day of August, 1994, by Kimball D. Woodbury of Atlantic Gulf Corporation, a Delaware corporation, on behalf of the corporation. He/she is personally known to me or produced N/A as identification and did/did not take an oath.

[Signature]  
Notary Public  
My Commission Expires: June 23, 1997



PATRICIA A MARTINEZ  
My Commission CC206767  
Expires Jun. 23, 1997  
Bonded by HAI  
800-422-1555

DEPARTMENT OF COMMUNITY AFFAIRS

Approved as to form  
and legal sufficiency:

William H. ...  
Attorney  
Department of Community  
Affairs

By: J. Thomas Beck  
2740 Centerview Drive  
Tallahassee, FL 32399

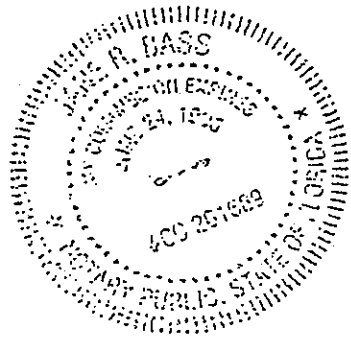
STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this the 10<sup>th</sup> day  
of August, 1994, by J. Thomas Beck of the  
Department of Community Affairs, an agency of the State of Florida. He/she  
is personally known to me ~~or produced~~  
as identification and ~~did~~ did not take an oath.

Jane R. Bass  
Notary Public  
My Commission Expires: 6/24/96

Jane R. Bass  
Witness

Stephen B. ...  
Witness



# ATLANTIC GULF COMMUNITIES

2601 SOUTH BAYSHORE DRIVE, MIAMI, FLORIDA 33133

## SURVEYOR'S DESCRIPTION:

A portion of Sections 7 and 8, Township 40 South, Range 22 East, Charlotte County, Florida, being more particularly described as follows:

Beginning at the West One-Quarter Corner of said Section 8, thence South  $00^{\circ}05'03''$  East, along the West Line of said Section 8, a distance of 213.41 feet to the Northeasterly Right-of-Way Line of U.S. 41 (having a width of 200 feet); thence North  $62^{\circ}53'26''$  West, along said Northeasterly Right-of-Way Line, a distance of 476.86 feet to the Easterly Right-of-Way Line of Murdock Circle per Resolution No. 89-53 recorded in Official Records Book 1028 at Page 968 of the Public Records of Charlotte County, Florida; thence North  $27^{\circ}07'46''$  East, along said Easterly Right-of-Way Line, a distance of 106.53 feet to the point of curvature of a circular curve concave Westerly, having as elements, a central angle of  $48^{\circ}06'13''$ , a radius of 533.00 feet and a chord bearing of North  $03^{\circ}04'39''$  East; thence Northerly along the arc of said curve, a distance of 447.49 feet; thence North  $20^{\circ}58'27''$  West, along said Easterly Right-of-Way Line, a distance of 832.24 feet to the Southeasterly Line of lands dedicated to Charlotte County for roadway purposes, as recorded in Official Records Book 995 at Page 644 of the Public Records of Charlotte County, Florida; thence North  $69^{\circ}01'46''$  East, along said Southeasterly Line, a distance of 693.81 feet to the East Line of said Section 7; thence North  $00^{\circ}05'03''$  West, along said East Line of said Section 7, a distance of 107.03 feet to the Southeasterly Right-of-Way Line of former Seaboard Airline Railroad Right-of-Way; thence North  $69^{\circ}01'46''$  East, along said Southeasterly Right-of-Way Line, a distance of 1,683.31 feet to the point of curvature of a circular curve concave Southwesterly, having as elements a central angle of  $87^{\circ}08'56''$ , a radius of 50.00 feet and a chord bearing of South  $67^{\circ}23'46''$  East; said curve being the Westerly Right-of-Way Line of Toledo Blade Boulevard per Resolution No. 90-269 recorded in Official Records Book 1128 at Page 2031 of the Public Records of Charlotte County, Florida; thence Southeasterly along the arc of said curve and said Westerly Right-of-Way Line, a distance of 76.05 feet; thence South  $23^{\circ}49'18''$  East, along said Westerly Right-of-Way Line, a distance of 529.04 feet to the point of curvature of a circular curve concave Westerly, having as elements a central angle of  $23^{\circ}35'42''$ , a radius of 1,500.00 feet and a chord bearing of South  $12^{\circ}01'27''$  East; thence Southerly along the arc of said curve, a distance of 617.72 feet; thence South  $00^{\circ}13'36''$  East, along said Westerly Right-of-Way Line, a distance of 1,104.08 feet to the point of curvature of a circular curve concave Northwesterly, having as elements a central angle of  $90^{\circ}17'20''$ , a radius of 25.00 feet and a chord bearing of South  $44^{\circ}55'04''$  West; said curve being the Northerly Right-of-Way Line of Quesada Avenue according to the "Development Agreement" recorded in Official Records Book 1198 at Page 2005 of the Public Records of Charlotte County, Florida; thence Southwesterly along the arc of said curve and said Northerly Right-of-Way Line, a distance of 39.40 feet; thence North  $89^{\circ}56'16''$  West, along said Northerly Right-of-Way Line, a distance of 639.90 feet; thence South  $00^{\circ}03'44''$  West, along said Right-of-Way Line, a distance of 30.00 feet to the Northwest Corner of the Northeast One-Quarter of the Southwest One-Quarter of said Section 8; thence North  $89^{\circ}56'16''$  West, along the North Line of the Southwest One-Quarter of said Section 8, a distance of 1,313.86 feet to the Point of Beginning.

LESS AND EXCEPT Pellam Waterway Right-of-Way (150' wide) as recorded in Official Records Book 1228 at Page 1638 of the Public Records of Charlotte County, Florida.

Said lands containing 98.36 Acres, more or less.

Said lands situate, lying and being in Charlotte County, Florida.

