Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

David B. Struhs
Secretary

April 25, 2000

Ms. Gloria Zimrha Baron
Public Works Department
P.O. Box 150027
Cape Coral, Florida 33915-0027

Dear Ms. Baron:

Thank you for your letter of March 29 concerning stormwater management within the City of Cape Coral and the applicability of DEP Consent Order 15 and Contract WM106.

I have checked with our legal staff about the applicability of the Consent Order and the Contract. As I expected, since both of these documents have expired, they are not legally binding.

However, any alterations to the swale system or other components of the City's stormwater system that would reduce the storage volume or the level of treatment would be considered a modification to an existing surface water management permit. Therefore, such alterations would require a permit from the SFWMD which would require the City to meet the District's stormwater quantity and quality requirements.

More importantly, the City's NPDES stormwater MS4 permit has several general and specific requirements that require the City to implement a variety of programs to reduce the pollutants discharged from the City's stormwater system. In general, this permit requires the City to take general actions to reduce the generation of and discharge of stormwater pollutants. Additionally, the permit application materials submitted by the City included reference to Consent Order 15 and Contract WM106, so the requirements in these two documents are considered to be part of the City's stormwater management program pursuant to the NPDES stormwater permit.

It is also important to remember that the NPDES MS4 permit contains eleven different elements that have very specific requirements to reduce the generation of and discharge of stormwater pollutants. Specifically, Part 2 A and Table II.A.1.b require the proper maintenance and operation of swales. These requirements, and the importance of swales, are reiterated in Part 3, Operation and Maintenance of Public Streets, Roads, and Highways. Furthermore, the requirements of Part 4, Ensure Flood Control Projects Consider Water Quality Impacts, requires the maintenance of infrastructure within public rights-of-way that convey stormwater to the canals (i.e., swales) and also requires that

flood control projects adhere to the treatment performance standards set forth in State Water Policy. Therefore, as previously stated in paragraph 3, any modification of a swale such as filling or elimination would require a SFWMD permit and stormwater treatment.

I hope that this analysis has been helpful. We urge the City of Cape Coral to continue to implement the swale program as it was set forth in DEP Contract WM106 since swales are the primary stormwater treatment mechanism within the City. If you have any questions, or if we can be of further assistance, please call me at 850/921-9915 or email me at eric.livingston@dep.state.fl.us.

Sincerely,

Eric H. Livingston
Chief
Bureau of Watershed Management

cc: Michael Bateman, DEP
SFWMD

City of Cape Coral

March 29, 2000

Eric Livingston, P.E.
Department of Environmental Protection
2600 Blair Stone Road (MS3510)
Tallahassee, Florida 32399-2400

Re: Surface Water Management / D.E.R. Consent Order # 15

Dear Eric:

Enclosed you will find copies of the Consent Order # 15, that was negotiated between the D.E.R. and the General Acceptance Corporation (GAC) in 1976, the modified Consent Order dated 1979, and the DER Contract WMID6 between the City of Cape Coral dated 1985.
Also enclosed are copies of our Engineering Design Standards for swales and culverts.

In the WMID6 Contract agreed to and signed by the D.E.R. and the City, the City agreed to prohibit filling or culverting of swales and to ensure that swales are at design depths and widths, grasses and free of debris. The contract expired on April 1, 1987, at which time it was expected that all requirements would have been met; however, the attachment with the scope of services indicates that the services would be ongoing. The problem that we are being faced with is that the developers and some citizens are trying to convince our Mayor and City Manager that the requirements have expired and should not be enforced any longer.

It is my opinion that the requirements to provide and maintain water quality protection are still valid, and should be enforced even more stringently now because of the extensive development that has occurred within the City, and because of the requirements of the NPDES MS4 permit.

Your input on this problem would be greatly appreciated. If you have any questions, please do not hesitate to contact me at 941-574-0599.

Sincerely,

PUBLIC WORKS DEPARTMENT

Gloria Zimrha Baron, Supervisor
Surface Water Management Division

GZB(consent15.doc)

Enclosures

BEFORE THE STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL REGULATION

DEPARTMENT OF ENVIRONMENTAL REGULATION,	)	
vs.	)	Order No. 15
GAC PROPERTIES, INC., Lee County.	)	
	)	

CONSENT ORDER

This is a Consent Order between the State of Florida Department of Environmental Regulation (hereinafter referred to as the "Department") and Frank J. Callahan and Herbert S. Freehling, as Co-Trustees of GAC Corporation, GAC Properties Credit, Inc., and GAC Properties, Inc. (hereinafter referred to as "GAC").

Background: Permit applications were filed with the Department for certain dredge and fill work to be done at the Cape Coral Project of GAC. The Department issued a letter dated June 30, 1976 informing GAC of the Department's intent to deny certain of these permits. In addition, the Department issued Warning Notice No. 7996 dated July 9, 1976 regarding ongoing dredge and fill activities within the Cape Coral Project. On August 26, 1976, the Department set out by letter the modifications of the Cape Coral Project required to allow the completion of the project. Subsequently, the GAC verbally agreed to incorporate and implement the proposed, major modifications, subject to the approval of the Bankruptcy Court. It was also determined after the initial denial that GAC qualified for special consideration. This order represents the best efforts of the Department and GAC to improve an old project, begun prior to this decade. It does not signify water quality standards will be met in the interior canals, but is an attempt to buffer, treat, and improve water quality before it reaches Matlacha Pass or the Caloosahatchee River. This Consent Order resolves the alleged violations and serves as the authorization from the Department to complete the work.

1. GAC agrees that no development work shall be done waterward of the line identified as "A" drawn on Exhibit No. 1. Any work that has been done by GAC waterward of this line shall be restored. Restoration shall include the removal or replacement of all GAC-excavated fill material to natural elevation in the areas designated as "B" on Exhibit No. 1. Restoration shall commence within sixty (60) days of the date of entry of this Consent Order, continue in a continuous manner, and be completed to the satisfaction of the Department's district office within one (1) year of the date of entry of this Consent Order.

2. All work landward of "A" on Exhibit No. 1 will be done as described in Exhibit No. 2. The Department originally indicated its intent to deny the applications for permits because of its concern over water quality in the canal system and discharges from the canal system. GAC agrees to construct a pollution retention system landward of "A" on Exhibit No. 1. This retention system will consist of a perimeter spreader waterway to serve as a water distribution system for intercepting and releasing discharges of waters from certain areas of the Cape Coral development. GAC agrees to construct back-to-front sloping lots, swales and weirs within the inland portion of the undeveloped portion of Cape Coral, so as to retain as much of the runoff from the upland as possible, as well as increase the retention and percolation of freshwater to the aquifer. GAC shall prepare a hydraulic assessment to determine the maximum retention of runoff possible within the swales and canals. All work described in this paragraph of the Consent Order shall be performed as described in Exhibit No. 2.

3. Because of the water quality problems within the interior canal system, the Department cannot allow any direct

connection of Cape Coral waterways to waters of the State, which direct connections do not presently exist. Therefore, GAC shall install boat lifts to provide navigable access to Cape Coral canals which do not presently have access to waters of the state. The locations of the boat lifts are identified on Exhibit No. 1 as C_1, C_2 and C_3. Construction of the boat lifts shall be as described in Exhibit No. 2.

4. Because of the water quality benefits to be derived from the tidal wetlands surrounding Cape Coral and the treatment these natural areas provide for any indirect discharges from the Cape Coral area, GAC shall deed to the State, on the date of entry of this Consent Order, the lands owned by GAC as are described in the warranty deeds attached as Exhibits 3(a), 3(b) and 3(c).

5. GAC will deposit to the account of the Department's Pollution Recovery Fund the sum of $200,000 per year, each year for five (5) consecutive years, the first such deposit to be made within thirty (30) days of the entry of this Consent Order and following payments to be made on or before the annual anniversary date of the date of entry of this Consent Order. All money deposited in the Pollution Recovery Fund to the account of GAC projects shall be identified and all interest earned on the account of GAC projects shall be credited to the Pollution Recovery Fund account of these GAC projects. This money shall be used at the discretion of the Secretary of the Department, which use shall nonetheless be restricted in use to study water quality and quantity problems in the Cape Coral and Golden Gate Estates areas, to propose solutions to the problems identified, and as funds allow, to correct the identified problems in both projects. No more than $200,000 may be spent in any one fiscal year without the approval of GAC.

6. GAC hereby agrees to withdraw all permit applications pending for the Cape Coral development (File Numbers 36-10-3545, 36-24-3027, 36-10-3546 and 36-20-0274) on the same date as the entry of this Consent Order. The Department agrees

that this Consent Order will provide the necessary authorization to complete the work described in Exhibits 1 and 2. This Consent Order waives certification under PL 92-500, Section 401.

7. This Consent Order is enforceable under Section 120.69, Florida Statutes and can also be enforced under Section 403.161(1)(b), Florida Statutes.

JAMES E. YACOS and JOHN RODGERS CAMP, JR., as Co-Counsel for the Co-Trustees of GAC Corporation, et al.

By: _____
JOHN RODGERS CAMP, JR.

DEPARTMENT OF ENVIRONMENTAL REGULATION:

_____
TERRY COLE
Deputy General Counsel

Consented to by GAC this _____ day of _____, 1977.

_____
HERBERT S. FREEHLING
as Co-Trustee

_____
FRANK J. CALLAHAN
as Co-Trustee

DATED AND ENTERED this 19 day of April, 1977.

_____
JOSEPH W. LANDERS, JR.
Secretary

Department of Environmental Regulation
2562 Executive Center Circle, E.
Montgomery Building
Tallahassee, Florida 32301

(Beginning after Signature page)

UNIT 84 Deed

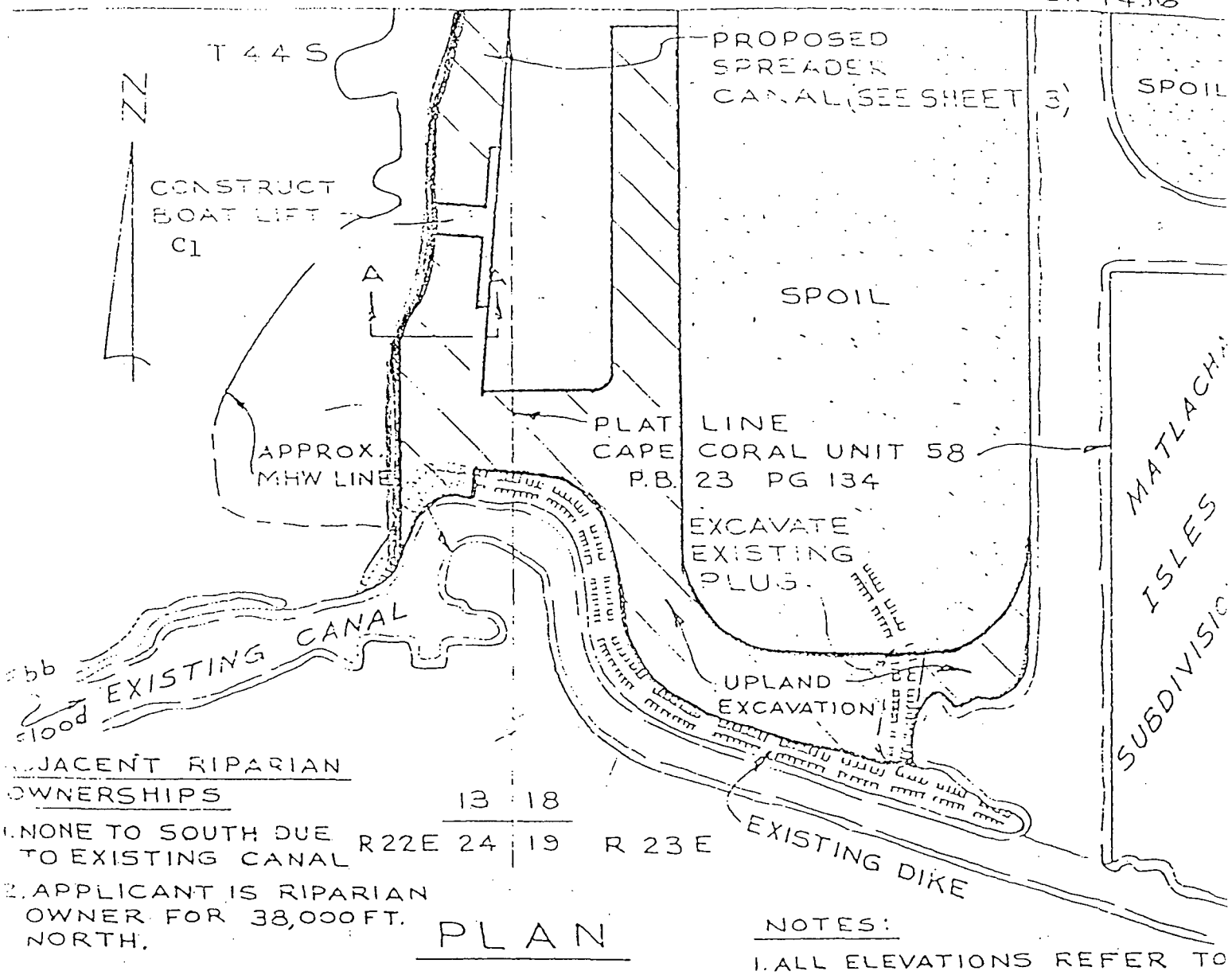
2.

(c) Grantee acknowledges that within conveyance is given in consideration that the City of Cape Coral shall have a right to the use and possession of the premises as a park for the public, with such premises to be maintained in a substantially natural state. Any improvements which the City may install thereon shall be subject to obtaining necessary permits from the appropriate agencies having jurisdiction.

Exhibit 2 Plate 1

C1

36-20-027
72K-1436



ADJACENT RIPARIAN OWNERSHIPS

1. NONE TO SOUTH DUE TO EXISTING CANAL
2. APPLICANT IS RIPARIAN OWNER FOR 38,000 FT. NORTH.

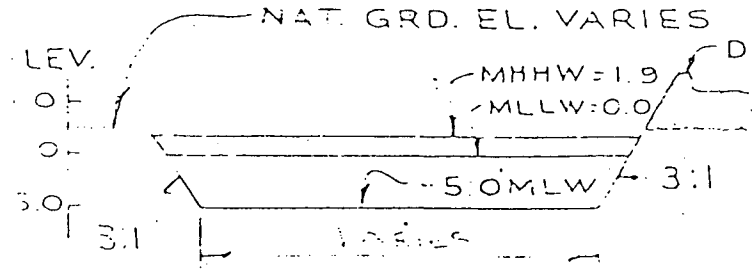
13 | 18
R22E 24 | 19 R23E

PLAN

300 0 300

SCALE IN FEET

"A" - Development Limits



SECTION A-A

SCALE IN FEET

50 0 50

NOTES:

1. ALL ELEVATIONS REFER TO MLLW DATUM.
2. APPROX. 3800 C.Y. OF SAN[D] WITH ORGANIC MATERIAL TO BE DREDGED FROM BELOW MH[W] LINE AND PLACED ON APPLICANT'S UPLAND PROPERTY BEHIND SUITABLE DIKES.

REV. 12/13
REV. 11/76 REV. 5/73
REV. 2/75 REV. 12/72

GEE & JENSON CONSULTING ENGINEERS, INC.
WEST PALM BEACH, FLORIDA

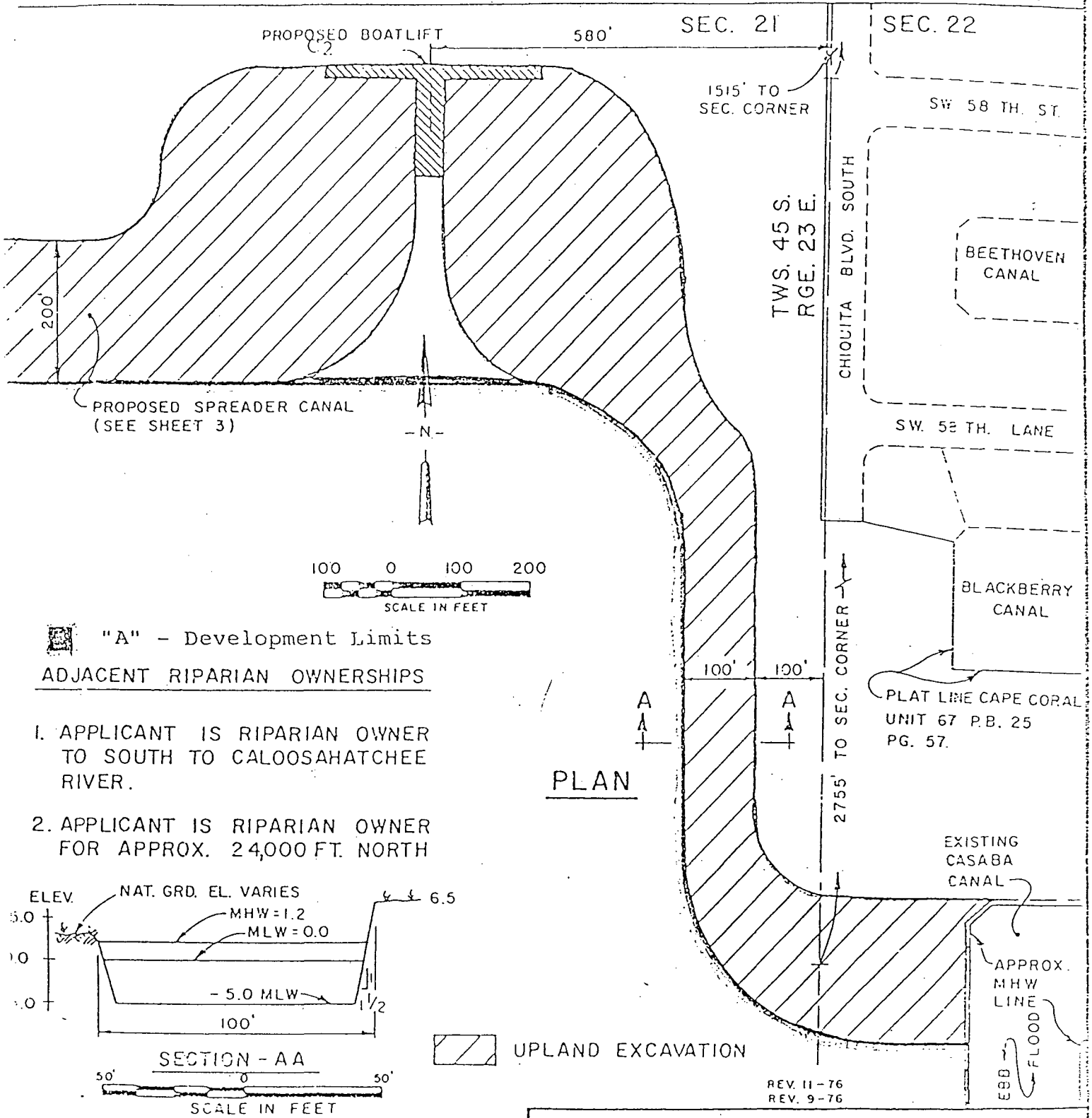
CHANNEL EXCAVATION & LIFT CONSTRUCTION
MATLACHA PASS
CAPE CORAL, LEE COUNTY, FLORIDA
APPLICANT - GAC PROPERTIES, INC.

DESIGNED	DRAWN	CHECKED	JOB NO.	DRAWING NO.
D.H.D.	CB	JMW	71-133	
DATE	SCALE	APPROVED	FILE NO.	SHEET 1 OF 2

C 2

NEW PLAT AREA SOUTHWEST

36-10-3546
75K-1005



"A" - Development Limits

ADJACENT RIPARIAN OWNERSHIPS

1. APPLICANT IS RIPARIAN OWNER TO SOUTH TO CALOOSAHATCHEE RIVER.

2. APPLICANT IS RIPARIAN OWNER FOR APPROX. 24,000 FT. NORTH

UPLAND EXCAVATION

NOTES

ALL ELEVATIONS REFER TO MLW DATUM.

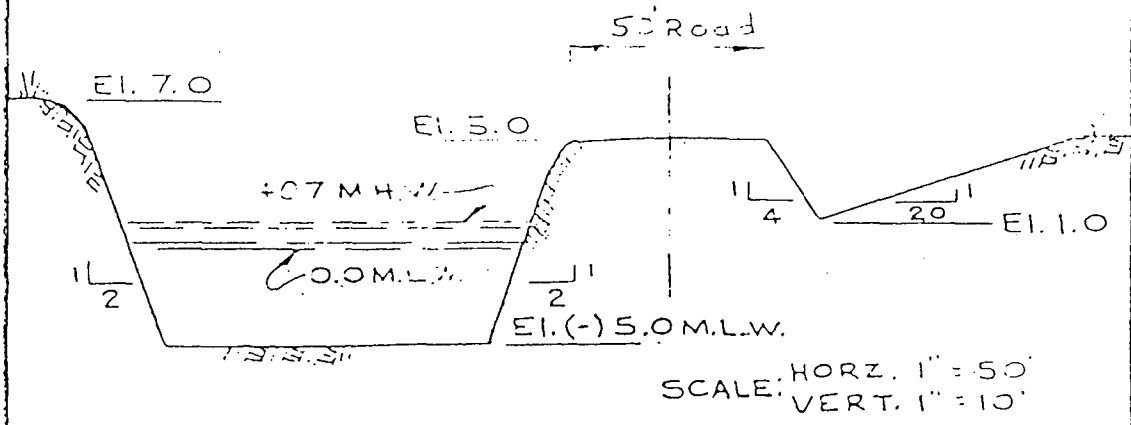
APPROX. 3,200 C.Y. OF SAND WITH ORGANIC MATERIAL TO BE REMOVED FROM BELOW MHW LINE AND PLACED ON APPLICANTS UPLAND BEHIND SUITABLE DIKES.

