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RESOLUTION
2010-083

A RESOLUTION AMENDING RESOLUTION 92-62, AS AMENDED BY RESOLUTIONS 93-66, 2004-071 AND 2006-093, APPROVING A SUBSTANTIAL DEVIATION TO THE DEVELOPMENT ORDER FOR HARBORVIEW, A DEVELOPMENT OF REGIONAL IMPACT; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

WHEREAS, on March 17, 1992, pursuant to Section 380.06 Florida Statutes, the Board of County Commissioners of Charlotte County, Florida ("Board") approved and adopted Resolution 92-62, constituting the Harborview Development of Regional Impact ("DRI") Development Order; and

WHEREAS, on May 8, 1992, the State of Florida Department of Community Affairs ("DCA") filed an appeal of the Development Order reflected in Resolution 92-62; and

WHEREAS, the Board considered the reports and recommendations of the Southwest Florida Regional Planning Council, Charlotte County staff, the Planning and Zoning Board, and the Department of Community Affairs, and in order to reconcile the appeal, certain changes were made to Resolution 92-62 and pursuant to a Settlement Agreement, the Board adopted Resolution 93-66 on May 11, 1993 ("the D.O."); and

WHEREAS, the Board adopted Resolution 2004-071 on April 13, 2004, further amending Resolution 92-62, as amended by Resolution 93-66, to extend buildout dates for the D.O. and provide reanalysis of Florida scrub jay and traffic impacts; and

WHEREAS, the Board adopted Resolution 2006-093 on June 20, 2006, further amending Resolution 92-62, as amended by Resolutions 93-66 and 2004-071 to incorporate 106± acres into the Harborview DRI, convert certain commercial and office/medical uses to residential units, correct a scrivener's error and expand the saltwater marsh preserve and upland buffer; and

WHEREAS, Post Falls Management Associates, LLC, Peace River Associates, LLC, Will-Ridge Associates, LLC and Ronald Benderson 1995 Trust ("Developer") have submitted an Application for Development Approval dated July 27, 2007 ("ADA") requesting a Substantial Deviation to the D.O.; and

WHEREAS, the Southwest Florida Regional Planning Council reviewed and considered the proposed Substantial Deviation submitted by the Developer and recommended approval of the Substantial Deviation and this new development order ("Development Order"); and

NOTE: This resolution is being re-recorded to include all Exhibits that were omitted on the first recording

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WHEREAS, the Charlotte County Planning and Zoning Board reviewed and considered the proposed Substantial Deviation and recommended approval of the Development Order; and

WHEREAS, the Board has reviewed and considered the Substantial Deviation requested by the Applicants, finds it consistent with the Charlotte County Comprehensive Plan and consistent with the previously approved D.O.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida:

Resolution 92-62, as amended by Resolutions 93-66, 2004-071 and 2006-093 is hereby deleted in its entirety and replaced with the following:

FINDINGS OF FACT/CONCLUSIONS OF LAW

A. The Harborview DRI is a mixed use project with 3,859 residential dwelling units, 50,000 gross square feet of office space, 655,000 square feet of commercial space, 350 hotel rooms, a public marina with 260 wet boat slips and 192 dry storage boat slips ("Marina"), 20 single family boat slips that qualify under Section 403.813, Fla. Stat. exemptions and 136 acres of open space, preservation and recreational uses on a total of 653.10± acres located in central Charlotte County at the northeast, southeast and southwest quadrants of the I-75/Harborview Road interchange. **Exhibit "A,"** which is attached hereto and made a part of this development order, is a copy of the approved Updated Master Development Plan, Map H depicting all the above approved land uses. The mix of uses may be modified consistent with the Land Use Equivalency Matrix in **Exhibit "B"** which is attached hereto and incorporated herein by this reference.

The legal description of the property is described in **Exhibit "C"** which is attached hereto and made a part of this development order.

Approximately 150 acres of the site adjacent to the Peace River are considered saltwater wetlands and will be conveyed in fee simple to any governmental body or agency or, contingent upon approval of Charlotte County, which approval may not be unreasonably withheld, to a charitable corporation or trust whose purposes include protecting natural, scenic, or open space values of real property, assuring its availability for open space use, protecting natural resources, or maintaining or enhancing air or water quality,.

Water service will be provided by Harbour Heights Water Association and sewer service will be provided by Charlotte County Utilities (CCU).

The project is planned in one phase with buildout by December 31, 2018.

- B. The development is not an area designated as an Area of Critical State Concern pursuant to the provision of Section 380.05, Fla. Stat.
- C. The development does not unreasonably interfere with the achievement of the objectives of an adopted state land development plan applicable to the area and is consistent with the State Comprehensive Plan.
- D. The development is consistent with the Charlotte County Comprehensive Plan.
- E. The Substantial Deviation has been reviewed by the Southwest Florida Regional Planning Council and is the subject of their report and recommendation adopted on the 20th day of May, 2010 and subsequently forwarded to Charlotte County pursuant to the provision of Chapter 380.06, Fla. Stat.
- F. The ADA is consistent with the requirements of Chapter 380.06.
- G. The Harborview DRI preserves more than 187 acres of saltwater wetlands and upland preservation areas and buffer areas while directing residential and retail development to more suitable land.
- H. The proposed Substantial Deviation is consistent with the 1997 – 2010 Charlotte County Comprehensive Plan and the Smart Charlotte 2050 Comprehensive Plan.
- I. Concurrent with the adoption of this Development Order, the Harborview DRI property is the subject of an application for Planned Development rezoning.

SPECIFIC CONDITIONS

1. VEGETATION AND WILDLIFE

a. The Developer shall preserve, in its natural state, the Preservation areas identified on Revised Map H, which is attached hereto and incorporated herein by this reference. These areas shall include approximately 150 acres of coastal wetlands (mangroves, salt marshes) and bay swamp, including approximately 11.9 acres of land designated Preservation on the Future Land Use Map, combined, approximately 12.5 acres of xeric oak hammock and water course, approximately 16 acres of existing scrub jay and gopher tortoise habitat. Boundaries and configuration of preservation areas may be modified due to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment, any of which such methods must be approved by Charlotte County. The survey, habitat evaluation, or assessment must occur prior to the time a conservation easement protecting such lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in this Development Order.

The acreage of the preservation areas shall remain fixed unless modified to increase pursuant to applicable agency permits or regulations, which modification shall not require a notice of proposed change.

b. Wildlife Utilization Areas, as shown on Map F-1 which is incorporated by this reference shall provide connectivity of the onsite wetlands and uplands habitats used by listed species and other wildlife. The Wildlife Utilization Areas consist of approximately 198 acres of wetland and upland habitats.

c. The Developer shall follow the Best Management Practices ("BMPs") described in the Harborview DRI Land Management Plan ("Land Management Plan"), contained in **Exhibit "D,"** attached hereto and incorporated herein by this reference, to protect and enhance habitat for listed species and other wildlife within the Wildlife Utilization Areas, including gopher tortoise management plan, and a Florida Scrub Jay management plan. Any amendments to the Land Management Plan required by or consented to by Charlotte County or applicable regulatory agencies shall not require a notice of proposed change.

d. A qualified biologist shall monitor all on-site clearing activities for any listed species nesting attempts. If attempts are made, clearing shall stop immediately.

e. In accordance with federal and state permits, a long-term monitoring and maintenance program will be implemented and monitoring reports will be submitted to the applicable permitting agencies, including, but not limited to, the

Southwest Florida Water Management District ("SWFWMD"), U.S. Army Corps of Engineers and Charlotte County Growth Management Department..

f. Mitigation for impacts to gopher tortoises shall be on land located within Charlotte County unless out-of-county mitigation is required by the Florida Fish and Wildlife Conservation Commission ("FWC"). Charlotte County shall review the Developer's proposed mitigation options prior to submission to the FWC. Preservation areas may be used for relocation of gopher tortoises from other onsite areas as long as the density of the gopher tortoise population, per the gopher tortoise relocation guidelines of the FWC within that preservation area allows for such relocation. When the FWC agrees in writing that no additional tortoises should be relocated to onsite relocation areas, offsite relocation areas that comply with the FWC gopher tortoise relocation guidelines may be used. Since gopher tortoise burrows may accommodate shelter for multiple species, onsite conservation areas should be planned around high density gopher tortoise populations. On-site gopher tortoise preservation areas shall be placed in a perpetual conservation easement. Any tortoises that are relocated should be placed in an area similar in vegetation and soil composition and where gopher tortoises already exist. If relocated off-site, to ensure acclimation to the recipient site, the relocated tortoises shall be confined within the recipient site for at least six (6) months to one (1) year with low fencing or hay bales. A survey and relocation plan of gopher tortoises is necessary in order to obtain a relocation permit. The survey and relocation plan shall be made available for the preliminary review during Site Plan Review for each parcel. All relocation of gopher tortoises shall be conducted in accordance with the FWC's guidelines for gopher tortoise relocation. Gopher tortoise population monitoring may be required by the relocation permit.

g. Mitigation for impacts to the Florida Scrub Jay shall be on land located within Charlotte County unless out-of-county mitigation is required by the U.S. Fish and Wildlife Service. Charlotte County shall review the Developer's proposed mitigation options prior to submission to the U.S. Fish and Wildlife Service (the "Service"). The size and design of any on-site Florida Scrub Jay preserves and any off-site Florida Scrub Jay mitigation will be determined by the Service.

h. Prior to application for any Environmental Resource Permit, County permit, or review for subdivision, plan review, clearing, or construction activity, the Developer will provide: 1) an up-to-date species-specific wildlife nesting survey for each potentially affected listed species in the immediately preceding nesting season; 2) a Florida Land Use and Cover Classification System map; 3) a County specimen tree survey. Wildlife species surveys shall follow established survey protocols by USFWS and FWC and be conducted by a qualified wildlife biologist.

i. Cleared or dredged sites may attract ground nesting species such as least tern or other coastal bird species during nesting season. Therefore, a FWC approved biologist shall be present to monitor and detect disturbances or nesting attempts during all clearing and construction activities where potential nesting habitat occurs. If least terns or other ground nesting species start to nest in a dredged, cleared, or graded area, the activity will stop in those areas, and the nest site will be marked, allowing the species to nest. Construction activities may resume in that area once all birds have fledged.

j. The continuing consultation on the potential project impacts to the West Indian manatee needs to be completed with the FWC and the Service prior to construction of the Marina design.

k. To ensure connectivity of habitat and maintenance of regional wildlife corridors a habitat management plan(HMP) shall be created for the project, which will include (1) identification of an entity that will accept responsibility for coordinating the long-term and perpetual management of conservation areas; (2) perpetual long-term habitat management of all wetland and upland conservation areas, not conveyed to a government entity, consistent with adjacent public land management and (3) incorporation of the HMP into the development order or restrictive covenants for the DRI.

l. Wildlife undercrossings will have elevated roadways to span wetland habitat and an appropriate amount of upland habitat rather than using culverts. Elevated roadways shall be designed to an appropriate height and width to accommodate a wide range of species.

m. The Developer shall design and construct a wildlife crossing or undercrossing across the relocated Discovery Drive in order to provide a connection between the East Village Wildlife Utilization Area and the Linear Oak Park Wildlife Utilization Area. Proposed wildlife undercrossings shall be designed to attract wildlife using specific lighting, fencing, and vegetative cover. Lighting shall be directed away from areas where wildlife may cross under roadways. Fencing may be installed to guide wildlife to underpass locations and native vegetation will be maintained to provide cover and noise reduction from the roadway. Additionally, installation of riprap or similar substrate at either end of underpasses may provide refuge for smaller species.

n. Signage shall be installed that warns drivers of the presence of designated wildlife crossings and undercrossings. The use of passive control devices to slow traffic will be incorporated into the project near wildlife crossings and undercrossings. These include, but are not limited to, speed bumps, paver strips, stamped concrete and signage to alert drivers of the presence of designated wildlife crossings and undercrossings.

o. Applicable educational materials regarding wildlife protection and potential encounters will be provided to all residents and tenants. Proactive measures to protect interactions between humans, domesticated animals and wildlife will be addressed in the educational materials.

p. Wildlife resistant residential and commercial waste containers shall be utilized if provided by Charlotte County's solid waste contractor.

q. In order to protect the gopher tortoises on site, restrictive covenants shall be adopted which require that dogs remain on a leash at all times.

r. The Developer will install and permanently maintain fencing and signage that separates and identifies all gopher tortoise preservation areas in a manner which allows access only for authorized environmental land management activities. Boardwalks may be placed over the gopher tortoise preservation area along the DeSoto Canal to provide access from the single family lots to the proposed docks. The gopher tortoise preservation area along the DeSoto Canal may also be accessed as a result of construction of the water interconnect pipeline by the Peace River Water Authority, which shall be solely responsible for permitting and mitigating for any resultant species impacts.

2. WETLANDS

a. The project site contains three wetland categories, Bay Swamp, small isolated wetlands, and the Saltwater Marsh. The Developer shall preserve approximately 150 acres of existing wetlands as shown on Map F-1, attached hereto as **Exhibit "E"** and incorporated herein by this reference, through the prohibition of development in those areas except that isolated wetlands may be impacted and/or removed provided that such impacts, together with mitigation which may include enhancement of the Saltwater Marsh and Bay Swamp, are approved by all local, state and federal agencies with permitting jurisdiction.

b. The applicant shall provide a minimum 100 foot wide buffer along the wetland boundary of the Saltwater Marsh, and up to the first wetland crossing beneath the Bay Swamp in East Village, identified as the Green Zone on Map H. The Developer shall remove all non-native vegetation from the Green Zone and restore and maintain historic natural elevations, vegetation and hydrologic conditions in the Green Zone prior to receiving certificates of occupancy or certificates of completion of property developed within 50 feet of the Green Zone. The developer may install bioswales within the Green Zone. All bioswales shall be designed in substantial compliance with Exhibit G attached hereto and incorporated herein by this reference. The bioswale design, which shall include the actual bioswale, a spreader swale, side slopes and a buffer shall be a minimum of 80 feet and shall incorporate each element shown in Exhibit G. Type, density and spacing of landscaping are conceptual only and shall be determined at final plan approval. The actual bioswales shall be placed no more than 30 feet into the Green Zone. No fertilizers or chemical applications within the Green Zone are permitted for maintenance. Vehicular maintenance is prohibited except within the landward 30 feet of the Green Zone and mowers which may be used on any upland areas within the Green Zone. Uses such as commercial or residential buildings, parking lots, roads, other impervious surfaces and fertilizer are prohibited in the Green Zone.

c. Bioswales may not be installed within the Green Zone on the East Village from the point where the Green Zone intersects with I-75 to the first road crossing which shall be a minimum distance of 1,700 feet (the "Bio-free Area"). Instead, bioswales shall be placed immediately adjacent to and outside the Green Zone along the entire distance of the Bio-free Area.

d. The Saltwater Marsh, Bay Swamps and associated buffers shall be further protected and enhanced consistent with the Land Management Plan.

e. The 150 acres of existing wetlands shown on Map F-1 ("Preserved Wetlands") shall be conveyed in fee simple ownership to any governmental body or agency or to a charitable corporation or trust whose purposes include protecting natural, scenic, or open space values of real property, or protecting

natural resources, maintaining or enhancing air or water quality (collectively, the "Grantee") The Preserved Wetlands shall be conveyed to the Grantee for preservation in perpetuity and consistent with all of the restrictions contained in Chapter 704.06, Florida Statutes (2009), as may be amended. The Grantee shall become the successor in interest upon conveyance and shall be responsible for performing all required maintenance of the Preserved Wetlands in a natural state at no cost to the Applicant or any homeowners association or community development district ("CDD"), except for the Green Zone and any permitted structures which are the maintenance responsibility of the Developer, a master property owners association or CDD, as appropriate. The conveyance to the Grantee shall occur within fifteen (15) days after receipt of the Environmental Resource Permit from the State of Florida or the Southwest Florida Water Management District, or upon completion of any mitigation required by the ERP, whichever is later. All accrued mitigation, transferred development entitlements, and any other credits granted either through agency action or interlocal agreement shall be retained by the Developer. This conveyance to the Grantee shall be duly recorded in the Official Records of Charlotte County, Florida. The Developer shall also convey an upland easement to allow for access to the Preserved Wetlands for land management purposes.

f. The proposed development shall not impact through dredging and filling the freshwater wetland areas that are the upper reaches of tidal creeks other than those impacts shown on Map F-1. The development shall incorporate steps to establish the hydrology necessary to maintain the integrity of the downstream tidal creek habitats (including their salinity regimes). Minimum 25 foot buffers around these wetlands that contribute freshwater to the downstream tidal creeks shall be established to protect the downstream biological communities in the tidal creeks.

g. The Developer shall be entirely responsible for maintaining all wetland buffers in perpetuity. All wetland buffers outside the Green Zone shall have an average width of 25 feet with a minimum width of 15 feet.

h. Freshwater wetlands and small isolated wetlands not proposed to be impacted will be placed into a perpetual conservation easement if required by the SWFWMD as part of the SWFWMD permitting process.

i. The Wild Pine and Air Pine shall be preserved in the live oak stream habitat and Bay Swamp.

j. Nuisance plant species within the Saltwater Marsh and Bay Swamp and associated buffers shall be eradicated and replaced with planting of native plants (trees, shrubs and understory plants) selected by a professional wetland biologist. This eradication shall occur in the Saltwater Marsh prior to conveying

fee simple ownership to any governmental body or agency or to a charitable corporation or trust.

3. WATER SUPPLY

- a. Water for the Harborview DRI will be provided by the Charlotte Harbor Water Association, Inc. ("CHWA"), its successors or assigns. The CHWA may enter into an interlocal agreement with Charlotte County Utilities ("CCU") for CCU to sell potable water for the Harborview DRI to the CHWA. With each local development order application, Developer shall provide documentation of adequate capacity to serve that portion of the project for which a local development order is being requested.
- b. As part of the application for a utility agreement, CCU shall review the water reuse capacity of the project and determine if its incorporation into the reclaimed water system represents a beneficial use of the reclaimed water resource. The water reuse capacity of the entire Harborview DRI project shall be based on the projected irrigated area of the proposed development receiving reclaimed water at an annual average rate of one (1) inch per week and established by an engineering report from a licensed Florida professional engineer and approved by CCU. After evaluation, CCU may require the Harborview DRI to connect to CCU's reclaimed water system. If so required, connection to the reclaimed water system shall be a condition precedent to receipt of wastewater service. The Harborview DRI will not be required to connect the West Village to a reclaimed water system if such connection would require the developer to extend lines more than 500 feet along Harborview Road. However, the West Village will connect to a reclaimed water system at such time as a County reclaimed water line is located within 500 feet of the boundary of West Village.
- c. Stormwater ponds may be used for non-potable water needs. The lowest quality of water possible shall be utilized for all non-potable water uses.
- d. The project shall require a SWFWMD Well Construction Permit for construction of any wells on the development site.
- e. Irrigation of green space may not occur between the hours of 9:00 A.M. and 5:00 P.M., after the establishment of landscaping. These restrictions shall not apply to irrigation utilizing reclaimed water.
- f. Potable water may not be used for non-potable/irrigation demands. Irrigation needs shall be met with reclaimed water or with water from on-site lakes.
- g. Copies of any water use permit applications must be submitted to Charlotte County at the same time as they are submitted to the SWFWMD for review and comment.

h. All restaurants within the project will be equipped with grease traps or grease interceptors and will comply with all other requirements of Charlotte County's applicable ordinances.

4. WASTEWATER

a. Wastewater treatment for the Harborview DRI will be provided by CCU. The Developer will enter into the required utility agreement with CCU. With each local development order application, Developer shall provide documentation of adequate capacity to serve that portion of the project for which a local development order is being requested.