# MURDOCK CENTER INCREMENT IV LAND USES

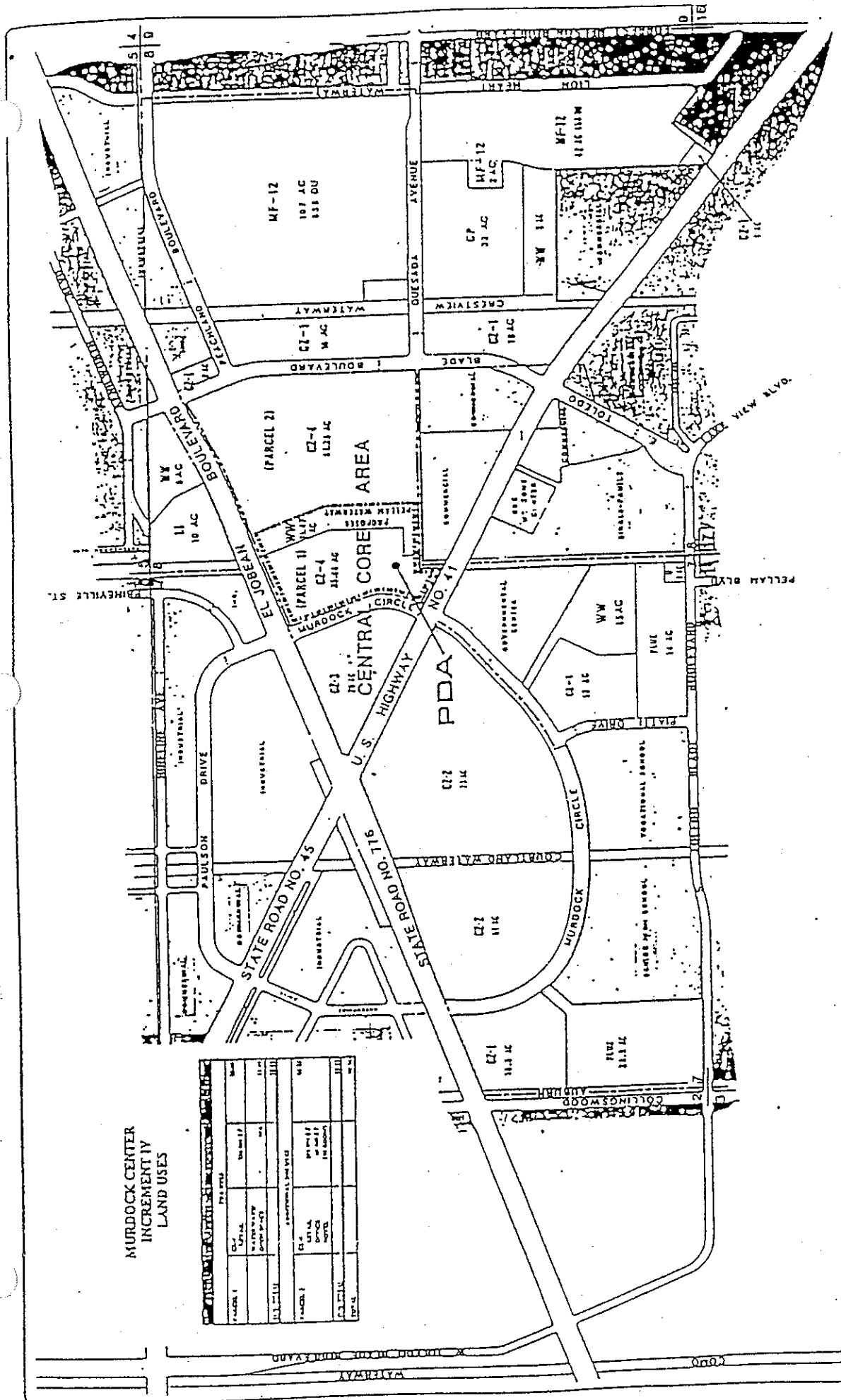
PARCEL	LAND USE	DENSITY	ACRES
PDA USES			
PARCEL 1	CZ-4 RETAIL	236,026 S.F.	25.66*
	WATERWAYS/ OPEN SPACE	N/A	11.47**
SUB-TOTAL			37.13
ADDITIONAL DRI USES			
PARCEL 2	CZ-4 RETAIL OFFICE HOTEL	293,974 S.F. 60,000 S.F. 250 ROOMS	61.23
SUB-TOTAL			61.23
TOTAL			98.36

**NOTE:**

\*With up to 1,500 parking spaces.

\*\*1.85 acres of the total waterway is for stormwater management related to the PDA commercial uses.





**MURDOCK CENTER  
INCREMENT IV  
LAND USES**

Parcel No.	Area (Ac)	Use	Notes
1	10.0	Industrial	
2	10.0	Industrial	
3	10.0	Industrial	
4	10.0	Industrial	
5	10.0	Industrial	
6	10.0	Industrial	
7	10.0	Industrial	
8	10.0	Industrial	
9	10.0	Industrial	
10	10.0	Industrial	
11	10.0	Industrial	
12	10.0	Industrial	
13	10.0	Industrial	
14	10.0	Industrial	
15	10.0	Industrial	
16	10.0	Industrial	
17	10.0	Industrial	
18	10.0	Industrial	
19	10.0	Industrial	
20	10.0	Industrial	
21	10.0	Industrial	
22	10.0	Industrial	
23	10.0	Industrial	
24	10.0	Industrial	
25	10.0	Industrial	
26	10.0	Industrial	
27	10.0	Industrial	
28	10.0	Industrial	
29	10.0	Industrial	
30	10.0	Industrial	
31	10.0	Industrial	
32	10.0	Industrial	
33	10.0	Industrial	
34	10.0	Industrial	
35	10.0	Industrial	
36	10.0	Industrial	
37	10.0	Industrial	
38	10.0	Industrial	
39	10.0	Industrial	
40	10.0	Industrial	
41	10.0	Industrial	
42	10.0	Industrial	
43	10.0	Industrial	
44	10.0	Industrial	
45	10.0	Industrial	
46	10.0	Industrial	
47	10.0	Industrial	
48	10.0	Industrial	
49	10.0	Industrial	
50	10.0	Industrial	
51	10.0	Industrial	
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59	10.0	Industrial	
60	10.0	Industrial	
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65	10.0	Industrial	
66	10.0	Industrial	
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77	10.0	Industrial	
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80	10.0	Industrial	
81	10.0	Industrial	
82	10.0	Industrial	
83	10.0	Industrial	
84	10.0	Industrial	
85	10.0	Industrial	
86	10.0	Industrial	
87	10.0	Industrial	
88	10.0	Industrial	
89	10.0	Industrial	
90	10.0	Industrial	
91	10.0	Industrial	
92	10.0	Industrial	
93	10.0	Industrial	
94	10.0	Industrial	
95	10.0	Industrial	
96	10.0	Industrial	
97	10.0	Industrial	
98	10.0	Industrial	
99	10.0	Industrial	
100	10.0	Industrial	