CHANNEL EXCAVATION & LIFT CONSTRUCTION
MATLACHA PASS & CALOOSAHATCHEE RIVER
CAPE CORAL, LEE COUNTY, FLORIDA
APPLICANT - GAC PROPERTIES, INC.

DESIGNED	DRAWN	CHECKED	JOB NO.	DRAWING NO.
P. M.	M. M.		71 - 133	
DATE	SCALE	APPROVED	FILE NO	SHEET , OF ,
MAY 75	NOTED			

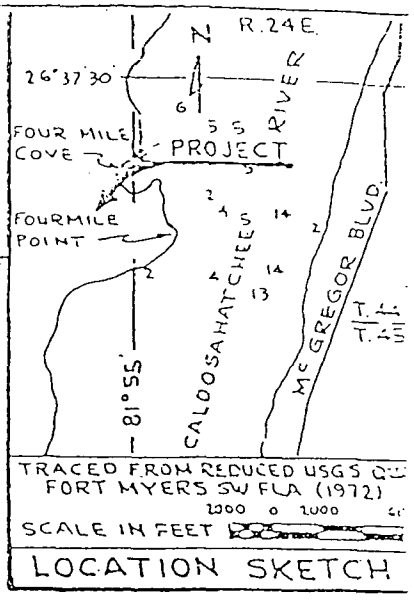
DEC 24 1975

Plate 3



SCALE: HORZ. 1" = 50'
VERT. 1" = 10'

SECTION A-A

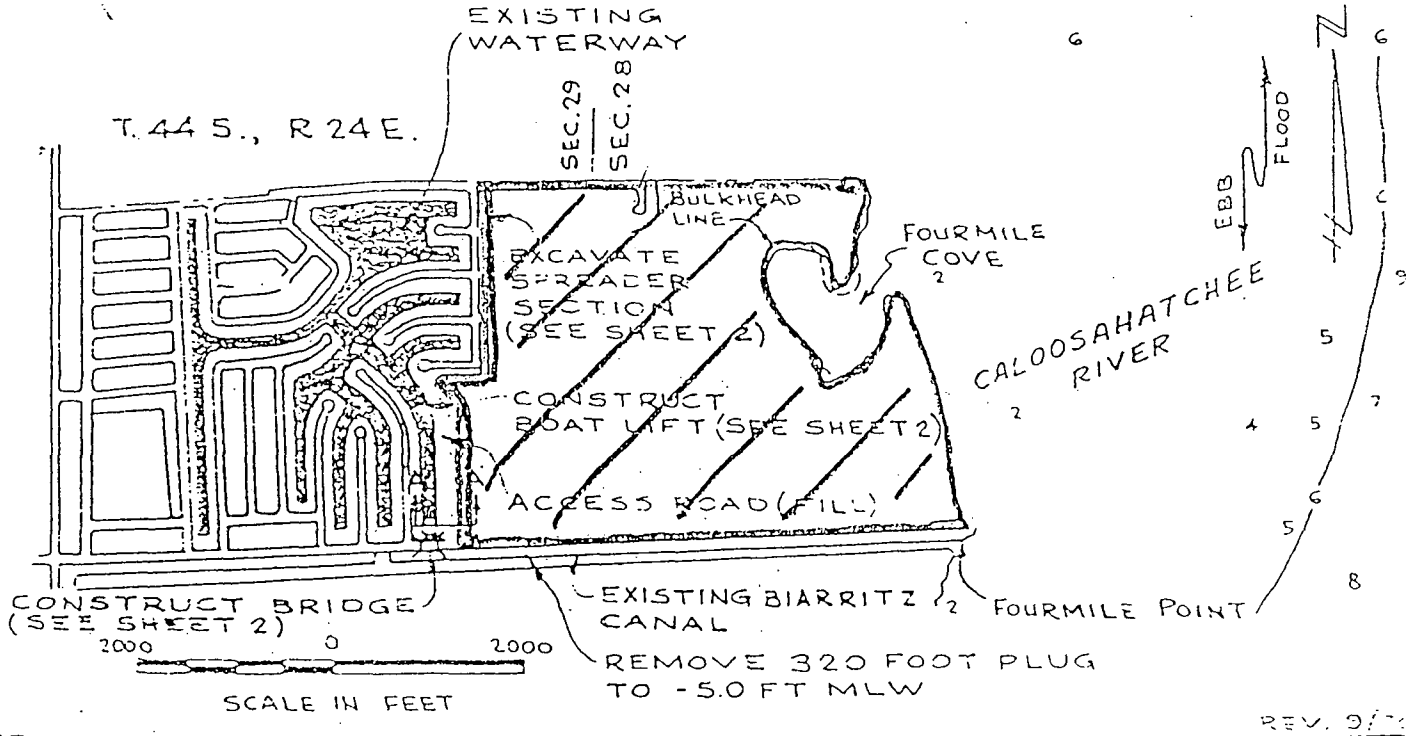


LOCATION SKETCH

'A' DEVELOPMENT LIMITS

PRESERVE AREA

NOTE: ALL ELEVATIONS REFER TO M.L.W. DATUM



REV. 9/

NOTE

APPROXIMATELY 600 C.Y. OF SANDY MATERIAL TO BE DREDGED FROM BELOW MHW LINE AND PLACED ON APPLICANTS UPLAND BEHIND SUITABLE DIKES.

SEE ATTACHED LIST FOR ADJACENT RIPARIAN OWNERS

GEE & JENSON CONSULTING ENGINEERS, INC.
WEST PALM BEACH FLORIDA

UNIT 89 DEVELOPMENT & CHANNEL
BIARRITZ CANAL
LEE COUNTY, FLORIDA
APPLICANT: GAC PROPERTIES, INC.

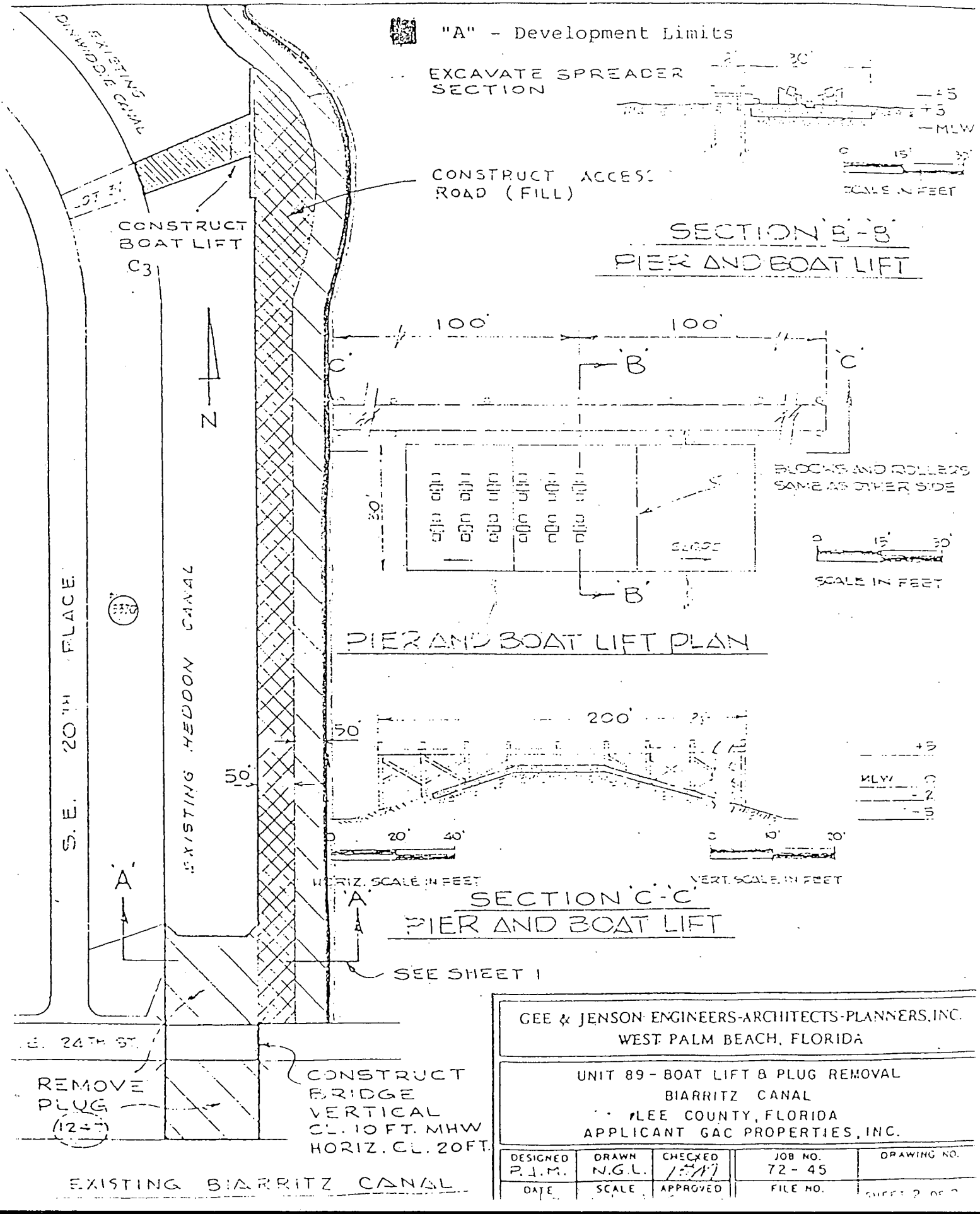
DESIGNED	DRAWN	CHECKED	JOB NO.	DRAWING NO.
D.H.D.	M.G.B.		72-45	
DATE	SCALE	APPROVED	FILE NO.	SHEET 1 OF 2
MAY 75	NOTED			

Exhibit 2 Plate 4

C_3

UNIT 89

35-10-3545
75K-1006



GEE & JENSON ENGINEERS-ARCHITECTS-PLANNERS, INC.
WEST PALM BEACH, FLORIDA

UNIT 89 - BOAT LIFT & PLUG REMOVAL
BIARRITZ CANAL
LEE COUNTY, FLORIDA
APPLICANT GAC PROPERTIES, INC.

DESIGNED	DRAWN	CHECKED	JOB NO.	DRAWING NO.
P.J.M.	N.G.L.		72-45	
DATE	SCALE	APPROVED	FILE NO.	SHEET 2 OF 2

Exhibit 2 Plate 5

Construction of the boat lifts shall be to the following criteria:

1 - No transfer of water between the spreader waterway and state waters will be allowed.

2 - No part of the boat lifts will encroach beyond line A of Exhibit #1.

3 - The lift locations may be moved upstream from Locations C1, C2 and C3 up to 100 feet as long as such relocation does not open additional interior canals to state waters. The location of the boat lift may be moved downstream.

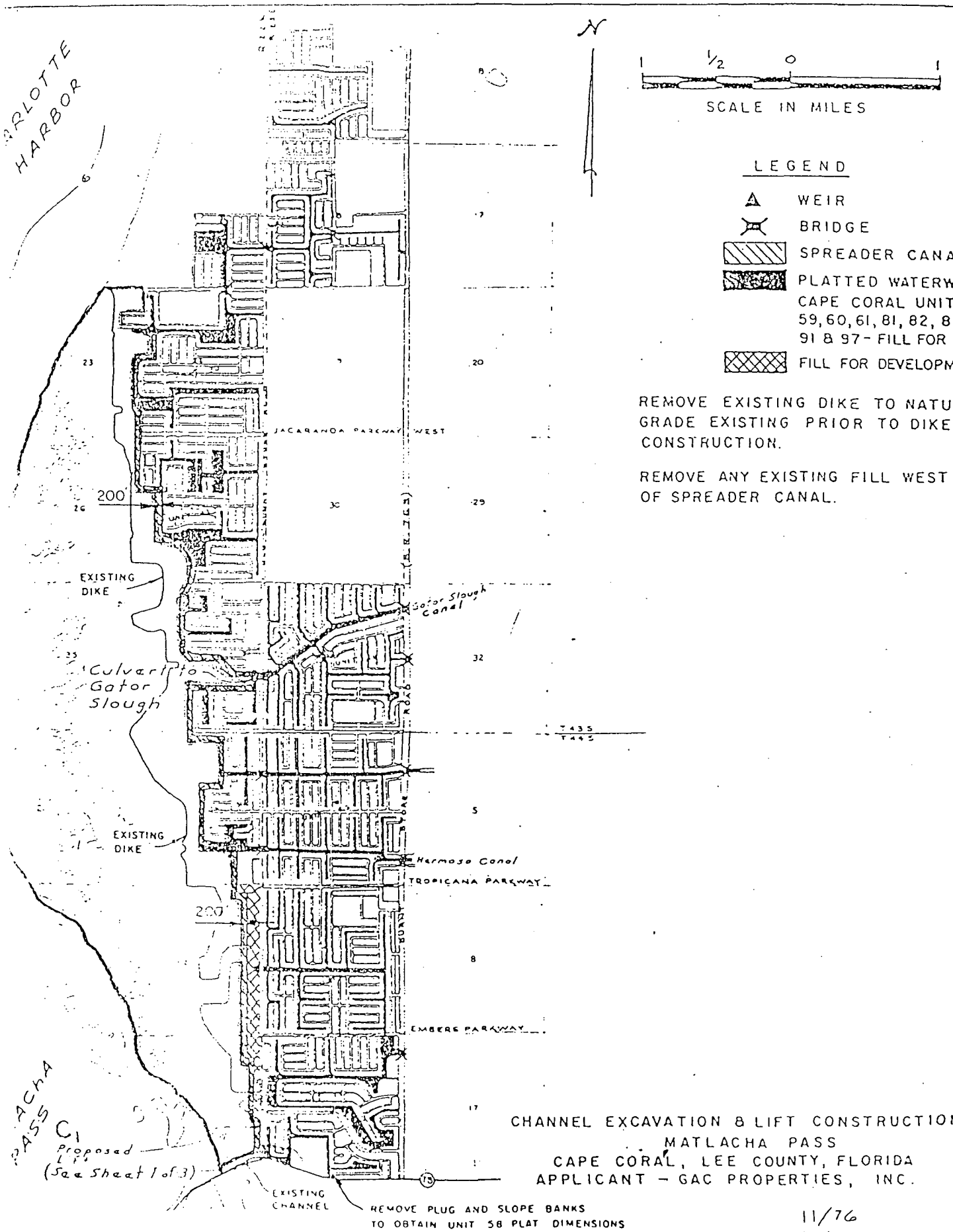
4 - The height, width and length of the earthen dam will be determined after establishing the seaward elevation of the spreader waterway and completing the hydraulic analysis.

5 - The type of mechanical transfer equipment will be at the discretion of GAC and its design engineer.

SPREADER WATERWAYS

formerly Plate 5 → Plate 6

36-20-0274
72-1436



CHANNEL EXCAVATION & LIFT CONSTRUCTION
MATLACHA PASS
CAPE CORAL, LEE COUNTY, FLORIDA
APPLICANT – GAC PROPERTIES, INC.

11/76
10/76

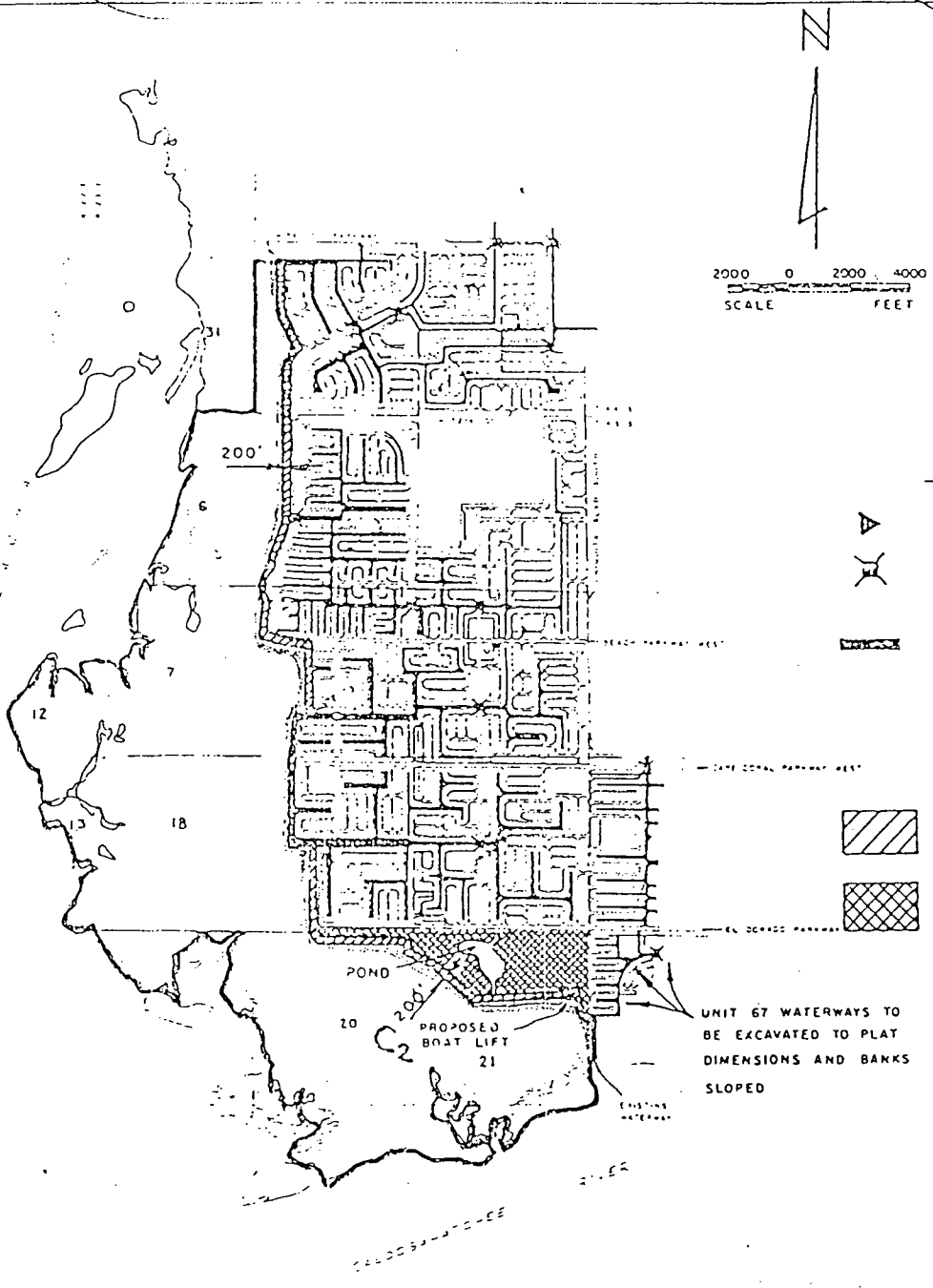
(key plat)

follows

36-20-0274

35-10-3546
75 K - 1005

PLATE 7



LEGEND

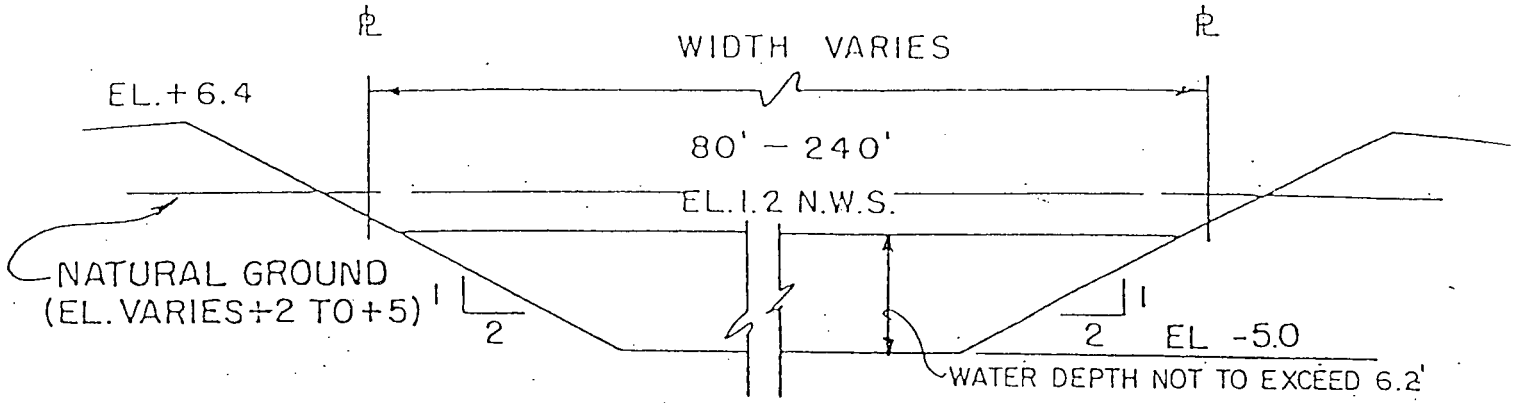
- WEIR
- BRIDGE
- PLATTED WATERWAYS CAPE CORAL UNITS 64 67,69,70,72,73,74,92, 93 & 96. FILL FOR DEV.
- UPLAND EXCAVATION SPREADER CANAL
- UPLAND SPOIL AREA TO BE PLATTED AND DEVELOPED AS WATER-FRONT LOTS.