5. STORMWATER MANAGEMENT/WATER QUALITY

a. The Developer shall follow the Land Management Plan which describes BMPs and incorporates provisions such as wetland buffers, Green Zones, stormwater and water quality management, nutrient management, integrated management, pest monitoring and controlled pesticide application, controlled fertilizer application, quality control and assurance procedures and water conservation.

b. Stormwater flows will receive water quality pre-treatment before entering the marina basin in accordance with the required SWFWMD permit.

c. Introduction of pollutants in to the marina basin shall be limited by prohibitions against heavy boat repairs, painting of boats and pressure washing.

d. The Developer shall develop and implement an annual water quality monitoring program for the Marina. All water quality physical and chemical parameters to be sampled shall be approved before the commencement of sampling by Charlotte County and SWFWMD. The Developer shall incorporate additional water quality treatment and/or water management methods into the project's surface water management system to correct or mitigate any degradation if the measures implemented by the Developer are found to be ineffective. Failure to correct impaired water quality in the Marina shall be a violation of this Development Order.

e. Access to the Peace River from the marina shall be by boat lift. No open channel between the Peace River and the marina shall be created.

f. Once constructed, the boat lift and weir shall be a permanent fixture. The boat lift and weir shall be maintained by the owner/operator of the marina, a properly formed master property owners association or community development district. That organization will be charged with administering and assuring adherence to the terms of the restrictive covenant and the perpetual conservation easement described below and with providing a financial security instrument, in a form acceptable to Charlotte County, in an amount equal annual maintenance costs and a financial security instrument or appropriate policy of insurance for replacement of the boat lift and weir in the event of damage or destruction. Neither the Developer, the master property owners association nor the community development district, their successors and assigns shall request to remove the boat lift and weir. Any other request to remove the boat lift and weir shall be reviewed as a substantial deviation per Chapter 380.06, Florida Statutes, as may be amended.

g. Upon receipt of a permit for construction of a boat lift and weir, the Developer shall record a restrictive covenant over the weir and the landward 30 feet adjacent to the weir in the Public Records of Charlotte County, Florida prohibiting removal of the boat lift and weir. The FDEP shall be the beneficiary of the restrictive covenant and be granted the ability to enforce its terms. Upon receipt of a permit for construction of the weir, the weir property shall be placed in a perpetual conservation easement granted to a governmental agency or charitable organization or trust whose purposes include maintaining or enhancing water quality.

h. The Developer shall develop and implement a groundwater monitoring plan, to be approved by Charlotte County and SWFWMD, which shall include the following provisions if found necessary by SWFWMD during permit review and approval:

- All monitoring wells shall be sampled and analyzed semi-annually for FDEP primary and secondary drinking water standards, water levels and groundwater chemicals.
 - Two wells shall be installed hydraulically downgradient at each zone of discharge (i.e. property boundary) and one well shall be installed hydraulically upgradient to monitor background water quality.
 - All wells shall be constructed in accordance to monitor well specifications as outlined in Chapter 65-525, Florida Administrative Code ("F.A.C.").
 - Sampling analyses shall be performed according to procedures outlined in the most current edition of "Standard Methods for Examination of Water and Wastewater," by APHA-AWWA-WPCF, or "Methods for Chemical Analyses of Water and Wastes" by the United States Environmental Protection Agency.
 - Water quality samples from all wells shall be collected after pumping the wells to constant temperature, pH, and conductivity.
 - Wells shall monitor both the Surficial and Floridian aquifers.
 - The plan shall include sufficient baseline data.
 - Procedures shall be established for immediately reporting any violations of water quality standards to the County, FDEP, SWFWMD and/or other appropriate agencies.
 - Procedures shall be established for incorporating additional water quality treatment and/or water management methods into the project's design to correct and/or mitigate any degradation.
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- Pre-construction monitoring shall be completed at least 30 days prior to any actual construction. Monitoring will be continued semi-annually during construction on the project and will continue for two (2) years after all construction on the project is complete.

- i. Prior to any site alteration, the Developer shall develop and implement a surface water quality monitoring plan, to be approved by Charlotte County and SWFWMD, which shall include the following provision if found necessary by SWFWMD during permit review and approval:
 - 1) Pre-construction monitoring
 - a) Sampling shall be initiated before the start of any construction
 - b) Sampling events shall be conducted monthly during the wet season and twice during the dry season, and for rainfall events of one inch or greater.

 - 2) Construction monitoring
 - a) Sampling shall be conducted for every rainfall event of one inch or greater within the drainage sub-basins where construction activities are occurring. The remainder of the project site shall continue to be sampled as described in pre-construction monitoring.
 - b) Any violations of water quality standards within a drainage sub-basin under construction shall be reported to Charlotte County and SWFWMD and all work shall be halted until a solution to the problem is implemented.

 - 3) Post-construction monitoring
 - a) Sampling events shall be conducted quarterly, twice during wet season and twice during dry season, and for rainfall events of one inch or greater, for at least two years after buildout.
 - b) Any violations of water quality standards shall be reported to Charlotte County and the Southwest Florida Water Management District.

 - 4) Monitoring reports.
 - a) Monitoring reports shall be submitted to Charlotte County semi-annually during pre-construction and quarterly during construction.
 - b) An official laboratory report shall also be submitted to Charlotte County, SWFWMD and the Southwest Florida Regional Planning Council as part of each bi-annual report pursuant to General Conditions "b."

- 5) All water quality physical and chemical parameters to be sampled, as well as sampling sites, shall be approved before the commencement of sampling by Charlotte County and SWFWMD.
- 6) The Developer shall incorporate additional water quality treatment and/or water management methods into the project's surface water management system to correct or mitigate any degradation if the measures implemented by the Developer are found to be ineffective or are found to adversely impact water quality downstream of the project site.
- j. The Developer shall confirm, to the satisfaction of Charlotte County and SWFWMD staff, that the proposed project control elevations and overall design will preserve the onsite and adjacent wetlands, including the maintenance of natural hydroperiods, and that County and SWFWMD preservation/mitigation criteria will be met
- k. The Developer shall develop pre- and post-hydrographs to confirm that natural hydroperiods will be sustained after development.
- l. The design storm for the project shall meet Charlotte County and the SWFWMD requirements.
- m. A properly created master property owners association or a community development district shall be responsible for maintenance and monitoring of the master stormwater facilities. Such association or district shall have the authority to assess property owners in order to provide a funding mechanism for maintenance of the master stormwater infrastructure in accordance with all federal, state and local permit conditions.
- n. The Developer shall take necessary precautions during construction and for the duration of the project to prevent adverse impacts to water quality which may include, but are not limited to, the installation of siltation curtains or hay bales between the development area and wetland buffers and implementation of storm drain inlet protection (such as hay bales or gravel) to limit sedimentation within the stormwater system. All newly exposed surfaces will be seeded or sodded as soon as practical. Specific erosion control will be approved as part of the SWFWMD permit.
- o. Turbidity resulting from construction dewatering will be managed using structural best management practices (BMPs) prior to discharge to receiving waters. Structural BMPs may include, but are not limited to, vegetated systems, detention systems (e.g., sedimentation basins), geotextiles, and other methods. Turbidity and other pollutants from construction dewatering on the Property will be reduced to meet the levels required by applicable State Water Quality Standards and as required by the National Pollutant Discharge Elimination
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System ("NPDES") generic permit for construction. Copies of any reports required by the NPDES permit will be maintained at the appropriate construction site with a copy being sent to County's Growth Management Department.

p. Clearing and grubbing will be so scheduled and performed such that grading operations can follow thereafter. Grading operations will be so scheduled and performed that permanent erosion control features can follow thereafter if conditions on the project permit, and not beyond the time limits established in the NPDES general construction permit.

q. Energy dissipaters (such as rip rap, gravel beds, hay bales) shall be installed at the discharge point of pipes or swales if scouring is observed.

r. Stormwater discharge from the site will be limited by the SWFWMD permit.

s. Finished floor elevations within the development will be determined by the appropriate design event of the adjacent water course as determined by Charlotte County and SWFWMD. The finished floor elevation will be determined based on an analysis of the 100 year flood elevation of the Peace River.

t. Discharge to existing conveyances shall be permitted provided that discharge/control structures are designed so that upstream/off-site flooding will not be worsened by development of the project. Stormwater discharge will be limited by the SWFWMD permit.

u. Stormwater ponds will be used to provide water quality treatment in accordance with the SWFWMD requirements.

v. On-site wetlands outside the Green Zone may be incorporated into the stormwater management system provided the continued natural functioning of the wetland system will be maintained or improved; the natural hydroperiod of the wetland will be maintained; water quality, vegetation, and aquatic life-forms will be maintained or improved; substances that could adversely impact water quality, vegetation and aquatic life-forms will be removed or treated prior to discharge to the wetland system; the wetland's ability to assimilate any nutrients in the effluent discharged to the wetland system will not be exceeded; and the Developer, master property owners association or community development district agree to a monitoring program of the wetlands system, at their expense, that assures any degradation of the wetland system that occurs during the monitoring period due to project design failure shall be corrected at the Developer's, master property owners association's or community development district's expense. Those wetlands outside that system will continue to store and transmit water except where modifications are necessary to facilitate hydrologic restoration.

- w. Best Management Practices will be utilized and may include reduced turf coverage, native landscaping, created wetlands, filter marshes, phyto-zones, extended hydraulic residence times and increased flow paths.
- x. The design storm event and corresponding peak stage elevation requirements for the project shall meet Charlotte County and the SWFWMD requirements.
- y. Stormwater facility control elevations will be designed to provide storage capable of meeting required SWFWMD water quality standards. Treatment volume will be provided in accordance with the SWFWMD requirements.
- z. There will be no increase in stream stage elevation offsite, except as permitted by the SWFWMD.
- aa. All internal stormwater management lakes and ditches, and any on-site preserved/enhanced wetland areas, shall be set aside as recorded drainage and/or conservation easements granted to the SWFWMD, or other appropriate governmental entity with a compliance monitoring staff. Stormwater lakes shall include adequate maintenance easements around the lakes, with access to a paved roadway, as required by the appropriate governmental entity. The Developer, homeowners associations, or community development district will maintain the master stormwater management system.
- bb. Any silt barriers and any anchor soil, as well as accumulated silt, shall be removed upon completion of construction. Either the Developer or the entities responsible for the specific construction activities requiring these measures shall assume responsibility for having them removed upon completion of construction.
- cc. If found appropriate by SWFWMD staff, shoreline banks created along onsite stormwater wet detention lakes shall include littoral zones constructed on slopes no steeper than a 4:1 horizontal to vertical ratio and shall be planted in native emergent and submergent vegetation and shall ensure, by supplemental replanting if necessary, that at least 80 percent cover by native aquatic vegetation is established within the littoral zone (to include at minimum the area between ordinary high water and ordinary low water) for the duration of the project.
- dd. The Developer shall conduct annual inspections in accordance with the conditions of the approved SWFWMD Environmental Resource Permit, Charlotte Master Stormwater Management System of any preserved/enhanced wetland areas and any environmental and spreader swale systems on the project site so as to ensure that these areas are maintained in keeping with the final approved

designs, and that the water management system is capable of accomplishing the level of stormwater storage and treatment for which it was intended.

ee. The Developer, or owner of any individual commercial sites, shall undertake a regularly scheduled vacuum sweeping of all streets, sidewalks and parking facilities, to be incorporated as a best management practice, for all commercial development parcels.

ff. Design considerations will be given to ditch and swale slopes, where practicable, so that these facilities provide some additional water quality treatment prior to discharge. Treatment swales shall be planted with vegetation as reviewed and approved during the ERP approval process, and where practicable, landscape islands shall accommodate the detention of runoff. Design consideration will be given to the use of pervious construction materials for the surfaces of trails, walkways, and non-vehicular travel ways.

gg. Any debris that may accumulate in project lakes, ditches or swales, or which may interfere with the normal flow of water through discharge structures and under drain systems, shall be cleaned from the detention/retention areas on a regular basis. Any erosion to banks shall be repaired.

hh. Grease baffles shall be inspected and cleaned and/or repaired on a regular basis. In no instance shall the period between such inspections exceed eighteen months.

ii. Isolated wading bird "pools" shall be constructed to provide aquatic habitat for mosquito larvae predators, such as *Gambusia affinis*, and foraging areas for wading bird species, such as wood stork, consistent with SWFWMD, FDEP, and County requirements.

jj. Stormwater ponds will be designed to provide water quality treatment, per the SWFWMD requirements. Design elements may include rainwater gardens, treatment swales planted with native vegetation and entrainment systems. These will be reviewed and approved during the ERP approval process.

kk. Stormwater discharge will be limited by the SWFWMD permit. Rainwater harvesting techniques including cisterns, rainwater gardens, bottomless planter boxes, green roofs and pervious surfaces may be considered for inclusion in the stormwater design.

ll. Landscape irrigation will be provided first through the use of reuse water, where reasonably available, and surface water from lakes. Ground water will be used to replace the surface water withdrawn for irrigation water.

mm. The Developer shall follow the Land Management Plan which describes BMPs and incorporates provisions such as wetland buffers, Green Zones, stormwater and water quality management, integrated management, pest monitoring and controlled pesticide application, controlled fertilizer application, quality control and assurance procedures and water conservation.

nn. The Developer shall install storm drain inlet protection to limit sedimentation within the storm water management system.

oo. Restrictive covenants for the project will include a provision requiring any commercial pool operation (including any pool within a hotel/motel) using chlorine to be equipped with sensors or alarm devices to provide monitoring and warning of potential spills or leaks.

pp. Impacts to downstream wetlands/salt marsh will be minimized by maintaining appropriate hydrologic flow through tidal creeks. Multiple points for discharge of treated stormwater from the site will prevent rapid freshwater inflow into one area of the wetlands. Wetland hydrology will be modeled to ensure healthy post-development wetland conditions.

6. TRANSPORTATION

a. The Developer shall be fully responsible for site-related roadway and intersection improvements required within the Harborview DRI. The Developer shall be required to pay the full cost for the site-related intersection improvements for the project's access intersections as follows:

- Harborview Road & West Village Project Driveway: Construct one westbound left turn lane; signalize if warranted prior to project buildout.
- Harborview Road & North Village Project driveway (West of Rio de Janeiro Boulevard: Construct one eastbound left-turn lane.
- Harborview Road & North Village Project Driveway (East of Rio de Janeiro Avenue): Construct one eastbound left-turn lane.
- Rio de Janeiro Avenue & Luther Road (project driveway): Construct one northbound left-turn lane, one southbound left turn lane and; signalize if warranted prior to project buildout.
- Rio de Janeiro Avenue & North Village Project Driveway (west side): Construct one northbound left-turn lane.

b. The Developer shall pay to Charlotte County the impact fees that are in effect at the time a permit application number is assigned by Charlotte County. Payment is due prior to issuance of a certificate of occupancy. These impact fee payments shall represent partial payments for necessary transportation improvements, including design and engineering, utility relocation, right-of-way acquisition, construction, construction contract administration and construction inspection necessary to maintain level of service "D" peak hour, based on a 100th highest hour design criteria, for the following significantly impacted roadways through project buildout:

Rampart Boulevard

- Luther Road/Capricorn Boulevard to Rio de Janeiro Avenue

Harborview Road

- U.S. 41 to Kings Highway
- Kings Highway to Melbourne Street
- Melbourne Street to West Village project site
- West Village project site to I-75
- I-75 to North Village project site
- North Village project site to Rio de Janeiro Avenue
- Rio de Janeiro Avenue to Broadpoint Drive

U.S. 17

- Copely Drive to Regent Road

Kings Highway

- Westchester Boulevard to Harborview Road

Melbourne Street

- Harborview Road to U.S. 17

Rio de Janeiro Avenue

- Sandhill Boulevard to Rampart Boulevard
- Rampart Boulevard to East/West Road
- East/West Road to North Village project site
- North Village project site to Harborview Road

c. Impact fee payments shall also represent partial share payments for the necessary improvements, including but not limited to, right-of-way, costs of signalization, turn lanes and other improvements deemed necessary by the Florida Department of Transportation ("FDOT"), Charlotte County or other appropriate jurisdiction to maintain level of service "D" on a peak hour (100th highest hour) basis for the following significantly impacted intersections through project buildout:

- Rampart Boulevard & Luther Road/Capricorn Boulevard
- Rampart Boulevard & Rio de Janeiro Avenue
- Harborview Road & U.S. 41
- Harborview Road & Kings Highway
- Harborview Road & Melbourne Street
- Harborview Road & I-75 West Ramps
- Harborview Road & I-75 East Ramps
- Harborview Road & Rio de Janeiro Avenue
- Harborview Road/Sunnybrook Road & Broadpoint Drive
- Kings Highway & Westchester Boulevard
- Rio de Janeiro Avenue & Sandhill Boulevard
- U.S. 41 & Melbourne Street
- U.S. 17 & Regent Road

d. The Harborview DRI will also significantly impact the following interstate segments:

I-75

- Kings Highway to Harborview Road
- Harborview Road to U.S. 17

e. Level of Service monitoring consistent with Rule 9J-2.045(7)(4), F.A.C. (2009), shall be initiated two years from the effective date of this Development Order and then biennially thereafter.

f. Based on the staff transportation assessment of significant project impacts, the following schedule identifies each roadway improvement which is necessary to achieve the adopted level of service standard at project buildout. Construction of the following transportation improvements shall be need prior to, or coincident with, development of the Harborview DRI, if peak hour (100th highest hour) level of service "C" and "D" conditions, as applicable, are to be maintained through project buildout on significantly impacted road segments and intersections:

Road segment improvements

Harborview Road

- Melbourne Street to West Village project site: Widen to 4 lanes
- West Village project site to Rio de Janeiro Avenue: Widen to 4 lanes

Rio de Janeiro Avenue

- East/West Road to North Village project site: Widen to 4 lanes
- North Village project site to Harborview Road: Widen to 4 lanes

Intersection Improvements

- Rampart Boulevard & Rio de Janeiro Avenue: Signalize when warranted
- Harborview Road & U.S. 41: Construct one westbound right-turn lane. Lengthen eastbound, westbound, northbound and southbound left turn lanes.
- Harborview Road & I-75 West Ramps: Signalize when warranted. Construct second westbound left turn lane. Lengthen I-75 southbound on ramp.
- Harborview Road & I-75 East Ramps: Signalize when warranted
- Harborview Road & Rio de Janeiro Avenue: Construct second eastbound left-turn lane, second eastbound through lane, and one eastbound right turn lane. Construct one westbound left-turn lane and second westbound through lane. Construct two northbound left-turn lanes, two northbound through lanes and two southbound through lanes (one is a through right)
- Rio de Janeiro Avenue & Sandhill Boulevard: Construct one northbound left-turn lane

g. The improvements outlined in the schedule contained in "f" above shall be made at the time that a road segment or intersection is projected to exceed level of service "D" peak hour based on a 100th highest hour design criteria on the roadways and intersections identified in "b" and "c" above and level of service "C" peak hour based on a 100th highest hour design criteria for the Harborview and I-75 East and West ramps and the project is, or will be, utilizing five percent (5%) or more of the peak hour (100th highest hour) level of service "D" maximum service volume or "C" maximum service volume for the I-75 ramps.

h. A traffic study to monitor the existing peak hour level of service, and to project the likely peak hour level of service for the next proposed stage of development shall be submitted biennially to Charlotte County, FDOT, the Florida Department of Community Affairs and the Southwest Florida Regional Planning Council for review and approval. The first monitoring report shall be submitted two years from the effective date of this Development Order.

i. The monitoring report shall project the approved development's transportation impacts on the significantly impacted (i.e., where project traffic is expected to be utilizing five percent (5%) or more of the peak hour (100th highest hour) level of service "D" maximum service volume or "C" maximum service volume for the I-75 ramps) roadways and intersections for the next two (2) years. If no new development is proposed in the upcoming two (2) year period, then the monitoring report shall project transportation impacts on only the following intersections:

- Harborview Road & U.S. 41
- Harborview Road & Kings Highway
- Harborview Road & Melbourne Street
- Harborview Road & I-75 West Ramps
- Harborview Road & I-75 East Ramps
- Harborview Road & Rio de Janeiro Avenue

The development's projections of project traffic shall be based on the total of existing occupied project development, all permitted project development, and the projected amount of development likely to receive building permits within the proposed next two (2) years. If any new development is proposed, then the monitoring report shall include the project p.m. peak hour (100th highest hour) trip generation estimates, non-project background traffic estimates, and an analysis for each of the significantly impacted (i.e., where the existing and proposed project traffic is expected to utilize five percent (5%) or more of the peak hour (100th highest hour) level of service "D" maximum service volume or "C" maximum service volume for the I-75 ramps) regional intersections and road segments, including access intersections. As part of this analysis, a calculation of the current year's and the next two (2) year's peak hour level of service, based

on a 100th highest hour design criteria, at these intersections and on these road segments will be performed.

The level of service shall be calculated according to current professional standards and shall provide an indication of when level of service "D" (or "C" for the I-75 ramps and segments) peak hour, based on a 100th highest hour design criteria, is expected on impacted roadways and intersections, and an estimate of project impact on those facilities.

j. The traffic study methodology shall be supplied to the Southwest Florida Regional Planning Council and the Florida Department of Transportation for review, and shall be subject to written approval by Charlotte County and the Department of Community Affairs prior to the start of each biennial monitoring event

k. If a monitoring report projects that project plus background peak hour (100th highest hour) traffic on a roadway segment or intersection listed in "b," "c," or "d" above exceeds, or is projected to exceed during the next two (2) years, the peak hour (100th highest hour) level of service standard adopted by the Charlotte County Comprehensive Plan and the project is, or will be, utilizing five percent (5%) or more of the peak hour (100th highest hour) level of service "D" maximum service volume or "C" maximum service volume for the I-75 ramps and segments, then no further building permits shall be granted or issued for the Harborview DRI until a major roadway improvement restoring the adopted level of service is operational or unless:

- The Development Order already contains a binding commitment to provide the needed roadway improvements or
- The Development Order is amended to contain a binding commitment to provide the needed roadway improvements.