# MURDOCK CENTER AIDA - INCREMENT IV - PDA CONCEPTUAL MASTER DEVELOPMENT PLAN

MAP  
**H**

■ THIS STREET MAP IS THE  
 FINAL CONCEPTUAL MASTER  
 PLAN FOR THE PROJECT  
 ■ THIS PROJECT IS SUBJECT TO  
 APPROVAL BY THE  
 LOCAL GOVERNMENT

■ THIS PROJECT IS SUBJECT TO  
 APPROVAL BY THE  
 LOCAL GOVERNMENT

■ THIS PROJECT IS SUBJECT TO  
 APPROVAL BY THE  
 LOCAL GOVERNMENT

■ THIS PROJECT IS SUBJECT TO  
 APPROVAL BY THE  
 LOCAL GOVERNMENT

■ THIS PROJECT IS SUBJECT TO  
 APPROVAL BY THE  
 LOCAL GOVERNMENT

EXHIBIT  
C

# ATLANTIC GULF COMMUNITIES

2601 SOUTH BAYSHORE DRIVE, MIAMI, FLORIDA 33133

## LEGAL DESCRIPTION

A portion of the Sections 7 and 8, Township 40 South, Range 22 East, Charlotte County, Florida and being described as follows:

BEGINNING at the intersection of the Easterly Right-of-Way of MURDOCK CIRCLE as described in Official Records Book 1028 at Page 968 of the Public Records of Charlotte County, Florida with the Southerly Right-of-Way line of EL JOBEAN ROAD as described in Official Records Book 995 at Page 644 of the of the Public Records of Charlotte County, Florida; thence N69°01'46"E, along the Southerly Right-of-Way line of said EL JOBEAN ROAD, for a distance of 693.23 feet to a point on the East line of said Section 7; thence continue N69°01'46"E, parallel with and 100.00 feet Southerly of, as measured at right angles to, the Southerly Right-of-Way line of the abandoned RAILROAD RIGHT-OF-WAY as described in Official Records Book 814 at Page 1983 of the Public Records of Charlotte County, Florida; thence for a distance of 371.43 feet; thence S20°58'14"E for a distance of 776.83 feet; thence S00°04'54"E for a distance of 965.78 feet to the South line of the Northwest 1/4 of said Section 8; thence N89°56'35"W, along the South line of the Northwest 1/4 of said Section 8, for a distance of 624.00 feet to Southwest corner of the Northwest 1/4 of said Section 8; thence continue N89°56'35"W for a distance of 50.00 to a point 50.00 feet West of, the East line of said Section 7; thence S00°04'54"E, parallel with and 50.00 feet West of, as measured at right angles to, the East line of said Section 7, for a distance of 186.47 feet; to a point on the Northerly Right-of-Way line of U.S. HIGHWAY No. 41 (TAMIAMI TRAIL); thence N62°52'14"W, along the Northerly Right-of-Way line of said U.S. HIGHWAY No. 41, for a distance of 420.55 feet to a point on the Easterly Right-of-Way line of said MURDOCK CIRCLE; thence N27°07'46"E for a distance of 106.36 feet to a point of curvature of a circular curve to the left having a radius 533.00 feet; thence Northeasterly, Northerly and Northwesterly along the arc of said curve having a central angle of 48°06'13" for a distance of 447.49 feet to a point of tangency; thence N20°58'27"W for a distance of 830.70 feet to the Point of Beginning (the last described three courses also being coincident with the Easterly Right-of-Way line of said MURDOCK CIRCLE).

Said lands situate, lying and being in Charlotte County, Florida and containing 37.13 acres, more or less.

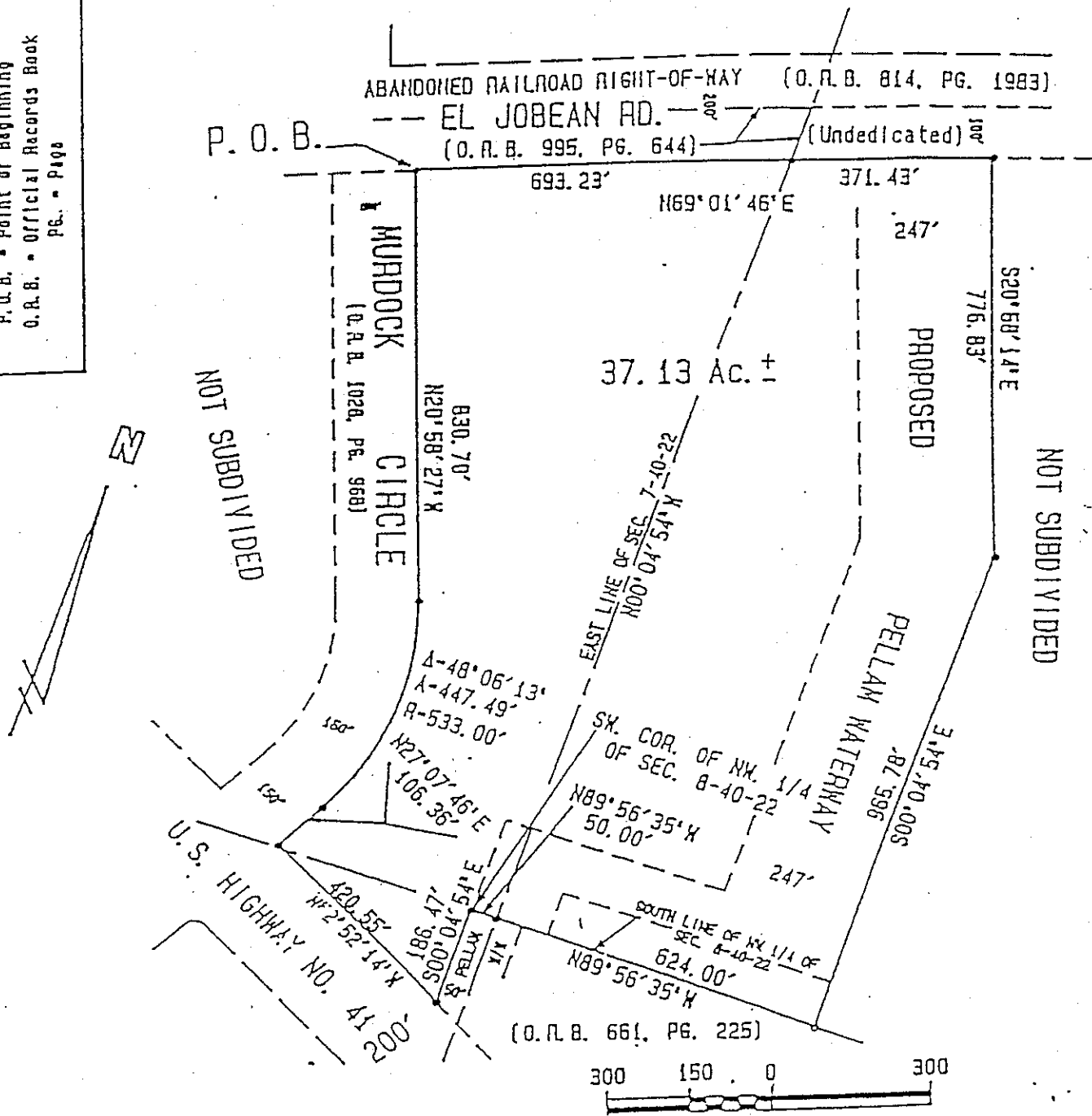
All of the above subject to any easements and/or Rights-of-Way of record.