11-76
10-76
9-76
8-76

CHANNEL EXCAVATION & LIFT CONSTRUCTION
MATLACHA PASS & CALOOSAHATCHEE RIVER
CAPE CORAL, LEE COUNTY, FLORIDA
APPLICANT - GAC PROPERTIES, INC.

CROSS SECTIONS
INTERIOR CANALS AND SPREADER WATERWAY

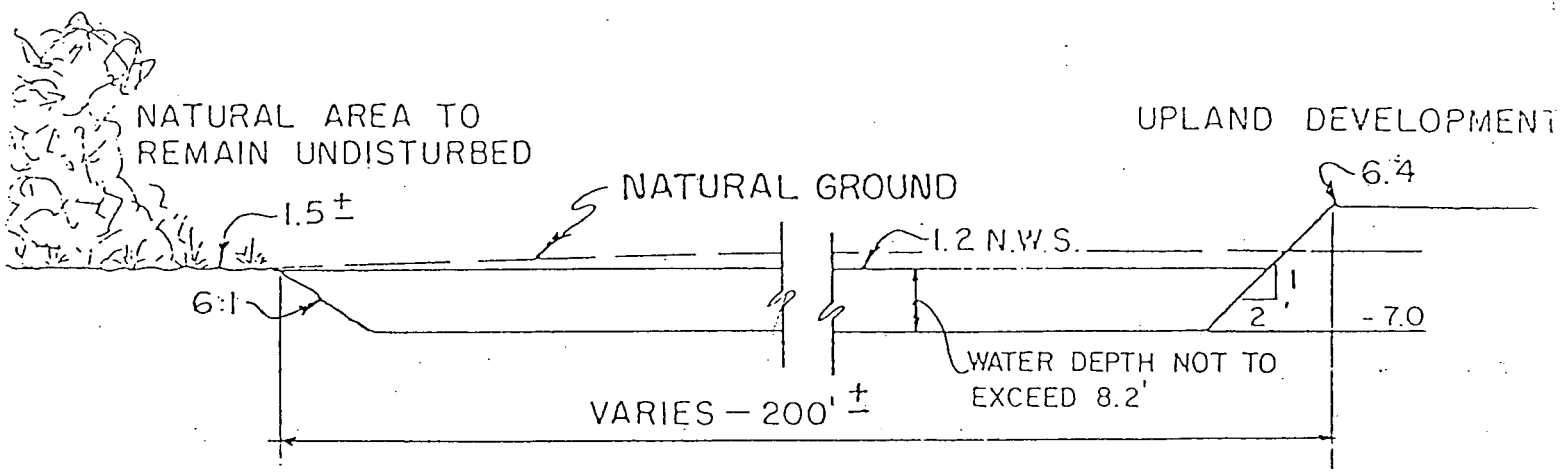
36-20-6
72K-143



TYPICAL CANAL SECTION

SCALE

0 10 Ft.



TYPICAL SECTION

SPREADER WATERWAY EXCAVATION

HORIZ. SCALE 0 40 FEET

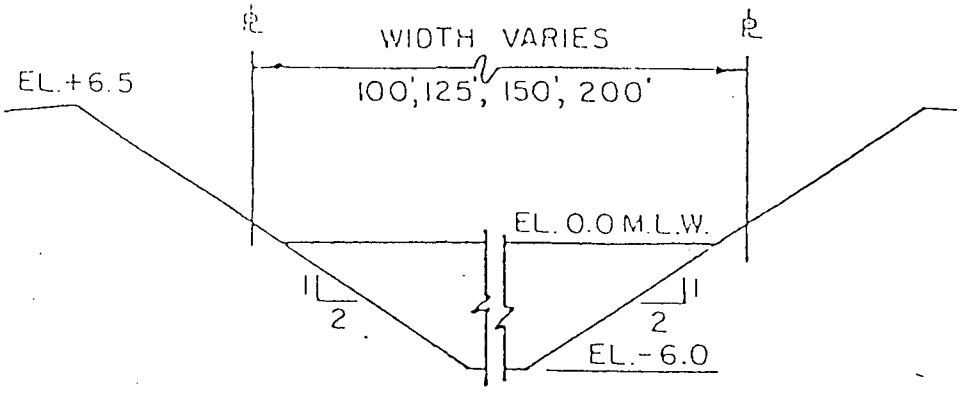
VERT. SCALE 0 20 FEET

NOTES: ALL ELEVATIONS REFER TO MEAN SEA LEVEL DATUM.

N.W.S. – NORMAL WATER SURFACE.

CHANNEL EXCAVATION & LIFT CONSTRUCTION
MATLACHA PASS
CAPE CORAL, LEE COUNTY, FLORIDA
APPLICANT: G.A.C. PROPERTIES, INC.

DESIGNED	DRAWN	CHECKED	JOB NO	DRAWING
D.H.D.	G.J.B		71-133	-

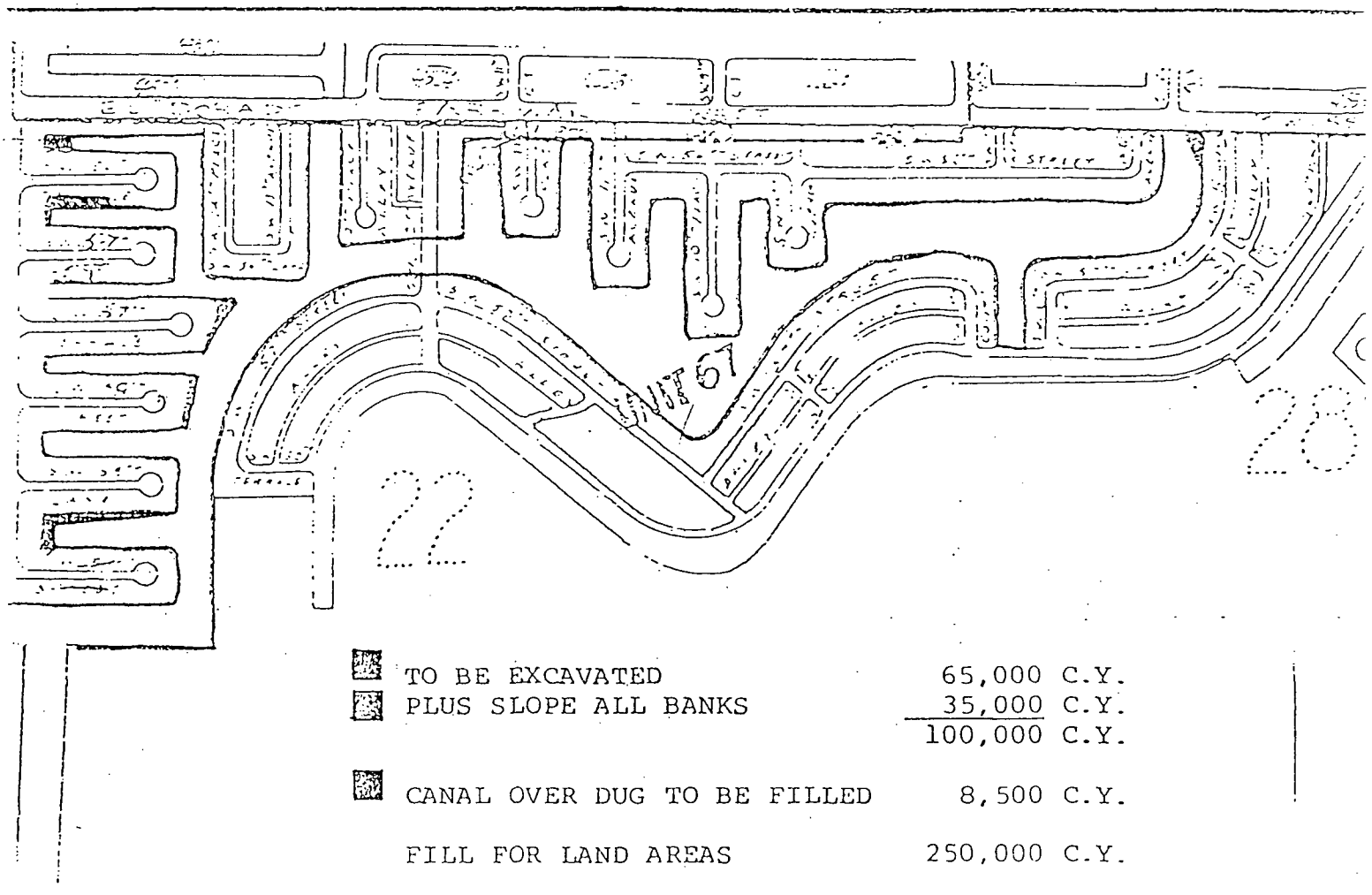


UNIT 67

TYPICAL CANAL SECTION (THOSE TO BE DUG)

0 10 FT.

NOTE: ALL EL. REFER TO MLW



▩	TO BE EXCAVATED	65,000 C.Y.
▩	PLUS SLOPE ALL BANKS	35,000 C.Y.
		100,000 C.Y.
▩	CANAL OVER DUG TO BE FILLED	8,500 C.Y.
	FILL FOR LAND AREAS	250,000 C.Y.

Scale 1" = 1,000'

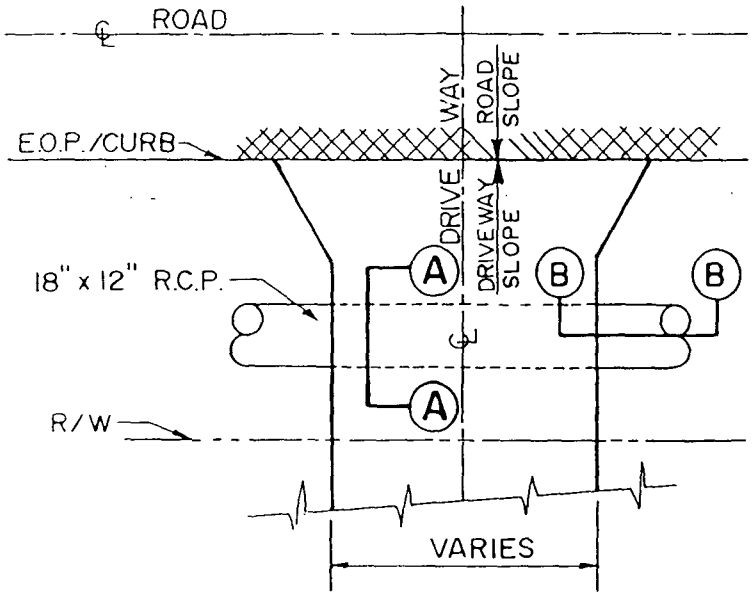
Exhibit 2 Plate 10

The Hydraulic Assessment is to evaluate and recommend adjustment to the water surface elevations, as required, to assure maximum retention and management of surface water while providing reasonable protection of the Cape Coral area from flooding during storms.

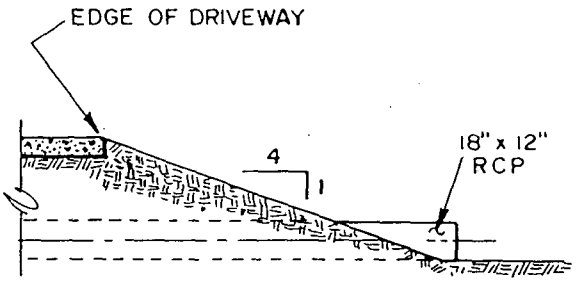
Included in the Assessment are the off-site drainage basin, storm drainage system evaluation, waterway analysis, control structure analysis, and discharge through the perimeter spreader waterway.

A report will be prepared depicting the Hydraulic System Assessment and recommendations for improvements to the system, such improvements to be implemented according thereto by GAC, upon concurrence by the District DER office.

RESIDENTIAL DRIVEWAYS



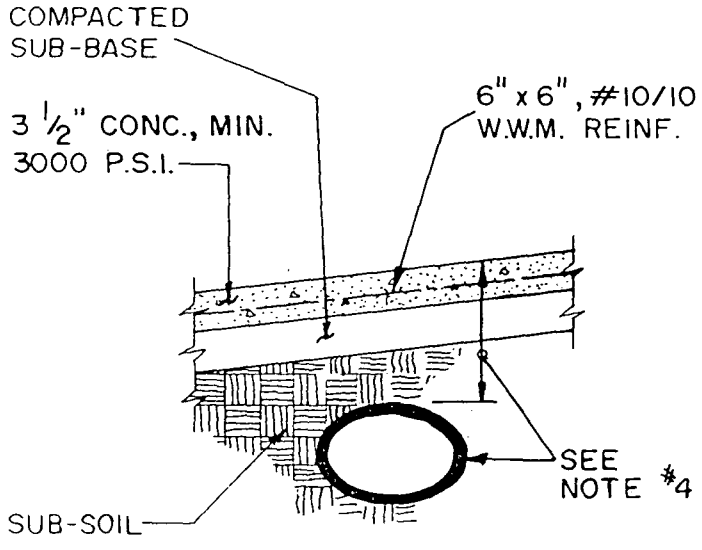
DRAINAGE PLAN



SECTION "B-B"
N T S

NOTES:

1. MINIMUM CROSS SLOPE GRADIENT OF DRIVEWAY SWALE IS 0.2%, OR MUST MATCH SWALE SLOPE.
2. IF COMBINED DRIVEWAY SLOPES EXCEED 12%, THEN A CULVERT DRIVE MUST BE CONSTRUCTED.
3. MAXIMUM CROSS SLOPE ELEVATION MUST NOT EXCEED THE HIGH END ELEVATION.
4. CULVERT:
   CONCRETE PIPE, MIN. 4" COVER.
   ALUMINIUM PIPE, MIN. 12" COVER.
   POLYETHYLENE PIPE, MIN. 12" COVER.



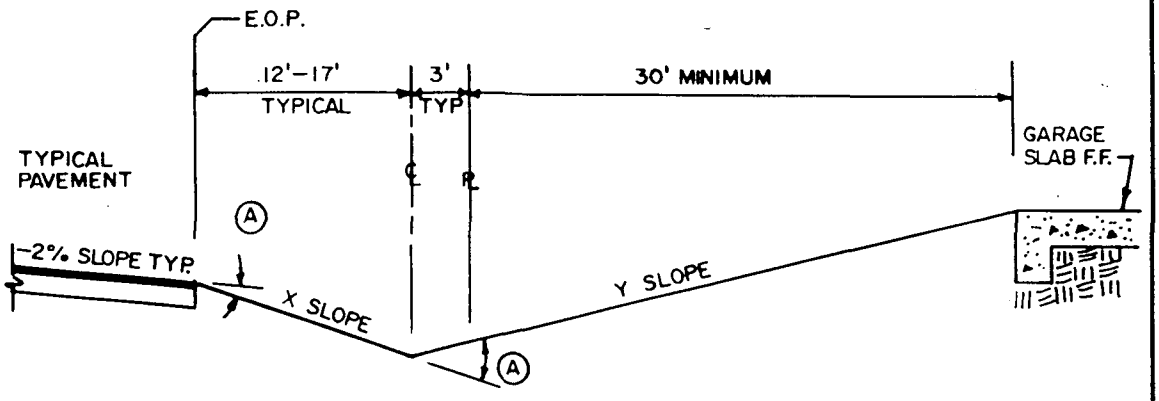
TYP. SECTION at "A-A"

CITY of CAPE CORAL ENGINEERING STANDARD

APPROVED: CITY ENGINEER	TITLE: DRIVEWAY DETAILS	REVISIONS: 12-14-90	SHEET No. 26
	DATE 9-27-88		

CASE #1

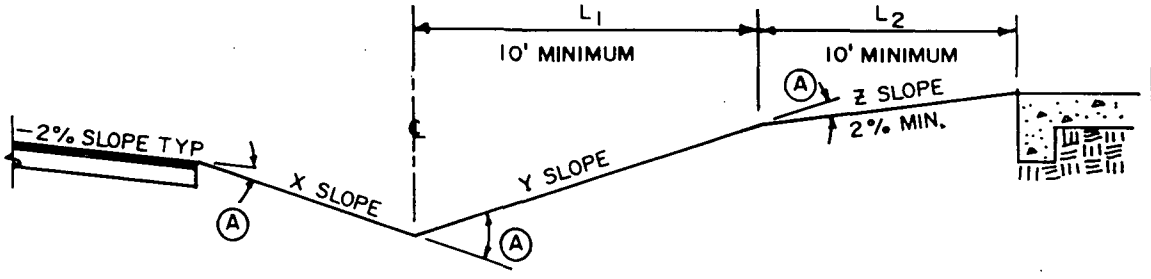
$X \leq -14\%$
&
$|X| + |Y| \leq 12\%$



SWALE DRIVE

CASE #2

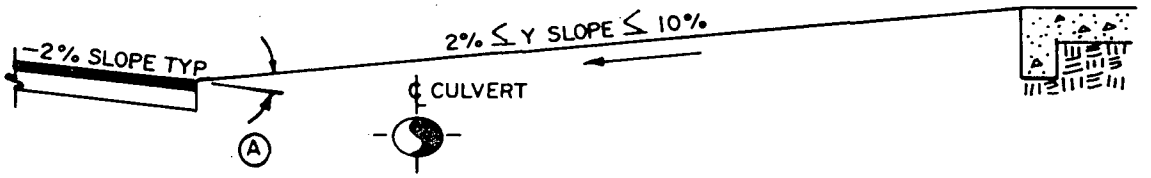
$X \leq -14\%$
&
$|X| + |Y| \leq 12\%$
&
$|Y| - |Z| \leq 12\%$



SWALE DRIVE

CASE #3

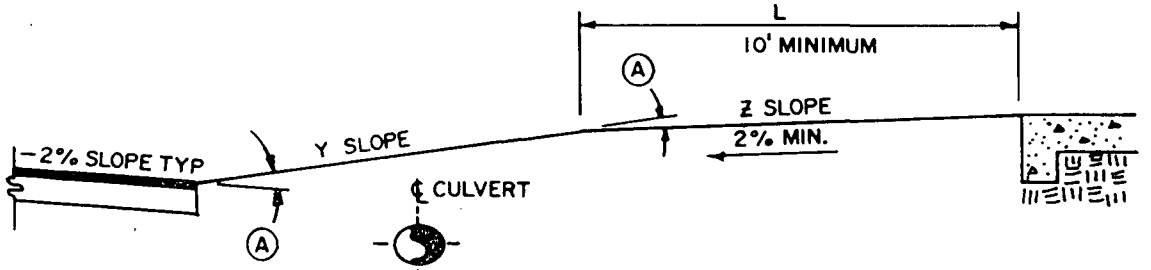
$2\% \leq Y \leq 10\%$



CULVERT DRIVE

CASE #4

$Y \leq 10\%$
&
$|Y| - |Z| \leq 10\%$



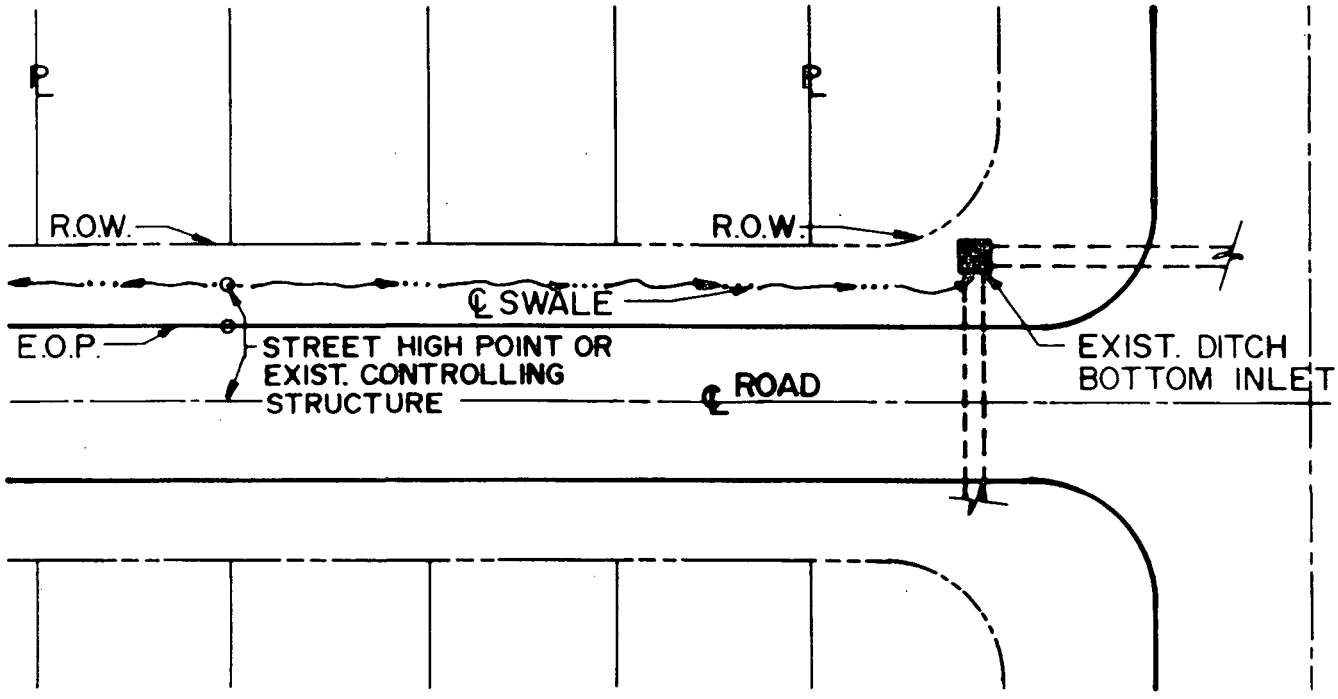
CULVERT DRIVE

(A) MAXIMUM SLOPE DEVIATION AT ANY VERTICAL ANGLE POINT NOT TO EXCEED 12%.