A binding commitment shall be either:

(1) Scheduling of Facility Improvements

a. A schedule which specifically provides for the mitigation of impacts from the proposed development on each significantly impacted roadway which will operate below the adopted level of service standard at the end of each project phase's buildout, or, alternatively, a subset stage of that phase. The schedule shall ensure that each and every roadway improvement which is necessary to achieve the adopted level of service standard for that project stage or phase shall be guaranteed to be in place and operational, or under actual construction for the entire

improvement, at buildout of each project stage or phase that creates the significant impact. This guarantee shall be in the form of:

(I) A clearly identified, executed and recorded local government development agreement, consistent with Sections 163.3220 through 163.3243, Florida Statutes (2009), that is attached as an exhibit to this Development Order, and which ensures, at a minimum, that all needed roadway improvements will be available concurrent with the impacts of development, consistent with paragraph 163.3180(2)(c), Florida Statutes (2009);

(II) A binding and enforceable commitment in the development order by the local government to provide all needed roadway improvements concurrently with the development schedule approved in this Development Order;

(III) A local government commitment in the current year of their local government comprehensive plan Capital Improvement Element (CIE) to provide all needed roadway improvements, or a local government commitment in the current three years of their CIE to provide all needed roadway improvements when the local government as specifically adopted an in-compliance paragraph 9J-5.0055(3)(c), Florida Administrative Code (2009), concurrency management system in their plan; or

(IV) A Florida Department of Transportation commitment in the current five years of the Adopted Work Program for Florida Intrastate Highway System (FIHS) facilities or in the first three years of the Adopted Work Program for all other facilities to provide all needed roadway improvements;

(V) A binding and enforceable commitment in this Development Order by the Developer to provide all needed roadway improvements concurrently with the development schedule approved in the development order; or

(VI) Any combination of guarantees (I) thru (V) above that ensures that all needed roadway improvements will be provided concurrently with the development schedule approved in this Development Order.

b. A provision which states that on no less than a biennial basis the status of the guaranteed improvements shall be assessed and reported in a required biennial status report. The local government shall cause further issuance of building permits to cease immediately at the time the biennial monitoring reveals that any needed transportation improvements guaranteed by developments 1.a.(I) thru 1.a.(V) above is no longer scheduled or guaranteed, or has been delayed in schedule such that it is no longer consistent with the timing criteria of sub-subparagraph 1.a. above. The periodic assessment contemplated herein is not a monitoring of the actual level of service on a roadway, but is a review of the actual status of guaranteed improvements scheduled for construction. A change to the approved development schedule for the project, as opposed to a change to the schedule of needed improvements, shall be addressed as a Notice of Proposed Change.

c. In addressing the construction of the needed roadway improvements, the schedule described in sub-subparagraph 1.a. above shall list all needed roadway improvements needed to be constructed by phase or stage, the guaranteed date of completion for the construction of each needed improvement, the party responsible for the guaranteed construction of each improvement, and the form of the binding commitment that guarantees construction of each improvement.

2. Alternative Concurrency Provisions. A schedule as set forth in sub-subparagraphs 1.a., b., and c. above, that appropriately addresses each significantly impacted state and regional roadway segment through compliance with Charlotte County's specific alternative concurrency provision of subsections 163.3180(5), (7), (8) or (9), Florida Statutes (2009), where such mitigative measures are specifically adopted in an in-compliance local government comprehensive plan and are fully explained and applied in this Development Order.

3. Proportionate Share Payments.

a. This option shall only be available to the extent that any affected extra-jurisdictional local government, or the Florida Department of Transportation for facilities on the State Highway system, agrees to accept proportionate share payments a adequately mitigating the extra-jurisdictional impacts of the development on the significantly impacted state and regional roadways within their jurisdiction. If an affected extra-jurisdictional roadway is under the maintenance authority of the Florida Department of Transportation, then agreement to accept

proportionate share payments shall be obtained only from that agency for that roadway. Such an agreement shall be attached as an exhibit to this Development Order and shall be in the form of either a clearly identified, executed and recorded local government development agreement, consistent with Sections 163.3220 through 163.3243, Florida Statutes (2009); an interlocal agreement; a FDOT joint participation agreement; or a written acceptance by the affected local government governing board or the Florida Department of Transportation, as appropriate.

b. This option is also available to Charlotte County for those significantly impacted state and regional roadways within their jurisdiction which are not addressed for concurrency by its local concurrency management system.

c. If proportionate share payments are utilized, this Development Order shall contain a schedule as set forth in sub-subparagraphs 1.a., b., and c. above, that appropriately addresses each significantly impacted state and regional roadway segment. For significantly impacted site and regional roadways within the area around the development site that are specifically covered by Charlotte County's Concurrency Management System, this Development Order shall ensure that appropriate mitigative measures are clearly and specifically delineated in this Development Order for each roadway segment, consistent with the concurrency provisions of the in-compliance adopted Charlotte County comprehensive Plan and implementing Charlotte County land development regulations.

d. For each significantly impacted state and regional roadway outside the specified Concurrency Management System area, this Development Order shall additionally include:

(I) A schedule of the list of the improvements that are needed to be constructed to ensure maintenance of the adopted level of service, an identification of the governmental agency with maintenance responsibility over the improvement, the cost of each needed improvement including right-of-way and other costs for the improvement, the developer's proportional share contribution for the improvement, and any proposed staging of the development.

(II) A date-certain payment provision which requires that, at a minimum, the developer pay his proportionate share contribution to the agency that has maintenance

responsibility over the impacted roadway prior to the issuance of any building permits for the stage or phase which will cause or increase the significant impact to that roadway.

(III) A provision which requires that as a condition of accepting the payment of the proportionate share contribution that the receiving governmental agency with maintenance responsibility over the impacted roadway agrees in writing as an exhibit to this Development Order that the contributed monies shall only be applied towards the construction of one or more of the significantly impacted improvements which are under their jurisdiction and listed in the schedule. If the contributed money to that agency is sufficient to fully construct one or more of the roadway improvements under its jurisdiction that is on the schedule in (I) above, then the receiving governmental agency shall agree, as a condition of acceptance, to expeditiously apply the received monies for the improvement construction.

(IV) A provision which requires that development activities and issue of permits therefore immediately cease if the proportionate share contribution is not paid in a timely manner.

(V) A requirement that any proposed delay or change of the proportionate share payment due to a change in the approved development schedule shall require a reanalysis of the proportionate payment amount as part of any schedule approval amendment.

4. A combination of the mitigative measures contained in subparagraphs 1., 2., or 3., above that mitigates for each significantly impacted state and regional roadway and which reasonably assures that public transportation facilities shall be constructed and made available when needed to accommodate the impacts of the proposed development, consistent with the provision of Chapters 163 and 380, Florida Statutes (2009).

I. Any specific stage or phase of this development that proposes the need for the construction of a new or modified access to a state or federal limited access facility shall not be allowed to initiate development for that stage or phase of development by Charlotte County until the new or modified access has been authorized by the Federal Highway Administration and/or the Florida Department of Transportation, as applicable. When such authorization is not forthcoming, the

Developer may request to amend this land use approval, based upon the submittal of a revised transportation analysis not utilizing the new or modified access to the limited access facility and any needed additional transportation mitigation, as appropriate.

m. The transportation impacts to the roads and intersections above may be alternatively proposed by the Developer to be appropriately addressed consistent with the Southwest Florida Regional Planning Council policies, and in accordance with Section 163.3220, Florida Statutes (2009), which requires a commitment by the Developer and/or the local government to insure concurrency on all significantly impacted roads through a substantial deviation determination and development order amendment incorporating the development agreement, pursuant to Section 380.06(19)(f), Florida Statutes (2009).

n. Should the eventual development mix of the Harborview DRI be such that the trip generation and external traffic of the project exceed the levels identified in the ADA by more than 15%, on a daily or p.m. peak hour (100th highest hour) basis, then the project shall go through a substantial deviation determination as outlined in Chapter 380, Florida Statutes (2009).

o. If such Chapter 3-3.5, Charlotte County Code of Ordinances (Impact Fees) is ever amended, repealed, replaced or revoked by Charlotte County or repealed, replaced, revoked, invalidated or superseded by any act of the Florida Legislature or decision of the Florida Supreme Court, then the term shall mean any assessment, fee, payment, donation, contribution or like term, including, but not limited to, mobility fees, which replaces existing local government adopted and implemented transportation concurrency management systems.

p. As part of the construction of the East Village, Discovery Drive shall be relocated to substantially the same location as shown on revised Map H.

q. If Charlotte County extends Luther Road to the west boundary line of the North Village, the Developer shall either provide or allow a connection to a road in the North Village so that Luther Road will extend to Rio de Janeiro Boulevard.

r. No building permits may be granted or issued for the Harborview DRI until the first required biennial transportation monitoring report is submitted and the Development Order is amended to contain a binding commitment to provide the needed roadway improvements for any proposed development identified in such monitoring report.

7. HOUSING

a. The Developer shall set aside ten percent (10%) of the total housing units in the Harborview DRI for families earning not more than 120% of the area median income. These units shall first be made available for sale or rent to the workers in the development at the time the units are constructed, but in no case shall the Developer sell or rent the units to a family earning more than 120% of the area median income. After a demonstrated effort has been made to sell or rent the affordable housing units to those working within the development, the units may be sold or rented to those not working in the development and that qualify for the affordable housing. The units must be divided between equity ownership and rentals, single-family and multi-family to the satisfaction of Charlotte County.

8. POLICE AND FIRE PROTECTION

a. The Developer shall provide up to \$100,000.00 for an additional fire rescue unit for Fire Station #11 prior to issuance of a certificate of occupancy for the 381st residential unit in the project. Upon payment, the Developer shall receive \$100,000.00 of fire impact fee credits which may be used to offset fire impact fees assessed on development located north of the Peace River and east of the Myakka River.

9. EDUCATION

a. The Developer shall enter into an agreement with the Charlotte County School District prior to the final approval by Charlotte County of any phase of a Planned Development site plan, a subdivision plan, preliminary plat or the functional equivalent for new residential development within the Harborview DRI. The terms of the agreement shall be incorporated into this Development Order as a Notice of Proposed Change and shall not constitute a substantial deviation.

10. MARINA AND DOCK FACILITIES

a. A marina operations plan which abides by the recommendations of the Florida Department of Environmental Protection's Clean Marina Act will be implemented at the proposed Marina. The operations will promote environmentally friendly alternatives which will include Best Management Practices and Marina Environmental Measures.

b. As used herein, the term "Marina" shall include both the basin and the freshwater canal connecting the basin to the saltwater canal, all located within the East Village and shown with a dotted overlay on Map H. The Marina may contain one (1) dry storage facility for not more than 192 boats with a maximum size of 28 feet, 260 wet slips and a fork lift tram-way system through the upland portions of the development to deliver vessels to the existing canal system for access to the Peace River. The number of wet slips will be commensurate with jurisdictional agency permitting standards and available space.

c. The Marina will include a dry storage facility with an associated staging area and may include a ship store, restrooms, showers and retail shops. Sewer pump out facilities and a fueling dock shall also be provided.

d. The Marina will provide a dock or dry storage berth for the Charlotte County Sheriff's Department, Charlotte County Fire and EMS and FWC or USFWS upon request.

e. Operation of the Marina will comply with the Marina Environmental Measures and Best Management Practices Clean Marina Plan – Harborview Marina attached as **Exhibit "F"** hereto and incorporated herein by this reference, as may be amended through the permitting process. The Marina will obtain a Clean Marina certification and shall comply with the Clean Marina certification requirements regardless of whether the program is discontinued. Charlotte County shall receive a copy of the Clean Marina Program Status Report which shall be submitted annually to FDEP. If the Clean Marina certification program is discontinued, the Developer shall continue to submit a Clean Marina Program Status Report annually to Charlotte County. Charlotte County shall have the authority to verify compliance with the Clean Marina standards at any time. The Developer shall update its BMPs as technology changes and shall describe any updated BMPs in the biennial DRI report.

f. A petroleum spill response/fueling contingency plan will be developed and implemented at the Marina and shall include the following:

- Notify within one hour of a spill your local responder, USCG National Response Center, FWC, and the State Warning Point.

- The name, location and hours, telephone numbers, radio frequencies, facility waterfront and vessel characteristics, type and amount of petroleum stored, name/phone numbers of owner and trained personnel designated in charge. Notification responsibilities and procedures, a list of spill equipment/capabilities on site, and a third party cleanup organization.
- Staff will be trained on how the equipment should be used and when necessary.
- Maintain and have access to containment booms that are five (5) times the length of the longest vessel docked and absorbent material to contain the largest potential spill.
- The equipment will be kept in key location and maintained by a contracted petroleum response company.
- The plan will be annually reviewed with staff and updated for any new technology or equipment.
- Signage will be provided informing boaters what to do to contain the pollutant in case of a spill if there is no attendant present.

g. Oil and fuel storage containers will be built with a surrounding berm that contains an impervious bottom or equivalent double walled storage containers with petroleum sensors in the interstitial space in order to prevent/detect any leaching.

h. Docks, wet slips, and dry slips may be constructed within the Marina and along the DeSoto Canal, upon receipt of all required local, state and federal agency permits and approvals.

i. The Marina will provide limited repair service consistent with DEP's Clean Marina Program. Boat maintenance and repair work will be limited to tasks like refueling, battery replacement, other minor maintenance activities, etc., consistent with the Clean Marina program. The Marina will incorporate measures to separate hazardous materials from the solid waste stream.

j. No hull cleaning, major repair work, etc. will occur within the Marina. A battery recycling company with pick-up service will be contracted to minimize on-site storage of old/used batteries.

k. Dredging shall only be permitted in those areas shown on **Exhibit "H"** attached hereto and incorporated herein by this reference.

l. A program shall be implemented at the Marina to educate the public about population status and the prohibitions against capturing, harming or harassing smalltooth sawfish. Guidelines on safe handling and release of smalltooth sawfish shall be posted at the Marina.

- m. Maps identifying the location along the shoreline of the Harborview DRI of any nursery or adult habitat of the smalltooth sawfish shall be posted at the Marina.
- n. Appropriate mitigation shall be provided for any non-shoreline mangrove habitat that is disturbed.
- o. Powerboats with drafts in excess of five (5) feet will be prohibited from utilizing the Marina facilities.
- p. Personal motorized watercraft (i.e. jet skis) will be prohibited in the Marina.
- q. The entire shoreline of the Marina basin and the associated canal system will include stabilization by either revetment riprap, bulkhead seawall with riprap or living shoreline with a littoral shelf.
- r. No cargo will be shipped through the Marina.
- s. The Marina will be designed in general accordance with the "Layout Design and Construction Handbook for Small Craft Boat Launching Facilities" prepared by the State of California Department of Boating and Waterways.
- t. Littoral zones will be incorporated at the outfall from the basin to provide water quality and habitat benefits. The littoral shelf in the Marina will be planted with native emergent wetland species.
- u. In order to protect breeding ground for the smalltooth sawfish, there shall be no impacts to the shoreline mangrove habitat located along the Peace River within the project area. A conservation easement will be placed over the shoreline mangrove habitat.
- v. Brazilian pepper removal and other enhancement activities will be conducted in the mangrove habitats to improve the habitat for the smalltooth sawfish.
- w. Continuing consultation on the potential impacts to the smalltooth sawfish will be completed with the USACE, USFWS and NMFS prior to approval of the project design and proposed mitigation. Charlotte County will be invited to participate in the review of any project that may adversely impact critical smalltooth sawfish habitat, as such is designated by the USFWS.
- x. Coordination with the NMFS and USFWS will be conducted under the Section 7 consultation for the smalltooth sawfish.

y. No temporary overnight slips will be constructed within the Marina. Liveaboards shall be prohibited.

z. The shoreline of the DeSoto Canal within the project area will not be armored. The shoreline will be maintained in a natural condition to avoid impacts to mangroves located in this area.

aa. Ten (10), 141 foot, elevated finger piers with two boat slips at the end of each pier, for a total of twenty (20) slips may be placed along the western shoreline of the DeSoto Canal for single family residences. These twenty (20) slips shall be the only slips allowed outside the Marina. The boardwalks will be designed with a width of six (6) feet and be elevated approximately eight (8) feet from the ground and provide access from the single family homes to the DeSoto Canal. The elevated boardwalks will be placed over the gopher tortoise preservation areas. The design of the docks will ensure that their placement does not violate water quality, impede navigation, or adversely affect flood control.

bb. Permanent educational signs for Florida Friendly Boating and Manatee Awareness shall be placed at the Marina.

cc. The Standard Manatee Construction Conditions, including the placement of temporary manatee caution signs, shall be utilized during the dredging and work boat operations.

dd. The Marina shall comply with approved manatee protection and preservation plans and procedures.

11. ENERGY

- a. The Developer shall construct an eight (8) foot wide multi-use on-site path for pedestrians and bicycles. The path will be connected to off-site systems adjacent to the site and shall be placed on at least one side of the major roadways within the project consistent with the Bicycle and Pedestrian System Map attached as **Exhibit "I"**. The design for this pathway shall be shown at the time of final site plan approvals.
- b. "Complete Streets" which include sidewalks, bicycle lanes, raised pedestrian islands, landscaped medians, and cross-walks with advanced warning signs will be incorporated into the project along the major roadways shown on **Exhibit "I"**. Pervious concrete or similar material shall be used in driveways, sidewalks and nature walks.
- c. The project will incorporate future Charlotte County transit system stops as identified by the County to serve this development. Bus stop locations should at a minimum provide adequate vegetative shading, a bench or other seating and should be located no further than one quarter mile from commercial building entrances.
- d. Homes within the project will be designed with appropriate insulation, Energy Star rated appliances and Green Seal rated materials. The use of energy-efficient features in window design (e.g. tinting, low solar head gain coefficients (SHGC) and exterior shading, cross ventilation, operable windows and ceiling fans will be incorporated into homes within the project as appropriate and consistent with the Florida Building Code and Fire Marshall rules.
- e. Deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g. building orientation, clotheslines and solar water heating systems) will be prohibited.
- f. The project will use vegetative ground covers to minimize concrete and asphalt.
- g. The project will utilize energy-efficient lighting for streets, parking areas, recreation areas and other interior and exterior public areas to the extent that safety, security and County lighting standards are not compromised.
- h. The project will utilize water closets with a maximum flush of 1.6 gallons and shower heads and faucets with a maximum flow rate of 2.5 gallons per minute (at 80 pounds of water pressure per square inch). Faucet aerators will limit flow rates to 0.5 gallons per minute.

- i. The project will incorporate Florida Friendly landscaping and provide reasonable shade for all recreation areas, streets and parking areas. Plants with similar maintenance needs must be grouped together. Trees will be placed to provide shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.
- j. Structural shading shall be used wherever practical when natural shading cannot be used effectively.
- k. Bicycle racks or storage facilities will be provided in recreational, commercial and multi-family residential areas, but are neither required nor precluded on any individual parcel that utilizes shared parking facilities.
- l. Porches, overhangs for shade and/or patio areas will be included in residential units when practical.
- m. The Developer will install irrigation rain sensors and will abide by water restrictions mandated by State and County agencies.
- n. The Developer will strive to use innovative irrigation technology, such as drip irrigation, moisture sensors, and micro spray heads to reduce irrigation water use.
- o. Site development shall comply with the Florida Green Building Coalition Certification standards or equivalent green building standards.
- p. All thermostats installed in any structure shall be programmable.
- q. Roofing material shall meet LEED cool roofing standards as follows: Roofs with slopes less than 2:12 shall have a solar reflective index of 78 or greater; roofs with slopes greater than 2:12 shall have a solar reflective index of 29 or greater. The term "solar reflective index (SRI)" is a measure of the constructed surface's ability to reflect solar heat as shown by a small temperature rise. "Solar reflective index" is defined so that a standard black with reflectance of 0.05 and emittance of 0.90 is zero (0) while the SRI for a standard white (reflectance of 0.80 and emittance 0.90) is 100. No black roofs will be permitted regardless of SRI.
- r. One Zero Energy Home ("ZEH") model will be built to feature and promote net zero energy efficient housing.

12. FLOOD PLAIN/HURRICANE PREPAREDNESS

- a. Each building in the Harborview DRI will provide for hurricane shuttering of or have impact glass installed in all windows.
 - b. Single family residences within the Coastal High Hazard Area shall be constructed with reinforced stem-wall foundations which shall be resistant to flood erosion.
 - c. Two-way radio communication equipment shall be provided to the hotel, harbormaster building, or clubhouse, at the discretion of the Charlotte County Emergency Management Director, with an integrated evacuation siren warning system.
 - d. A disclosure statement in the form of a covenant shall be attached to all residential deeds stating that the property is located in a hurricane vulnerability zone and that the hurricane clearance time for the county is high and/or hurricane shelter spaces are limited.
 - e. The Developer shall coordinate with the Emergency Management Director designee in establishing a community emergency management program including the support and encouragement for a Community Emergency Response Team (CERT) and an annual presentation by the Emergency Management Director or designee which promotes hurricane preparedness for the Harborview DRI residents and which shall be sponsored by the Developer or any subsequently created property owners association or community development district.
 - f. The Developer shall provide a minimum 150 kW, 60 Hz, 6.8 liter generator for a critical facility, to be designated by the Emergency Management Director, prior to the issuance of the 101st certificate of occupancy for a residential structure within the Harborview DRI. Installation shall be provided by the receiving facility.
 - g. A community-wide Hurricane Awareness Program and Response Plan shall be prepared with a copy delivered to the Emergency Management Director. The plan shall address the following:
 - Community Information Program
 - Evacuation Plan
 - Property Preparation to include the Marina and boaters
 - Community Emergency Communication System
 - Agency Coordination/Situation Updates
 - Community emergency Response Team (CERT) Training
-

- Private Security

h. In areas where the 100-year floodplain elevation is above existing ground elevations, the Developer will build the habitable structures above the required flood elevation and may utilize, but is not limited to, conventional slab on grade, piling construction and reinforced stem wall construction.

i. The Developer shall reduce the introduction of fill material into the 100-year floodplain where practical. Structures built in the 100-year floodplain will be built as elevated structures and not monolithic slabs on fill soil, where practical. Bridges shall be used instead of culverts where practical.

j. A maximum of 733 dwelling units ("DUs") shall be permitted in the Coastal High Hazard Area of the West Village. Development within the 65.8 acre Coastal High Hazard incorporated into the Harborview Development of Regional Impact ("DRI") by Resolution 2006-093 and which carries the Mixed Use designation on the Future Land Use Map, shall allow a maximum of 157 residential DUs .

k. The material choices for streets, parking lots, sidewalks, and the trail system shall be selected to reduce the heat island effect. These materials shall be pervious where practical.