# ATLANTIC GULF COMMUNITIES

2601 S. DAYSIDE DR., MIAMI, FL 33133

## ABBREVIATIONS

Ac. ± = Acres, more or less  
 P.O.B. = Point of Beginning  
 O.R.B. = Official Records Book  
 Pg. = Page

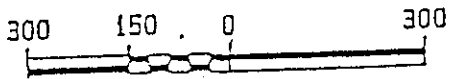


N

NOT SUBDIVIDED

NOT SUBDIVIDED

This sketch is not a survey.  
 Void unless endorsed by surveyor's seal.  
 Bearing based on the West line of Section 8-10-22. (N00°04'54"N).



Sheet 2 of 2

DATE	BY	CHK	REVISION	REMARKS
<b>NAPOLEON F. FRANCO</b> PROFESSIONAL LAND SURVEYOR NO. 4618 STATE OF FLORIDA				
DC	N.F.	APP'D BY:	DATE APR. 1991	FILE NAME
CC			SCALE 1"=300'	CC-4112

INFORMATIONAL SKETCH TO ACCOMPANY A LEGAL DESCRIPTION  
**PDA INCREMENT IV**  
 A PORTION OF SECTIONS 7 & 8,  
 TOWNSHIP 40 S., RANGE 22 E.,  
 CHARLOTTE COUNTY FLORIDA

EXHIBIT

Revised  
7/15/96

EXHIBIT E

CAPITAL FACILITIES PLAN

MURDOCK CENTER INCREMENT IV

INTRODUCTION

The Murdock Center Increment IV Capital Facilities Plan has been prepared to meet the requirements of General Condition No. 17, Exhibit 2, of the Master Development Order (MDO) for Murdock Center. The basic elements of the plan must address the provision of the following public facilities and services deemed necessary to serve and mitigate the impacts of the Increment IV development through its buildout of December 31, 2000. The identified services to be addressed for Increment IV are:

1. Transportation
2. Fire Protection and Emergency Medical Service
3. Police Protection
4. Solid Waste
5. Bicycle and Pedestrian Paths

For each of the above capital facilities improvement areas, the plan will address each of the following elements:

- A. Needed facilities or capital improvements.
- B. Timing for construction or acquisition.
- C. Cost estimates.
- D. Funding responsibilities and crediting procedures.
- E. Funding sources and their limitations.
- F. Implementation methods.
- G. Consistency with plans prepared pursuant to this condition for other increments of Murdock Center.

- H. A general procedure of costs and funds accounting to address any discrepancies between improvement estimates and actual costs.

The following sections set forth the functional aspects of the required plan. In each area, plan requirements are related to existing plans, studies, and stated needs of the agencies providing the required services or improvements. Previous Capital Facilities Plans approved include Murdock Center Increments I, II and III approved June 14, 1988, November 10, 1987, and October 12, 1993, respectively. This Murdock Center Increment IV Plan has been prepared according to the same format, and is consistent with the requirements of Element G., above (Consistency with Other Plans Prepared Pursuant to This Condition).

The MDO requires that this plan provide for the first and only Increment IV phase (1996-2000) or five-year period, whichever is less. The Applicant has designed a plan which would provide for the capital facilities needs of Increment IV through December 31, 2000, the Increment IV buildout date.

For the purpose of this Capital Facilities Plan, the following rules of construction shall apply: All Tables referred to shall be inclusive within the Capital Facilities Plan, and may be subject to revision in future Capital Facilities Plans. Exhibits referred to shall be by their number contained as part of the Incremental Development Order for Murdock Center Increment IV. Appendices referred to shall be inclusive within the Capital Facilities Plan, and be designated by a letter type (eg., Appendix A).

1. TRANSPORTATION

A. Needed Facilities or Capital Improvements

Based on the information presented in the Application for Master Development Approval (AMDA) and the MDO, a series of regionally and locally significant roadways will be impacted over the twenty year buildout of Murdock Center (1986 - 2005). The proposed 2005 Charlotte County Roadway Network for the Murdock Center area is identified in MDO Exhibit A. The significant regional and local roadways impacted by Murdock Center development are identified in MDO Exhibits B and C respectively. The improvement needs addressed in this plan are intended to be compatible with the identified network and to serve as a guide for implementation of improvements as the various elements of Murdock Center are constructed.

In the AIDA for Increment IV and/or Charlotte County's independent traffic study, any needed roadway and intersection improvements were identified based on

estimates of transportation impacts anticipated as a result of the proposed Increment IV, growth in background traffic, and other Increments (Increments I-III) of Murdock Center. In accordance with the Murdock Center Master Development Order, improvements in this Plan have been identified based on the level of service policies of the agencies having jurisdiction over the impacted roadways. These level of service standards are presented in Table 1.1.

The regional and local transportation improvements potentially necessary to mitigate the traffic impacts of Increment IV development are outlined in Table 1.2.

**B. Timing for Construction or Acquisition**

The schedule and timing of improvements identified in and in accordance with Table 1.3 are recommended only if all Murdock Center development and all of the non-Murdock Center background traffic assumed to be in place actually occurs during Increment IV development through 2000.

**C. Cost Estimates**

The estimated cost of required improvements as identified in Part A of Table 1.2 is shown on Table 1.3. These estimates are based on the cost factors provided in Table 1.5 to this plan.

**D. Funding Responsibilities and Crediting Procedures**

The Increment IV AIDA Applicant or its successors shall be responsible to fully fund and construct, subject to credit provisions if applicable, the specific road improvements that are identified in the Increment IV Development Order Condition 3.6b.

**E. Funding Sources and Limitations**

The funding sources available to implement this Capital Facilities Plan include revenues generated from the following sources:

**Local Sources**

- Development Exactions
- Ad Valorem Property Taxes
- Personal Property Taxes
- Lease Taxes
- User Charges and Fees
- Miscellaneous Taxes (fines, forfeitures, permits, licenses, etc.)