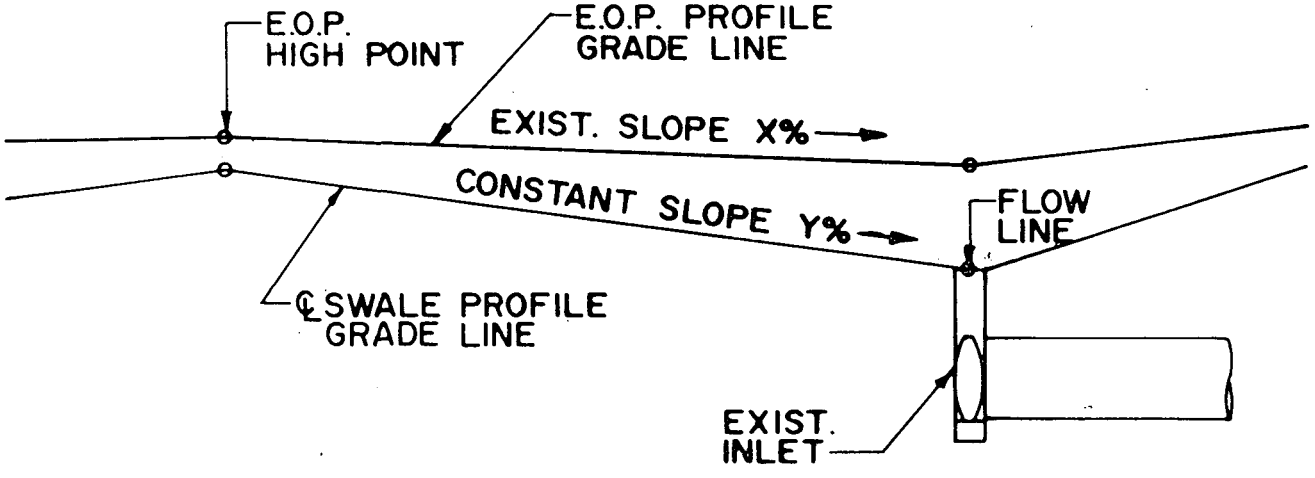
1. SWALE & CULVERT ℄ SHALL BE DETERMINED BY ENGINEERING DEPT.

CITY of CAPE CORAL
ENGINEERING STANDARD

APPROVED:	TITLE:	REVISIONS:	SHEET No.
CITY ENGINEER	TYPICAL DRIVEWAY SECTIONS		24
	DATE 7-9-89		



PLAN VIEW



PROFILE VIEW

CITY of CAPE CORAL
ENGINEERING STANDARD

APPROVED: CITY ENGINEER	TITLE: TYPICAL SWALE GRADIENT DESIGN PROCEDURE DATE 4-19-89	REVISIONS:	SHEET No. 27

BEFORE THE STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL REGULATION

DEPARTMENT OF ENVIRONMENTAL REGULATION)
)
vs.)
)
GAC PROPERTIES, INC.,)
)
Lee County, Florida.)

MODIFICATION TO CONSENT ORDER

The Department of Environmental Regulation (herein referred to as the "Department") and Frank J. Callahan and Herbert S. Freehling, as Co-Trustees of the GAC Corporation, GAC Properties Credit, Inc., and GAC Properties, Inc. (hereinafter referred to as "GAC") in executing the provisions of Consent Order No. 15 have found that certain modifications need to be made to the above mentioned Consent Order in order to carry out the environmental aims of the order.

Accordingly, the previously executed Consent Order (Order No. 15) is modified as follows:

1. All mosquito control ditches or other water courses in Unit 29 to be intersected by the spreader canal will be plugged east of and adjacent to the spreader canal excavation in a manner previously approved by the Department's district office;

2. All excavated material will be deposited in a location previously approved by the Department's district office;

3. The South Florida District Office of the Department is delegated the authority to approve in writing minor changes in the design of the spreader canal which it finds will enhance the function of the spreader canal or preserve additional wetland areas; and

4. Exhibit 2 of the Consent Order (Order No. 15) is modified by agreement of the parties as shown on the attachment

to this Modification to Consent Order and which is marked Exhibit 2, plate 3, revised December/1978.

Consented to by GAC this 18TH day of April, 1979.

HERBERT S. FREEHLING
as Co-Trustees

FRANK J. CALLAHAN
as Co-Trustee

DATED AND ENTERED this 27TH day of April, 1979.

JACOB D. VARN
Secretary

Department of Environmental Regulation
2600 Blair Stone Road
Twin Towers Office Building
Tallahassee, Florida 32301

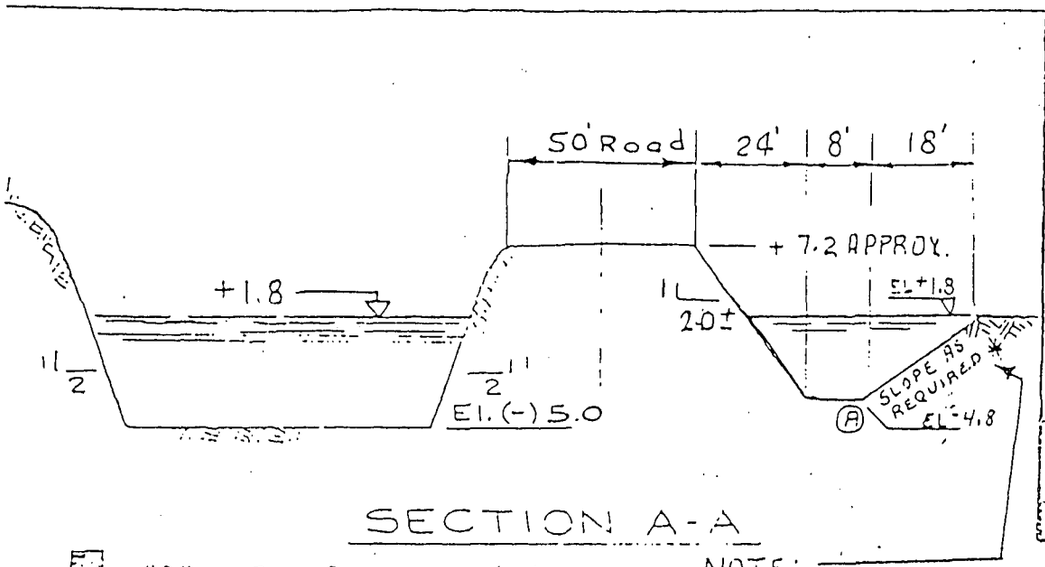
Exhibit 2 Plate 3

REVISED: DEC/1978

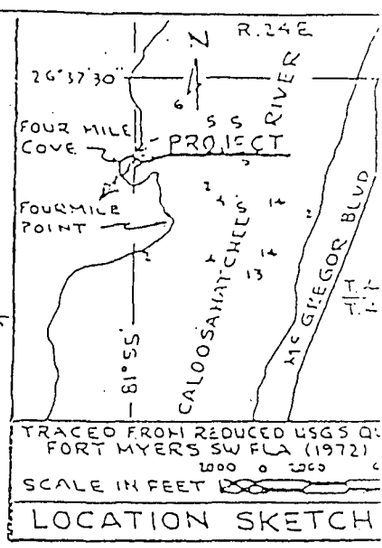
C_3

UNIT 89

36-10-35-1
75K-1005



SECTION A-A



"A" - Development Limits

Preserve Area

NOTE: ALL ELEVATIONS REFER TO M.S.L. DATUM.

NOTE:
IF EXISTING GROUND ALONG NON-DEVELOPMEN
PLAT LINE OF SPREADER W.W. IS LESS THA
EL. +1.8 M.S.L, FILL TO EL. +2.5 M.S.L. AND
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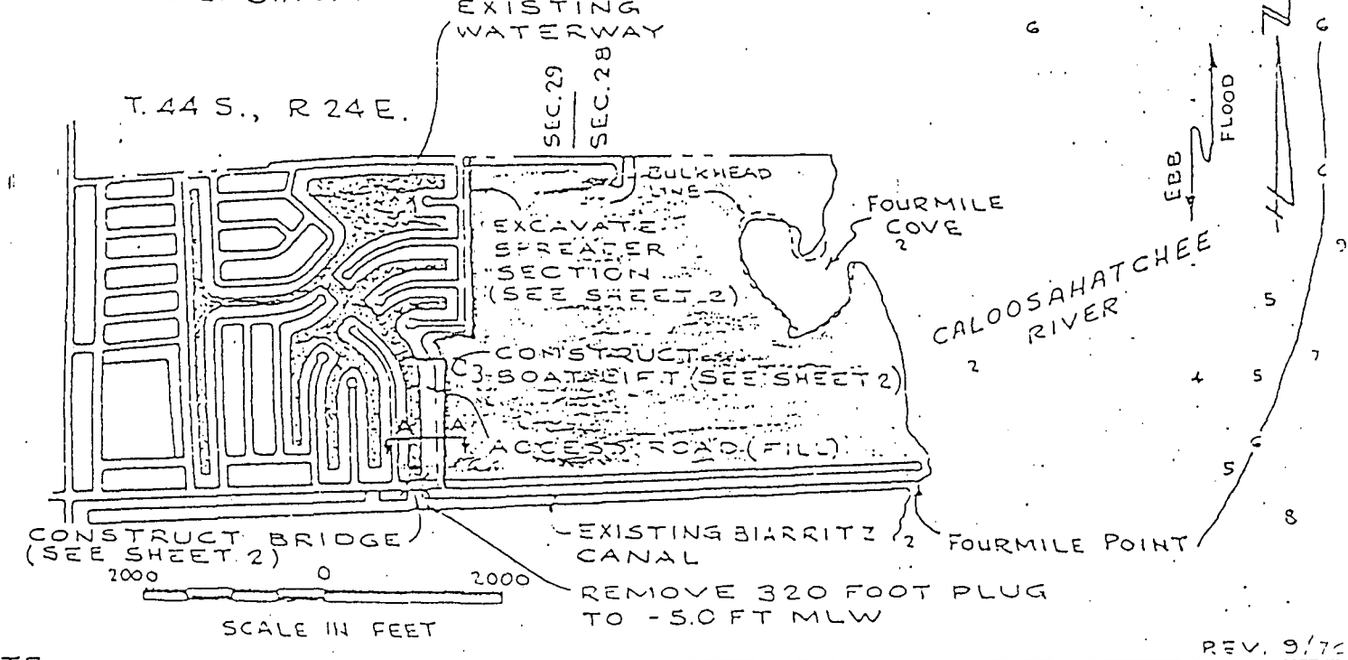

NOTE

APPROXIMATELY 600 C.Y. OF SANDY MATERIAL TO BE DREDGED FROM BELOW MHW LINE AND PLACED ON APPLICANTS UPLAND BEHIND SUITABLE DIKES.

SEE ATTACHED LIST FOR ADJACENT RIPARIAN OWNERS.

REV. 9/7

GEE & JENSON CONSULTING ENGINEERS, INC.
WEST PALM BEACH FLORIDA

UNIT 89 DEVELOPMENT & CHANNEL
BIARRITZ CANAL
LEE COUNTY, FLORIDA
APPLICANT: GAC PROPERTIES, INC.

DESIGNED	DRAWN	CHECKED	JOB NO.	DRAWING NO.
D.H.D.	M.G.B.		72-45	
DATE	SCALE	APPROVED:	FILE NO.	SHEET 1 OF 2
MAY 75	NOTED			

DER Contract No. WM106

DEPARTMENT OF ENVIRONMENTAL REGULATION

AGREEMENT FOR

A WATER QUALITY AND CANAL

MANAGEMENT PROGRAM

This agreement is entered into between the DEPARTMENT OF ENVIRONMENTAL REGULATION, hereinafter referred to as DER, and the CITY OF CAPE CORAL, hereinafter referred to as the CONTRACTOR.

WITNESSETH:

WHEREAS, during the development of the City of Cape Coral, extensive dredge and fill work was completed by Gulf American Corporation (GAC); and

WHEREAS, in 1977 the DER and GAC entered into Consent Order #15 to resolve alleged permit violations in the dredge and fill operations; and

WHEREAS, as a part of this Consent Order GAC was required to deposit $200,000 per year for five consecutive years into a Pollution Recovery Trust Fund; and

WHEREAS, the Consent Order states that "this money shall be used at the discretion of the Secretary of the DER, which use shall nonetheless be restricted in use to study water quality and quantity problems in the Cape Coral and Golden Gate Estates areas, to propose solutions to the problems identified and as funds allow, to correct the identified problems in both projects"; and

WHEREAS, the 208 Water Quality Study has been completed and the CONTRACTOR is in a position to design and implement the water quality management programs; and

WHEREAS, there are sufficient funds in the Pollution Recovery Trust Fund to accomplish the water quality management program.

NOW, THEREFORE, the parties hereto agree as follows:

CONTRACTOR RESPOI 3ILITIES

The CONTRACTOR shall implement a water quality and canal management program in accordance with ATTACHMENT I - SCOPE OF SERVICES, attached hereto and made a part hereof.

REPORTS

CONTRACTOR shall submit monthly reports on water quality data and quarterly progress reports to the DER project manager. The final report shall be due 30 days after contract completion.

TERM OF AGREEMENT

This contract is effective on the date of execution and shall remain in effect until April 1, 1987, by which date all requirements shall have been completed.

COMPENSATION

For satisfactory performance, DER agrees to compensate the CONTRACTOR on a lump sum basis in the amount of $60,000. This amount shall be at least matched by the CONTRACTOR.

PAYMENTS

The CONTRACTOR may invoice the DER on a convenient basis, but not more frequently than monthly, based on percentage of completion of the project. The invoice shall also reflect the amount of funds expended by the City as match in connection with this project.

A final invoice must be submitted within 30 days of contract completion.

MANAGEMENT

The DER Project Manager is Ms. Gail M. Sloane, Phone 813/332-2667. The CONTRACTOR's Project Manager is

Mr. Ellis Shapiro City Manager), Phone 813, 4-0412. All matters shall be directed to the project managers for appropriate action or disposition.

The CONTRACTOR agrees to the following terms:

1. The DER may terminate this contract for its convenience. In this event, the CONTRACTOR shall be compensated for work completed and irrevocable commitments made.

2. All services shall be performed by the CONTRACTOR in accordance with the attached scope of services to the satisfaction of the Secretary of the DER or her designated representative.

3. If the CONTRACTOR fails to perform in a timely and proper manner, in the judgment of DER, DER may terminate the contract by written notice, specifying the effective time/date. In this event, the CONTRACTOR will be compensated for any work satisfactorily completed.

4. The DER may at any time, by written order designated to be a change order, make any change in the work within the general scope of the agreement (e.g., specifications; time; method or manner of performance; requirements; etc.). Any change order which causes any increase or decrease in the CONTRACTOR's cost or time shall require an appropriate adjustment and modification (amendment) to the agreement.

5. The CONTRACTOR shall maintain books, records and documents directly pertinent to performance under this agreement in accordance with generally accepted accounting principles consistently applied. The DER, the State, or their authorized representatives shall have access to such records for audit purposes during the term of the contract and for three years following contract completion.

6. The CONTRACTOR agrees to indemnify, defend, save and hold harmless the DER from all claims, demands, liabilities and

suits of any nature arising out of, because of, or due to any act by the CONTRACTOR, its agents or employees to the extent permitted by Florida law.

7. The CONTRACTOR covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

8. The CONTRACTOR warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee exepting bona fide employees or agencies maintained by the CONTRACTOR for the purpose of securing business.

9. The DER reserves the right to unilaterally cancel this agreement for refusal by the CONTRACTOR to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CONTRACTOR in conjunction with this contract.

It is expressly understood and agreed that this contract states the entire agreement and that the parties are not bound by any stipulations, representations or promises not printed in this contract.

CITY OF CAPE CORAL

DATE: 5/28/85

FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION

~~Assistant~~ Secretary

DATE: 5/8/85

ATTACHMENT 1

SCOPE OF SERVICES

The City of Cape Coral agrees to implement the following recommentations of the 208 Water Quality Study:

1. Retain a qualified aquatic scientist at the staff level. The responsibilities of this position would include:

   a. Assist the Planning Department and the City Council in the development of the Management Action Plan (MAP).

   b. Assist in the day-to-day activities needed to implement the MAP.

   c. Coordinate and oversee the canal maintenance programs and canal-related activities (educational programs, stormwater management, dredge and fill activities).

   d. Interface with Planning and Public Works Departments and relevant County, State, and Federal agencies.

   e. Conduct an on-going water quality monitoring program and assess the information to determine problem areas and the effectiveness of the MAP.

   f. Conduct special projects and studies related to the Cape Coral waterway system (i.e. aquatic plant management experiments, littoral zone enhancement projects, stormwater system monitoring, etc.).

   g. Coordinate funding sources for canal maintenance (i.e. GAC Pollution Recovery Trust Fund for water quality enhancement and DNR for aquatic plant management programs).

2. Establish a Water Advisory Board or expand the authority of the existing Environmental Task Force to:

   a. Establish use priorities for the freshwater canal system to mimimize conflicting practices.

   b. Assist in the formulation of canal management policies.

   c. Examine the feasibility of establishing a Waterways Management Division.

3. Establish a citizens' awareness program concerning the waterway system.

   a. This program would be developed and administered by the City's aquatic scientist.

   b. Disseminate relevant information on homeowners' impacts on water quality, boating impacts, erosion control measures, aquatic plant management, etc.

   c. Periodically distribute and assess water quality awareness questionnaires to gauge citizens' understanding of canal problems and solutions.

   d. Develop City-sponsored fishing tounaments and other water-related activities to promote public awareness of the canal system.

   e. Encourage media coverage of water-related activities, problems and solutions.

4. Establish an on-going water quality monitoring program at selected sites to identify developing problem areas and gauge the effectiveness of stormwater and canal management activities.

a. Recommended Parameters and Frequency

(1)	Dissolved oxygen profiles	(monthly)
(2)	pH	(monthly)
(3)	Specific conductance / Turbidity	(monthly)
(4)	Nitrogen species	(monthly)
(5)	Phosphorus species	(monthly)
(6)	Suspended solids	(monthly)
(7)	Turbidity	(monthly)
(8)	Fecal Coliform Bacteria / Total	(monthly)
(9)	Oil and Grease	(monthly)
(10)	Total Chlorophyll	(monthly)
(11)	Chlorophyll a (Phaeophyton corrected)	(monthly)
(12)	Copper	(monthly)
(13)	Phytoplankton (Number and Composition)	(seasonally)
(14)	Aquatic Macrophytes (Type & Percent Coverage)	(seasonally)
(15)	Cadmium	(annually)
(16)	Lead	(annually)
(17)	Pesticide Scan	(annually)

b. Potential Monitoring Sites

Gator Slough Canal (BF-1)
Lake Manitoba (BL-1)
Lake Holiday (BL-3)
Lake Kennedy (BL-2)
Lake Shamrock (BF-12)
Chipley Canal (Nobility Homes) (BF-4)
Meade Canal (BF-7)
San Carlos Canal (BF-3)
Selected, undeveloped canal and lake sites
Spreader waterways

c. Potential Funding Sources

(1) GAC Pollution Recovery Trust Fund
(2) Annual maintenance fees based on property assessment

5. Intense motorboating activity should be discouraged in the landlocked freshwater areas. This could be accomplished by "no wake" or horsepower restriction ordinances. This would not affect boating in open tidal canal areas or the spreader waterway system. Motorboating contributes petroleum based hydrocarbons which adversely affects aquatic life and potable and nonpotable water supplies. Additionally, large horsepower motorboats will increase turbidity and nutrient levels by resuspending bottom sediments in shallow areas of less than 8 feet. This can shade out the beneficial aquatic macrophytes and encourage algae growth, in turn requiring herbicide treatments.

6. Encourage passive boating (i.e. canoeing and small sail boats) in the freshwater system.

7. Establish a routine street sweeping and catch basin cleaning program for the urbanized areas, especially for curb and gutter areas and large parking lots (i.e., shopping centers). A regenerative, vacuum-type street sweeper should be used for maximum effectiveness.

8. Formulate and implement an erosion control ordinance. The Environmental Element of the City's Comprehensive Plan provides a good model ordinance.