13. SOLID/HAZARDOUS/MEDICAL WASTE

- a. All residential units and business shall participate and cooperate with any recycling programs developed by Charlotte County.
- b. Any business located within the Harborview DRI that handles bio-hazardous or hazardous materials will be required to coordinate with a licensed bio-hazardous waste hauler consistent with State law.
- c. The Developer will coordinate with Charlotte County and contracted waste haulers and implement recycling efforts to minimize the solid waste stream.
- d. Hazardous materials and waste are regulated by 40 CFR 260-266 and are adopted by reference by the State of Florida. Responsibility and liability for the handling, storing, and use of hazardous materials rests with the person or entity handling, storing or using the material.
- e. The solid waste demands of the project will be incorporated into the county solid waste management program. The Developer will explore possibilities of extending the life of the county landfill by reducing the solid waste volumes by incorporating practices such as conservation, recycling, trash compaction and mechanical shredding.
- f. Any business within the DRI that generates hazardous waste shall be responsible for the temporary storage, siting and proper disposal of the hazardous waste generated by such business. There shall be no siting of hazardous waste storage facilities contrary to Charlotte County zoning regulations.
- g. Any buildings where hazardous materials or waste is to be used, displayed, handled, generated or stored shall be constructed with impervious floors with adequate floor drains leading to separate impervious holding facilities that are adequate to contain and safely facilitate cleanups of any spill, leakage, or contaminated water.
- h. Discharge of hazardous waste effluent into the sewage system shall be prohibited unless approved by permit issued by the Florida Department of Environmental Protection.
- i. The Developer will consider source recycling of construction materials to reduce the amount of construction materials that will be deposited in the landfill, including the location of separate containers for metals, plastics, paper products, drywall, vegetation and wood.

j. There shall be no discharge of medical waste from medical facilities into the sewage systems.

k. Facilities qualifying under the Superfund Amendments Reauthorization Act (SARA) Title III of 1986, and the Florida Hazardous Materials Emergency Response and Community Right to Know Act of 1988, shall file hazardous materials reporting applications in accordance with sections 302, 303, 311, 312, or 313. Applications shall be updated annually by each reporting facility.

l. Prior to construction of any facility that will generate medical or hazardous waste, the Developer shall identify medical and hazardous waste transporters that have been identified to serve the facility.

14. RECREATION AND OPEN SPACE

a. The Harborview DRI is projected to contain a population of 6,410 full-time equivalent residents at buildout. The Harborview DRI will provide a minimum of 38.46 acres of Active/Multipurpose park acreage as required by the Charlotte County Comprehensive Plan. Such park acreage may be comprised of any mix of mini (sub-neighborhood) parks, neighborhood parks and special purpose facilities which are defined as follows:

- Mini (sub-neighborhood) parks: A small park designed to serve up to 2,500 residents within a 2- to 3-block radius. Typically included are a playground, benches and open space, and possibly picnic tables.
- Neighborhood parks: A modest sized park usually with play equipment, sports fields, paved courts, open area, picnic area and possible recreation buildings, designed to serve up to 5,000 residents within a ½ mile service radius.
- Special purpose facilities: Boat ramps, fishing piers, and other miscellaneous properties used for outdoor recreation.

At a minimum, the Harborview DRI will contain one (1) mini park in North Village, one (1) mini park in West Village and two (2) mini parks in East Village (one (1) east of the relocated Discovery Drive and one (1) west of the relocated Discovery Drive).

b. Parks and special purpose facilities within the Harborview DRI may be either public or private.

c. Parks may be maintained by a validly created homeowners association or by a Community Development District or by Charlotte County, if accepted for maintenance by the County.

d. Public space in mixed residential/commercial areas in the East Village may be counted toward acreage requirements if designed with sufficient size and recreational opportunities.

f. The proposed Marina shall be classified as a special purpose facility and may be counted toward park acreage requirements.

g. The proposed Marina shall provide public parking and dockage and shall have a walkway system constructed around its entire perimeter, open to use by the public.

h. The developer shall erect an historical marker in a public location recognizing the ranch and the ranch family that formerly utilized the lands within the Harborview DRI.

i. The conveyance of the Saltwater Marsh to a governmental body or agency or to a charitable corporation or trust whose purposes include protecting natural, scenic, or open space values of real property, assuring its availability for recreational or open space use, protecting natural resources, or maintaining or enhancing air or water quality, exceeds the adopted Level of Service Standard required by the Comprehensive Plan for Environmental Parks. No further commitment for land for environmental parks shall be required.

j. The Green Zone, as depicted on Map H shall be maintained as open space and may include pervious trails, picnic tables, park benches, or gazebos within the landward thirty (30) feet. Maintenance shall be provided by a lawfully created master homeowner association or community development district.

15. LAND USE

a. The Harborview DRI shall be developed in substantial accordance with the Master Development Plan (Map H, as amended), including the development parameters and the development criteria as detailed on that plan.

b. The development of Harborview DRI shall be as follows:

Project Summary

Area	653 acres
Residential Uses	
Single Family	245 units
Multi-Family	3,614 units
Total residential	3,859 units
Commercial Uses	655,000 s.f.
Office Uses	50,000 s.f.
Hotel Uses	350 rooms
Marina Uses	
Wet boat slips	260
Dry boat slips	192
Exempt single family slips	20

c. Non-residential Land uses approved by this Development Order may be increased in one land use category and concurrently reduced in another land use category, as more specifically described in the Land Use Equivalency Matrix ("Matrix") provided in **Exhibit "B."** The Matrix will allow for any number of changes to the non-residential totals described above in Paragraph A of the Findings of Fact and Conclusions of Law, while ensuring that the currently approved impacts of the project are not adversely exceeded. Any land use exchange made pursuant to the Matrix shall not exceed the substantial deviation thresholds as set forth in 380.06(19)(b), Florida Statutes (2009). Any exchanges shall require an amendment to the non-residential intensities set forth in Charlotte County's comprehensive plan.

d. Cattle grazing is permitted on the East Village property only. Such grazing will be discontinued upon application to Charlotte County for the first building permit for any phase within East Village.

e. Map H shows the location of an easement that has been granted to the Peace River Regional Water Authority ("Authority") for construction of a pipe to interconnect the Authority's water system to the City of Punta Gorda's water system. A portion of this easement is located within the areas depicted for wildlife preservation on Map H. The Authority shall be permitted to manage and maintain such easement area pursuant to the terms of its recorded easement,

including, but not limited to, prohibiting the planting of trees within the easement area.

f. At the time of the first Final PD Site Plan Review submittal, the Developer shall submit a "Permit Tracking Chart." Once approved by the Charlotte County Growth Management Department, this chart will be submitted with each subsequent Final PD Site Plan Review submittal to be used by Charlotte County staff to ensure adequate monitoring of the variable commercial/office square footage and the number of residential units by type, the mix of housing types and their neighborhood location.

16. HISTORICAL AND ARCHEOLOGICAL SITES

a. If any archeological/historical sites are discovered during the development activities, all work that might cause damage to such sites shall cease immediately, and the Developer shall contact the State Division of Historical Resources ("DHR"), the Southwest Florida Regional Planning Commission and Charlotte County so that a state-certified archeologist can determine the significance of the findings and recommend appropriate preservation and mitigation actions, as necessary.

17. GENERAL PROVISIONS

- a. The Developer shall submit a DRI report on Form RPM-BSP Annual Report every two years from the effective date of this Development Order to Charlotte County, the Southwest Florida Regional Planning Council, the Florida Department of Communities Affairs and all affected permit agencies as required in Subsection 380.06(18), Florida Statutes and Section 9J-2.025(7)B-6, F.A.C. as amended. Failure to comply with this biennial reporting procedure is governed by Section 380.06(18), Florida Statutes, which provides for the temporary suspension of the DRI development order. The Developer must inform successors in title to any undeveloped portion of the real property covered by this Development Order of this reporting requirement.
 - b. The project shall be completed in one phase. If Development Order conditions and Developer commitments incorporated within the Development Order 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, then this shall be presumed to be a substantial deviation for the affected regional issue, which presumption may be rebutted.
 - c. If it is demonstrated during the course of monitoring the development, that substantial changes in the conditions underlying the approval of the development order have occurred or that the development order was based on substantially inaccurate information provided the Developer, resulting in additional substantial regional impacts, then a substantial deviation shall be deemed to have occurred pursuant to Section 380.06(19), Florida Statutes.
 - d. Pursuant to Chapter 380.06(16), Florida Statutes, the applicant may be subject to credit for contributions, construction, expansion, or acquisition of public facilities, if the Developer is also subject by local ordinances to impact fees or exactions (including mobility fees) to meet the same needs. The local government and the Developer may enter into a capital contribution front-ending agreement to reimburse the Developer for voluntary contributions in excess of the fair share.
 - e. The Developer will comply with all applicable local codes, ordinances and regulations of Charlotte County to the extent not inconsistent with this Development Order.
 - f. Nothing in this Development Order shall preclude or exempt the development from participating in any duly established MSTU, MSBU or Community Development District for the purpose of providing infrastructure and services.
-

g. The Developer, and its successors or assigns, shall be bound by all conditions of this Development Order in perpetuity unless the DRI is abandoned pursuant to Section 380.06(26), Fla. Stat., as amended.

h. The Developer, in its normal course of business, may from time to time transfer ownership of land and/or lots within the DRI to builders or other developers. It is understood that successors in interest shall assume the same liability that the Developer has under this Development Order.

18. FURTHER RESOLUTIONS

a. The County Administrator or his designee shall be the local official responsible for assuring compliance with this Development Order.

b. Wherever the term "Developer" is used herein to refer to a condition or requirement which must be completed, the term shall include any successors or assigns or management entity hereinafter succeeding to the rights or obligations under this Development Order.

c. Pursuant to Section 380.06(15)(c) 3, Charlotte County agrees that the Harborview Development Order shall not be subject to down zoning, unit density reduction or intensity reduction until September 21, 2020, unless it can demonstrate that substantial changes have occurred in the conditions underlying the approval of this development order or that the development was based on substantially inaccurate information provided by the Developer or that the change is clearly established by Charlotte County to be essential to the public health, safety or welfare.

d. Subsequent requests for development permits shall not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by Charlotte County, after due notice and hearing, that one or more of the following is present:

- (1) A substantial deviation from the terms or conditions of this development order, or other changes to the approved development plans which create a reasonable likelihood of adverse regional impacts or other regional impacts which were not evaluated in the review by the Southwest Florida Regional Planning Council in which case Charlotte County shall take the appropriate action which may include ordering that an amendment to the DRI be filed before any further development may continue; or
- (2) An expiration of the period of effectiveness of this development order as provided herein, in which case Charlotte County shall order a termination of all development activity until such time as a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes.

e. A certified copy of this resolution shall be forwarded to the Southwest Florida Regional Planning Council and to the Florida Department of Community Affairs.

f. In the event any term(s) of any other resolution with respect to this Harborview DRI Development Order conflict with any term(s) of the within resolution, the terms of this resolution shall govern and supersede those conflicting terms.

g. This resolution shall become effective immediately upon its adoption.

h. The Clerk of Circuit Court is hereby directed to forward a certified copy of this resolution to 1) the Developer, 2) Florida Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and to 3) Daniel L. Trescott, Southwest Florida Regional Planning Council, 1926 Victoria Avenue, Fort Myers, Florida 33901.

PASSED AND DULY ADOPTED this 21st day of September, 2010.

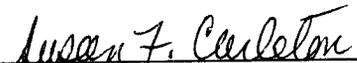
Board of County Commissioners
Of Charlotte County, Florida

By: 

Robert J. Starr, Chairman

Attest:

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

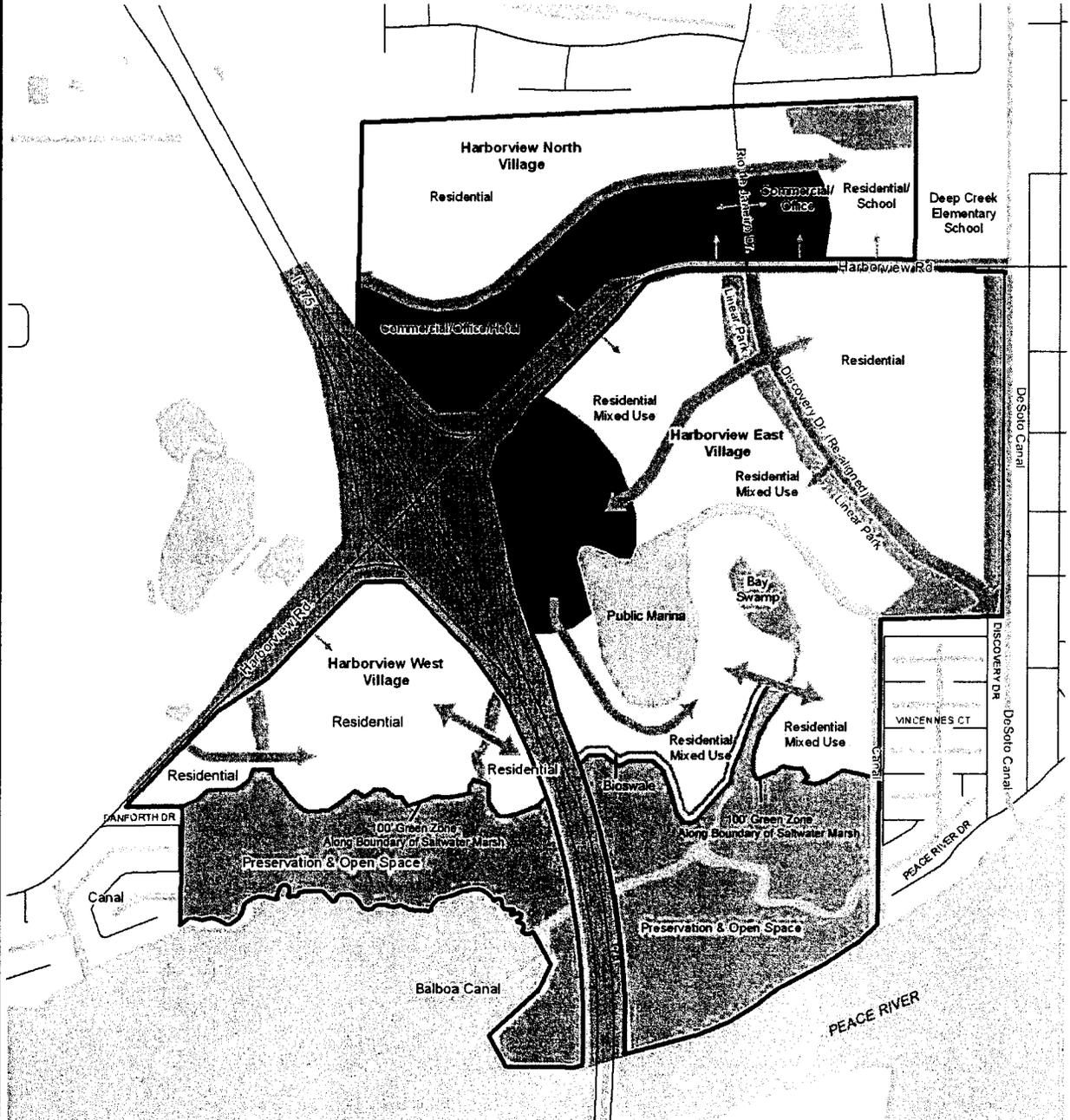
By: 
Deputy Clerk

Approved as to form and legal
sufficiency:

By: 
Janette K. Knowlton, County Attorney

EXHIBIT A

UPDATED MASTER DEVELOPMENT PLAN HARBORVIEW DRI - Charlotte County, Florida



Legend

- Existing Roads
- Other Internal Roads
- Preservation & Open Space
- Commercial/Office/Hotel/Marina
- Residential Mixed Use
- Existing Roads
- Marina & Canals
- Harborview DRI Site
- Green Zone
- Residential
- Roadway Full Access
- Roadway Limited Access
- Bioswale

SITE DEVELOPMENT DATA	S.F.	ACREAGE
Hotels (350 Rooms)		25+/-
Residential		234+/-
Multi Family (3,614 Dwelling Units)		
Single Family (245 Dwelling Units)		
Marina & Canals (260 Wet Slips and 192 Dry Slips)		66+/-
Commercial	655,000	70+/-
Office	50,000	5+/-
Easements and Roadways		66+/-
Preservation & Open Space		187+/-
Total Site Area		653 +/- Acres

Notes:
 1. Wetland lines are preliminary and subject to jurisdictional determination.
 2. More details on environmental protection shown on Map F-1

Date: August 2010



MAP
H

Exhibit "B"

TABLE 1

HARBORVIEW DRI

Land Use Trade-Offs

A. LAND USE TRADE-OFF RATES							
CHANGE FROM	CHANGE TO	Hotel	Office	Commercial			
		(Occ. Room)	(1,000 SF)	(1,000 SF)			
Hotel (Occupied Room)		--	0.1420	0.1845			
Office (1,000 SF)		7.0440	--	1.2994			
Commercial (1,000 SF)		5.4208	0.7696	--			
B. TRADE-OFF EXAMPLES							
EXAMPLE 1: TRADE FROM COMMERCIAL TO HOTEL							
Trade 10 KSF of Commercial for ? Occupied Rooms of Hotel							
= 10 KSF Commercial x 5.4208 Occ. Room/KSF Commercial							
= 54 Occupied Hotel Rooms							
EXAMPLE 2: TRADE FROM HOTEL TO OFFICE							
Trade 100 Occupied Rooms of Hotel for ? (1,000) SF of Office							
= 100 Occ. Rooms Hotel x 0.2273 KSF Office/Occupied Room							
= 22.73 x (1,000) SF Office							
= 22,730 SF Office							
EXAMPLE 3: TRADE FROM OFFICE TO COMMERCIAL							
Trade 10 KSF of Office for ? (1,000) SF of Commercial							
= 10 KSF Office x 1.2994 KSF Commercial/KSF Office							
= 12.994 x (1,000) SF Commercial							
= 12,994 SF Commercial							
C. SOURCE INFORMATION AND DOCUMENTATION FOR TRADE-OFF RATES							
Land Use	DRI Total		Trips [1][2]	Trips / Measure			
	DU, 1,000 SF or Occ Rooms [2]						
Hotel (ITE 310)	350 (Occ. Room)		159	0.4543	Occ. Room		
Office (ITE 710)	50 (1,000 SF)		160	3.2000	1,000 SF		
Commercial (ITE 820)	655 (1,000 SF)		1,613	2.4626	1,000 SF		
D. FOOTNOTES							
[1]: "Trips" equal total net, new p.m. peak-hour trips.							
[2]: Source: Harborview DRI ADA, July 27, 2007							

EXHIBIT "C"

LEGAL DESCRIPTION

DESCRIPTION NO. 1

ALL LESS THE EAST 395 FEET OF THAT CERTAIN PARCEL OR TRACT OF LAND PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTH ONE-HALF, AND GOVERNMENT LOT 1 LESS THE SOUTH 16 ACRES, AND ALL OF GOVERNMENT LOT 2, LYING AND BEING IN SECTION 21, TOWNSHIP 40 SOUTH, RANGE 23 EAST, TOGETHER WITH RIPARIAN RIGHTS THEREUNTO APPERTAINING AND ALSO ALL ACCRETION THERETO

ALONG WITH:

A PARCEL OF LAND IN PEACE RIVER IN SECTION 28, TOWNSHIP 40 SOUTH, RANGE 23 EAST PER O.R. BOOK 115, AT PAGE 27, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA, COMMONLY KNOWN AS PART OF ISLAND NELL AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE NORTHWEST CORNER OF GOVERNMENT LOT 2 OF SECTION 21 IN SAID TOWNSHIP 40 SOUTH, RANGE 23 EAST, RUN SOUTH 01°25'01" EAST, ALONG THE WEST LINE OF SAID GOVERNMENT LOT 2 AND THE EXTENSION THEREOF, A DISTANCE OF 2,955.74 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREINAFTER DESCRIBED:

THENCE SOUTH 72°21'52" EAST, A DISTANCE OF 560.50 FEET; THENCE SOUTH 04°37'21" EAST, A DISTANCE OF 230.00 FEET; THENCE SOUTH 82°23'00" EAST, A DISTANCE OF 52.00 FEET; THENCE NORTH 32°02'00" EAST, A DISTANCE OF 374.00 FEET; THENCE NORTH 71°33'35" EAST, A DISTANCE OF 115.12 FEET, MORE OR LESS, TO THE INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID GOVERNMENT LOT 2; THENCE SOUTH 01°39'47" EAST ALONG SAID SOUTHERLY EXTENSION, A DISTANCE OF 465.00 FEET TO THE SHORELINE OF PEACE RIVER; THENCE ALONG SAID SHORELINE OF PEACE RIVER THE FOLLOWING COURSES AND DISTANCES: SOUTH 46°16'46" WEST, A DISTANCE OF 187.82 FEET; THEN SOUTH 55°02'00" WEST A DISTANCE OF 312.00 FEET; THENCE SOUTH 60°34'00" WEST, A DISTANCE OF 405.00 FEET; THENCE SOUTH 50°23'00" WEST, A DISTANCE OF 202.00 FEET; THENCE SOUTH 56°12'30" WEST, A DISTANCE OF 253.00 FEET; THENCE SOUTH 66°40'00" WEST, A DISTANCE OF 270.00 FEET, MORE OR LESS, TO THE INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID GOVERNMENT LOT 2; THENCE NORTH 01°25'01" WEST ALONG SAID SOUTHERLY EXTENSION, A DISTANCE OF 1,464.53 FEET MORE OR LESS, TO THE POINT OF BEGINNING.