## Charlotte County Road Impact Fees

### Optional Local Sources

Existing County Gas Tax  
Optional 5th and 6th cent gas tax  
Tourist Development Tax

### State Sources

Sales Tax  
Revenue sharing trust fund  
Motor fuel tax  
Mobile home, vehicle and motor boat licensing

Anticipated revenues generated as a direct result of completion of Increment IV are listed in Table 1.4.

### F. Implementation Methods

As recommended in the MDO, the Applicant's responsibilities under this Plan will be implemented through the Incremental Development Order conditions. Any other County contribution for improvements to the regional and local roads identified should be implemented to the extent possible through commitment of revenues generated by Murdock Center development.

Alternatives available for the financing of improvements include but are not limited to:

Revenue bond financing supported by existing local option gas taxes

Special taxing districts

Tax increment financing districts

Florida DOT or federal aid primary funding.

Based on the revenue sources outlined in E. above, and to the extent of revenues attributable to Increment IV, the County should prioritize the list of improvements on the basis of projected need as follows to the extent not inconsistent with the County's Capital Improvement Program:

Priority I - Improvements required to address public safety and welfare.

Priority II - Improvements needed to meet County commitments in any incremental development order or to correct existing service level deficiencies.

Priority III - Improvements needed to mitigate future service level deficiencies as additional increments of Murdock Center are approved.

Priority IV - Improvements which would enhance capacity or provide relief to existing facilities through the construction of alternative routes.

G. Consistency With Capital Facilities Plans for Other Increments

This plan submitted for Murdock Center Increment IV is consistent with capital facilities plans previously submitted for other Increments.

H. Cost and Funds Accounting Procedures

Prior to the issuance of building permits for Increment IV development beyond that authorized by a Preliminary Development Agreement between the Applicant and the Florida Department of Community Affairs, the Applicant shall enter into a binding contract for the design and construction of the "pipelined" improvements or enter into an escrow agreement with Charlotte County and place in the escrow account funding for the proportional share contribution for construction of required "pipelined" improvements as set forth in the Increment IV Development Order.



TABLE 1.1

Roadway Level of Service Standards for  
Use in Murdock Center Increment IV  
Capital Facilities Plan

1. State Roads on the Florida Intrastate Highway System (FIHS):
  - \* Statewide Minimum Level of Service Standards for the State Highway System in Table 2-1 of the Florida Highway System Plan, Level of Service Standards and Guidelines Manual (i.e. FDOT 1975 LOS Manual)
  - \* Only I-75 is on the Florida Intrastate Highway System (FIHS)
  
2. State Roads not on the Florida Intrastate Highway System (FIHS):
  - \* Adopted transportation level of service standards of the applicable local government comprehensive plan (DCA Rule 9J-2.045, Transportation Uniform Standard Rule, Section (5)(a))
  
3. Charlotte County-City of Punta Gorda Comprehensive Plan, Traffic Element:
  - \* Table 3A, Base Level of Service (LOS) Standards for State and County Roadways, Time Period: 1993 thru 2010

Type of Roadway	Functional Classification	LOS Standard (Urbanized Areas)	LOS Standard (Rural Areas)
STATE	Limited Access	D	C
	Principal Arterial	D	C
	Major Arterial	D	C
	Minor Arterial	D	C
	Major Collector	D	C
	Minor Collector	D	C
COUNTY	Limited Access	D	C
	Principal Arterial	D	C
	Major Arterial	D	C
	Minor Arterial	D	C
	Major Collector	D	C
	Minor Collector	D	C

SOURCE: Charlotte County Planning Department

TABLE 1.2

Part A

## Required Roadway and Intersection Improvements

<u>Roadway/Intersection</u>	<u>Improvement</u>
1. Toledo Blade Blvd. (2 segments)	Construct 2 lanes (for a total of 4 lanes) from Pellam Blvd. to end of existing 4-lane section west of US 41.
2. US 41/Collingswood Blvd.	Signalize (if warranted and approved by review agencies).
3. US 41/Paulson Dr.	Signalize (if warranted and approved by review agencies).
4. US 41/Murdock Circle(E) <sup>1</sup>	Construct dual left-turn lanes from WB on Murdock Circle to SB on US 41 and retime signal.
5. US 41/Toledo Blade Blvd.(E)	Construct dual left-turn lanes from SB on US 41 to EB on Toledo Blade and retime signal.
6. US 41/Forrest Nelson	Retime signal.
7. Toledo Blade Blvd/ Pellam Blvd.	Construct NB and WB left-turn lanes and signalize (if warranted and approved by review agencies).
8. Toledo Blade Blvd./ Lakeview Blvd.	Construct SB and EB left-turn lanes and signalize (if warranted and approved by review agencies).
9. Toledo Blade Blvd./ Quesada Ave.	Construct NB right-turn lane and WB left-turn lanes and signalize (if warranted and approved by review agencies).
10. S.R. 776 (2 segments), <sup>2</sup> (subject to FDOT construction funding prior to Increment IV buildout)	Add 2 lanes from CR 771 to Sturkie Ave.

<sup>1</sup> Added in recognition of existing level of service problems at this intersection.

<sup>2</sup> Based on County traffic study by Tindale-Oliver and Associates, Inc.

In addition, the following road and intersection improvements also may be potentially necessary based on the assessment by the Southwest Florida Regional Planning Council:

Regional Road Segments

El Jobean (SR 776)	
- Sturkie Lane to S. Riverwood Entrance	4L
El Jobean Extension	
- W. Project Entrance to E. Project Entrance	4L
US 41	
- Murdock Circle to Toledo Blade Blvd. (E)	8L*
- Midway Blvd. to Harbor Blvd.	8L*
- Harbor Blvd. to Harborview	8L*
- Harborview to CR 776A	8L*

Local Road Segments

Peachland Boulevard	
- Forrest Nelson Blvd. to Atwater St.	4L
- Atwater St. to Harbor Blvd.	4L
- Harbor Blvd. to Orlando Blvd.	4L
- Orlando Blvd. to Loveland Blvd.	4L

\* or restrict access or improve a parallel facility

Regional Intersections

El Jobean (SR 776)/CR 771
El Jobean (SR 776)/Flamingo Blvd.
El Jobean (SR 776)/Toledo Blade Blvd.
El Jobean (SR 776)/Collingswood Blvd.
El Jobean (SR 776)/Murdock Circle
El Jobean (SR 776)/US 41
El Jobean Extension/Murdock Circle
El Jobean Extension/Toledo Blade Blvd.
US 41/Toledo Blade Blvd. (W)
US 41/Midway Blvd.
US 41/Harbor Blvd.
US 41/Harborview Rd.