9. Strengthen the swale maintenance and inspection program. It is recommended the program:

a. Prohibit filling or culverting of swales.

b. Ensure swales are at design depths and widths, grassed and free of debris.

c. Clean catch basins in swale areas regularly.

d. Require development to reestablish swale design criteria and revegetate swale bottoms in newly developing areas.

10. Increase stormwater retention/detention in the City.

a. Revise the recommended on-site stormwater retention formula provided in the Utilities Element of the City's Comprehensive Plan.

b. Locate additional off-site retention lakes (not existing lakes) in combination with the swale system, where needed.

c. Require an additional swale/berm system in the backyards of waterfront lots.

d. Where feasible, consider the expansion of the drainage box modifications program to provide swale retention, similar to the approach required by the GAC-DER Consent Agreement. Similar retention could be accomplished with small earth berms surrounding the drainage box or perpendicular to the swale.

e. Where retention is not feasible, consider a program of providing additional detention with filtration in the swale system. Additional detention/filtration devices include: V-notched earthen berms in swales, gravel berms, patches of thicker vegetation in swale bottoms, etc.

11. Reduce lawn fertilization amounts and frequency. Additionally encourage the use of organic or slow-release fertilizers (i.e., properly treated sewage effluent). These can be accomplished through citizen's awareness programs.

12. Encourage native or low maintenance vegetation for yard and shoreline landscaping.

13. Encourage pet owners to clean up after pets.

14. Ensure septic tanks are properly located and maintained. Conduct dye tracer studies in suspect septic tank areas. These are inexpensive and could be conducted by the City.

15. The Lee County Health Department has recently revised its septic tank criteria as a result of the Water Quality Assurance Act passed by the State Legislature in 1983. The Health Department recommends that public water be provided whenever 30% of a development unit is built-out, while public sewers are recommended whenever 50% of the unit is developed. Additionally, when any block, zoned single-family, reaches a 75% density or 50% for multi-family, no further septic tanks will be allowed until public water is provided.

The Health Department criteria are general and are not based on site-specific conditions, although individual permit applications require site-specific information. Even with this level of review, however, septic tank problems may occur. For example, stormwater sampling at the low density residential site (0.2 units/acre) near Academy Boulevard (S-2) provides strong evidence that elevated fecal coliform bacteria, nitrogen, and BOD levels in runoff and the sustained high bacteria levels in San Carlos Canal were a result of malfunctioning septic tanks. Elevated water table levels during wet weather conditions may enhance groundwater and stormwater mixing. This may result in septic tank effluent discharges into the canal through the swale system.

The Health Department density criteria should be used as a general guideline. If public health or water quality problems are evident prior to reaching the recommended

density thres. lds, however, these shoul. be corrected immediately. These can be corrected by repairing the faulty septic tank(s) or if feasible, sewering the problem area.

16. Formulate a long-range, integrated aquatic plant management program for the freshwater canal/lake system with assistance of Lee County Hyacinth Control District. This program should include the use of chemical, biological, environmental manipulation, and mechanical aquatic plant management strategies.

17. Ensure adequate maintenance and public access points are available in the freshwater canal/lake system.

18. Encourage boat owners to inspect boats, trailers and propellers for aquatic plants after each use to prevent their transfer and spread to unaffected areas.

19. Encourage homeowners to remove automobile drippings on driveways. Sawdust can be used to remove residual oils. Additionally, waste oil recycling should be encouraged.

20. Cease current city-sludge spreading practices near surface water areas. Sludge spreading near Frontier Canal (BF-2 and BSSC 5) has resulted in frequent dissolved oxygen violations and nuisance aquatic plant growth.

21. Determine appropiate areas for sludge spreading.

22. Analyze the spreader waterway system to ensure its functional purpose and to determine baseline water quality and ecological conditions.

    The spreader waterway system on the City's western border was designed to collect stormwater runoff from the City and allow it to spread across wide wetland areas prior to discharging into the Matlacha Pass State Aquatic Preserve. In this manner, stormwater runoff is cleansed by the wetland vegetation and sheetflow is re-established prior to discharge into the aquatic preserve. This prevents abrupt salinity changes detrimental to most marine life.

    A few direct connections between the spreader waterway and Matlacha Pass State Aquatic Preserve have been observed. Periodical observations should be continued and remedial measures taken to prevent severe negative impacts on the aquatic preserve. The City, in conjunction with the Florida Department of Environmental Regulation, Florida Department of Natural Resources and Avatar, Inc., should undertake this examination. Monies in the GAC Pollution Recovery Trust Fund is a possible source to finance the needed studies and remedial measures.

WATER QUALITY MAN. .MENT PROPOSAL

Proposed Scope. In order to begin to implement the recommendations of the 208 Water Quality Study and begin a water quality management program, the City of Cape Coral requests the use of $30,000 from the DER Pollution Recovery Trust Fund per year for the next two (2) years. A match of at least $30,000 per year will be supplied by the City to ensure local support of the program.

The following expenditures are recommended for the implementation of the water quality management program. Any change or additional expenditures within the proposed budget are to be coordinated through the DER project manager.

First Year Estimated Budget

I.	Expenditures	
A.	Staff	
	Aquatic Biologist (Salary & Benefits) See Appendix E for Job Description	$30,000
B.	Equipment	
	(1) Dissolved Oxygen Meter	1,000
	(2) Conductivity Meter	1,000
	(3) pH Meter	1,000
	(4) Microscope	5,000
	(5) Coring Equipment	
	(a) Echman Dredge	
	(b) Bucket with filter screen	500
	(6) Various Chemicals	1,500
C.	Boat (Flat or V-Bottom)	1,000
	(1) 7 1/2 horsepower motor	1,000
	(2) Trailer	500
	(3) Truck	P. W. Dept.
D.	Miscellaneous Needs	
	(1) Glassware, samplers, rubber coat, boots, etc.	2,500
	(2) Lee. Co. Environmental Lab-contract work	5,000
	Office supplies, Printing Publications & Training	5,000
	Contingencies	5,000
	TOTAL	$60,000
II.	Revenue	
A.	DER/Pollution Recovery Trust Fund	$30,000
B.	City of Cape Coral	30,000
		$60,000

Second Year Estimated Budget

I.	Expenditures	
A.	Staff	
	Aquatic Biologist (Salary & Benefits)	$30,000

B.	Equipment	
1.	Various Chemicals	$ 2,000
2.	Supporting Materials	8,000
C.	Miscellaneous Needs	
1.	Lab-contract work	8,000
2.	Office supplies & printing	8,000
3.	Publications & Training	2,000
D.	Contingencies	2,000
	TOTAL	$60,000

II. Revenue

A.	DER/Pollution Recovery Trust Fund	$30,000
B.	City of Cape Coral	30,000
		$60,000

BEFORE THE STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL REGULATION

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HERBERT S. FREEHLING
as Co-Trustees

FRANK J. CALLAHAN
as Co-Trustee

DATED AND ENTERED this 27TH day of April, 1979.

JACOB D. VARN
Secretary

Department of Environmental Regulation
2600 Blair Stone Road
Twin Towers Office Building
Tallahassee, Florida 32301

Exhibit 2 Plate 3

REVISED: DEC/1978

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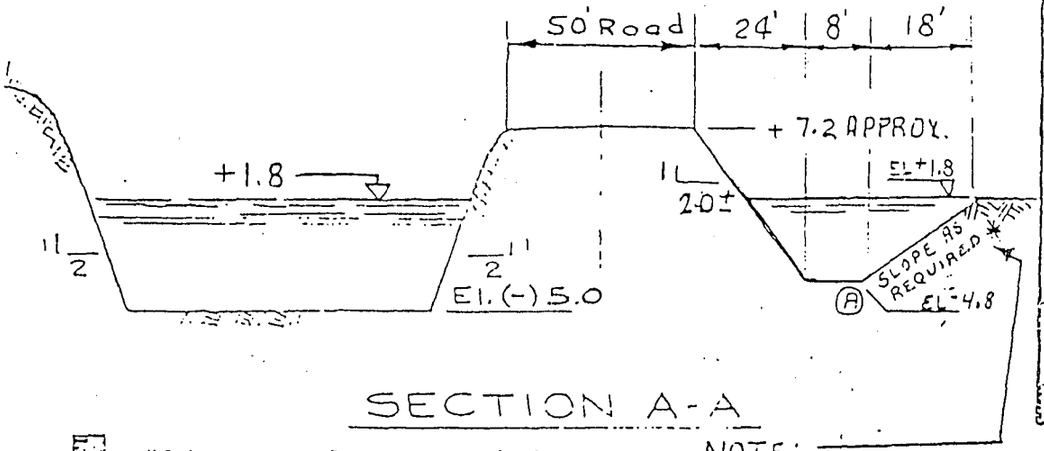
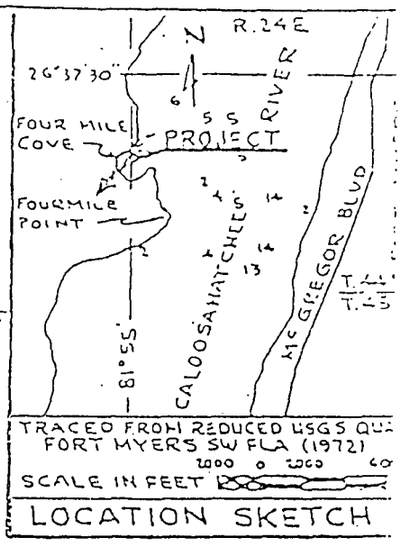
UNIT 89

36-10-3545
75K-1005



SECTION A-A



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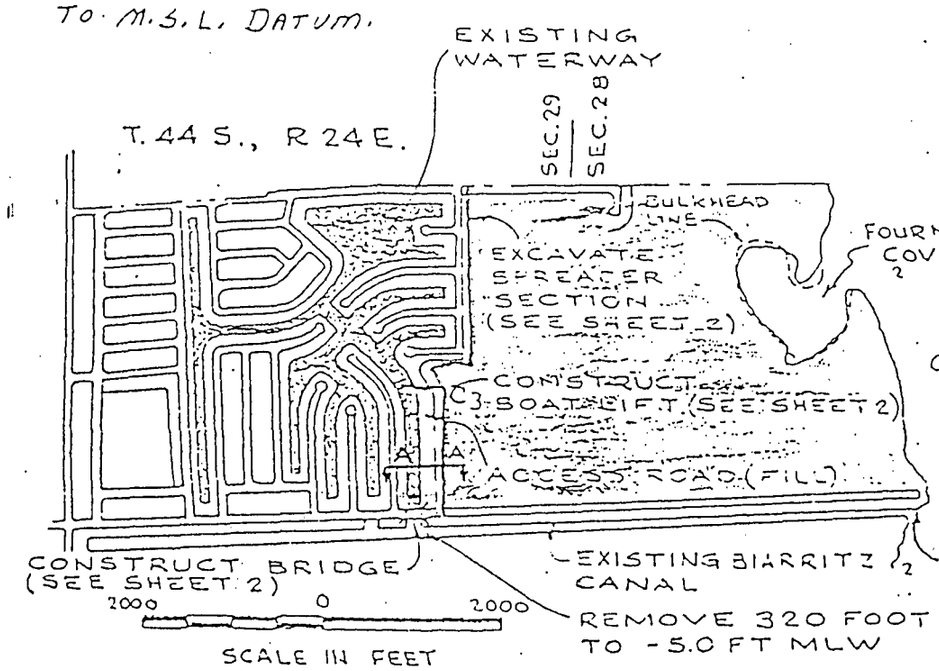

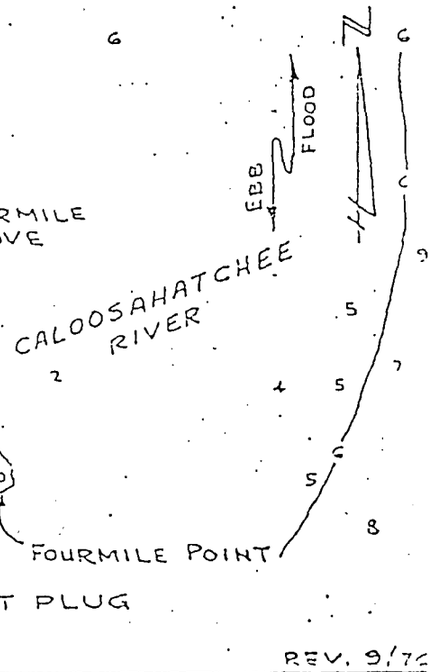

REV. 9/7

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GEE & JENSON CONSULTING ENGINEERS, INC.
WEST PALM BEACH FLORIDA

UNIT 89 DEVELOPMENT & CHANNEL
BIARRITZ CANAL
LEE COUNTY, FLORIDA
APPLICANT: GAC PROPERTIES, INC.

DESIGNED	DRAWN	CHECKED	JOB NO.	DRAWING NO.
D.H.D.	M.G.B.		72-45	
DATE	SCALE	APPROVED	FILE NO.	SHEET 1 OF 2
MAY 75	NOTED			

LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (941) 335-2236

John E. Manning
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

March 24, 1999

Caroline O. Ejimofor
Environmental Engineer
U.S. Environmental Protection Agency
Region 4
100 Alabama Street, S.W.
Atlanta, GA 30303-3014

Re: Lee County's NPDES Permit: Newly Formed Governmental Agencies

Dear Caroline:

Enclosed is a letter received by Attorney Bruce Anderson, requesting guidance on how to proceed when Community Development Districts (CDD), a special purpose government created by Florida Statutes Chapter 190, enclosed, are organized within the already permitted NPDES MS4 area. In Lee County, three community development districts have been created since Lee County submitted its original permit application in 1995, and two (2) others are under consideration. There is also the potential for a city to be incorporated in this county in the next few years. The three CDD's referenced above, have been enacted by the enclosed state administrative code, county and city ordinances, respectively.

Tony Pellicer has informed me that your duties have changed and your Lee County work is limited to the current permit modification (of which he also requests the status). Kindly direct this letter to the appropriate staff at the U.S. Environmental Protection Agency who can provide guidance for permit requirements for newly created entities. I am sure that U.S. E.P.A. has provided this type of guidance to other communities. The first issue is whether CDD's may join as a co-applicant. If so, the Shared Boundary Interlocal Agreement will need to be amended (and if acceptable to U.S. E.P.A., the amendment can be limited to those having a direct shared boundary rather than to all governments involved). Further, what would be the CDD's submittal requirements considering that we are extensively into our NPDES MS4 permit requirements.

Ejimofor NPDES.1.wpd

Re: Lee County's NPDES Permit

Your attention to this issue is appreciated. I look forward to the response received from the U.S. Environmental Protection Agency.

Sincerely yours,

Audrey E. Vance
Assistant County Attorney

AEV:pr
enclosures

cc: Larry Johnson, P.E., Director, Environmental Services
Roland E. Ottolini, P.E., Deputy Director, Environmental Services/Nat. Res.
Tony Pellicer, Natural Resources
Andy Tilton, P.E., Johnson Engineering
R. Bruce Anderson, Esq., Young, Van Assenderp & Varnadoe

YOUNG, VAN ASSENDERP & VARNADOE, P. A.
ATTORNEYS AT LAW

REPLY TO:

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PREVIOUSLY FAXED

RE: NPDES Interlocal Agreement, New Community Development Districts

Dear Ms. Vance:

As you may be aware, since the original Interlocal Agreement was entered into among Lee County and several special districts within the unincorporated area as co-applicants, there have been new community development districts established that will also be participating in the NPDES program. Is any formal amendment to the Interlocal Agreement necessary to add such new districts, or are they automatically added as parties since they would be subject to Lee County's general ordinance requirements?

Thank you for your attention to this matter. I look forward to hearing from you at your earliest convenience.

Sincerely,

R. Bruce Anderson

R. Bruce Anderson

cc: James P. Ward, Asst. District Manager

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CHAPTER 190

COMMUNITY DEVELOPMENT DISTRICTS

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190.001 Short title.—This act may be cited as the "Uniform Community Development District Act of 1980."

History.—s. 2, ch. 80-407.

190.002 Legislative findings, policies, and intent.

(1) The Legislature finds that:

(a) There is a need for uniform, focused, and fair procedures in state law to provide a reasonable alternative for the establishment, power, operation, and duration of independent districts to manage and finance basic community development services; and that, based upon a proper and fair determination of applicable facts, an independent district can constitute a timely, efficient, effective, responsive, and economic way to deliver these basic services, thereby providing a solution to the state's planning, management, and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening other governments and their taxpayers.

(b) It is in the public interest that any independent special district created pursuant to state law not outlive its usefulness and that the operation of such a district and the exercise by the district of its powers be consistent with applicable due process, disclosure, accountability, ethics, and government-in-the-sunshine requirements which apply both to governmental entities and to their elected and appointed officials.

(c) It is in the public interest that long-range planning, management, and financing and long-term maintenance, upkeep, and operation of basic services for community development districts be under one coordinated entity.

(2) It is the policy of this state:

(a) That the needless and indiscriminate proliferation, duplication, and fragmentation of local general-purpose government services by independent districts is not in the public interest.

(b) That independent districts are a legitimate alternative method available for use by the private and public sectors, as authorized by state law, to manage and finance basic services for community developments.

(c) That the exercise by any independent district of its powers as set forth by uniform general law comply with all applicable governmental laws, rules, regulations, and policies governing planning and permitting of the development to be serviced by the district, to ensure that neither the establishment nor operation of such district is a development order under chapter 380 and that the district so established does not have any zoning or permitting powers governing development.

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

(3) It is the legislative intent and purpose, based upon, and consistent with, its findings of fact and declarations of policy, to authorize a uniform procedure by general law to establish an independent special district as an alternative method to manage and finance basic services for community development. It is further the legislative intent and purpose to provide by general law for the uniform operation, exercise of power, and procedure for termination of any such independent district. It is further the purpose and intent of the Legislature that a district created under this chapter not have or exercise any zoning or development permitting power, that

the establishment of the independent community development district as provided in this act not be a development order within the meaning of chapter 380, and that all applicable planning and permitting laws, rules, regulations, and policies control the development of the land to be serviced by the district. It is further the purpose and intent of the Legislature that no debt or obligation of a district constitute a burden on any local general-purpose government without its consent.

History.—s. 2, ch. 80-407; s. 1, ch. 84-360.

190.003 Definitions.—As used in this chapter, the term:

(1) "Ad valorem bonds" means bonds which are payable from the proceeds of ad valorem taxes levied on real and tangible personal property and which are generally referred to as general obligation bonds.

(2) "Assessable improvements" means, without limitation, any and all public improvements and community facilities that the district is empowered to provide in accordance with this act.

(3) "Assessment bonds" means special obligations of the district which are payable solely from proceeds of the special assessments levied for an assessable project.

(4) "Board" or "board of supervisors" means the governing board of the district or, if such board has been abolished, the board, body, or commission succeeding to the principal functions thereof or to whom the powers given to the board by this act have been given by law.

(5) "Bond" includes "certificate," and the provisions which are applicable to bonds are equally applicable to certificates. The term "bond" includes any general obligation bond, assessment bond, refunding bond, revenue bond, and other such obligation in the nature of a bond as is provided for in this act, as the case may be.

(6) "Community development district" means a local unit of special-purpose government which is created pursuant to this act and limited to the performance of those specialized functions authorized by this act; the boundaries of which are contained wholly within a single county; the governing head of which is a body created, organized, and constituted and authorized to function specifically as prescribed in this act for the delivery of urban community development services; and the formation, powers, governing body, operation, duration, accountability, requirements for disclosure, and termination of which are as required by general law.

(7) "Cost," when used with reference to any project, includes, but is not limited to:

(a) The expenses of determining the feasibility or practicability of acquisition, construction, or reconstruction.

(b) The cost of surveys, estimates, plans, and specifications.

(c) The cost of improvements.

(d) Engineering, fiscal, and legal expenses and charges.

(e) The cost of all labor, materials, machinery, and equipment.

(f) The cost of all lands, properties, rights, easements, and franchises acquired.

(g) Financing charges.

(h) The creation of initial reserve and debt service funds.

(i) Working capital.

(j) Interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine.

(k) The cost of issuance of bonds pursuant to this act, including advertisements and printing.

(l) The cost of any election held pursuant to this act and all other expenses of issuance of bonds.

(m) The discount, if any, on the sale or exchange of bonds.

(n) Administrative expenses.

(o) Such other expenses as may be necessary or incidental to the acquisition, construction, or reconstruction of any project or to the financing thereof, or to the development of any lands within the district.

(p) Payments, contributions, dedications, and any other exactions required as a condition to receive any government approval or permit necessary to accomplish any district purpose.

(8) "District" means the community development district.

(9) "District manager" means the manager of the district.

(10) "District roads" means highways, streets, roads, alleys, sidewalks, landscaping, storm drains, bridges, and thoroughfares of all kinds and descriptions.

(11) "Elector" means a landowner or qualified elector.

(12) "General obligation bonds" means bonds which are secured by, or provide for their payment by, the pledge, in addition to those special taxes levied for their discharge and such other sources as may be provided for their payment or pledged as security under the resolution authorizing their issuance, of the full faith and credit and taxing power of the district and for payment of which recourse may be had against the general fund of the district.

(13) "Landowner" means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it does not include a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act.

(14) "Local general-purpose government" means a county, municipality, or consolidated city-county government.