LESS AND EXCEPT:

A PORTION OF SECTION 21, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE NORTHEAST CORNER OF SAID SECTION 21, RUN SOUTH 87°58'54" WEST, ALONG THE NORTH LINE OF SAID SECTION 21 A DISTANCE OF 425.46 FEET TO THE POINT OF BEGINNING OF THE LANDS HEREIN DESCRIBED: SAID POINT ALSO BEING ON THE WEST LINE OF HARBOR HEIGHTS, SECTION NINE, PART ONE, AS RECORDED IN PLAT BOOK 4, PAGES 38A THRU 38D OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA; SAID POINT ALSO BEING THE SOUTHEAST CORNER OF PUNTA GORDA ISLES, SECTION TWENTY-THREE AS RECORDED IN PLAT BOOK 12, PAGE 2-A THRU 2-Z-41, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA; THENCE CONTINUE SOUTH 87°58'54" WEST ALONG SAID SOUTH LINE OF PUNTA GORDA ISLES, SECTION 23 AND THE NORTH LINE OF SECTION 21, A DISTANCE OF 701.90 FEET; THENCE SOUTH 00°38'19" WEST, PARALLEL WITH THE EAST LINE OF SAID SECTION 21, A DISTANCE OF 1,229.64 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 776; ACCORDING TO THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAPS SECTION NO. 01560-2601; THENCE SOUTH 89°21'11" EAST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 460.96 FEET; THENCE NORTH 00°38'49" EAST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 10.00 FEET; THENCE SOUTH 89°21'11" EAST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 240.20 FEET TO A POINT ON THE WEST LINE OF SAID HARBOR HEIGHTS, SECTION NINE, PART ONE; THENCE NORTH 00°38'19" EAST, ALONG SAID WEST LINE, A DISTANCE OF 1,252.28 FEET TO THE POINT OF BEGINNING OF THE LANDS HEREIN DESCRIBED

LESS AND EXCEPT:

THE RIGHT-OF-WAY OF HARBORVIEW ROAD (STATE ROAD NO. S-776) PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAPS SECTION NO. 01560-2601.

LESS AND EXCEPT:

THE RIGHT-OF-WAY OF I-75 (STATE ROAD NO. 93) PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAPS SECTION NO. 01075-2401.

AND TOGETHER WITH THE FOLLOWING SHOWN IN RESOLUTION RECORDED APRIL 22, 2004 IN OFFICIAL RECORDS BOOK 2447, PAGE 2054, AND DESCRIBED AS FOLLOWS:

SURVEYOR'S DESCRIPTION: PARCEL 3 (ENVIRONMENTAL-WETLAND):

A PARCEL OF LAND LYING IN SECTION 21, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 21; THENCE SOUTH 88°15'11" WEST, ALONG THE NORTH LINE OF SAID SECTION 21, A DISTANCE OF 2,710.11 FEET TO A POINT; THENCE, SOUTH 88°15'22" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 530.42 FEET TO THE POINT OF BEGINNING.

THENCE CONTINUE, SOUTH 88°15'22" WEST, ALONG NORTH LINE OF SAID SECTION, A DISTANCE OF 409.45 FEET; THENCE, SOUTH 01°44'38" EAST, A DISTANCE OF 14.42 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING AS ELEMENTS A RADIUS OF 189.34 FEET, A CENTRAL ANGLE OF 28°23'36", AND A CHORD BEARING OF SOUTH 15°56'26" EAST; THENCE, ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 93.83 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE, SOUTH 30°08'14" EAST, A DISTANCE OF 175.17 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING AS ELEMENTS A RADIUS OF 115.00 FEET, A CENTRAL ANGLE OF 93°30'48", AND A CHORD BEARING OF SOUTH 16°37'10" WEST; THENCE, ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 187.69 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE LEFT, HAVING AS ELEMENTS A RADIUS OF 240.00 FEET, A CENTRAL ANGLE OF 84°25'06" AND A CHORD BEARING OF SOUTH 21°10'01" WEST; THENCE, ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 353.61 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE, SOUTH 21°02'31" EAST, A DISTANCE OF 173.48 FEET TO A POINT ON A CURVE TO THE LEFT, HAVING AS ELEMENTS A RADIUS OF 565.00 FEET, A CENTRAL ANGLE OF 26°32'25", AND A CHORD BEARING OF NORTH 55°41'16" EAST; THENCE, ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 261.72 FEET TO THE END OF SAID CURVE; THENCE, NORTH 18°47'22" EAST, A DISTANCE OF 91.83 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING AS ELEMENTS A RADIUS OF 350.00 FEET, A CENTRAL ANGLE OF 44°43'21", AND A CHORD BEARING OF NORTH 03°34'19" WEST; THENCE, ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 273.19 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT, HAVING AS ELEMENTS A RADIUS OF 160.00 FEET, A CENTRAL ANGLE OF 83°44'27", AND A CHORD BEARING OF NORTH 15°56'14" EAST; THENCE, ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 233.85 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE LEFT, HAVING AS ELEMENTS A RADIUS OF 240.00 FEET, A CENTRAL ANGLE OF 53°50'57", AND A CHORD BEARING OF NORTH 30°52'59" EAST; THENCE, ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 225.56 FEET TO THE POINT OF BEGINNING.

DESCRIPTION NO. 2

A PARCEL OF LAND LYING AND BEING IN SECTIONS 21 & 28, TOWNSHIP 40 SOUTH, RANGE 23 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION LYING EAST OF INTERSTATE 75 (STATE ROAD 93) OF THE FOLLOWING DESCRIBED PARCEL:

BEGINNING AT THE NORTHWEST CORNER OF GOVERNMENT LOT 4, OF SECTION 21, TOWNSHIP 40 SOUTH, RANGE 23 EAST, RUN NORTH 85°52'13" EAST, 2731.06 FEET TO THE CENTER QUARTER OF SAID SECTION 21; THENCE SOUTH 01°25'01" EAST ALONG THE EAST LINE OF GOVERNMENT LOT 3, 4420.27 FEET; THENCE SOUTH 73°00'00" WEST, 980 FEET; THENCE SOUTH 88°35'00" WEST, 537.94 FEET; THENCE NORTH 30°55'00" WEST, 270 FEET; THENCE NORTH 45°45'00" EAST, 510 FEET; THENCE NORTH 23°40'00" EAST, 217.8 FEET; THENCE NORTH 30°13'00" WEST, 227.5 FEET, MORE OR LESS, TO THE SOUTHERLY SHORE OF THE WEST ½ OF THE FRACTIONAL SECTION 28, TOWNSHIP 40 SOUTH, RANGE 23 EAST; THENCE WESTERLY ALONG SAID SOUTHERLY SHORE TO A POINT ON THE WEST LINE OF SAID FRACTIONAL SECTION 28; THENCE NORTH 00°55'30" WEST, ALONG SAID WEST LINE, EXTENDED, 3266 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. LESS THAT PORTION OF THE ABOVE DESCRIBED PROPERTY LYING WITHIN THE RIGHT OF WAY OF INTERSTATE 75 (STATE ROAD 93).

DESCRIPTION NO. 3

A PARCEL OF LAND LYING AND BEING IN SECTIONS 20, 21, 28 & 29, TOWNSHIP 40 SOUTH, RANGE 23 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

UNITED STATES GOVERNMENT LOT 1, SECTION 29, TOWNSHIP 40 SOUTH, RANGE 23 EAST, AND THAT PART OF SECTION 20, TOWNSHIP 40 SOUTH, RANGE 23 EAST, LYING SOUTH AND EAST OF COUNTY ROAD, LESS THAT PORTION OF THE ABOVE 2 PARCELS LYING WITHIN THE RIGHT OF WAY OF INTERSTATE 75 (STATE ROAD 93) ALL LYING AND BEING IN CHARLOTTE COUNTY, FLORIDA.

ALSO LESS AND EXCEPTING THEREFROM THE REAL PROPERTY DESCRIBED WITHIN ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 1176, PAGE 1654, ET. SEQ., OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA.

TOGETHER WITH:

THAT PORTION LYING WEST OF INTERSTATE 75 (STATE ROAD 93), OF THE FOLLOWING DESCRIBED PARCEL:

BEGINNING AT THE NORTHWEST CORNER OF GOVERNMENT LOT 4, OF SECTION 21, TOWNSHIP 40 SOUTH, RANGE 23 EAST, RUN NORTH 85°52'13" EAST, 2731.06 FEET TO THE CENTER QUARTER OF SAID SECTION 21; THENCE SOUTH 01°25'01" EAST ALONG THE EAST LINE OF GOVERNMENT LOT 3, 4420.27 FEET; THENCE SOUTH 73°00'00" WEST, 980 FEET; THENCE SOUTH 88°35'00" WEST 537.94 FEET; THENCE NORTH 30°55'00" WEST, 270 FEET; THENCE NORTH 45°45'00" EAST, 510 FEET; THENCE NORTH 23°40'00" EAST, 217.8 FEET; THENCE NORTH 30°13'00" WEST, 227.5 FEET, MORE OR LESS, TO THE SOUTHERLY SHORE OF THE WEST ½ OF THE FRACTIONAL SECTION 28, TOWNSHIP 40 SOUTH, RANGE 23 EAST; THENCE WESTERLY ALONG SAID SOUTHERLY SHORE TO A POINT ON THE WEST LINE OF SAID FRACTIONAL SECTION 28; THENCE NORTH 00°55'30" WEST, ALONG SAID WEST LINE, EXTENDED, 3266 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. LESS THAT PORTION OF THE ABOVE DESCRIBED PROPERTY LYING WITHIN THE RIGHT OF WAY OF INTERSTATE 75 (STATE ROAD 93).

EXHIBIT "D"

**Harborview DRI Land Management Plan
A Manual of Best Management Practices for Preserve Areas,
Wetland Buffers, Green Zone, Nutrient Management, Wildlife
Utilization Area, and Listed Species
Prepared by EarthBalance®
February 25, 2010**

I. Purpose

The purpose is to establish an integrated management program that assures that the environmentally-sensitive areas within the Harborview DRI are protected and adjacent development is designed, developed and maintained with high environmental standards. One of the primary benefits of these best management practices is greater protection of water quality. Effective stormwater treatment, water conservation, and nitrogen load reduction serve to protect the adjacent Peace River and the Charlotte Harbor. These best management practices also are intended to be compatible with maintaining and improving the environmental quality of the Wildlife Utilization Area to sustain habitat for on-site wildlife and allow unhindered movement across the site. Map "F-1", entitled the Harborview DRI Post-Environmental Plan, depicts the various protected environmental areas including preserves, wetland buffers, Wildlife Utilization Area and an area unique to the Harborview DRI that we call the "Green Zone". The "Green Zone" is designed to more efficiently and effectively provide a similar or greater environmental value and function of the variable 100-foot wide upland buffer adjacent to the jurisdictional wetland boundary which included the Salt Marsh preserve originally approved as part of the Harborview DRI in 1993. In addition, to effectively manage urban stormwater and minimize impacts to the natural systems, Harborview DRI is proposing to develop a nutrient management plan for the DRI which will adhere to the newly developed Statewide Stormwater Treatment Rule (July 2010). The Harborview DRI will develop a treatment train approach and utilize Low Impact Development (LID) concepts as well as traditional stormwater ponds to meet water quality standards.

The safeguards described in the Listed Plant Species Management Plan herein, also part of the Harborview DRI Development Order, are incorporated into these best management practices. In addition, these best management practices (BMP's) are compatible with the management recommendations of the Florida Cooperative Extension Landscape Service, the Florida Green Building Coalition, Inc., and consistent with all Charlotte County, Southwest Florida Water Management District

(SWFWMD), Florida Wildlife Commission (FWC) and U.S. Army Corps of Engineers permits.

II. Green Zone

A. Location

The Green Zone depicted on Map F-1 is located a minimum of 100 feet landward of the wetland jurisdictional boundary including the Salt Marsh and wetland buffers required by SWFWMD. Outside the landward extent of these wetland buffers, the following BMP's are established to guide design of stormwater management facilities, landscaping and compatible development that protect the water quality of the Peace River. Some typical cross-sections of the Green Zone are provided in this plan herein.

B. Wetland Buffers

- Vegetated upland buffers along the wetland preserve areas, an average of 25 feet in width and not less than 15 feet, will be maintained unless otherwise approved by the Southwest Florida Water Management District.
- Exotic and nuisance plants within the upland buffers will be eradicated to allow regrowth of preferable native plants and in some areas as needed, supplemental native plants will be planted.
- The application of fertilizer within 25 feet of the jurisdictional boundary of the Salt Marsh and Bay Swamp preserve, lakes, canals, marina basin, and stormwater management facilities is prohibited.
- In accordance with State and federal permits, a long-term monitoring and maintenance program will be implemented and annual monitoring reports will be submitted to the SWFWMD, U.S. Army Corps of Engineers, and Charlotte County Natural Resources Section.

C. Stormwater and Water Quality Management

- Outside the wetland buffers and within the Green Zone, areas of managed lawn or turf grass will be limited with more emphasis on protecting native vegetation clusters consisting of trees and understory plants. Cleared areas for foot paths and viewsheds will be mulched to the extent practicable to reduce the installation of managed turf grass and pavement.

- Any heritage trees are protected during the design, construction and maintenance of the development in accordance with the intent of the Charlotte County adopted code
- Bioswales or spreader swales will be constructed in parking lots, as appropriate and in grass areas along the green zone to allow treatment of overland stormwater runoff prior to flowing into the upland buffers.
- The design, construction and maintenance of the development and associated lake system will implement best management practices consistent with the SWFWMD permit.
- Routine maintenance of stormwater facilities such as removal of accumulated debris occurs in accordance with the Southwest Florida Water Management District permit.
- Impervious surface areas including parking will be encouraged within the Green Zone to the extent practicable.
- A Stormwater Prevention Plan will be established at the marina based upon the guidelines listed in Florida Department of Environmental Protection's (FDEP)'s Clean Marina Program.
- The stormwater design at the marina will include a littoral zone, grassy swale, a vegetative buffer, and oil/grit filters.
- Impervious surfaces in the marina will be designed and constructed such that run-off water flows away from surface waters and wetlands prior to treatment.
- The application of fertilizer within 25 feet of the jurisdictional boundary of the Salt Marsh and Bay Swamp preserve, lakes, canals, marina basin, and stormwater management facilities is prohibited.

D. Integrated Management

- Industry standards are used in establishing proper levels and frequency of management of grasses including mowing, fertilization, pesticide control and irrigation.
- Debris and clippings are routinely removed or dispersed to minimize areas that may harbor pests.
- A turf and landscape plant manager or designee oversees the fertilization program such that the frequency of application and nutrient supplements are adjusted in promoting healthy root and soil microbial growth. The manager considers seasonal changes, weather, and the best management practices embodied in the "*Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002*" or other equivalent document as may be amended from time to time by the Florida Department of Agriculture and Consumer Services, Division of Agricultural and Environmental

Services, in making the proper adjustments in the fertilization program according to the turf and landscape plant needs.

E. Pest Monitoring and Controlled Pesticide Application

- The turf and landscape plant management team has on-going training and knowledge in Integrated Pest Management (IPM) for controlling pests. The targeted pests include diseases, insects, weeds and nematodes that affect the turf grasses and landscape plants.
- The turf and landscape plant management team has technical knowledge in accurate pest identification, pest development and feeding strategies. The accuracy of their diagnosis may be confirmed by test results from an independent lab.
- Consistent with the IPM goals, cultural or biological control methods are used as the first defense against pest control. When the pesticide/herbicide option is the only means available, a selective chemical that has a minimal effect on beneficial organisms is used. If the desired results are not achieved through the use of the environmentally-safe chemical, then a stronger chemical may be considered. The only exception to this protocol is when a detrimental pathogen appears on a lawn or turf area, others lawns or turf grasses may be treated as a preventative measure.
- No chemical application is allowed in the native habitats, wetlands, buffers, and native vegetation clusters except for protection from and control of disease threatening mosquitoes by the Charlotte County Mosquito Control or other licensed operator.
- An established protocol is followed concerning fertilizer/pesticide/herbicide/insecticide storage and handling, application, container cleaning, rinse water, cleaning materials, wastes, unused quantities and container disposal methods and procedures.

F. Controlled Fertilizer Application

- The application of fertilizer within 25 feet of the jurisdictional boundary of the Salt Marsh and Bay Swamp preserve, lakes, canals, marina basin, and stormwater management facilities is prohibited.
- No application of fertilizers to turf or landscape plants during "rainy season" (July 1 through Sept. 30 of each calendar year).
- Slow release, granulated fertilizers will be applied with components by guarantee analysis label, as follows:
 - o Maximum of 2% phosphorous

- Maximum of 20% nitrogen with at least 70% slow release nitrogen
- Maximum of 1 pound of nitrogen per 1,000 square feet per application
- Maximum of 4 pounds of nitrogen per 1,000 square feet per year
- These criteria may be changed based on revision to SWFRPC Resolution #07-01 or any subsequent rule adopted by Charlotte County.
- Spread deflector shields will be used to avoid impervious surfaces and water bodies, including wetlands.
- Exemptions as identified under SWFRPC Resolution #07-01 apply including newly established turf and landscape plantings.

G. Quality Control and Assurance Procedures

- The turf and landscape plant manager or designee oversees the quality control and quality assurance procedures that ensure that these best management practices are implemented in an effective, accurate and consistent manner.
- The turf and landscape plant management and staff perform a structured monitoring to catch pest problems early allowing more effective treatment.
- The turf and landscape plant management has state-certified herbicide and pesticide licenses such that staff applies chemicals under the direct supervision of a state-certified applicator.
- The turf and landscape plant management participates in fertilizer application courses sponsored by IFAS Cooperative Extension or Charlotte County and attains certifications and licenses.
- The turf and landscape plant manager or designee will request proof of any license and records required by either the State or Charlotte County for all commercial fertilizer and pesticide applicators and landscapers.
- The turf and landscape plant management is informed on current techniques in the field
- Education/awareness enhancement programs for all grounds keeping and maintenance staff occur at least twice a year that cover proper management and maintenance activities and quality control and assurance procedures.

H. Water Conservation

- The turf and landscape plant management team will monitor weather data, including rainfall, humidity, temperature and wind,

collected from an on-site weather station to adjust the irrigation schedules according to turf and landscape plant requirements and prevention of excess watering conditions.

- The turf and landscape plant management team routinely maintains the irrigation system including checking, adjusting and repairing irrigation devices to ensure optimum operating efficiency, and resetting the automatic controllers according to season and weather conditions.
- Xeriscaping is utilized in the Green Zone to the extent practicable.
- No irrigation is provided in wetland buffers and native habitat areas except in landscaped areas that depend on a low volume irrigation system.
- Deed restrictions and covenants guide homeowners to apply waterwise irrigation methods in their yards that promote water and energy efficient landscapes.

III. Nutrient Management Plan

To manage urban stormwater and minimize impacts to the natural systems, Harborview DRI is proposing to adhere to the newly developed Statewide Stormwater Treatment Rule (July 2010). The Statewide Stormwater Treatment Rule will increase the level of nutrient removal required of stormwater treatment systems serving the development. This rule is based on a performance standard that the post-development nutrient load will not exceed the nutrient load from natural, undeveloped areas. The Harborview DRI will develop a treatment train approach, which will utilize Low Impact Development (LID) concepts as well as traditional stormwater ponds.

Successful LID projects propose to reduce land development area and infrastructure costs while protecting a property's natural resources and functions. Considerations such as soil permeability, depth of water table, and slope are considered when assessing the appropriate LID measure. In addition, the use of LID will not completely replace the need for conventional stormwater controls. Homeowners associations will develop documents that will provide for long-term maintenance of these areas.

Overall, LID projects include:

1. Reduction of development area
2. Preserve open space and minimize land disturbance
3. Protect and incorporate natural systems such as wetlands stream/wildlife corridors as design elements
4. Utilize neo-traditional street and lot layouts and designs
5. Decentralize and micromanage stormwater at its source using LID stormwater management practices.