Local Intersections

Toledo Blade Blvd./Piatti Dr.
Murdock Circle/Piatti Dr.
Quesada Ave./Forrest Nelson Blvd.
Peachland Blvd./Toledo Blade Blvd.
Peachland Blvd./Atwater St.
Peachland Blvd./Harbor Blvd.
Peachland Blvd./Orlando Blvd.
Peachland Blvd./Loveland Blvd.

TABLE 1.3

Estimated Costs of Certain Required Improvements

<u>Roadway/Intersection</u>	<u>Estimated Cost<sup>1</sup></u>
1. Toledo Blade Blvd. From Pellam Blvd. to US 41 (2 segments)	\$ 1,120,000
2. US 41/Collingswood Blvd.	\$ 110,000
3. US 41/Paulson Dr.	\$ 110,000
4. US 41/Murdock Circle (E) <sup>2</sup>	\$ 160,000
5. US 41/Toledo Blade Blvd. (E)	\$ 160,000
6. US 41/Forrest Nelson Blvd.	\$ 20,000
7. Toledo Blade Blvd./Pellam Blvd.	\$ 250,000
8. Toledo Blade Blvd./Lakeview Blvd.	\$ 250,000
9. Toledo Blade Blvd./Quesada Ave.	\$ <u>250,000</u>
	\$ 2,430,000

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<sup>1</sup> Preliminary, generalized cost estimates.

<sup>2</sup> Added in recognition of existing level of service problems at this intersection.

TABLE 1.4

(From Table 11-A-1. of ADA)

Estimated Revenues to Charlotte County from Increment IV

Murdock Center Increment IV

TABLE 11-A-1. SUMMARY OF PROJECTED DEVELOPMENT FEES, TAX REVENUES, AND RELATED LOCAL GOVERNMENT REVENUES GENERATED BY MURDOCK CENTER INCREMENT IV.

Year	Building Permits Fees	Water and Sewer Connections Fees	Building and Zoning Fees	Doc Stamp Revenue	Real Property Tax Revenue	Business Personal Property Tax Revenue	Sales Tax Revenue	Local Option Gas Tax Revenue
1995	38,160	151,000	768,288	32,256	—	—	—	—
1996	1,260	87,500	25,368	4,571	210,255	36,033	117,000	23,778
1997	23,760	150,000	478,368	26,040	224,922	38,613	240,000	25,684
1998	28,260	192,500	514,368	30,764	558,151	61,468	306,000	37,967
1999	46,260	458,000	831,918	42,014	539,666	92,796	411,000	50,846
5-Year Total	137,700	1,069,000	2,618,310	135,555	1,468,108	92,796	1,756,000	138,275
2000	—	—	—	—	847,646	146,035	517,000	115,000
2001	—	—	—	—	847,646	146,035	556,000	125,000
2002	—	—	—	—	847,646	146,035	558,000	134,000
2003	—	—	—	—	847,646	146,035	561,000	144,000
2004	—	—	—	—	847,646	146,035	561,000	144,000
Cumulative 10-Year Total	137,700	1,069,000	2,618,310	135,555	5,707,338	822,971	4,489,000	662,000
								509,417

1 Includes Fire/EMS and Stormwater Management assessments.

SOURCE: Charlotte County Tax Collector, Charlotte County Building Department, and URBANOMICS, Inc.

TABLE 1.5

Front-Ended Mitigation Cost Estimate

13-Mar-95

TABLE 1.5  
MURDOCK CENTER INTERSECT IV

Front-Ended Mitigation Cost Estimate

Roadway/Intersection	From:	To:	Number of Lanes		Peak Hour (Five-Day) Traffic		Cost of Increment		Funds Share	
			S/C	Needed	Increment IV Number	Total Traffic	Cost Per Mile Dist.	Cost		
Toledo Blade Blvd.	Pallax	Lateral	2L	4L	77	1550	\$2,727,272	0.220	\$600,000	\$28,800
Toledo Blade Blvd.	Lateral	US 41	2L	4L	197	1680	\$2,727,272	0.190	\$520,000	\$61,600
Subtotal										\$90,800
US 41/Callingswood	Signal									\$90,800
US 41/Paulson	Signal									
US 41/Wurbeck Circle (E)	(S)				157	11.12				\$12,200
US 41/Toledo Blade (E)					366	10.41				\$11,400
US 41/Fortrest Nelson					421	8.52				\$14,100
Toledo Blade/Pallax					620	10.21				\$16,300
Toledo Blade/Lateral					367	7.41				\$12,300
Toledo Blade/Gussada					50	2.41				\$1,500
Subtotal					197	9.21				\$6,000
					691	10.02				\$72,800
										\$75,100
										\$159,500
										\$250,300

FOOTNOTES:

(1) Source: Cost per mile based on cost of \$1,800,000 for widening Toledo Blade from Patti to US 41 reported in Table 3-15 of Charlotte County-Funza Board 2020 Long Range Transportation Plan (December 11, 1995); cost estimate includes all costs associated with improvement, including right-of-way acquisition, if needed.

(2) Source: Cost estimate based on discussions with Charlotte County Public Works; cost estimate includes all costs associated with improvement, except no costs are assumed for right-of-way acquisition.

(3) Added in recognition of existing level of service problems at this intersection.

(4) For intersections, sum of approaches.

N/A Not available.

TABLE 1.6

SUMMARY OF SITE-RELATED INTERSECTION IMPROVEMENTS ANTICIPATED

<u>Roadway Segment/Intersection</u>	<u>Improvements</u>
El Jobean Extension/West Entrance (Full Median Opening)	NB left-right lane (under construction) WB left-turn lane (under construction) EB right-turn lane (under construction)
El Jobean Extension/East Entrance (Full Median Opening)	NB left-turn lane NB right-turn lane EB right-turn lane WB left-turn lane
Murdock Circle/North Entrance (Full Median Opening at Wal-Mart)	NB right-turn lane (existing) SB left-turn lane (existing) WB left-thru lane (existing) WB right-turn lane (existing)
Murdock Circle/Middle Entrance (Directional Median Opening)	NB right-turn lane (existing) SB left-turn lane (existing) WB right-turn lane (existing)
Murdock Circle/South Entrance (Right-In/Right-Out Only)	NB right-turn lane (existing) WB right-turn lane (existing)
Toledo Blade Blvd./Peachland Blvd./ North Entrance <sup>(1)</sup> (Full Median Opening)	NB left-turn lane SB right-turn lane EB left-turn lane EB thru-right lane
Toledo Blade Blvd./Middle Entrance <sup>(2)</sup> (Full Median Opening)	NB left-turn lane SB right-turn lane EB left-turn lane EB right-turn lane
Toledo Blade Blvd./South Entrance <sup>(3)</sup> (Right-In/Right-Out Only)	SB right-turn lane EB right-turn lane
Toledo Blade Blvd./Quesada Ave. <sup>(3)</sup> (Full Median Opening)	NB left-turn lane (existing) SB right-turn lane (existing) EB left-turn lane