(15) "Project" means any development, improvement, property, utility, facility, works, enterprise, or service now existing or hereafter undertaken or established under the provisions of this act.

(16) "Qualified elector" means any person at least 18 years of age who is a citizen of the United States, a legal resident of Florida and of the district, and who registers to vote with the supervisor of elections in the county in which the district land is located.

(17) "Refunding bonds" means bonds issued to refinance outstanding bonds of any type and the interest

and redemption premium thereon. Refunding bonds shall be issuable and payable in the same manner as the refinanced bonds, except that no approval by the electorate shall be required unless required by the State Constitution.

(18) "Revenue bonds" means obligations of the district which are payable from revenues derived from sources other than ad valorem taxes on real or tangible personal property and which do not pledge the property, credit, or general tax revenue of the district.

(19) "Sewer system" means any plant, system, facility, or property, and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the collection, treatment, purification, or disposal of sewage, including, without limitation, industrial wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resource. Without limiting the generality of the foregoing, the term "sewer system" includes treatment plants, pumping stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines, mains, and all necessary appurtenances and equipment; all sewer mains, laterals, and other devices for the reception and collection of sewage from premises connected therewith; and all real and personal property and any interest therein, rights, easements, and franchises of any nature relating to any such system and necessary or convenient for operation thereof.

(20) "Water management and control facilities" means any lakes, canals, ditches, reservoirs, dams, levees, sluiceways, floodways, pumping stations, or any other works, structures, or facilities for the conservation, control, development, utilization, and disposal of water, and any purposes appurtenant, necessary, or incidental thereto. The term "water management and control facilities" includes all real and personal property and any interest therein, rights, easements, and franchises of any nature relating to any such water management and control facilities or necessary or convenient for the acquisition, construction, reconstruction, operation, or maintenance thereof.

(21) "Water system" means any plant, system, facility, or property and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the development of sources, treatment, or purification and distribution of water. Without limiting the generality of the foregoing, the term "water system" includes dams, reservoirs, storage, tanks, mains, lines, valves, pumping stations, laterals, and pipes for the purpose of carrying water to the premises connected with such system, and all rights, easements, and franchises of any nature relating to any such system and necessary or convenient for the operation thereof.

History.—s. 2, ch. 80-407; s. 2, ch. 84-360; s. 10, ch. 87-363; s. 2, ch. 91-308.

190.004 Preemption; sole authority.—

(1) This act constitutes the sole authorization for the future establishment of independent community development districts which have any of the specialized functions and powers provided by this act.

(2) This act does not affect any community development district or other special district existing on June 29, 1984; and existing community development districts will continue to be subject to the provisions of chapter 80-407, Laws of Florida.

(3) The creation of an independent community development district as provided in this act is not a development order within the meaning of chapter 380. All governmental planning, environmental, and land development laws, regulations, and ordinances apply to all development of the land within a community development district. Community development districts do not have the power of a local government to adopt a comprehensive plan, building code, or land development code, as those terms are defined in the Local Government Comprehensive Planning and Land Development Regulation Act. A district shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the applicable local general-purpose government.

History.—s. 2, ch. 80-407; s. 3, ch. 84-360; s. 27, ch. 85-55; s. 34, ch. 87-224.

190.005 Establishment of district.—

(1) The exclusive and uniform method for the establishment of a community development district with a size of 1,000 acres or more shall be pursuant to a rule, adopted under chapter 120 by the Florida Land and Water Adjudicatory Commission, granting a petition for the establishment of a community development district.

(a) A petition for the establishment of a community development district shall be filed by the petitioner with the Florida Land and Water Adjudicatory Commission. The petition shall contain:

1. A metes and bounds description of the external boundaries of the district. Any real property within the external boundaries of the district which is to be excluded from the district shall be specifically described, and the last known address of all owners of such real property shall be listed. The petition shall also address the impact of the proposed district on any real property within the external boundaries of the district which is to be excluded from the district.

2. The written consent to the establishment of the district by the owner or owners of 100 percent of the real property to be included in the district or documentation demonstrating that the petitioner has control by deed, trust agreement, contract, or option of 100 percent of the real property to be included in the district.

3. A designation of five persons to be the initial members of the board of supervisors, who shall serve in that office until replaced by elected members as provided in s. 190.006.

4. The proposed name of the district.

5. A map of the proposed district showing current major trunk water mains and sewer interceptors and outfalls if in existence.

6. Based upon available data, the proposed timetable for construction of the district services and the estimated cost of constructing the proposed services. These estimates shall be submitted in good faith but shall not be binding and may be subject to change.

7. A designation of the future general distribution, location, and extent of public and private uses of land proposed for the area within the district by the future land use plan element of the effective local government comprehensive plan of which all mandatory elements have been adopted by the applicable general-purpose local government in compliance with the Local Government Comprehensive Planning and Land Development Regulation Act.

8. A statement of estimated regulatory costs in accordance with the requirements of s. 120.541.

(b) Prior to filing the petition, the petitioner shall:

1. Pay a filing fee of $15,000 to the county and to each municipality the boundaries of which are contiguous with, or contain all or a portion of the land within, the external boundaries of the district.

2. Submit a copy of the petition to the county and to each municipality the boundaries of which are contiguous with, or contain all or a portion of, the land within the external boundaries of the district.

(c) Such county and each such municipality may conduct a public hearing to consider the relationship of the petition to the factors specified in paragraph (e). The public hearing shall be concluded within 45 days after the date the petition is filed unless an extension of time is requested by the petitioner and granted by the county or municipality. The county or municipality holding such public hearing may by resolution express its support of, or objection to the granting of, the petition by the Florida Land and Water Adjudicatory Commission. A resolution must base any objection to the granting of the petition upon the factors specified in paragraph (e). Such county or municipality may present its resolution of support or objection at the Florida Land and Water Adjudicatory Commission hearing and shall be afforded an opportunity to present relevant information in support of its resolution.

(d) A local public hearing on the petition shall be conducted by a hearing officer in conformance with the applicable requirements and procedures of the Administrative Procedure Act. The hearing shall include oral and written comments on the petition pertinent to the factors specified in paragraph (e). The hearing shall be held at an accessible location in the county in which the community development district is to be located. The petitioner shall cause a notice of the hearing to be published in a newspaper at least once a week for the 4 successive weeks immediately prior to the hearing. Such notice shall give the time and place for the hearing, a description of the area to be included in the district, which description shall include a map showing clearly the area to be covered by the district, and any other relevant information which the establishing governing bodies may require. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county and of general interest and readership in the community, not one of limited subject matter, pursuant to chapter 50. Whenever possible, the advertisement shall appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the community is published fewer than 5 days a week. All affected units of general-purpose local government and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition.

(e) The Florida Land and Water Adjudicatory Commission shall consider the entire record of the local hearing, the transcript of the hearing, resolutions adopted by local general-purpose governments as provided in paragraph (c), and the following factors and make a determination to grant or deny a petition for the establishment of a community development district:

1. Whether all statements contained within the petition have been found to be true and correct.

2. Whether the creation of the district is inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan.

3. Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

4. Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.

5. Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

6. Whether the area that will be served by the district is amenable to separate special-district government.

(f) The Florida Land and Water Adjudicatory Commission shall not adopt any rule which would expand, modify, or delete any provision of the uniform community development district charter as set forth in ss. 190.006 through 190.041, except as provided in s. 190.012. A rule establishing a community development district shall:

1. Describe the external boundaries of the district and any real property within the external boundaries of the district which is to be excluded.

2. Name five persons designated to be the initial members of the board of supervisors.

3. Name the district.

(2) The exclusive and uniform method for the establishment of a community development district of less than 1,000 acres in size shall be pursuant to an ordinance adopted by the county commission of the county having jurisdiction over the majority of land in the area in which the district is to be located granting a petition for the establishment of a community development district as follows:

(a) A petition for the establishment of a community development district shall be filed by the petitioner with the county commission. The petition shall contain the same information as required in paragraph (1)(a).

(b) A public hearing on the petition shall be conducted by the county commission in accordance with the requirements and procedures of paragraph (1)(d).

(c) The county commission shall consider the record of the public hearing and the factors set forth in

paragraph (1)(e) in making its determination to grant or deny a petition for the establishment of a community development district.

(d) The county commission shall not adopt any ordinance which would expand, modify, or delete any provision of the uniform community development district charter as set forth in ss. 190.006 through 190.041. An ordinance establishing a community development district shall include the matters provided for in paragraph (1)(f).

(e) If all of the land in the area for the proposed district is within the territorial jurisdiction of a municipal corporation, then the petition requesting establishment of a community development district under this act shall be filed by the petitioner with that particular municipal corporation. In such event, the duties of the county, hereinabove described, in action upon the petition shall be the duties of the municipal corporation. If any of the land area of a proposed district is within the land area of a municipality, the county commission may not create the district without municipal approval.

(f) Notwithstanding any other provision of this subsection, within 90 days after a petition for the establishment of a community development district has been filed pursuant to this subsection, the governing body of the county or municipal corporation may transfer the petition to the Florida Land and Water Adjudicatory Commission, which shall make the determination to grant or deny the petition as provided in subsection (1). A county or municipal corporation shall have no right or power to grant or deny a petition that has been transferred to the Florida Land and Water Adjudicatory Commission.

(3) The governing body of any existing special district, created to provide one or more of the public improvements and community facilities authorized by this act, may petition, pursuant to this act, for reestablishment of the existing district as a community development district pursuant to this act. In such case, the new district so formed shall assume the existing obligations, indebtedness, and guarantees of indebtedness of the district so subsumed, and the existing district shall be terminated.

History.—s. 2, ch. 80-407; ss. 4, 5, ch. 84-360; s. 28, ch. 85-55; s. 35, ch. 87-224; s. 34, ch. 96-410.

190.006 Board of supervisors; members and meetings.—

(1) The board of the district shall exercise the powers granted to the district pursuant to this act. The board shall consist of five members; except as otherwise provided herein, each member shall hold office for a term of 4 years and until a successor is chosen and qualifies. The members of the board must be residents of the state and citizens of the United States.

(2)(a) Within 90 days following the effective date of the rule or ordinance establishing the district, there shall be held a meeting of the landowners of the district for the purpose of electing five supervisors for the district. Notice of the landowners' meeting shall be published once a week for 2 consecutive weeks in a newspaper which is in general circulation in the area of the district, the last day of such publication to be not fewer than 14 days or more than 28 days before the date of the election. The landowners, when assembled at such meeting, shall organize by electing a chair who shall conduct the meeting.

(b) At such meeting, each landowner shall be entitled to cast one vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. A fraction of an acre shall be treated as 1 acre, entitling the landowner to one vote with respect thereto. The two candidates receiving the highest number of votes shall be elected for a period of 4 years, and the three candidates receiving the next largest number of votes shall be elected for a period of 2 years. The members of the first board elected by landowners shall serve their respective 4-year or 2-year terms; however, the next election by landowners shall be held on the first Tuesday in November. Thereafter, there shall be an election of supervisors for the district every 2 years on the first Tuesday in November. The two candidates receiving the highest number of votes shall be elected to serve for a 4-year period, and the remaining candidate elected shall serve for a 2-year period.

(3)(a)1. If the board proposes to exercise the ad valorem taxing power authorized by s. 190.021, the district board shall call an election at which the members of the board of supervisors will be elected. Such election shall be held in conjunction with a primary or general election unless the district bears the cost of a special election. Each member shall be elected by the qualified electors of the district for a term of 4 years, except that, at the first such election, three members shall be elected for a period of 4 years and two members shall be elected for a period of 2 years. All elected board members must be qualified electors of the district.

2.a. Regardless of whether a district has proposed to levy ad valorem taxes, commencing 6 years after the initial appointment of members or, for a district exceeding 5,000 acres in area, 10 years after the initial appointment of members, the position of each member whose term has expired shall be filled by a qualified elector of the district, elected by the qualified electors of the district. However, for those districts established after June 21, 1991, and for those existing districts established after December 31, 1983, which have less than 50 qualified electors on June 21, 1991, sub-subparagraphs b. and c. shall apply.

b. For those districts to which this sub-subparagraph applies if, in the 6th year after the initial appointment of members, or 10 years after such initial appointment for districts exceeding 5,000 acres in area, there are not at least 250 qualified electors in the district, or for a district exceeding 5,000 acres, there are not at least 500 qualified electors, members of the board shall continue to be elected by landowners. After the 6th or 10th year, once a district reaches 250 or 500 qualified electors, respectively, then the position of two board members whose terms are expiring shall be filled by qualified electors of the district, elected by the qualified electors of the district. One of these board members shall serve a 2-year term, and the other a 4-year term. The remaining board member whose term is

expiring shall be elected for a 4-year term by the landowners and is not required to be a qualified elector. Thereafter, as terms expire, board members shall be qualified electors elected by qualified electors of the district.

c. On or before July 15 of each year, the board shall determine the number of qualified electors in the district as of the immediately preceding June 1. The board shall use and rely upon the official records maintained by the supervisor of elections and property appraiser or tax collector in each county in making this determination. Such determination shall be made at a properly noticed meeting of the board and shall become a part of the official minutes of the district.

d. Each community development district in existence on June 21, 1991, shall, within 60 days, determine the number of qualified electors in the district as of June 21, 1991, using the official records maintained by the supervisor of elections and property appraiser or tax collector in the county. Thereafter, the district shall make such determination as described in sub-subparagraph c.

(b) Elections of board members by qualified electors held pursuant to this subsection shall be conducted in the manner prescribed by law for holding general elections.

(c) Candidates seeking election to office by qualified electors under this subsection shall conduct their campaigns in accordance with the provisions of chapter 106. Candidates shall file petitions, and take the oath required in s. 99.021, with the supervisor of elections in the county affected by such candidacy.

(d) The supervisor of elections shall appoint the inspectors and clerks of elections, prepare and furnish the ballots, designate polling places, and canvass the returns of the election of board members by qualified electors. The board of county commissioners shall declare and certify the results of the election.

(4) Members of the board shall be known as supervisors and, upon entering into office, shall take and subscribe to the oath of office as prescribed by s. 876.05. They shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified. If, during the term of office, a vacancy occurs, the remaining members of the board shall fill the vacancy by an appointment for the remainder of the unexpired term.

(5) A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members present unless general law or a rule of the district requires a greater number.

(6) As soon as practicable after each election or appointment, the board shall organize by electing one of its members as chair and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

(7) The board shall keep a permanent record book entitled "Record of Proceedings of (name of district) Community Development District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts. The record book shall at reasonable times be opened to inspection in the same manner as state, county, and municipal records pursuant to chapter 119. The record book shall be kept at the office or other regular place of business maintained by the board in the county or municipality in which the district is located.

(8) Each supervisor shall be entitled to receive for his or her services an amount not to exceed $200 per meeting of the board of supervisors, not to exceed $4,800 per year per supervisor, or an amount established by the electors at referendum. In addition, each supervisor shall receive travel and per diem expenses as set forth in s. 112.061.

(9) All meetings of the board shall be open to the public and governed by the provisions of chapter 286.

History.—s. 2, ch. 80-407; s. 6, ch. 84-360; s. 23, ch. 85-80; s. 3, ch. 91-308; s. 962, ch. 95-147.

190.007 Board of supervisors; general duties.—

(1) The board shall employ, and fix the compensation of, a district manager. The district manager shall have charge and supervision of the works of the district and shall be responsible for preserving and maintaining any improvement or facility constructed or erected pursuant to the provisions of this act, for maintaining and operating the equipment owned by the district, and for performing such other duties as may be prescribed by the board. It shall not be a conflict of interest under chapter 112 for a board member or the district manager or another employee of the district to be a stockholder, officer, or employee of a landowner. The district manager may hire or otherwise employ and terminate the employment of such other persons, including, without limitation, professional, supervisory, and clerical employees, as may be necessary and authorized by the board. The compensation and other conditions of employment of the officers and employees of the district shall be as provided by the board.

(2) The board shall designate a person who is a resident of the state as treasurer of the district, who shall have charge of the funds of the district. Such funds shall be disbursed only upon the order, or pursuant to the resolution, of the board by warrant or check countersigned by the treasurer and by such other person as may be authorized by the board. The board may give the treasurer such other or additional powers and duties as the board may deem appropriate and may fix his or her compensation. The board may require the treasurer to give a bond in such amount, on such terms, and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his or her powers and duties. The financial records of the board shall be audited by an independent certified public accountant at least once a year.

(3) The board is authorized to select as a depository for its funds any qualified public depository as defined in s. 280.02 which meets all the requirements of chapter 280 and has been designated by the Treasurer as a qualified public depository, upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the board may deem just and reasonable.

History.—s. 2, ch. 80-407; s. 7, ch. 84-360; s. 32, ch. 86-191; s. 963, ch. 95-147.

190.008 Budget; reports and reviews.—

(1) The district shall provide financial reports in such form and such manner as prescribed pursuant to this chapter and chapter 218.

(2)(a) On or before each July 15, the district manager shall prepare a proposed budget for the ensuing fiscal year to be submitted to the board for board approval. The proposed budget shall include at the direction of the board an estimate of all necessary expenditures of the district for the ensuing fiscal year and an estimate of income to the district from the taxes and assessments provided in this act. The board shall consider the proposed budget item by item and may either approve the budget as proposed by the district manager or modify the same in part or in whole. The board shall indicate its approval of the budget by resolution, which resolution shall provide for a hearing on the budget as approved. Notice of the hearing on the budget shall be published in a newspaper of general circulation in the area of the district once a week for 2 consecutive weeks, except that the first publication shall be not fewer than 15 days prior to the date of the hearing. The notice shall further contain a designation of the day, time, and place of the public hearing. At the time and place designated in the notice, the board shall hear all objections to the budget as proposed and may make such changes as the board deems necessary. At the conclusion of the budget hearing, the board shall, by resolution, adopt the budget as finally approved by the board. The budget shall be adopted prior to October 1 of each year.

(b) At least 60 days prior to adoption, the district board shall submit to the local governing authorities having jurisdiction over the area included in the district, for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year and any proposed long-term financial plan or program of the district for future operations.

(c) The local governing authorities may review the proposed annual budget and any long-term financial plan or program and may submit written comments to the board for its assistance and information in adopting its annual budget and long-term financial plan or program.

History.—s. 2, ch. 80-407.

190.009 Disclosure of public financing.—

(1) The district shall take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. Such information shall be made available to all existing residents, and to all prospective residents, of the district. The district shall furnish each developer of a residential development within the district with sufficient copies of that information to provide each prospective purchaser of property in that development with a copy, and any developer of a residential development within the district, when required by law to provide a public offering statement, shall include a copy of such information relating to the public financing and maintenance of improvements in the public offering statement.

(2) The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation shall ensure that disclosures made by developers pursuant to chapter 498 meet the requirements of subsection (1).

(3) The Department of Community Affairs shall keep a current list of districts and their disclosures pursuant to this act and shall make such studies and reports and take such actions as it deems necessary.

History.—s. 2, ch. 80-407; s. 17, ch. 81-167; s. 15, ch. 83-55; s. 1, ch. 85-60; s. 2, ch. 90-46; s. 9, ch. 94-218.

190.011 General powers.—The district shall have, and the board may exercise, the following powers:

(1) To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire, by purchase, gift, devise, or otherwise, and to dispose of, real and personal property, or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(2) To apply for coverage of its employees under the state retirement system in the same manner as if such employees were state employees, subject to necessary action by the district to pay employer contributions into the state retirement fund.

(3) To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to public bidding or competitive negotiation requirements as set forth in s. 190.033.

(4) To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(5) To adopt rules and orders pursuant to the provisions of chapter 120 prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the district. The board may also adopt administrative rules with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions which may be necessary for the conduct of district business.

(6) To maintain an office at such place or places as it may designate within a county in which the district is located, which office must be reasonably accessible to the landowners.

(7) To hold, control, and acquire by donation, purchase, or condemnation, or dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act and to make use of such easements, dedications, or reservations for any of the purposes authorized by this act.

(8) To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or

private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district to carry out any of the purposes authorized by this act.

(9) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such tax and special assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.

(10) To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the district activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.

(11) To exercise within the district, or beyond the district with prior approval by resolution of the governing body of the county if the taking will occur in an unincorporated area or with prior approval by resolution of the governing body of the municipality if the taking will occur within a municipality, the right and power of eminent domain, pursuant to the provisions of chapters 73 and 74, over any property within the state, except municipal, county, state, and federal property, for the uses and purposes of the district relating solely to water, sewer, district roads, and water management, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another.

(12) To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(13) To assess and impose upon lands in the district ad valorem taxes as provided by this act.

(14) To determine, order, levy, impose, collect, and enforce special assessments pursuant to this act and chapter 170. Such special assessments may, in the discretion of the district, be collected and enforced pursuant to the provisions of ss. 197.3631, 197.3632, and 197.3635, or chapter 170.

(15) To exercise all of the powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(16) To exercise such special powers as may be authorized by this act.

History.—s. 2, ch. 80-407; s. 8, ch. 84-360; s. 46, ch. 89-169; s. 4, ch. 91-308.

190.012 Special powers; public improvements and community facilities.—The district shall have, and the board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

(1) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for the following basic infrastructures:

(a) Water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges.

(b) Water supply, sewer, and wastewater management, reclamation, and reuse or any combination thereof, and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.

(c) Bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.