These concepts of LID have been developed throughout the project design process and are echoed throughout the development of the site. Within the Harborview DRI project examples are:

- Reduction of development area - Based on existing Future Land Use Map (FLUM) designations, a maximum of 6,092 dwelling units could have been justified. However, the project's goal is not to create a dense, waterfront city-like development but one that provides a sense of open space, and is consistent with the general scale and existing feel of the development in the region. Therefore a significant reduction of dwelling units to 3,859 units is proposed.
- The project proposes to decrease the non-residential uses by over a half-million square feet from the approved previously Harborview DRI. If the half-million commercial/retail square footage remained, the opportunity to provide a unique mixed use marine-orientated community that preserves, enhances, and reflects the marine heritage along the Peace River and the Charlotte Harbor estuary would not be achieved.
- The Harborview DRI is an innovative mixed-use development that is designed as a walkable community with three villages. The project will incorporate a variety of pedestrian and bicycling infrastructure. Enhancing this infrastructure, specific areas will also include pedestrian-scaled architecture with minimal setbacks, on-street parking and public space in a mixed use environment. Consistent with this theme, commercial and office centers will be located within walking/bicycling distances of residential units. The "Complete the Streets" theme of sidewalks, bicycle lanes, raised pedestrian islands, landscaped medians, cross-walks with advanced warning signs and transit amenities are being incorporated into the project design.
- Maintain the natural shoreline to protect the functions of the estuary by providing buffer, stormwater treatment systems, and separation of the private marina basin from the Peace River estuary via a weir and boat lift facility.
- Upland buffers will meet State requirements will be provide adjacent to all preserved wetland area. The Green Zone will be designed with bioswales to mimic pre-development surface run-off patterns.
- The Green Zone area will also provide additional travel paths and areas for wildlife utilization. This area will provide linear, shallow stormwater features. These features allow treated stormwater to flow out to the Salt Marsh across shallow spreader swales planted with native vegetation as surface water sheet flow, which mimics pre-development surface water run off patterns

- The buffer areas are currently infested with exotic plant species. The exotic species will be removed and native upland plantings will be installed where there is not adequate cover by native plants after exotic removal
- All impervious surfaces in the marina will be designed and constructed such that run-off water flows away from surface waters and wetlands prior to treatment.
- Stormwater runoff from upland contributing areas will be conveyed to proposed stormwater facilities for treatment before being discharged, via control structures, to the existing and proposed canals as well as to on-site wetlands. The existing wetland maximum stages will not be adversely impacted following development of the site.
- Stormwater facility control elevations will be designed to provide storage capable of meeting required SWFWMD water quality standards. Pond berm elevations shall be designed to provide one (1) foot of free board above the design maximum stage. Minimum side-slope, berm width and spacing requirements will be met per the SWFWMD and local standards. According to the SWFWMD and Charlotte County guidelines, treatment volume for one (1) inch of rainfall over the site will be provided for both on-site and offsite improvements.
- Stormwater facilities will use both structural and non-structural BMPs (Handbook, Urban Runoff Pollution Prevention and Control Planning. EPA/625/R-93/004, September 1993). Stormwater management facilities and conveyances will have easements to enable maintenance around culverts, storm drains, and other enclosed conduit drainage systems.
- The Harborview DRI will incorporate landscaping that is consistent with the County Land Development Code and Policy 11.1.2 for the use of Florida drought-tolerant plants. As appropriate selection of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, fertilizer, and maintenance will be designed.
- Native shade trees will be planted consistent with Land Development Code requirements to provide reasonable shade for recreation areas, streets, and parking areas.
- The project will establish Best Management Practices and Marina Environmental Measure at the proposed marina and the boat ramp. Care will be taken to minimize and contain hazardous material generated at the marina and boat ramp.
- Harborview will establish a Petroleum Spill Recovery Plan/Fueling Contingency Plan, a Stormwater Pollution Prevention Plan, and other preventatives at the proposed

private marina and public boat ramp as described in the FDEPs Clean Marina Program.

- The proposed waterway systems and freshwater marina basin will be designed to minimize pollutant loading and to facilitate circulation. Thereby improving water quality within the system.
- It is anticipated that non-potable water demands will utilize reclaimed water from Charlotte County's system and a potential expansion of that system.
- Alternative sources will be least quality sources first; reclaimed stormwater from lined and wet ponds will be an alternative

IV. Wildlife Utilization Area Management or WUA (includes all preservation areas, upland buffers and Green Zone

Prior to any land clearing within each Harborview Village, a more detailed management plan for the Wildlife Utilization Areas will be prepared and submitted to the Charlotte County Natural Resources Section. This plan will address proper management practices as follows:

- Identification of the management entity (e.g., Community Development District or designee).
- Selection of a plant palette to be used in supplemental plantings that provide food and shelter for the wildlife in the area where needed.
- Provision of more details on the exotic plant removal program including the monitoring of exotic plant removal from preservation areas by a professional environmental scientist.
- In accordance with State and federal permits, a long-term monitoring and maintenance program will be implemented and annual monitoring reports will be submitted to the SWFWMD, U.S. Army Corps of Engineers, and Charlotte County Natural Resources Section.

The BMP's for the Wildlife Utilization Areas are described below.

A. Xeriscape Plantings

- Supplemental plantings consisting of native, stress tolerant, and/or pest resistant vegetation will be installed within native vegetation clusters and vegetated upland buffers. These supplemental plants are selected to provide food sources and shelter for wildlife species that may occur or pass through the site. These species include: small mammals, bobcat, deer, turkeys, and song birds.
- Native trees within development pods may be transplanted into the Wildlife Utilization Area when practical

- Existing native vegetation that may be supplemented with native plantings are retained in areas along canals and other wetland areas that enhance wildlife travelways and shelter.
- Native aquatic plants are maintained in littoral zones consistent with Southwest Florida Water Management District requirements that enhance the food chain of benthic organisms, amphibians, reptiles, and fish that live in the on-site stormwater lakes. These aquatic plants support the food chain for other wildlife in the area including river otters and wading birds.
- The on-site oak hammocks are protected within the linear park along realigned Discovery Drive. Supplemental native plantings along the watercourse are added along the banks for stabilization and wildlife shelter.

B. Wildlife Crossings

- All bridge crossings of wetlands are on pilings and elevated at least three feet in height and at least 15 feet in width along the entire length of the crossing, providing an upland travelway under each road crossing.
- Cleared areas resulting from construction of the roadway crossings are replanted with native vegetation including oaks, pines, wax myrtles and sand cordgrass to enhance the wildlife travelways and provide cover.
- Cautionary wildlife crossing signs are strategically placed on roadway approaches to slow speeds and alert motorists to potential wildlife crossings

C. Removal of Nuisance Plant Species

- A long-term maintenance program will be implemented which will include the preservation areas to be managed in perpetuity for the control of invasive exotic vegetation as defined by the Florida Exotic Pest Plant Council's Pest Plant List Committee's List of Invasive Species (Category 1) (2005).
- Nuisance species management involves a combination of manual and mechanical removal and selective herbicide treatments performed by a state-certified applicator with a frequency to allow the native, beneficial plants to become dominant. The amount of chemical used is minimized to the stump area alone or selective foliar applications if necessary.
- The enhancement of on-site protected wetland buffers involves the removal of Brazilian pepper trees and other nuisance plant species that have invaded these areas and may be contribute toward enhancement credits for the Harborview DRI

- Control of nuisance plants within and in vicinity of lakes also involves a combination of manual removal and selective herbicides specifically labeled and designed for aquatic use and applied by a state-certified applicator.

D. Artificial Lighting Control

- All lighting including street lighting are shielded to reduce glare.

E. Nature Trails

- Nature trails are designed and maintained to avoid removal of native trees and utilization of existing trails to the extent possible.
- Informative signs provide biological descriptions of plants and animals that may be observed from the trail with cautionary instructions on their protection.
- Nature trails are mulched to the extent possible.
- Nature trails are integrated into the overall pedestrian system for Harborview DRI including connectivity with sidewalks.
- Motorized vehicles are strictly prohibited on the nature trails except those necessary for ecological maintenance of the preservation areas.
- Water routes are marked to allow safe navigation and rescue of any boaters in need.

F. Land Management Plan Details

- Prior to any land clearing, a more detailed management plan for the Wildlife Utilization Area will be prepared and submitted to Charlotte County Natural Resources Section. This plan shall address the proper management practices as follows:
 - Identification of the management entity (e.g., Community Development District or designee).
 - Selection of a plant palette to be used in supplemental plantings that provide food and shelter for the wildlife in the area, where needed.
 - Provision of detailed design for each wildlife crossing.
 - Provision of more details on the nuisance plant removal program including the monitoring of nuisance plant removal from the conservation areas by a professional environmental scientist.
 - In accordance with State and federal permits, a long-term monitoring and maintenance program will be implemented and annual monitoring reports will be submitted to the

V. Wildlife Habitat Protection

A. Gopher Tortoise Habitat Management Plan

Gopher tortoises (*Gopherus polyphemus*) are currently listed as Threatened by the State of Florida due to habitat destruction, fragmentation, and degradation. Gopher tortoises occupy a wide range of upland habitat types including well drained sandy soils, areas with an open tree canopy and areas with an abundance of herbaceous ground cover. Gopher tortoise burrows located within the Wildlife Utilization Areas (WUA) will be protected.

A minimum of 16 acres of upland habitat currently utilized by gopher tortoises located within the northeastern and eastern portions, and an additional 12.5 acres of xeric oak hammock located within the central portion of the Harborview site (refer to Maps H, and F-1) will be managed for gopher tortoises. The 16-acre upland preservation area was selected based on the greatest concentration of active gopher tortoise burrows on site, desirable gopher tortoise habitat, restoration potential, and isolation from surrounding construction activities with the use of temporary buffers.

Pre-Construction

- Prior to on-site earthmoving, additional surveys will be conducted in all identified gopher tortoise habitat.
- When a gopher tortoise burrow is identified, it will be scoped with a gopher tortoise camera to identify the presence or absence of an individual tortoise and any commensals
- Prior to on-site earthmoving and subject to permitting, silt fencing will be installed along preserve areas within or directly adjacent to development pods.
- Prior to on-site earthmoving and subject to permitting, gopher tortoises and commensal species will be excavated and relocated into the upland preservation areas.

Excavation Procedures

- Excavations will take place when weather is appropriate i.e., the overnight lows for the actual capture/relocation day and two days thereafter do not fall below 50 °F as forecasted by the U.S. National Weather Service. This criterion ensures that the tortoises will have optimum weather conditions for acclimation to their new surroundings.

- An experienced backhoe operator will be utilized to minimize the potential of harming a tortoise during the excavation.
- When a burrow is excavated, small flexible tubing will be inserted into the mouth of the burrow to gauge the depth and direction of the burrow. The backhoe bucket will have a flat plate scoop, rather than teeth, to minimize potential of harming the tortoise
- The backhoe will be positioned behind the burrow mouth, such that the backhoe is pulling dirt from the mouth, along the length and to the end point of the burrow.
- Excavation will be done by making deep narrow trenches in small incremental scoops across a wide swath of ground to ensure that collapse is avoided.
- When backhoe excavation is within 5 feet of the identified tortoise, digging by hand will commence to ensure the safety of the tortoise. The tortoise will be hand removed from the burrow and placed in a shaded container and relocated to an approved recipient site.

Starter Burrows

- When relocating tortoises, a starter burrow will be dug prior to the arrival of the tortoise. The starter burrows will provide initial refuge and shelter and may even become the new burrows, which the tortoises will excavate to full size.
- A starter burrow will be created by digging approximately 1 foot in width at a 45- degree angle into the ground until the burrow reaches at least 2 feet in length. When tortoises are released, they will be placed directly into the mouth of the starter burrow.

Penning

- To ensure that translocated tortoises stay within their new home ranges, the upland preserve areas will be enclosed with silt fence. This will provide both a visual and physical barrier to the tortoises. The silt fence will be entrenched into the ground at least 8 inches deep to prevent burrowing underneath the fencing.
- The fencing will be checked regularly to identify any weak areas or areas where the fencing has failed. The problem areas will be addressed immediately to ensure that tortoises are not harmed by construction activities. After construction is complete, the fencing will be removed. The upland preserve will have silt fence along the entire boundary where tortoises could possibly escape, with special emphasis on sides facing construction activities.

Post-Construction

- Long-term management activities will be developed to maintain compliance with the Charlotte County Development Order and Florida Fish and Wildlife Conservation Commission wildlife permits issued for this site.
- A Monitoring Program will be implemented which will include maintenance activities, relocation activities, and an estimated gopher tortoise population count within the WUA. Annual reports to be submitted in accordance with Charlotte County Development Order.
- Nuisance plant species will be removed to enhance the quality of habitats utilized by gopher tortoises.
- Access to the gopher tortoise preserve by the public will be restricted to foot traffic only and the boundary will be marked in the field using permanent signs. These signs will be installed at regular intervals along the boundary of the preservation areas to inform the public that these areas must remain undisturbed in perpetuity.
- Prior to any request for relocation, a more detailed management plan for the upland conservation area, which serves as a gopher tortoise recipient site, will be prepared and submitted to the Florida Fish and Wildlife Conservation Commission and Charlotte County Natural Resources Section. This plan will address the proper management practices as follows:
 - Identification of optimum tree canopy coverage, saw palmetto height, and forage grass coverage to create sustainable gopher tortoise habitat.
 - Description of management techniques and frequency that address mechanical thinning, removal of nuisance vegetation, and restoration and maintenance of desirable vegetation with the objective of ultimately creating a low-maintenance ecosystem.
 - Possible vegetative thinning by mechanical means prior to any relocation including measures to protect existing burrows during these activities.
 - Identification of the management entity (e.g., Community Development District of designee).
 - Identification of a professional environmental scientist(s) to monitor the protective strategies and management activities described in the management plan

Upon locating a dead, injured, or sick threatened or endangered species, initial notification must be made to the nearest Service Law Enforcement Office; Fish and Wildlife Service. Secondary notification should be made to the FWC, South Region.

B. Florida Scrub Jay Habitat Management Plan

The Florida scrub jay (*Aphelocoma coerulescens coerulescens*) is protected under both the federal Endangered Species Act as well as the Florida Wildlife Code. Florida scrub jays are non-migratory birds that inhabit open, low-growing scrub communities endemic to Florida. Optimal habitats include xeric oak scrub interspersed with bare sand, open sand pine scrub, and scrubby flatwoods with slash pine and rosemary. Scrub habitat located within the Wildlife Utilization Areas (WUA) is protected.

A minimum of 16 acres of upland habitat currently utilized by scrub jays located within the northeastern and eastern portions, and an additional 12.5 acres of xeric oak hammock located within the central portion of the Harborview site (refer to Maps H, and F-1), are part of the WUA and will be managed for scrub jays. There will be no development within the preserve areas. The 16-acre upland preservation area is selected based on the results of scrub jay surveys conducted on site, nest locations, foraging habitat, restoration potential, and isolation from surrounding construction activities with the use of temporary buffers.

Pre-construction

- On-site earthmoving in the vicinity of the WUA will take place outside of scrub jay nesting season, March through June.
- Prior to on-site earthmoving and subject to permitting, silt fencing will be installed along preserve areas within or directly adjacent to development pods.

Post-Construction

- Long-term management activities will be developed to maintain compliance with Charlotte County Development Order, the U.S. Army Corps of Engineers Individual Permit, and U.S. Fish and Wildlife Service wildlife permits issued for this site.
- A Monitoring Program will be implemented which will include maintenance activities, relocation activities, and an estimated scrub jay population count within the WUA. Annual reports to be submitted in accordance with Charlotte County Development Order.
- Traditionally, scrub jay habitat is managed through prescribed burning. The WUA located on the Harborview property includes remnant scrubby flatwoods and disturbed xeric oak habitat. As a result of the proximity of homes, a fire regime is not appropriate to manage this land. Hand and mechanical removal of nuisance and exotic vegetation will be used to enhance the habitat. Replanting with native vegetation suitable for scrub jays and

other upland species will be provided by the applicant, if necessary.

- Access to the scrub jay preserve by the public will be restricted to foot traffic only, and the boundary will be marked in the field using permanent signs. These signs will be installed at regular intervals along the boundary of the preservation areas to inform the public that these areas must remain undisturbed in perpetuity.
- Prior to any earthmoving and subject to permitting, a more detailed management plan for the upland WUA will be prepared and submitted to the U.S. Fish and Wildlife Service and Charlotte County Natural Resources Section. This plan will address the proper management practices as follows:
 - Identification of optimum tree canopy coverage and height, sub-canopy species, and open foraging areas to create sustainable scrub jay habitat.
 - Description of management techniques and frequency that address mechanical thinning, removal of nuisance vegetation, and restoration and maintenance of desirable vegetation with the objective of ultimately creating a low-maintenance ecosystem.
 - Identification of the management entity (e.g., Community Development District of designee).
 - Identification of a professional environmental scientist(s) to monitor the protective strategies and management activities described in the management plan.

Upon locating a dead, injured, or sick threatened or endangered species, initial notification must be made to the nearest Service Law Enforcement Office; Fish and Wildlife Service. Secondary notification should be made to the FWC, South Region.

C Florida Mouse Habitat Management Plan

The Florida Fish and Wildlife Conservation Commission (FWC) lists the Florida mouse (*Podomys floridanus*) as a Species of Special Concern (SSC) because of habitat loss throughout its limited range in the central peninsula. This mouse is the only species of mammal entirely restricted to Florida. The Florida mouse is larger than other deer mice and its closest relatives apparently are in southern Mexico. The habitat favoring Florida mouse communities has characteristics similar to those favoring the Florida scrub jay. The Florida mouse is a mammalian species restricted to xeric upland habitats in Florida. They are found in open scrub, scrubby flatwoods, scrubby high pine, and high pine communities where they often inhabit gopher tortoise burrows.

The Florida mouse is nocturnal, and grows to an average length of 5-8 inches, with their tail spanning an additional 3-5 inches. They are mainly covered with brown fur, with white fur appearing on their underbellies. They have large, round ears that have little to no fur. Florida mice are distinguished by their odor, which is like that of a skunk. The Florida mouse, like most mice, is an omnivore who feeds on seeds, plants, insects, nuts, fungi, and acorns.

Pre-Construction

- Florida mice have been observed on site utilizing gopher tortoise burrows. Prior to on-site earthmoving, an appropriate survey of all gopher tortoise burrows will be conducted in all suitable habitats to identify any gopher tortoises and commensal species.
- Subject to permitting, Florida mice will be trapped using Sherman live-traps. The traps will be placed at gopher tortoise burrow entrances or if burrow entrances are not present or difficult to find, a trapping grid will be established.
- Trapping will occur over a minimum of 3 seasons. According to FWC, fall, winter, and spring are the preferred seasons.
- Trapping will occur for 3 consecutive nights during each season. If trapping is interrupted, the 3 consecutive nights must be restarted.
- According to FWC, a minimum of 15% of all suitable habitats within the project site should be sampled (and a minimum of 50 trapping stations should be used).
- If gopher tortoise burrows are not present, or if they are hard to find in certain portions of the project site containing suitable habitat, a trapping grid will be established. Two traps should be placed at each trapping station, whether in a grid formation or at burrows.
- If the temperature falls below 60°F, a large amount of cotton batting or similar synthetic material will be placed in the trap. Trapping will not occur below 45°F.
- Traps should be set late each afternoon, and checked 2 hours after sunrise each day. All traps should be closed after checking and reset late each afternoon to preclude mortality of mice and other small mammals during the day.
- Traps will be baited with a combination of crimped oats, rolled oats, and sunflower seeds. Peanut butter will not be used. Trap stations will be monitored for fire ants, and if ants are present, the traps will be moved.
- If a Florida mouse is caught, the mouse will be relocated to a designated upland preservation area along with other gopher

tortoise and commensals. Excavation procedures for gopher tortoises are outlined below.

Excavation Procedures

- Excavations will take place when weather is appropriate i.e., the overnight lows for the actual capture/relocation day and two days thereafter do not fall below 50°F as forecasted by the U.S. National Weather Service.
- An experienced backhoe operator will be utilized to minimize the potential of harming Florida mice, gopher tortoises, and commensals during the excavation. When a burrow is excavated, flexible tubing will be inserted into the mouth of the burrow to gauge the depth and direction of the burrow. The backhoe bucket will have a flat plate scoop, rather than teeth to minimize potential of harming any animals in the burrow. The backhoe will be positioned behind the burrow mouth, such that the backhoe is pulling dirt from the mouth, along the length and to the end point of the burrow. Excavation will be done by making deep narrow trenches in small incremental scoops across a wide swath of ground to ensure that collapse is avoided.

Post Construction

- Long-term management activities will be developed to maintain compliance with the Charlotte County Development Order and Florida Fish and Wildlife Conservation Commission wildlife permits issued for this site.
- A Monitoring Program will be implemented which will include maintenance activities, relocation activities, and an estimated Florida mouse population count within the WUA. Annual reports to be submitted in accordance with Charlotte County Development Order
- Mowing and/or hand removal of vegetation will be used to maintain the appropriate density and coverage of vegetation within the preservation areas.
- If necessary, native vegetation suitable for the Florida mouse, gopher tortoise, scrub jay, and other species that live in xeric habitats will be planted.
- Maintenance, as needed, will be conducted in perpetuity to maintain a low grassy area.

Upon locating a dead, injured, or sick threatened or endangered species, initial notification must be made to the nearest Service Law Enforcement Office; Fish and Wildlife Service. Secondary notification should be made to the FWC, South Region.