Footnotes:

- (1) Other improvements are needed with and without the Project and are, therefore, not site-related. Signalization at this intersection is a committed improvement (i.e., Charlotte County Capital Improvements Program, FY 1995/96, Project No. 83504).
- (2) Exact intersection geometrics to be determined at time of site plan review.
- (3) Other improvements are needed with and without the Project and are, therefore, not site-related. These improvements include a NB right-turn lane, a WB left-turn lane and signalization.

TABLE 1.7

Proposed Front-Ended Mitigation Road Improvement

The Applicant will provide front-ended mitigation road improvements to Toledo Blade Boulevard with a total cost limited to the amount (\$250,000.), as set forth in Table 1.5, and the Development Order.



2. FIRE PROTECTION

A. Needed Facilities or Capital Improvements

As a result of review of the AIDA for Increment IV, the Charlotte County Fire-Rescue Emergency Services Department has indicated that it has sufficient facilities and manpower to serve Increment IV.

B.-H. Not Applicable.

3. POLICE PROTECTION

A. Needed Facilities or Capital Improvements

Based on correspondence from the Charlotte County Sheriff's Office, no needed capital facilities or other capital improvements were identified. Any stated personnel needs will be addressed through ad valorem taxes and impact fees.

B.-H. Not Applicable.

4. SOLID WASTE

A. Needed Facilities or Capital Improvements.

Based on correspondence, Charlotte County has indicated no need for additional capital facilities.

B.-H. Not Applicable.

5. BICYCLE AND PEDESTRIAN PATHS

A. Needed Facilities or Capital Improvements.

The Applicant will participate in planning, programming, and/or funding efforts (either on a County wide or sub-County wide basis) that are initiated by Charlotte County for interconnecting the development within Murdock Center Increment IV to the other Murdock Center Increments and to other Charlotte County bicycle/pedestrian and bikeways facilities.

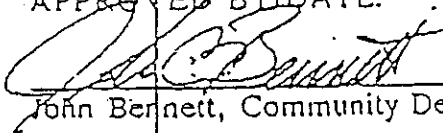
B.-H. Not Applicable.

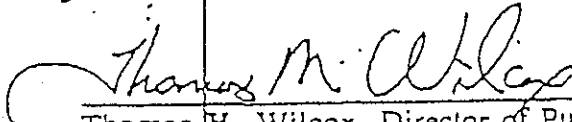
# MURDOCK INCREMENT IV OWNER DESIGN GUIDELINES

RECEIVED AND APPROVED BY:

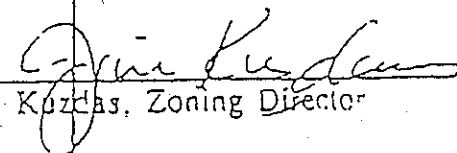
  
Atlantic Gulf Communities

APPROVED BY/DATE:

 7/11/94  
John Bennett, Community Development Director

  
Thomas H. Wilcox, Director of Public Works

  
Max Forgey, Planning Director

  
Jim Kuzdas, Zoning Director

## INTRODUCTION

This Handbook is intended to serve as Design Guidelines for Murdock Center Increment IV owned by ATLANTIC GULF COMMUNITIES CORPORATION ("Atlantic Gulf"). It contains the necessary information to guide the Owner through the preparation of design, construction plans, and specifications to meet the design requirements of said areas and the pertinent governing authorities. This Handbook is prepared specifically for this project and it is suggested that it be reviewed thoroughly and plans be prepared accordingly since plan review will be based on its contents. All plans are reviewed exclusively by the Charlotte County Development Review Committee meeting as the Design Standard Review Board.

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TITLE AND SCOPE

101 TITLE

101.1 This compilation of guidelines shall be known as The Owner Design Guidelines, hereinafter referred to as "Guidelines" for the Murdock Center, Increment IV commercial, office, residential and institutionally areas and will be referred to hereinafter as the "Areas".

102 PURPOSE

102.1 The purpose of these guidelines is to provide certain minimum standards, provisions and requirements for appropriate and acceptable design and minimum required criteria for tenants implementing new construction or rehabilitation with the Areas.

102.2 The suggestions, recommendations and requirements expressed in these guidelines hinge upon final approval of plans by the Charlotte County Development Review Committee, hereinafter referred to as "DRC".

103 SCOPE

103.1 New buildings and structures hereafter erected within the Areas shall conform to the requirements of these guidelines.

103.2 Additions, alterations, repairs and changes of use in all buildings and structures shall conform to the requirements of these guidelines.

104 MAINTENANCE OF BUILDINGS AND PROPERTY

104.1 Buildings:  
All buildings and/or structures and all parts thereof shall be maintained during their lifetime in a safe condition and as per the local requirements of the Southern Standard Building Code, latest edition.

PROCESS

201 PROCESS FOR NEW CONSTRUCTION

201.1 Owner shall examine the enclosed material for items required for review on submitted plans and specifications.

201.2 Submit Preliminary Plans to DRC in accordance with Charlotte County procedures.

201.3 After receipt of preliminary plan approval, prepare and submit complete

- plans and specifications to DRC for final approval (Refer to 203 and 204. After receipt of final plan approval the owner or a designated representative will proceed in accord with paragraph 201.6 (below).
- 201.4
- 201.5 Any revisions to the plans and specifications will be sent to the DRC for approval in accordance with the above outlined procedure. Should deviations from approved final plans become apparent during or after construction, without having been approved previously, these shall be subject to removal at Owner's expense.
- 201.6 The Owner may start construction proceedings upon final approval of the Site Plans by the DRC, and receipt of the required permits from Charlotte County and other such agencies having jurisdiction.

## 202 PROCESS FOR REMODELING

- 202.1 Owners with intentions to remodel the exterior facade of a building or structure or portion of such must prepare and submit to the DRC the remodeling plans reflecting changes to be made on all phases of work for DRC review and approval if such work requires DRC approval in accordance with Charlotte County Regulations.
- 202.2 All local building codes, approvals and required permits with fully apply to any remodeling work.