(d) District roads equal to or exceeding the specifications of the county in which such district roads are located, and street lights.

(e) Any other project within or without the boundaries of a district when a local government issued a development order pursuant to s. 380.06 or s. 380.061 approving or expressly requiring the construction or funding of the project by the district, or when the project is the subject of an agreement between the district and a governmental entity and is consistent with the local government comprehensive plan of the local government within which the project is to be located.

(2) After the board has obtained the consent of the local general-purpose government within the jurisdiction of which a power specified in this subsection is to be exercised, to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for:

(a) Parks and facilities for indoor and outdoor recreational, cultural, and educational uses.

(b) Fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment.

(c) School buildings and related structures, which may be leased, sold, or donated to the school district, for use in the educational system when authorized by the district school board.

(d) Security, including, but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; except that the district may not exercise any police power, but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the district boundaries.

(e) Control and elimination of mosquitoes and other arthropods of public health importance.

(f) Waste collection and disposal.

(3) To adopt and enforce appropriate rules following the procedures of chapter 120, in connection with the provision of one or more services through its systems and facilities.

History.—s. 2, ch. 80-407; s. 51, ch. 83-217; s. 9, ch. 84-360; s. 47, ch. 89-169; s. 8, ch. 93-51.

190.0125 Purchase, privatization, or sale of water, sewer, or wastewater reuse utility by district.—No community development district may purchase or sell a

water, sewer, or wastewater reuse utility that provides service to the public for compensation, or enter into a wastewater facility privatization contract for a wastewater facility, until the governing body of the community development district has held a public hearing on the purchase, sale, or wastewater facility privatization contract and made a determination that the purchase, sale, or wastewater facility privatization contract is in the public interest. In determining if the purchase, sale, or wastewater facility privatization contract is in the public interest, the community development district shall consider, at a minimum, the following:

(1) The most recent available income and expense statement for the utility;

(2) The most recent available balance sheet for the utility, listing assets and liabilities and clearly showing the amount of contributions-in-aid-of-construction and the accumulated depreciation thereon;

(3) A statement of the existing rate base of the utility for regulatory purposes;

(4) The physical condition of the utility facilities being purchased, sold, or subject to a wastewater facility privatization contract;

(5) The reasonableness of the purchase, sales, or wastewater facility privatization contract price and terms;

(6) The impacts of the purchase, sale, or wastewater facility privatization contract on utility customers, both positive and negative;

(7)(a) Any additional investment required and the ability and willingness of the purchaser or the private firm under a wastewater facility privatization contract to make that investment, whether the purchaser is the community development district or the entity purchasing the utility from the community development district;

(b) In the case of a wastewater facility privatization contract, the terms and conditions on which the private firm will provide capital investment and financing or a combination thereof for contemplated capital replacements, additions, expansions, and repairs. The community development district shall give significant weight to this criteria.

(8) The alternatives to the purchase, sale, or wastewater facility privatization contract and the potential impact on utility customers if the purchase, sale, or wastewater facility privatization contract is not made;

(9)(a) The ability of the purchaser or the private firm under a wastewater facility privatization contract to provide and maintain high-quality and cost-effective utility service, whether the purchaser is the community development district or the entity purchasing the utility from the community development district;

(b) In the case of a wastewater facility privatization contract, the community development district shall give significant weight to the technical expertise and experience of the private firm in carrying out the obligations specified in the wastewater facility privatization contract; and

(10) All moneys paid by a private firm to a community development district pursuant to a wastewater facility privatization contract shall be used for the purpose of reducing or offsetting property taxes, wastewater service rates, or debt reduction or making infrastructure improvements or capital asset expenditures or other public purpose; provided, however, nothing herein shall preclude the community development district from using all or part of the moneys for the purpose of the community development district's qualification for relief from the repayment of federal grant awards associated with the wastewater system as may be required by federal law or regulation.

The community development district shall prepare a statement showing that the purchase, sale, or wastewater facility privatization contract is in the public interest, including a summary of the purchaser's or private firm's experience in water, sewer, or wastewater reuse utility operation and a showing of financial ability to provide the service, whether the purchaser or private firm is the community development district or the entity purchasing the utility from the community development district.

History.—s. 3, ch. 84-84; s. 9, ch. 93-51; s. 9, ch. 96-202.

190.013 Water management and control plan.—In the event that the board assumes the responsibility for providing water management and control for the district as provided in s. 190.012(1)(a) which is to be financed by benefit special assessments, the board shall proceed to adopt water management and control plans, assess for benefits, and apportion and levy special assessments, as follows:

(1) The board shall cause to be made by the district's engineer, or such other engineer or engineers as the board may employ for that purpose, complete and comprehensive water management and control plans for the lands located within the district that will be improved in any part or in whole by any system of facilities that may be outlined and adopted, and the engineer shall make a report in writing to the board with maps and profiles of said surveys and an estimate of the cost of carrying out and completing the plans.

(2) Upon the completion of such plans, the board shall hold a hearing thereon to hear objections thereto, shall give notice of the time and place fixed for such hearing by publication once each week for 2 consecutive weeks in a newspaper of general circulation in the general area of the district, and shall permit the inspection of the plan at the office of the district by all persons interested. All objections to the plan shall be filed at or before the time fixed in the notice for the hearing and shall be in writing.

(3) After the hearing, the board shall consider the proposed plan and any objections thereto and may modify, reject, or adopt the plan or continue the hearing to a day certain for further consideration of the proposed plan or modifications thereof.

(4) When the board approves a plan, a resolution shall be adopted and a certified copy thereof shall be filed in the office of the secretary and incorporated by him or her into the records of the district.

(5) The water management and control plan may be altered in detail from time to time until the appraisal record herein provided is filed, but not in such manner as to affect materially the conditions of its adoption.

After the appraisal record has been filed, no alteration of the plan shall be made, except as provided by this act.

(6) Within 20 days after the final adoption of the plan by the board, the board shall proceed pursuant to s. 298.301.

History.—s. 2, ch. 80-407; s. 5, ch. 91-308; s. 964, ch. 95-147; s. 26, ch. 97-40.

190.014 Issuance of bond anticipation notes.—In addition to the other powers provided for in this act, and not in limitation thereof, the district shall have the power, at any time, and from time to time after the issuance of any bonds of the district shall have been authorized, to borrow money for the purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and to issue bond anticipation notes in a principal sum not in excess of the authorized maximum amount of such bond issue. Such notes shall be in such denomination or denominations, bear interest at such rate as the board may determine in compliance with s. 215.84, mature at such time or times not later than 5 years from the date of issuance, and be in such form and executed in such manner as the board shall prescribe. Such notes may be sold at either public or private sale or, if such notes shall be renewal notes, may be exchanged for notes then outstanding on such terms as the board shall determine. Such notes shall be paid from the proceeds of such bonds when issued. The board may, in its discretion, in lieu of retiring the notes by means of bonds, retire them by means of current revenues or from any taxes or assessments levied for the payment of such bonds; but in such event a like amount of the bonds authorized shall not be issued.

History.—s. 2, ch. 80-407; s. 9, ch. 83-215.

190.015 Short-term borrowing.—The district at any time may obtain loans, in such amount and on such terms and conditions as the board may approve, for the purpose of paying any of the expenses of the district or any costs incurred or that may be incurred in connection with any of the projects of the district, which loans shall bear such interest as the board may determine in compliance with s. 215.84, and may be payable from and secured by a pledge of such funds, revenues, taxes, and assessments as the board may determine, subject, however, to the provisions contained in any proceeding under which bonds were theretofore issued and are then outstanding. For the purpose of defraying such costs and expenses, the district may issue negotiable notes, warrants, or other evidences of debt to be payable at such times, to bear such interest as the board may determine in compliance with s. 215.84, and to be sold or discounted at such price or prices not less than 95 percent of par value and on such terms as the board may deem advisable. The board shall have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, taxes, and assessments of the district. The approval of the electors residing in the district shall not be necessary except when required by the State Constitution.

History.—s. 2, ch. 80-407; s. 80, ch. 81-259; s. 10, ch. 83-215.

190.016 Bonds.—

(1) SALE OF BONDS.—Bonds may be sold in blocks or installments at different times, or an entire issue or series may be sold at one time. Bonds may be sold at public or private sale after such advertisement, if any, as the board may deem advisable but not in any event at less than 90 percent of the par value thereof, together with accrued interest thereon. Bonds may be sold or exchanged for refunding bonds. Special assessment and revenue bonds may be delivered by the district as payment of the purchase price of any project or part thereof, or a combination of projects or parts thereof, or as the purchase price or exchange for any property, real, personal, or mixed, including franchises or services rendered by any contractor, engineer, or other person, all at one time or in blocks from time to time, in such manner and upon such terms as the board in its discretion shall determine. The price or prices for any bonds sold, exchanged, or delivered may be:

(a) The money paid for the bonds;

(b) The principal amount, plus accrued interest to the date of redemption or exchange, or outstanding obligations exchanged for refunding bonds; and

(c) In the case of special assessment or revenue bonds, the amount of any indebtedness to contractors or other persons paid with such bonds, or the fair value of any properties exchanged for the bonds, as determined by the board.

(2) AUTHORIZATION AND FORM OF BONDS.—Any general obligation bonds, benefit bonds, or revenue bonds may be authorized by resolution or resolutions of the board which shall be adopted by a majority of all the members thereof then in office. Such resolution or resolutions may be adopted at the same meeting at which they are introduced and need not be published or posted. The board may, by resolution, authorize the issuance of bonds and fix the aggregate amount of bonds to be issued; the purpose or purposes for which the moneys derived therefrom shall be expended, including, but not limited to, payment of costs as defined in s. 190.003(7); the rate or rates of interest, in compliance with s. 215.84; the denomination of the bonds; whether or not the bonds are to be issued in one or more series; the date or dates of maturity, which shall not exceed 40 years from their respective dates of issuance; the medium of payment; the place or places within or without the state where payment shall be made; registration privileges; redemption terms and privileges, whether with or without premium; the manner of execution; the form of the bonds, including any interest coupons to be attached thereto; the manner of execution of bonds and coupons; and any and all other terms, covenants, and conditions thereof and the establishment of revenue or other funds. Such authorizing resolution or resolutions may further provide for the contracts authorized by s. 159.825(6) and (7) regardless of the tax treatment of such bonds being authorized, subject to the finding by the board of a net saving to the district resulting by reason thereof. Such authorizing resolution may further provide that such bonds may be executed in accordance with the Registered Public Obligations Act, except that bonds not

issued in registered form shall be valid if manually countersigned by an officer designated by appropriate resolution of the board. The seal of the district may be affixed, lithographed, engraved, or otherwise reproduced in facsimile on such bonds. In case any officer whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until such delivery.

(3) INTERIM CERTIFICATES; REPLACEMENT CERTIFICATES.—Pending the preparation of definitive bonds, the board may issue interim certificates or receipts or temporary bonds, in such form and with such provisions as the board may determine, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds which become mutilated, lost, or destroyed.

(4) NEGOTIABILITY OF BONDS.—Any bond issued under this act or any temporary bond, in the absence of an express recital on the face thereof that it is nonnegotiable, shall be fully negotiable and shall be and constitute a negotiable instrument within the meaning and for all purposes of the law merchant and the laws of the state.

(5) DEFEASANCE.—The board may make such provision with respect to the defeasance of the right, title, and interest of the holders of any of the bonds and obligations of the district in any revenues, funds, or other properties by which such bonds are secured as the board deems appropriate and, without limitation on the foregoing, may provide that when such bonds or obligations become due and payable or shall have been called for redemption and the whole amount of the principal and interest and premium, if any, due and payable upon the bonds or obligations then outstanding shall be held in trust for such purpose and provision shall also be made for paying all other sums payable in connection with such bonds or other obligations, then and in such event the right, title, and interest of the holders of the bonds in any revenues, funds, or other properties by which such bonds are secured shall thereupon cease, terminate, and become void; and the board may apply any surplus in any sinking fund established in connection with such bonds or obligations and all balances remaining in all other funds or accounts other than money held for the redemption or payment of the bonds or other obligations to any lawful purpose of the district as the board shall determine.

(6) ISSUANCE OF ADDITIONAL BONDS.—If the proceeds of any bonds are less than the cost of completing the project in connection with which such bonds were issued, the board may authorize the issuance of additional bonds, upon such terms and conditions as the board may provide in the resolution authorizing the issuance thereof, but only in compliance with the resolution or other proceedings authorizing the issuance of the original bonds.

(7) REFUNDING BONDS.—The district shall have the power to issue bonds to provide for the retirement or refunding of any bonds or obligations of the district that at the time of such issuance are or subsequently thereto become due and payable, or that at the time of issuance have been called or are or will be subject to call for redemption within 10 years thereafter, or the surrender of which can be procured from the holders thereof at prices satisfactory to the board. Refunding bonds may be issued at any time when in the judgment of the board such issuance will be advantageous to the district. No approval of the qualified electors residing in the district shall be required for the issuance of refunding bonds except in cases in which such approval is required by the State Constitution. The board may by resolution confer upon the holders of such refunding bonds all rights, powers, and remedies to which the holders would be entitled if they continued to be the owners and had possession of the bonds for the refinancing of which such refunding bonds are issued, including, but not limited to, the preservation of the lien of such bonds on the revenues of any project or on pledged funds, without extinguishment, impairment, or diminution thereof. The provisions of this act pertaining to bonds of the district shall, unless the context otherwise requires, govern the issuance of refunding bonds, the form and other details thereof, the rights of the holders thereof, and the duties of the board with respect to them.

(8) REVENUE BONDS.—

(a) The district shall have the power to issue revenue bonds from time to time without limitation as to amount. Such revenue bonds may be secured by, or payable from, the gross or net pledge of the revenues to be derived from any project or combination of projects; from the rates, fees, or other charges to be collected from the users of any project or projects; from any revenue-producing undertaking or activity of the district; from special assessments; or from any other source or pledged security. Such bonds shall not constitute an indebtedness of the district, and the approval of the qualified electors shall not be required unless such bonds are additionally secured by the full faith and credit and taxing power of the district.

(b) Any two or more projects may be combined and consolidated into a single project and may hereafter be operated and maintained as a single project. The revenue bonds authorized herein may be issued to finance any one or more of such projects, regardless of whether or not such projects have been combined and consolidated into a single project. If the board deems it advisable, the proceedings authorizing such revenue bonds may provide that the district may thereafter combine the projects then being financed or theretofore financed with other projects to be subsequently financed by the district and that revenue bonds to be thereafter issued by the district shall be on parity with the revenue bonds then being issued, all on such terms, conditions, and limitations as shall have been provided in the proceeding which authorized the original bonds.

(9) GENERAL OBLIGATION BONDS.—

(a) The district shall have the power from time to time to issue general obligation bonds to finance or refinance capital projects or to refund outstanding bonds in an aggregate principal amount of bonds outstanding at any one time not in excess of 35 percent of the

assessed value of the taxable property within the district as shown on the pertinent tax records at the time of the authorization of the general obligation bonds for which the full faith and credit of the district is pledged. Except for refunding bonds, no general obligation bonds shall be issued unless the bonds are issued to finance or refinance a capital project and the issuance has been approved at an election held in accordance with the requirements for such election as prescribed by the State Constitution. Such elections shall be called to be held in the district by the board of county commissioners of the county upon the request of the board of the district. The expenses of calling and holding an election shall be at the expense of the district, and the district shall reimburse the county for any expenses incurred in calling or holding such election.

(b) The district may pledge its full faith and credit for the payment of the principal and interest on such general obligation bonds and for any reserve funds provided therefor and may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all taxable property in the district, to the extent necessary for the payment thereof, without limitations as to rate or amount.

(c) If the board determines to issue general obligation bonds for more than one capital project, the approval of the issuance of the bonds for each and all such projects may be submitted to the electors on one and the same ballot. The failure of the electors to approve the issuance of bonds for any one or more capital projects shall not defeat the approval of bonds for any capital project which has been approved by the electors.

(d) In arriving at the amount of general obligation bonds permitted to be outstanding at any one time pursuant to paragraph (a), there shall not be included any general obligation bonds which are additionally secured by the pledge of:

1. Special assessments levied in an amount sufficient to pay the principal and interest on the general obligation bonds so additionally secured, which assessments have been equalized and confirmed by resolution or ordinance of the board pursuant to s. 170.08.

2. Water revenues, sewer revenues, or water and sewer revenues of the district to be derived from user fees in an amount sufficient to pay the principal and interest on the general obligation bonds so additionally secured.

3. Any combination of assessments and revenues described in subparagraphs 1. and 2.

(10) BONDS AS LEGAL INVESTMENT OR SECURITY.—

(a) Notwithstanding any provisions of any other law to the contrary, all bonds issued under the provisions of this act shall constitute legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state and shall be and constitute security which may be deposited by banks or trust companies as security for deposits of state, county, municipal, or other public funds or by insurance companies as required or voluntary statutory deposits.

(b) Any bonds issued by the district shall be incontestable in the hands of bona fide purchasers or holders for value and shall not be invalid because of any irregularity or defect in the proceedings for the issue and sale thereof.

(11) COVENANTS.—Any resolution authorizing the issuance of bonds may contain such covenants as the board may deem advisable, and all such covenants shall constitute valid and legally binding and enforceable contracts between the district and the bondholders, regardless of the time of issuance thereof. Such covenants may include, without limitation, covenants concerning the disposition of the bond proceeds; the use and disposition of project revenues; the pledging of revenues, taxes, and assessments; the obligations of the district with respect to the operation of the project and the maintenance of adequate project revenues; the issuance of additional bonds; the appointment, powers, and duties of trustees and receivers; the acquisition of outstanding bonds and obligations; restrictions on the establishing of competing projects or facilities; restrictions on the sale or disposal of the assets and property of the district; the priority of assessment liens; the priority of claims by bondholders on the taxing power of the district; the maintenance of deposits to assure the payment of revenues by users of district facilities and services; the discontinuance of district services by reason of delinquent payments; acceleration upon default; the execution of necessary instruments; the procedure for amending or abrogating covenants with the bondholders; and such other covenants as may be deemed necessary or desirable for the security of the bondholders.

(12) VALIDATION PROCEEDINGS.—The power of the district to issue bonds under the provisions of this act may be determined, and any of the bonds of the district maturing over a period of more than 5 years shall be validated and confirmed, by court decree, under the provisions of chapter 75 and laws amendatory thereof or supplementary thereto.

(13) ACT FURNISHES FULL AUTHORITY FOR ISSUANCE OF BONDS.—This act constitutes full and complete authority for the issuance of bonds and the exercise of the powers of the district provided herein. No procedures or proceedings, publications, notices, consents, approvals, orders, acts, or things by the board, or any board, officers, commission, department, agency, or instrumentality of the district, other than those required by this act, shall be required to perform anything under this act, except that the issuance or sale of bonds pursuant to the provisions of this act shall comply with the general law requirements applicable to the issuance or sale of bonds by the district. Nothing in this act shall be construed to authorize the district to utilize bond proceeds to fund the ongoing operations of the district.

(14) PLEDGE BY THE STATE TO THE BONDHOLDERS OF THE DISTRICT.—The state pledges to the holders of any bonds issued under this act that it will not limit or alter the rights of the district to own, acquire, construct, reconstruct, improve, maintain, operate, or furnish the projects or to levy and collect the taxes,

assessments, rentals, rates, fees, and other charges provided for herein and to fulfill the terms of any agreement made with the holders of such bonds or other obligations and that it will not in any way impair the rights or remedies of such holders.

(15) DEFAULT.—A default on the bonds or obligations of a district shall not constitute a debt or obligation of a local general-purpose government or the state.

History.—s. 2, ch. 80-407; s. 11, ch. 83-215; s. 10, ch. 84-360; s. 24, ch. 85-80; s. 6, ch. 91-308; s. 965, ch. 95-147.

190.017 Trust agreements.—Any issue of bonds shall be secured by a trust agreement by and between the district and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received from any projects of the district and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as the board may approve, including, without limitation, covenants setting forth the duties of the district in relation to: the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any projects; the fixing and revising of the rates, fees, and charges; and the custody, safeguarding, and application of all moneys and for the employment of consulting engineers in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair, or operation. It shall be lawful for any bank or trust company within or without the state which may act as a depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the district. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. The board may provide for the payment of proceeds of the sale of the bonds and the revenues of any project to such officer, board, or depository as it may designate for the custody thereof and may provide for the method of disbursement thereof with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as part of the cost of operation of the project to which such trust agreement pertains.

History.—s. 2, ch. 80-407.

190.021 Taxes; non-ad valorem assessments.—

(1) AD VALOREM TAXES.—An elected board shall have the power to levy and assess an ad valorem tax on all the taxable property in the district to construct, operate, and maintain assessable improvements; to pay the principal of, and interest on, any general obligation bonds of the district; and to provide for any sinking or other funds established in connection with any such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, shall not exceed 3 mills, except that a district authorized by a local general-purpose government to exercise one or more powers specified in s. 190.012(2) may levy an additional 2 mills for operating purposes, exclusive of debt service on bonds. The ad valorem tax provided for herein shall be in addition to county and all other ad valorem taxes provided for by law. Such tax shall be assessed, levied, and collected in the same manner and same time as county taxes. The levy of ad valorem taxes shall be approved by referendum when required by the State Constitution.