D. Wood Stork Habitat Management Plan

The wood stork (*Mycteria americana*) is primarily associated with freshwater and estuarine habitats that are used for nesting, roosting, and foraging. Wood storks nest in colonies and will return to the same colony for many years as long as the site and surrounding feeding habitat continue to supply the needs of the birds. Nesting colony life averages 115 to 120 days. Wood storks typically construct their nests in medium to tall trees that occur in stands located either in swamps or on islands surrounded by relatively broad expanses of open water (Ogden 1991; Rodgers et al. 1996). Successful colonies are those that have limited human disturbance and low exposure to land-based predators. Nesting colonies protected from land-based predators are characterized as those surrounded by large expanses of open water or where the nest trees are inundated at the onset of nesting and remain inundated throughout most of the breeding cycle.

The Florida Fish and Wildlife Conservation Commission (FWC) considers 30 kilometers (km) (18.6 miles) as the core foraging area (CFA) for nesting wood storks (Cox et al. 1994). The Harborview Development or Regional Impact (DRI) is located along the Peace River and is approximately 2.2 miles west of a known wood stork rookery (#619012) located in Shell Creek. The Harborview DRI is located within the CFA and is near other rookeries that support egrets and herons

The project will result in the loss of approximately 12.5 acres of isolated and degraded wetlands. Wood stork habitat within these wetlands is generally poor because it is heavily vegetated and does not have open canopies. Extensive drainage and other alterations have reduced the area and number of natural wetlands on site that limit the essential density of fish required by the wood stork. According to information in the biological opinion issued for wood storks and Florida panthers by the U.S. Fish and Wildlife Service on May 3, 2007, wood storks forage most efficiently in habitats where prey densities are high, the water shallow, and canopy open enough to hunt successfully and quickly take flight to avoid predators. Calm water about 2 to 16 inches in depth and free of dense aquatic vegetation is ideal.

No wood storks are known to have nested within the project area. Approximately 3.84 acres of wood stork habitat lost by the development will be offset by the preservation and enhancement of approximately 150 acres of high quality Salt Marsh along the Peace River and within the wood stork CFA. Suitable habitat along the Salt Marsh will be preserved and enhanced by removing nuisance

and exotic vegetation such as Brazilian pepper, which covers approximately 70% of the land along the Salt Marsh and Cabbage Palm Hammock. If necessary, native vegetation, including canopy trees suitable for wood stork nesting and roosting, will be planted.

Pre-Construction

- All wood stork rookeries within the CFA will be identified and labeled on a quality aerial photograph.
- Development phasing of the Harborview DRI site and large preservation area (approximately 150 acres) along the Salt Marsh will provide opportunity for wood storks to safely forage away from construction activity.
- When construction begins in a new development phase during nesting season, wetland habitats will be surveyed for wood storks prior to initiation of construction activities.
- Protective strategies include no human disturbance during critical times such as nesting.

Post-Construction

- Foraging and roosting habitat located along the Salt Marsh will be protected and enhanced by exotic vegetation removal. If necessary, replanting with canopy trees may be required to enhance habitat within the CFA.
- Wetland enhancement including exotic removal and/or hydrologic restorations may occur within the primary and secondary zones outside nesting season and any time of the year for the remainder of the CFA.
- Long-term management activities such as wetland enhancement and/or restoration matching the hydroperiod of the wetlands affected may be provided. Foraging habitat similar to, or higher than, that of impacted wetlands will be developed to maintain compliance with Charlotte County Development Order, the U.S. Army Corps of Engineers Individual Permit, and U.S. Fish and Wildlife Service wildlife permits issued for this site.
- In accordance with State and federal permits, a long-term Monitoring Program will be implemented and annual monitoring reports will be submitted to the SWFWMD, U.S. Army Corps of Engineers, and Charlotte County Natural Resources Section.
- The preservation areas will be managed in perpetuity for the control of invasive exotic vegetation as defined by the Florida Exotic Pest Plant Council's Pest Plant List Committee's List of Invasive Species (Category 1) (2005).

Upon locating a dead, injured, or sick threatened or endangered species, initial notification must be made to the nearest Service

Law Enforcement Office; Fish and Wildlife Service Secondary notification should be made to the FWC, South Region.

E. Wading Birds Habitat Management Plan

Wading birds are most commonly associated with wetlands, streams, and other aquatic habitats. Most wading birds possess long legs and toes, and long and sometimes curved bills - adaptations enabling them to live and feed in shallow water habitats. Wading birds rely heavily on wetland habitat including inland and coastal emergent marshes and wooded swamps.

The project will result in the loss of approximately 12.5 acres of isolated wetlands and other surface waters (ditches). These impacts will be offset by the preservation and enhancement of approximately 150 acres of high quality Salt Marsh, Bay Swamp, and Mangrove habitat along the Peace River. Newly created lakes within the development and the addition of a large littoral shelf within the existing borrow pond will provide additional habitat for wading birds. Proposed on-site mitigation along the Salt Marsh includes exotic removal and replanting with native species, if necessary. Currently, portions of the Salt Marsh and the Cabbage Palm Hammock are dominated by Brazilian pepper, which covers approximately 70% of the land along the fringe of the Salt Marsh. If necessary, native vegetation, including canopy trees, suitable for wading bird nesting and roosting will be planted.

Pre-Construction

- Prior to the implementation of construction, a 100% survey will be conducted at all aquatic habitats to look for any solitary wading bird nests.
- A silt fence will be installed around all preservation areas including wetlands to prevent any adverse impacts.
- Protective strategies include no human disturbance during critical times such as nesting.

Post-Construction

- Maintain or restore sufficient quality habitat of all types.
- Foraging habitat located along the Salt Marsh will be protected and enhanced by exotic removal along the Salt Marsh, which will increase the shallow open water at the edge of the marsh to increase wading bird feeding.
- Long-term management activities such as wetland enhancement and/or restoration matching the hydroperiod of the wetlands affected and providing foraging value similar to, or higher than, that of impacted wetlands will be developed to

maintain compliance with Charlotte County Development Order, the U.S. Army Corps of Engineers Individual Permit, and U.S. Fish and Wildlife Service wildlife permits issued for this site.

- In accordance with State and federal permits, a long-term Monitoring Program will be implemented and annual monitoring reports will be submitted to the SWFWMD, U.S. Army Corps of Engineers, and Charlotte County Natural Resources Section.
- The preservation areas will be managed in perpetuity for the control of invasive exotic vegetation as defined by the Florida Exotic Pest Plant Council's Pest Plant List Committee's List of Invasive Species (Category 1) (2005).

Upon locating a dead, injured, or sick threatened or endangered species, initial notification must be made to the nearest Service Law Enforcement Office; Fish and Wildlife Service Secondary notification should be made to the FWC, South Region.

VI. Outreach and Education Program

A. Florida Yards and Neighborhood Program

- Deed restrictions and covenants guide homeowners to apply xeriscape and IPM methods in their yards consistent with the Florida Yards and Neighborhood Program (FY&N).
- A general education program, utilizing resources from the FY&N on the proper use of fertilizer and the environmental and health problem associated with mis-use. Homeowners will be encouraged to water efficiently, mulch, recycle, select the least toxic pest control measures, put the right plant in the right spot, fertilize only when necessary, provide food, water and shelter for wildlife, protect surface water bodies and minimize stormwater runoff.
- Florida Yards and Neighborhood lecturers are invited to make presentations to homeowners' meetings to elaborate on the techniques and answer questions.

B. Welcome Center or Reception Area

- Ecological pamphlets are provided to resort guests that highlight the on-site environmental attributes and need for protection.
- Guidelines for water conservation also are available for the visitors.

C. Eco Program and Green Community

- The Eco Program offers environmental training and appreciation for all ages, for resort visitors and residents alike.
- An emphasis on safety is provided during the use of boats, non-motorized vessels such as kayaks and nature trails.
- Participants are alerted to the prohibitions against littering, hunting and plant removal
- Sales and travel brochures, newsletters, and other media material aimed at marketing the Harborview DRI have a portion devoted towards environmental education.
- The mission statement that includes dedication towards being an exemplary environmental community will be printed on all marketing material using recycled content paper.
- Outdoor environmental education and interpretative signs will be posted in strategic locations to educate residents and guest on environmental consequences of their actions, as follows:
 - Signs that show where stormwater drains.
 - Signs that indicate the environmental benefit of pedestrian transportation.
 - Signs that indicate Wildlife Utilization Areas.
 - Signs that educate about the need/benefit of conserving water.
 - Signs that indicate the benefit of outdoor lighting that does not brighten the sky.
 - Signs that educate about the types of native plants and any environmental benefits.
 - Signs that educate about minimizing impact on preserved, created or restored areas and how to enhance the environment.
 - Signs that educate on how to create and maintain habitats for native species in their yards.
 - Signs and pamphlets at the marina and boat ramp to help ensure boaters comply with the Clean Marina Program, avoid seagrass bed, and observe no wake and slow speed zones within manatee protection areas.
 - Interpretative signs located within the upland preserves for the Florida scrub jay and gopher tortoise.
 - Fertilizer prohibition signs along the landward extend of the buffer for the Salt Marsh and Bay Swamp preserve area.
- The website for the Harborview community highlights environmental information and management strategies within the Green Zone and Wildlife Utilization Areas with links to interpretive signage where the website provides more in-depth information.

VII. Literature

Biological Research Associates. 2001. "Debrecen Parcel Integrated Pest Management Plan for Pesticides, Herbicides, and Fertilizers". Sarasota, Florida

Garner, Allen, John Stevely, et al. 1996. A Guide to Environmentally Friendly Landscaping: Florida Yards and Neighborhood Handbook. University of Florida, Institute of Food and Agriculture Sciences, Gainesville, Florida.

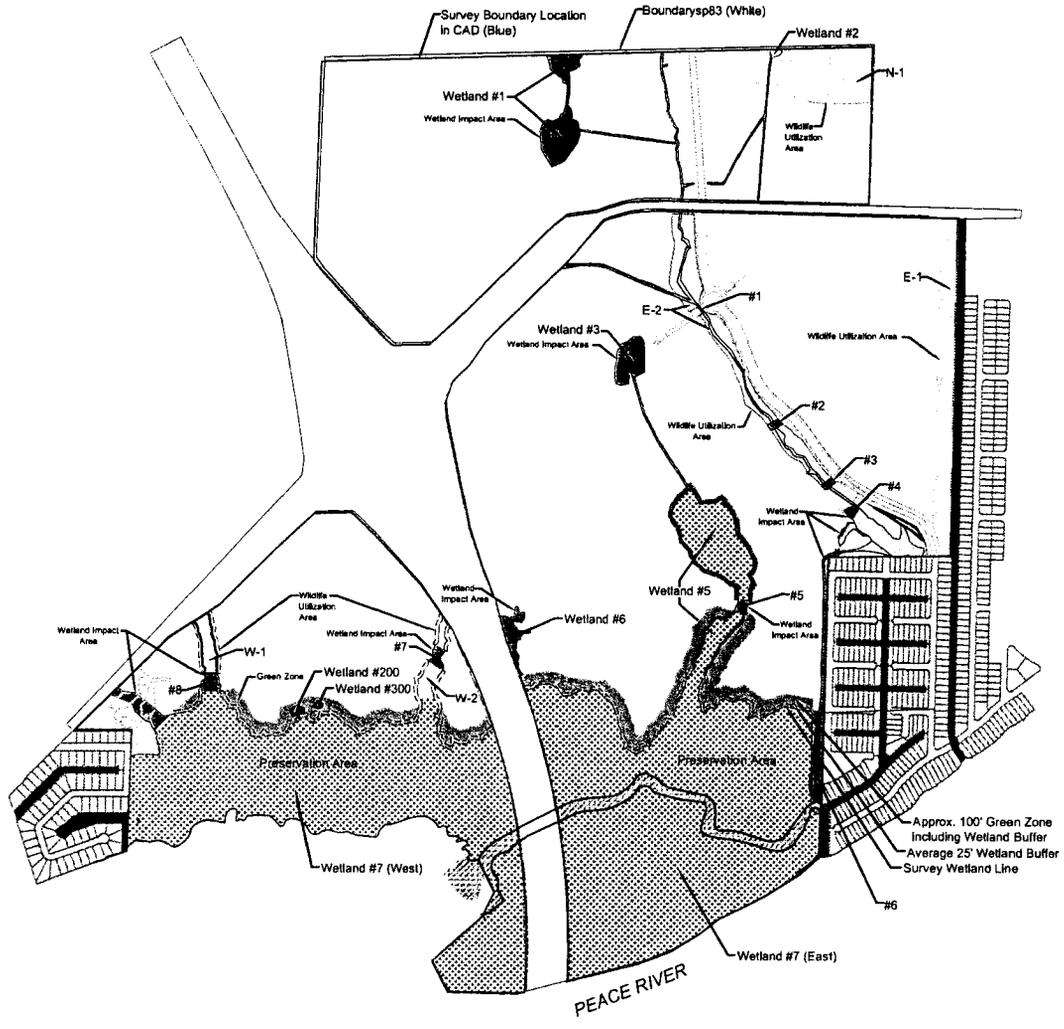
Southwest Florida Regional Planning Council Fertilizer Resolution, SWFRPC Resolution #07-01, dated March 15, 2007.

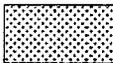
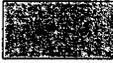
"Tern Bay Country Club Resort Notice of Proposed Change", Prepared by Tern Bay Development Co. LLC, Dana L. Gourley AICP, P.A., EarthBalance, Moore and Waksler, P.L., et al., dated November 2003.

Unruh, J. Bryan and Monica L. Elliot. 1998. "Best Management Practices for Florida Golf Courses" University of Florida, Institute of Food and Agriculture Sciences, Gainesville, Florida

EXHIBIT E

WETLAND IMPACT / PRESERVATION and WILDLIFE UTILIZATION AREAS / GREEN ZONE MAP HARBORVIEW DRI - Charlotte County, Florida

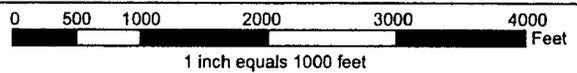


LEGEND		
	Preservation Area	150.65ac
	Other Wildlife Utilization Area	30.00ac
	Green Zone 100FT Wide including 25FT Wetland Buffer	17.29ac
Total Wildlife Utilization Area		197.95ac
	Wetland Impact Areas (Freshwater, Salt Marsh, and OSW)	14.40ac

Note: 1.) Numbers 1-8 - Represents Roadway Crossings
N-1, E-1, E-2, W-1, W-2 - Represents Other Wildlife Utilization Designation Areas

2.) Prelim Wetland line depicted is for Planning Purposes Only.
Final wetland line to be verified by permitting agencies.

Date: August 2010 Project No. B6731
Photo Data: N/A GIS: DEM



Marina Environmental Measures and Best Management Practices Clean Marina Plan – Harborview Marina

The Clean Marina Program was developed by the Florida Department of Environmental Protection (FDEP) to help improve the health and cleanliness of waterways. The Harborview DRI is committed to adhere to or exceed the program criteria. This draft plan demonstrates the commitment to the Clean Marina Program.

The boaters at the private marina primarily will be residents of the Harborview DRI and guests of the nearby hotel/resort complex. A limited number of the marina club memberships will be available to non-residents. A dry storage facility is proposed for the storage of boats outside the marina basin and in adjacent uplands. An area for fueling and sewage pump-out is proposed to be located near the haul out lift for the dry storage.

A commitment to petroleum control and containment is pledged at the marina with the establishment of a Petroleum Spill Recovery Plan at the marina. Emergencies, such as fire or fuel spills will be planned and prepared for with the creation of an Emergency "Panic" File. Environmentally-friendly measures will be implemented at the marina such as, no heavy boat repairs will be allowed, no painting of boats, and no pressure washing will be allowed. The marina will also pledge to ensure that boaters use environmentally friendly cleansing agents, recycling of oil, batteries, etc., and properly dispose of trash. Environmentally – friendly boating classes will be held at the marina and signage will be placed at both the marina and the public boat ramp.

The following describes, in more detail, the Marina Environmental Measures and Best Management Practices that Harborview will employ at the marina and public boat ramp.

- 1. Generate an Emergency File:** Harborview Marina will have an Emergency "Panic" File on site. Employees will be knowledgeable on handling emergency situations and contacting the appropriate emergency response office. A concise and organized set of emergency response procedures and a list of the appropriate emergency contacts will be included in the Emergency File.

2. **Prepare for a Hurricane:** A hurricane preparation plan will be established and followed upon approach of a tropical storm or hurricane. This plan will outline emergency procedures, identify key contacts, and reduce overall confusion. The hurricane plan will be reviewed annually by staff and provided to any subcontractors that may be utilized at the marina.
3. **Fire Safety:** A fire safety plan will be established to ensure personnel are trained to prevent, control, and extinguish fires. Fire extinguishers will be readily available and clearly marked throughout the marina grounds.
4. **Petroleum Spill Recovery Plan:** A petroleum spill response/fueling contingency plan will be developed to ensure that personnel are trained in its uses in accordance with Chapter 62N-16 F.A.C. Personnel will be taught to maintain proper petroleum containment and contact the appropriate agency should a spill occur. The spill plan will involve the deployment of sorbent booms at the site of the fuel spill and along the canal to contain the spill. The appropriate measures will be taken to remove and properly dispose of the spilled petroleum.
5. **Petroleum Control and Containment:** Attempts will be made to reduce or eliminate the amount of fuel entering the boatyard and surface waters from boat bilges, fuel tank vents and spills. Examples include, but are not limited to, the fuel pump station will use automatic/back pressure/shut-off nozzles which ensures unattended fueling is disabled; oil absorbing material will be encouraged for use in bilge areas of all boats with inboard engines; and absorbent pads and/or spill response carts with booms will be available should a fuel spill occur. A fueling contingency plan also will be established at the marina (See above No. 4).
6. **Cycle Outboard Engine Fueling:** Care will be taken to reduce the emission of incompletely combusted hydrocarbon by-products (bluish-white smoke emitting from the outboard motor) formed as a result of utilizing the wrong gas to oil ratio (50:1 or 60:1) while refueling tanks of outboard engine powered boats.
7. **Fuel Waste Management:** Harborview Marina will provide the means to properly dispose of fuel waste. Separate, accessible containers for the recycling of waste or stale fuel and contaminated absorbent material will be provided to boaters. A fuel recycling program will be established for petroleum contaminated wastes.

- 8. Used Oil and Petroleum Management:** Harborview Marina will have easily accessible and properly labeled containers for the proper disposal of used oil and fuel to prevent the introduction of these pollutants into the environment. Additionally, oil and fuel storage containers will be built with a surrounding berm that contains an impervious bottom in order to prevent leaching. Storage tanks will abide by the Storage Tank Rule (Chapter 62-761 F.A.C.). Care will be taken to ensure that oil and fuel are kept in separate containers and not combined. A recycling plan for used oil and fuel will be established for petroleum contaminated wastes as used oil and oil filters are prohibited from disposal in Florida landfills. Harborview Marina will register with the DEP as a Public Used Oil Collection Center (PUOCC).
- 9. Bilgewater:** Harborview Marina will make efforts to minimize the occurrences of contaminated bilgewater and discharges. The Harborview Marina will not allow the use of emulsifying soaps such as dish detergent to clean the bilge of inboard engines. Signage will be placed to encourage boaters to check for leaks of oil and fuel into the bilge and to fix leaks that may cause contamination of bilgewater. This approach will help keep unintended bilgewater discharge from entering the water. The marina also will construct a dock or land mounted oil/water separator to pump bilge water from the bilge to an oil/water separator which will then allow water to be filtered and discharged while the oil is contained for recovery. This oil-water separator will meet United States Environmental Protection Agency (USEPA) requirements for discharge to municipal facilities.
- 10. Boat Cleaning – In the Water:** Harborview Marina will pledge to encourage boaters to use cleaning methods that prevent or contain the release of pollutants to surface waters. Signage will be posted to educate boaters on the negative impact of many traditional cleaners and encourage the use of biodegradable cleaners that do not require rinsing. Signs will also be placed to promote proper boat cleaning methods such as using sponges and soft towels to clean the boat hull on a regular basis. Additionally, the marina will supply environmentally-friendly biodegradable cleaning products for sale in the "ship store". Furthermore, many of the boats will be placed in a dry storage facility which will reduce the need for in-water cleaning. The marina will prohibit the use of sudsing cleaners that must be rinsed that contain ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye. The marina will insist that cleaning methods, for boats that are cleaned in the water, use phosphate-free and biodegradable detergents in minimum amounts.

- 11. Boat Cleaning – Out of the Water:** A boat cleaning area will be placed near the dry storage area and will contain a surface which will allow water to percolate into the ground and prevent discharge into surface waters (i.e. gravel or grass). Rinse water also will be directed to a sanitary sewer that connects to the county's sewer system which should help avoid stormwater contamination. Industrial wastewater from washing and from pressure washing will not occur as pressure washing will be prohibited at the Harborview Marina and public boat ramp.

Harborview Marina will consider utilizing a designated boat wash area that functions as a car wash where the used water is recycled for reuse. This boat wash area would involve solid decking, gutters, and sumps to drain the water to the recycling area. This system could also be established near the boat lift to prevent accidental bilgewater from entering marina waters.