## 203 PRELIMINARY PLAN SUBMITTAL REQUIREMENTS

- 203.1 The Preliminary Plans must include but not be limited to the following:
- A. Site Plan
1. Setbacks, building location/footprint.
  2. Access/Circulation.
  3. Parking and preliminary site engineering design (drainage, water and sewer).
  4. Site lighting
  5. Landscaping
  6. Materials
  7. Signage
  8. Buffering between conflicting land use and zoning.

B. General

- 1. All plans and elevations with major dimensions
- 2. Sections, if necessary, to explain the design

203.2

The final plans must include but not be limited to the following:

- A. Information contained in Section 3-9-5.1 of the Zoning Ordinance.
- B. Any requirements contained in this document (Murdock Increment IV Owner Design Guidelines).

301 NEW DESIGN

301.1

All new design will strive to achieve a pedestrian scale type atmosphere and character.

301.2

Storefronts shall promote interaction between the building and the passerby. Solid bare walls confronting the pedestrian do not offer an inviting image unless they are punctuated with storefront displays, seating, landscaping, or some other device that promotes the kind of interaction that is inviting or "friendly" to the pedestrian.

302 REMODELING

302.1

All remodeling of future buildings will adapt to the new design guidelines specified in Section 301.

303 CONCEPT

303.1

The overriding concept is the total unification of the Area through the continuity of design in residential-type forms with warm materials and colors, extensive landscaping for shade and spaces, plazas, and the attention to detail in promoting and maintaining this concept.

SITE

400 ZONING

400.1

Compliance with Zoning Ordinances in effect at time of DRC submittal will be required.

401 SETBACKS

In accordance with Charlotte County Code.

402 PARKING

In accordance with Charlotte County Code.

403 SITE CONDITIONS

Owner/Developer submit to Charlotte County Code and existing easements.

404 SERVICE DRIVES AND SERVICE AREAS

All service drives will have adequate circulation and turning radius as required by Charlotte County codes. Service areas will have effective visual buffers from public areas. Trash and garbage dumpsters shall be located within service areas and buffered from public view.

405 LIGHTING

A parking lot lighting plan with lighted areas indicated shall be submitted for final Development Review Committee approval. All lighting shall be directed away from residential areas and streets to the greatest extent possible.

406 SIGNAGE

Signage shall be subject to all applicable County Codes and other requirements, including the Charlotte County Zoning Code, Section 3-9-95 as amended, except as otherwise noted herein:

1. There shall be no signs painted on the exterior surface of any building (except those on windows or doors).
2. Where more than one Primary Class A or Secondary Class A sign is allowed, it shall be required that the signs be located on separate street or building fronts. It is not the intent to allow an accumulation of signs on a single street frontage or building front.
3. The sizes of signs permitted shall be as allowed in Section 3-9-95 of the Charlotte County Zoning Code except that Primary Class A signs shall not be allowed to exceed 300 square feet.
4. In the interest of public safety, Primary Class A signs, constructed as ground signs, are required to display the street number of the property on all faces of the sign, with number not less than 6 inches in height.
5. All signs prohibited by Charlotte County Zoning Code Section 3-9-95 shall also be prohibited.



409 LANDSCAPING

In accordance with Charlotte County Code.

BUILDING

500 INTRODUCTION

The following design guidelines pertain to specific items of a building or structure that give the character and the overall impression of the building and which must be consistent and be maintained for the design continuity of all the buildings within the Murdock Center DRI Increment IV.

502 EXTERIOR WALLS

502.1

The following requirements apply to all exterior walls for all buildings or structures. All elements of all elevations shall complete a total and continuous design.

502.2

All materials must be in compliance with the Southern Standard Building Code.

502.3

Natural Materials

Exterior wall finishes will be compatible in color, texture, and composition. Some of the recommended finishes are the following:

- A. Brick
- B. Natural Stone
- C. Split Block
- D. Painted Stucco
- E. Finished Block
- F. Tile

## EXHIBIT G

### SUMMARY OF SITE-RELATED INTERSECTION IMPROVEMENTS ANTICIPATED

<u>Roadway Segment/Intersection</u>	<u>Improvements</u>
El Jobean Extension/West Entrance (Full Median Opening)	NB left-right lane (under construction) WB left-turn lane (under construction) EB right-turn lane (under construction)
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Toledo Blade Blvd./Middle Entrance <sup>(2)</sup> (Full Median Opening)	NB left-turn lane SB right-turn lane EB left-turn lane EB right-turn lane
Toledo Blade Blvd./South Entrance <sup>(2)</sup> (Right-In/Right-Out only)	SB right-turn lane EB right-turn lane
Toledo Blade Blvd./Quesada Ave. <sup>(3)</sup> (Full Median Opening)	NB left-turn lane (existing) SB right-turn lane (existing) EB left-turn lane

**Footnotes**

- (1) Other improvements are needed with and without the project and are, therefore, not site related. Signalization at this intersection is a committed improvement (i.e. Charlotte County Capital Improvement Program, FY 1995/96, Project No. 83504).
- (2) Exact intersection geometrics to be determined at time of site plan review.
- (3) Other improvements are needed with and without the project and are, therefore, not site related. These improvements include a NB right-turn lane, a WB left-turn lane and signalization.

## EXHIBIT II

### Future Traffic Impacts

<u>Roadway Segment / Intersection</u>	<u>Improvements</u>
US-41 / Collingswood Blvd.	Signalize
US-41 / Paulson Dr.	Signalize
US-41 / Murdock Circle (E)	Construct dual left-turn lanes from WB on Murdock Circle to SB on US-41 and retime signal.
US-41 / Toledo Blade (E)	Construct dual left-turn lanes from SB on US-41 to EB on Toledo Blade and retime signal.
US-41 / Forrest Nelson Blvd.	Re-time Signal
Toledo Blade Blvd. / Lakeview Blvd.	Add SB Left Turn Lane Add EB Left Turn Lane Signalize
Toledo Blade Blvd. from Pellam Blvd. to Lakeview Blvd.	Widen to 4 Lanes
Toledo Blade Blvd. from Lakeview Blvd. to US-41	Widen to 4 Lanes
Toledo Blade / Pellam	Add NB Left Turn Lane Add WB Left Turn Lane Signalize
Quesada Ave. / Toledo Blade Blvd.	Signalize Add NB Right Turn Lane Add WB Left Turn Lane
SR776 from CR771 to Gillot Blvd	Widen to 4 Lanes
SR776 from Gillot Blvd. To Sturkie Ave	Widen to 4 Lanes