- 12. Boat Cleaning – Exotic Plants/Sealife:** The Harborview Marina will strive to minimize the introduction of exotic plants and animals. Signage will be posted to educate boaters on the affects of exotic plants and sealife on water quality, navigation, and recreational fishing. The marina will request that boaters and/or marina staff check bilges and live wells after boats are removed and taken to dry storage. The transfer of boats from saltwater to freshwater (via the boat lift) may reduce the opportunity for the introduction of exotic species in the marina basin. A boat rinse area will be located in close proximity to the dry storage facility where boaters can completely rinse vessels and properly dispose of collected exotic species and animals (see No. 11). Harborview or Charlotte County will encourage boaters that utilize the western public boat ramp to check their boats and trailers for plant or animal fragments.

- 13. Boating – Sensitive Habitat and Endangered Species:** Manatees will not be present within the private marina basin and residential waterways due to the construction of a weir at the boat lift in the marina access canal. The boat lift will serve to separate the saltwater portion of the access canal from the freshwater canal and marina system. Therefore, manatees will not be able to access the private marina basin and residential waterways. The waters of the Peace River are designated as a Manatee Refuge by the USFWS and as a result, manatees may be present in areas adjacent to the project site. Harborview will coordinate with the US Fish and Wildlife Services (FWS), the Florida Fish and Wildlife Conservation Commission (FWCC)

and the USCG to protect any manatees that may be present. FWCC and USCG approved signs will also be posted encouraging environmentally friendly boating practices when in the presence of endangered species and informing boaters of the local protected areas and speed zones.

Signage will be placed at the entrances to the southern Balboa canal to route all motorized vessels away from the canal. The marina will provide boaters with tide conditions by supplying tide tables to patrons on request.

It is important to note that no seagrass or shellfish beds were located in the marina, the entrance canal, or the other areas proposed for associated boat traffic. Only minimal areas of very sparse patches of low-quality seagrass (*Halodule wrightii*) with a percent cover of less than 5% were observed along the southern boundary of Harborview's West Village and the Peace River.

- 14. Solid Waste Management:** The Harborview Marina will provide adequate trash disposal receptacles including recycling bins for glass, aluminum cans, and batteries. There will be enough trash receptacles on site to ensure sufficient space for refuse between scheduled trash pick-ups. These receptacles will be clearly marked and contain "wind/wildlife-proof" covers. Marina staff will perform daily (AM and PM) "walk-throughs" of the facilities to pick up stray litter and check for spills or other forms of refuse. This will include netting debris from the marina basin waters. Additionally, staff at the boat lift facilities will inspect the lift itself and the surrounding areas for debris and litter. The marina staff will convey the importance of proper waste disposal practices to marina attendees by providing pamphlets, flyers, billing inserts, and signs near dumpsters. The signs near dumpsters will instruct patrons not to place hazardous wastes/used oil in dumpster or trash receptacles and directing them to the hazardous waste and oil collection areas.
- 15. Liquid Waste Storage Management:** Harborview Marina will have a liquid waste storage facility in close proximity to the dry storage facility which will house containers for bilgewater, used oil, used oil filters, contaminated spill control materials, old gasoline, and hazardous wastes. The storage area will be covered to prevent rainwater from making contact with containers, be constructed of impervious materials to prevent leaching, and be locked at all times. The marina will establish a spill contingency plan on how to deal with a fire or accidental spill. This plan will also detail how to manage liquid

waste during an approaching hurricane. This plan will also be incorporated into the marina's fueling contingency plan (See above No. 4).

- 16. Hazardous Waste Management:** Adequate waste storage facilities will be constructed to follow Waste Storage Best Management Practices. Snap top funnels will be utilized to help prevent spillage of waste when adding to the waste container and this will ensure that containers and tanks are closed after waste is added. The marina will contract with an approved hazardous waste hauler for periodic waste disposal. Spill control material and empty containers for emergency clean-up will be readily available to boaters and staff. Well marked, out of the weather, non-leaking containers for rechargeable batteries to be recycled will be provided to boaters. Additionally, a well-marked secure area will be provided where lead acid batteries can be temporarily stored for recycling. The batteries will be stored on impervious surfaces with sides to contain any spills that may occur and under cover from rain and direct sunlight with all cell caps in place. Signage will be placed to ensure that only waste that is hazardous is handled as such and that containers are properly labeled with the appropriate hazardous material label. Hazardous wastes generated at the marina are expected to be minimal, however hazardous wastes that are generated will be managed and disposed of in accordance with 40 Code of Federal Regulation 260-268 and not store on-site for more than 180 days. Compliance monitoring at the marina will be required under the Resources Conservation and Recovery Act (Chapter 62-730, F.A.C.). Used oil and oil filters will be managed and disposed of in accordance with Chapter 62-710, F.A.C. The spill contingency plan will provide a comprehensive guide to managing any spill, fire, or potential spill or fire and is included in the fueling contingency plan (see above No. 4).
- 17. Painting:** The Harborview Marina will not allow vessels to be painted on marina grounds. Many boats will be stored out of the water and in the dry storage facility, thereby reducing the number of bottom painted vessels to contact the water for long periods of time. Additionally, the marina basin and waterway system within the Harborview East Village will be freshwater which again reduces the need to maintain bottom painted vessels.
- 18. Land Based Hull Maintenance Paint Removal and Sandblasting:** The Harborview Marina will not allow any paint removal, scraping, or sand blasting at the marina.

- 19. Engine Repair and Maintenance:** Harborview Marina will encourage boaters to use "low emissions" fuel and maintain engine systems in an "environmentally-friendly" manner through regular maintenance schedules and tune-ups. The marina will not allow engine repair in the marina basin, however simple engine repair will be performed in the dry dock storage area when the boats are out of the water. The marina will supply a proper container for the transfer of used engine fluids and oil to be stored in the waste storage facility. An area for used batteries will be supplied in a non-leaking secondary container placed out of the influence of rain and direct sunlight. An appropriate hazardous waste hauler will be called to remove the used batteries.
- 20. Soiled Rags:** Harborview Marina will supply clearly labeled, fire safe containers for storing ignitable rags until they can be laundered or properly disposed. The marina will invest in recyclable cloth rags which can be recycled and cleaned by an industrial laundry service. As a result, the marina will contract with a permitted industrial laundry service that will pick up soiled rags and deliver clean rags on a regular basis.
- 21. Distress Signal Flare Management:** Harborview Marina will provide an area separate from flammable materials for the temporary storage of distress signal flares that may have been damaged, water logged or expired. The marina staff will make arrangements with the local fire department for thermal treatment of waste flares placed in the fire safe container. Signs will be posted near solid waste receptacles to prohibit the disposal of waste flares in dumpsters and solid waste containers.
- 22. Mercury-Containing Devices: Bilge Pump Float Switches and AC Thermostats:** Harborview Marina will provide water-tight containers in secure areas for boaters to place unusable mercury bilge pump float switches and a/c thermostats. The containers will be marked "For Mercury Bilge Pump Float Switch and AC Thermostat Recycling Only" and will be kept closed and under cover. Signs and flyers will be posted or placed in bills to alert boaters on the disposal ban on mercury bilge pumps and AC thermostats. The appropriate phone numbers will be included for information and to access recycling programs that recycle such materials.
- 23. Mercury Containing Lamps:** Harborview Marina will have clearly labeled containers for the placement of discarded fluorescent and HID lamps for recycling. Signs will be posted around the marina to alert

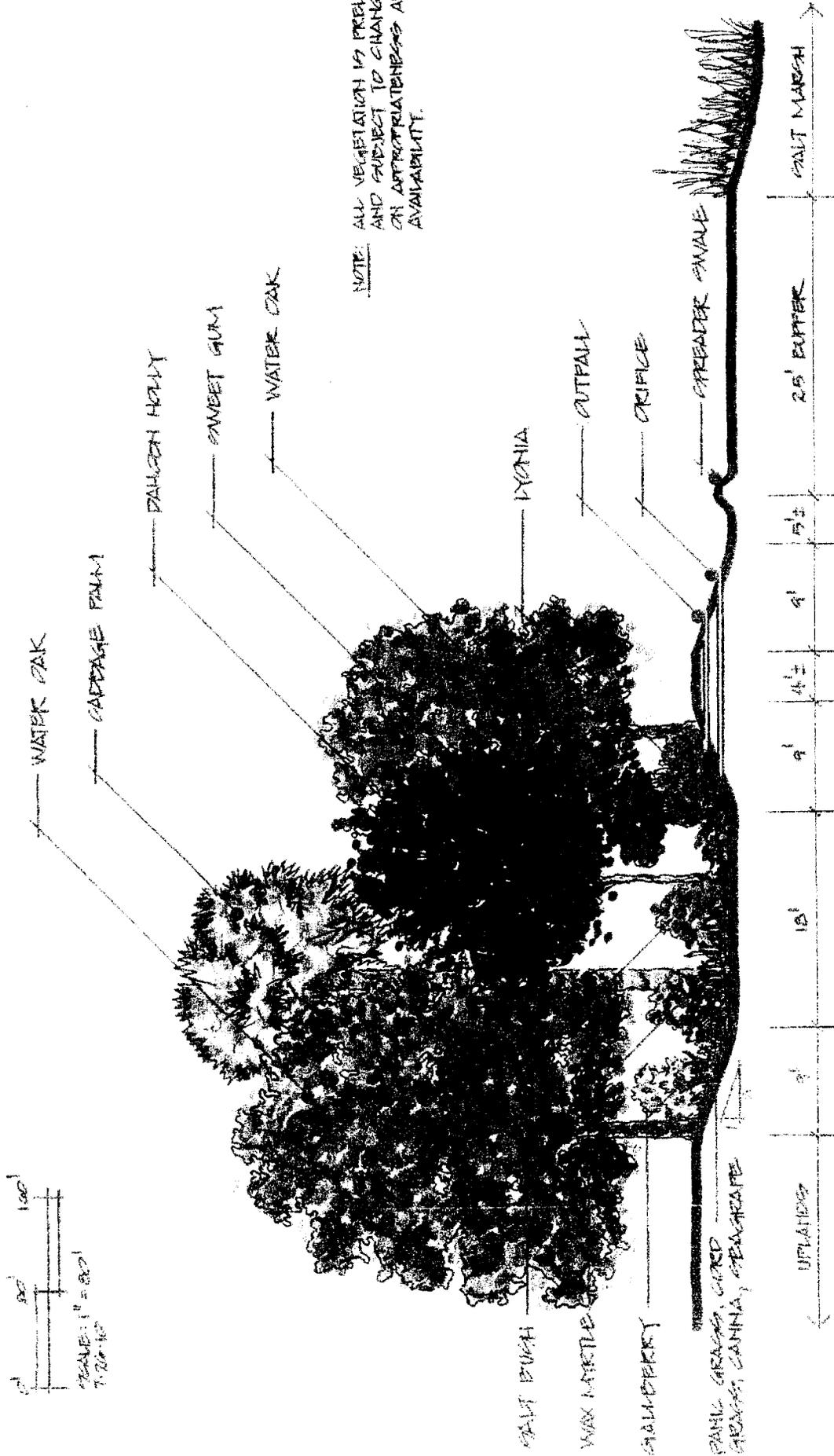
the public on the incineration ban for mercury-containing lamps and direct the public to the specific recycling bin area.

- 24. Used Antifreeze Management:** Harborview Marina will provide clearly labeled containers and easy mechanisms for collecting, recycling, or disposing of used anti-freeze. The containers will be picked up by a permitted facility for recycling. The antifreeze containers will be protected from the elements and located in a locked area. The containers will be inspected regularly for leaks or deterioration. Leaking containers will be replaced immediately. Dedicated antifreeze collection equipment will be utilized for disposal of used antifreeze (collection funnels, transfer pans or buckets, and storage drums or tanks. Environmentally-friendly anti-freeze will be provided for purchase in the marina's "ship store". Signs will be posted around the marina to encourage anti-freeze recycling and direct boaters to the appropriate anti-freeze disposal area.
- 25. Refrigerants:** Harborview Marina will provide convenient collection containers for recycling and disposing of used refrigerants. All containers will be clearly labeled and readily available for the appropriate disposal of refrigerants. The used refrigerants will be sent to a permitted facility for recycling and signs will be posted around the marina encouraging refrigerant recycling.
- 26. Fish Waste Management:** Harborview Marina will restrict fish cleaning to all areas except the designated fish cleaning area. The fish cleaning station will contain a macerator for fish waste disposal to the central sewer, trash receptacles, and waste water hookups. The marina will allow for fish waste to be used as chum bait in open waters away from the facility. Signs will be posted in the fish cleaning area educating boaters on sound fish waste management and proper fish waste disposal.
- 27. Stormwater Pollution:** Harborview Marina will establish a Stormwater Pollution Prevention plan and will have a stormwater National Pollution Discharge Elimination System (NPDES) stormwater permit. As part of the pollution prevention plan, Harborview staff will conduct stormwater sampling with organized record keeping of results at a frequency specified in the NPDES permit.
- 28. Landscaping Management:** Harborview Marina will utilize native Florida vegetation in landscaping to the extent practicable in the community and surrounding marina areas. The marina will utilize

environmentally-friendly fertilizer and pesticide using manufacturers' instructions.

- 29. Sewage Pumpouts and Waste Dump Receptacles:** Harborview Marina will provide sewage pumpouts in a location near the fueling area. The marina will have signs posted that direct boaters to the pumpout location. Regular inspections will be conducted to ensure that the pumpout system is working properly and pipes are kept clear from plugging. Marina staff will be on-site to ensure that the pumpout system is used properly by boaters and that no other products other than sanitary waste are pumped into the system. There will be clearly labeled receptacles on site for the disposal of other materials such as oil and hazardous waste.
- 30. Gray Water:** Harborview Marina will work to reduce the volume of gray water discharges into the marina basin. Harborview Marina will provide shoreside shower and laundry facilities to boaters. Trash receptacles will be easily accessible and regularly maintained to minimize food wastes.
- 31. Education and Training:** The Harborview Marina operator will attend the Clean Marina Workshop to ensure the fulfillment of the Marina Environmental Measures. Furthermore, applicable signage and pamphlets will be placed around the marina to help ensure boaters are complying with the Clean Marina program. Other measures taken to create a Clean Marina at Harborview include the prohibition of personal watercrafts (i.e. jetskis) in the marina. Harborview will provide navigation markers for boaters to easily access the canal to the marina.

Exhibit "G"



HARBORVIEW BIGNONIALE CROSS SECTION



DeSoto Canal
Maintenance Dredging

North of Balboa Canal

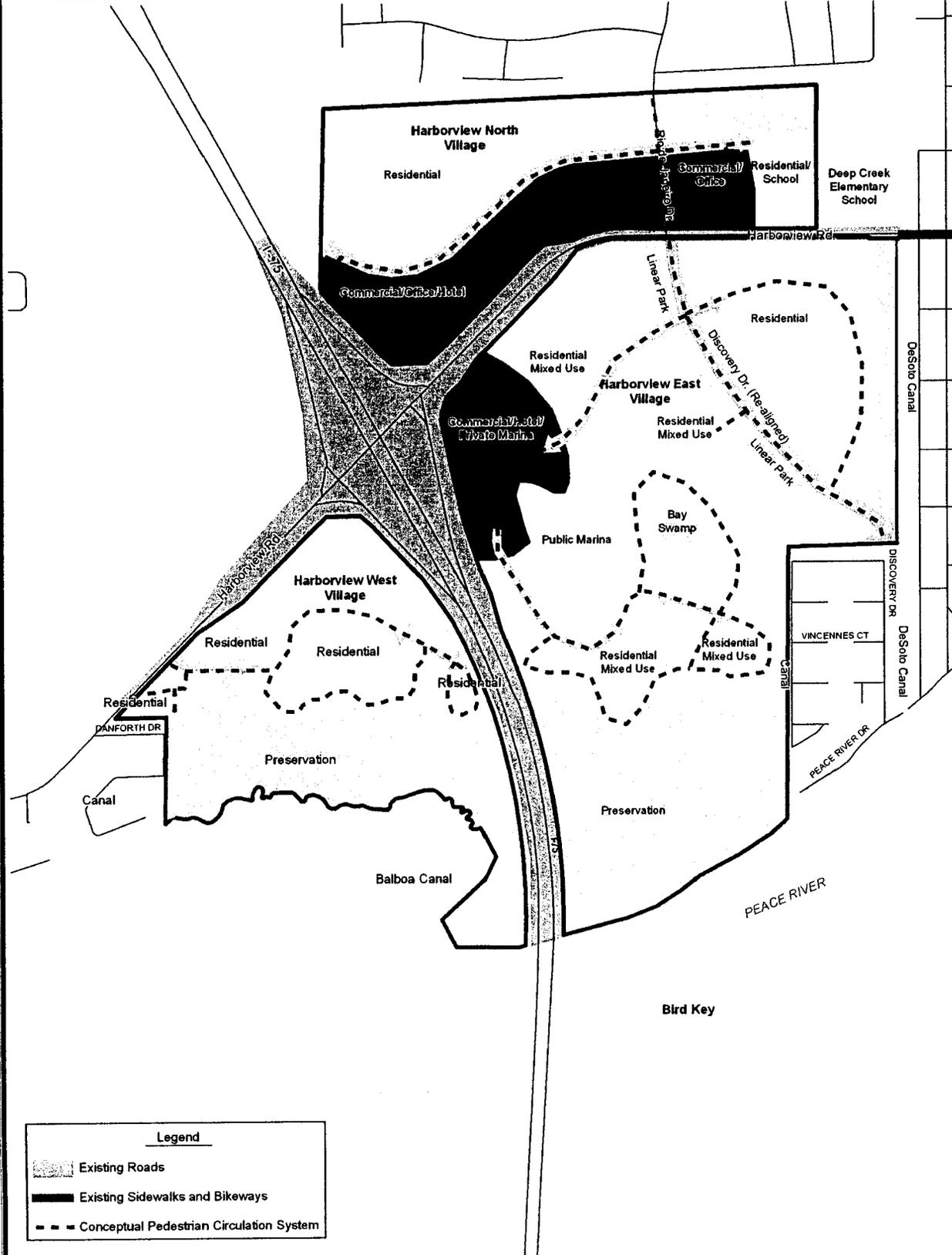
Interior Canal
Maintenance Dredging

Maintenance Dredging
Balboa Channel

- (+/- 1.77 acres)
+/- 0.63 acres
(+/- 0.27 acres)
- 3.4 acres

BICYCLE AND PEDESTRIAN SYSTEM MAP

HARBORVIEW DRI - Charlotte County, Florida



Legend

-  Existing Roads
-  Existing Sidewalks and Bikeways
-  Conceptual Pedestrian Circulation System

Date: August 2010



EXHIBIT
1.10.A.6



Charlotte County

BARBARA T. SCOTT
Clerk of the Circuit Court and County Comptroller

18500 Murdock Circle, Room 416, Port Charlotte, FL 33948
Commission Minutes Office (941) 743-1404 ★Fax (941) 623-1043

September 23, 2010

Florida Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

We are forwarding a certified copy of Resolution #2010-083 as required within the resolution per item H, on page 53. This resolution was approved by the Board of Charlotte County Commissioners on Tuesday, September 21, 2010.

If you have any questions, please contact me directly at (941) 743-1539.

Sincerely,

BARBARA T. SCOTT
CLERK OF THE CIRCUIT COURT

By: Anne L. Pfahler
Anne L. Pfahler
Deputy Clerk

Enclosure (1)
BTS/alp



Charlotte County

BARBARA T. SCOTT
Clerk of the Circuit Court and County Comptroller

18500 Murdock Circle, Room 416, Port Charlotte, FL 33948
Commission Minutes Office (941) 743-1404 ★Fax (941) 623-1043

September 23, 2010

Mr. Daniel L. Trescott
Southwest Florida Regional Planning Council
1926 Victoria Avenue
Fort Myers, FL 33901-3414

We are forwarding a certified copy of Resolution #2010-083 as required within the resolution per item H, on page 53. This resolution was approved by the Board of Charlotte County Commissioners on Tuesday, September 21, 2010.

If you have any questions, please contact me directly at (941) 7434-1539.

Sincerely,
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CLERK OF THE CIRCUIT COURT

By: Anne L. Pfahler
Anne L. Pfahler
Deputy Clerk

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18500 Murdock Circle, Room 416, Port Charlotte, FL 33948
Commission Minutes Office (941) 743-1404 ★ Fax (941) 623-1043

September 23, 2010

Berntsson, Ittersagen, Gunderson & Waksler
Attn: Geri Waksler
18401 Murdock Circle, Ste. C
Port Charlotte, FL 33948

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If you have any questions, please contact me directly at (941) 743-1403.

Sincerely,

BARBARA T. SCOTT
CLERK OF THE CIRCUIT COURT

By: Anne L. Pfahler
Anne L. Pfahler
Deputy Clerk

Enclosure (1)
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Charlotte County

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18500 Murdock Circle, Room 416, Port Charlotte, FL 33948
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October 13, 2010

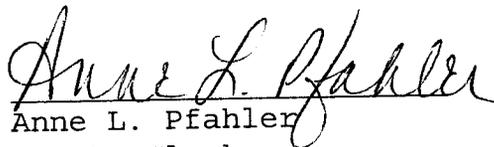
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CLERK OF THE CIRCUIT COURT

By: 
Anne L. Pfahler
Deputy Clerk

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