(2) BENEFIT SPECIAL ASSESSMENTS.—The board shall annually determine, order, and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance district facilities and projects which are levied under this act. These assessments may be due and collected during each year that county taxes are due and collected, in which case such annual installment and levy shall be evidenced to and certified to the property appraiser by the board not later than August 31 of each year, and such assessment shall be entered by the property appraiser on the county tax rolls, and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds thereof shall be paid to the district. However, this subsection shall not prohibit the district in its discretion from using the method prescribed in either s. 197.363 or s. 197.3632 for collecting and enforcing these assessments. These benefit special assessments shall be a lien on the property against which assessed until paid and shall be enforceable in like manner as county taxes. The amount of the assessment for the exercise of the district's powers under ss. 190.011 and 190.012 shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land.

(3) MAINTENANCE SPECIAL ASSESSMENTS.—To maintain and preserve the facilities and projects of the district, the board may levy a maintenance special assessment. This assessment may be evidenced to and certified to the property appraiser by the board of supervisors not later than August 31 of each year and shall be entered by the property appraiser on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds therefrom shall be paid to the district. However, this subsection shall not prohibit the district in its discretion from using the method prescribed in either s. 197.363 or s. 197.3632 for collecting and enforcing these assessments. These maintenance special assessments shall be a lien on the property against which assessed until paid and shall be enforceable in like manner as county taxes. The amount of the maintenance special assessment for the exercise of the district's powers under ss. 190.011 and 190.012 shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be all of the lands within the district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

(4) ENFORCEMENT OF TAXES.—The collection and enforcement of all taxes levied by the district shall be at the same time and in like manner as county taxes, and the provisions of the Florida Statutes relating to the sale of lands for unpaid and delinquent county taxes; the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes; the redemption thereof; the issuance to individuals of tax deeds based thereon; and all other procedures in connection therewith shall be applicable to the district to the same extent as if such statutory provisions were expressly set forth herein. All taxes shall be subject to the same discounts as county taxes.

(5) WHEN UNPAID TAX IS DELINQUENT; PENALTY.—All taxes provided for in this act shall become delinquent and bear penalties on the amount of such taxes in the same manner as county taxes.

(6) TAX EXEMPTION.—All bonds issued hereunder and interest paid thereon and all fees, charges, and other revenues derived by the district from the projects provided by this act are exempt from all taxes by the state or by any political subdivision, agency, or instrumentality thereof; however, any interest, income, or profits on debt obligations issued hereunder are not exempt from the tax imposed by chapter 220. Further, districts are not exempt from the provisions of chapter 212.

(7) TRANSITIONAL PROVISIONS.—Nothing in this act shall be deemed to affect any benefit tax, maintenance tax, non-ad valorem assessment, ad valorem tax, or special assessment imposed by a community development district as of June 21, 1991. Nothing in this act shall be construed to affect any tax or assessment pledged to secure or authorized pursuant to a trust indenture under this chapter, and the district imposing such tax or assessment is hereby authorized to impose such tax or assessment under the terms required by the trust indenture. The terms benefit taxes or maintenance taxes used in this chapter prior to June 21, 1991, are redesignated as benefit or maintenance special assessments pursuant to this act, and such terms may be used interchangeably under the terms of an existing trust indenture.

History.—s. 2, ch. 80-407; s. 11, ch. 84-360; s. 48, ch. 89-169; s. 7, ch. 91-308.

190.022 Special assessments.—

(1) The board may levy special assessments for the construction, reconstruction, acquisition, or maintenance of district facilities authorized under this chapter using the procedures for levy and collection provided in chapter 170.

(2) Notwithstanding the provisions of s. 170.09, district assessments may be made payable in 20 yearly installments.

History.—s. 2, ch. 80-407; s. 12, ch. 84-360; s. 8, ch. 91-308.

190.023 Issuance of certificates of indebtedness based on assessments for assessable improvements; assessment bonds.—

(1) The board may, after any assessments for assessable improvements are made, determined, and confirmed as provided in s. 190.022, issue certificates of indebtedness for the amount so assessed against the abutting property or property otherwise benefited, as the case may be; and separate certificates shall be issued against each part or parcel of land or property assessed, which certificates shall state the general nature of the improvement for which the assessment is made. The certificates shall be payable in annual installments in accordance with the installments of the special assessment for which they are issued. The board may determine the interest to be borne by such certificates, in compliance with s. 215.84, and may sell such certificates at either private or public sale and determine the form, manner of execution, and other details of such certificates. The certificates shall recite that they are payable only from the special assessments levied and collected from the part or parcel of land or property against which they are issued. The proceeds of such certificates may be pledged for the payment of principal of and interest on any revenue bonds or general obligation bonds issued to finance in whole or in part such assessable improvement, or, if not so pledged, may be used to pay the cost or part of the cost of such assessable improvements.

(2) The district may also issue assessment bonds or other obligations payable from a special fund into which such certificates of indebtedness referred to in the preceding subsection may be deposited; or, if such certificates of indebtedness have not been issued, the district may assign to such special fund for the benefit of the holders of such assessment bonds or other obligations, or to a trustee for such bondholders, the assessment liens provided for in this act unless such certificates of indebtedness or assessment liens have been theretofore pledged for any bonds or other obligations authorized hereunder. In the event of the creation of such special fund and the issuance of such assessment bonds or other obligations, the proceeds of such certificates of indebtedness or assessment liens deposited therein shall be used only for the payment of the assessment bonds or other obligations issued as provided in this section. The district is authorized to covenant with the holders of such assessment bonds or other obligations that it will diligently and faithfully enforce and collect all the special assessments and interest and penalties thereon for which such certificates of indebtedness or assessment liens have been deposited in or assigned to such fund; to foreclose such assessment liens so assigned to such special fund or represented by the certificates of indebtedness deposited in the special fund, after such assessment liens have become delinquent, and deposit the proceeds derived from such foreclosure, including interest and penalties, in such special fund; and to make any other covenants deemed necessary or advisable in order to properly secure the holders of such assessment bonds or other obligations.

(3) The assessment bonds or other obligations issued pursuant to this section shall have such dates of issue and maturity as shall be deemed advisable by the board; however, the maturities of such assessment bonds or other obligations shall not be more than 2 years after the due date of the last installment which will be payable on any of the special assessments for which such assessment liens, or the certificates of indebtedness representing such assessment liens, are assigned to or deposited in such special fund.

(4) Such assessment bonds or other obligations issued under this section shall bear such interest as the board may determine, not to exceed a rate which is in compliance with s. 215.84, and shall be executed, shall have such provisions for redemption prior to maturity, shall be sold in the manner and be subject to all of the applicable provisions contained in this act for revenue bonds, except as the same may be inconsistent with the provisions of this section.

(5) All assessment bonds or other obligations issued under the provisions of this act, except certificates of indebtedness issued against separate lots or parcels of land or property as provided in this section, shall be and constitute and shall have all the qualities and incidents of negotiable instruments under the law merchant and the laws of the state.

History.—s. 2, ch. 80-407; s. 81, ch. 81-259; s. 12, ch. 83-215.

190.024 Tax liens.—All taxes of the district provided for in this act, together with all penalties for default in the payment of the same and all costs in collecting the same, including a reasonable attorney's fee fixed by the court and taxed as a cost in the action brought to enforce payment, shall, from January 1 for each year the property is liable to assessment and until paid, constitute a lien of equal dignity with the liens for state and county taxes and other taxes of equal dignity with state and county taxes upon all the lands against which such taxes shall be levied. A sale of any of the real property within the district for state and county or other taxes shall not operate to relieve or release the property so sold from the lien for subsequent district taxes or installments of district taxes, which lien may be enforced against such property as though no such sale thereof had been made. The provisions of ss. 194.171, 197.122, 197.333, and 197.432 shall be applicable to district taxes with the same force and effect as if such provisions were expressly set forth in this act.

History.—s. 2, ch. 80-407; s. 33, ch. 82-226; s. 202, ch. 85-342; s. 27, ch. 95-280.

190.025 Payment of taxes and redemption of tax liens by the district; sharing in proceeds of tax sale.—

(1) The district has the right to:

(a) Pay any delinquent state, county, district, municipal, or other tax or assessment upon lands located wholly or partially within the boundaries of the district; and

(b) To redeem or purchase any tax sales certificates issued or sold on account of any state, county, district, municipal, or other taxes or assessments upon lands located wholly or partially within the boundaries of the district.

(2) Delinquent taxes paid, or tax sales certificates redeemed or purchased, by the district, together with all penalties for the default in payment of the same and all costs in collecting the same and a reasonable attorney's fee, shall constitute a lien in favor of the district of equal dignity with the liens of state and county taxes and other taxes of equal dignity with state and county taxes upon all the real property against which the taxes were levied. The lien of the district may be foreclosed in the manner provided in this act.

(3) In any sale of land pursuant to s. 197.542 and amendments thereto, the district may certify to the clerk of the circuit court of the county holding such sale the amount of taxes due to the district upon the lands sought to be sold; and the district shall share in the disbursement of the sales proceeds in accordance with the provisions of this act and under the laws of the state.

History.—s. 2, ch. 80-407; s. 203, ch. 85-342.

190.026 Foreclosure of liens.—Any lien in favor of the district arising under this act may be foreclosed by the district by foreclosure proceedings in the name of the district in a court of competent jurisdiction as provided by general law in like manner as is provided in chapter 173 and amendments thereto; the provisions of that chapter shall be applicable to such proceedings with the same force and effect as if those provisions were expressly set forth in this act. Any act required or authorized to be done by or on behalf of a municipality in foreclosure proceedings under chapter 173 may be performed by such officer or agent of the district as the board of supervisors may designate. Such foreclosure proceedings may be brought at any time after the expiration of 1 year from the date any tax, or installment thereof, becomes delinquent; however no lien shall be foreclosed against any political subdivision or agency of the state. Other legal remedies shall remain available.

History.—s. 2, ch. 80-407.

190.031 Mandatory use of certain district facilities and services.—To the full extent permitted by law, the district shall require all lands, buildings, premises, persons, firms, and corporations within the district to use the water management and control facilities and water and sewer facilities of the district.

History.—s. 2, ch. 80-407.

190.033 Bids required.—

(1) No contract shall be let by the board for the construction of any project authorized by this act, nor shall any goods, supplies, or materials be purchased, when the amount thereof to be paid by the district shall exceed $10,000, unless notice of bids shall be advertised once in a newspaper in general circulation in the county and in the district. In each case, the bid of the lowest responsive and responsible bidder shall be accepted unless all bids are rejected because the bids are too high, or the board determines it is in the best interests of the district to reject all bids. The board may require the bidders to furnish bond with a responsible surety to be approved by the board. Nothing in this section shall prevent the board from undertaking and performing the construction, operation, and maintenance of any project or facility authorized by this act by the employment of labor, material, and machinery.

(2) The provisions of the Consultants' Competitive Negotiation Act, s. 287.055, apply to contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services let by the board.

(3) Contracts for maintenance services for any district facility or project shall be subject to competitive bidding requirements when the amount thereof to be paid by the district exceeds the amount provided in s. 287.017(1) and (2) for category two. The district shall

adopt rules establishing competitive bidding procedures for maintenance services. Contracts for other services shall not be subject to competitive bidding unless the district adopts a rule applying competitive bidding procedures to said contracts.

History.—s. 2, ch. 80-407; s. 9, ch. 91-308; s. 113, ch. 94-119.

190.035 Fees, rentals, and charges; procedure for adoption and modifications; minimum revenue requirements.—

(1) The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges, hereinafter sometimes referred to as "revenues," and to revise the same from time to time, for the facilities and services furnished by the district, within the limits of the district, including, but not limited to, recreational facilities, water management and control facilities, and water and sewer systems; to recover the costs of making connection with any district facility or system; and to provide for reasonable penalties against any user or property for any such rates, fees, rentals, or other charges that are delinquent.

(2) No such rates, fees, rentals, or other charges for any of the facilities or services of the district shall be fixed until after a public hearing at which all the users of the proposed facility or services or owners, tenants, or occupants served or to be served thereby and all other interested persons shall have an opportunity to be heard concerning the proposed rates, fees, rentals, or other charges. Rates, fees, rentals, and other charges shall be adopted under the administrative rulemaking authority of the district, but shall not apply to district leases. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees, rentals, and other charges shall have been published in a newspaper in the county and of general circulation in the district at least once and at least 10 days prior to such public hearing. The rulemaking hearing may be adjourned from time to time. After such hearing, such schedule or schedules, either as initially proposed or as modified or amended, may be finally adopted. A copy of the schedule or schedules of such rates, fees, rentals, or charges as finally adopted shall be kept on file in an office designated by the board and shall be open at all reasonable times to public inspection. The rates, fees, rentals, or charges so fixed for any class of users or property served shall be extended to cover any additional users or properties thereafter served which shall fall in the same class, without the necessity of any notice or hearing.

(3) Such rates, fees, rentals, and charges shall be just and equitable and uniform for users of the same class, and when appropriate may be based or computed either upon the amount of service furnished, upon the number of average number of persons residing or working in or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis.

(4) The rates, fees, rentals, or other charges prescribed shall be such as will produce revenues, together with any other assessments, taxes, revenues, or funds available or pledged for such purpose, at least sufficient to provide for the items hereinafter listed, but not necessarily in the order stated:

(a) To provide for all expenses of operation and maintenance of such facility or service;

(b) To pay when due all bonds and interest thereon for the payment of which such revenues are, or shall have been, pledged or encumbered, including reserves for such purpose; and

(c) To provide for any other funds which may be required under the resolution or resolutions authorizing the issuance of bonds pursuant to this act.

(5) The board shall have the power to enter into contracts for the use of the projects of the district and with respect to the services and facilities furnished or to be furnished by the district.

History.—s. 2, ch. 80-407; s. 10, ch. 91-308.

190.036 Recovery of delinquent charges.—In the event that any rates, fees, rentals, charges, or delinquent penalties shall not be paid as and when due and shall be in default for 60 days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs, may be recovered by the district in a civil action.

History.—s. 2, ch. 80-407.

190.037 Discontinuance of service.—In the event the fees, rentals, or other charges for water and sewer services, or either of them, are not paid when due, the board shall have the power, under such reasonable rules and regulations as the board may adopt, to discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance and the restoration of such water and sewer services or both, are fully paid; and, for such purposes, the board may enter on any lands, waters, or premises of any person, firm, corporation, or body, public or private, within the district limits. Such delinquent fees, rentals, or other charges, together with interest, penalties, and charges for the shutting off and discontinuance and the restoration of such services and facilities and reasonable attorney's fees and other expenses, may be recovered by the district, which may also enforce payment of such delinquent fees, rentals, or other charges by any other lawful method of enforcement.

History.—s. 2, ch. 80-407; s. 82, ch. 81-259.

190.041 Enforcement and penalties.—The board or any aggrieved person may have recourse to such remedies in law and at equity as may be necessary to ensure compliance with the provisions of this act, including injunctive relief to enjoin or restrain any person violating the provisions of this act or any bylaws, resolutions, regulations, rules, codes, or orders adopted under this act. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, land, or water is used, in violation of this act or of any code, order, resolution, or other regulation made under authority conferred by this act or under law, the board or any citizen residing in the district may

institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or avoid such violation; to prevent the occupancy of such building, structure, land, or water; and to prevent any illegal act, conduct, business, or use in or about such premises, land, or water.
History.—s. 2, ch. 80-407; s. 83, ch. 81-259.

190.043 Suits against the district.—Any suit or action brought or maintained against the district for damages arising out of tort, including, without limitation, any claim arising upon account of an act causing an injury or loss of property, personal injury, or death, shall be subject to the limitations provided in s. 768.28.
History.—s. 2, ch. 80-407.

190.044 Exemption of district property from execution.—All district property shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against such property, nor shall any judgment against the district be a charge or lien on its property or revenues; however, nothing contained herein shall apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien or pledge given by the district in connection with any of the bonds or obligations of the district.
History.—s. 2, ch. 80-407.

190.046 Termination, contraction, or expansion of district.—

(1) The board may petition to contract or expand the boundaries of a community development district in the following manner:

(a) The petition shall contain the same information required by s. 190.005(1)(a)1. and 8. In addition, if the petitioner seeks to expand the district, the petition shall describe the proposed timetable for construction of any district services to the area, the estimated cost of constructing the proposed services, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land use plan element of the adopted local government local comprehensive plan. If the petitioner seeks to contract the district, the petition shall describe what services and facilities are currently provided by the district to the area being removed, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land element of the adopted local government comprehensive plan.

(b) For those districts initially established by county ordinance, the petition for ordinance amendment shall be filed with the county commission. If the land to be included or excluded is, in whole or in part, within the boundaries of a municipality, then the county commission shall not amend the ordinance without municipal approval. A public hearing shall be held in the same manner and with the same public notice as other ordinance amendments. The county commission shall consider the record of the public hearing and the factors set forth in s. 190.005(1)(e) in making its determination to grant or deny the petition for ordinance amendment.

(c) For those districts initially established by municipal ordinance pursuant to s. 190.005(2)(e), the municipality shall assume the duties of the county commission set forth in paragraph (b); however, if any of the land to be included or excluded, in whole or in part, is outside the boundaries of the municipality, then the municipality shall not amend its ordinance without county commission approval.

(d)1. For those districts initially established by administrative rule pursuant to s. 190.005(1), the petition shall be filed with the Florida Land and Water Adjudicatory Commission.

2. Prior to filing the petition, the petitioner shall pay a filing fee of $1,500 to the county and to each municipality the boundaries of which are contiguous with or contain all or a portion of the land within the district or the proposed amendment, and submit a copy of the petition to the county and to each such municipality. In addition, if the district is not the petitioner, the petitioner shall file the petition with the district board of supervisors.

3. The county and each municipality shall have the option of holding a public hearing as provided by s. 190.005(1)(c). However, such public hearing shall be limited to consideration of the contents of the petition and whether the petition for amendment should be supported by the county or municipality.

4. The district board of supervisors shall, in lieu of a hearing officer, hold the local public hearing provided for by s. 190.005(1)(d). This local public hearing shall be noticed in the same manner as provided in s. 190.005(1)(d). Within 45 days of the conclusion of the hearing, the district board of supervisors shall transmit to the Florida Land and Water Adjudicatory Commission the full record of the local hearing, the transcript of the hearing, any resolutions adopted by the local general-purpose governments, and its recommendation whether to grant the petition for amendment. The commission shall then proceed in accordance with s. 190.005(1)(e).

5. A rule amending a district boundary shall describe the land to be added or deleted.

(e) In all cases, written consent of all the landowners whose land is to be added to or deleted from the district shall be required.

(f) During the existence of the district, petitions to amend the boundaries of the district pursuant to paragraphs (a)-(e) shall be limited to a cumulative total of no more than 10 percent of the land in the initial district, and in no event shall all such petitions to amend the boundaries ever encompass more than a total of 250 acres.

(g) Petitions to amend the boundaries of the district which exceed the amount of land specified in paragraph (f) shall be considered petitions to establish a new district and shall follow all of the procedures specified in s. 190.005.

(2) The district shall remain in existence unless:

(a) The district is merged with another district as provided in subsection (3);

(b) All of the specific community development services that it is authorized to perform have been transferred to a general-purpose unit of local government in the manner provided in subsections (4), (5), and (6); or

(c) The district is dissolved as provided in subsection (7) or subsection (8).

(3) The district may merge with other community development districts upon filing a petition for establishment of a community development district pursuant to s. 190.005 or may merge with any other special districts upon filing a petition for establishment of a community development district pursuant to s. 190.005. The government formed by a merger involving a community development district pursuant to this section shall assume all indebtedness of, and receive title to, all property owned by the preexisting special districts. Prior to filing said petition, the districts desiring to merge shall enter into a merger agreement and shall provide for the proper allocation of the indebtedness so assumed and the manner in which said debt shall be retired.

(4) The local general-purpose government within the geographical boundaries of which the district lies may adopt a nonemergency ordinance providing for a plan for the transfer of a specific community development service from a district to the local general-purpose government. The plan must provide for the assumption and guarantee of the district debt that is related to the service by the local general-purpose government and must demonstrate the ability of the local general-purpose government to provide such service:

(a) As efficiently as the district.

(b) At a level of quality equal to or higher than the level of quality actually delivered by the district to the users of the service.

(c) At a charge equal to or lower than the actual charge by the district to the users of the service.

(5) No later than 30 days following the adoption of a transfer plan ordinance, the board of supervisors may file, in the circuit court for the county in which the local general-purpose government that adopted the ordinance is located, a petition seeking review by certiorari of the factual and legal basis for the adoption of the transfer plan ordinance.

(6) Upon the transfer of all of the community development services of the district to a general-purpose unit of local government, the district shall be terminated in accordance with a plan of termination which shall be adopted by the board of supervisors and filed with the clerk of the circuit court.

(7) If, within 5 years after the effective date of the rule or ordinance creating the district, a landowner has not received a development permit, as defined in chapter 380, on some part or all of the area covered by the district, then the district will be automatically dissolved and a judge of the circuit court shall cause a statement to that effect to be filed in the public records.

(8) In the event the district has become inactive pursuant to s. 189.4044, the board of county commissioners shall be informed and it shall take appropriate action.

History.—s. 2, ch. 80-407; ss. 13, 19, ch. 84-360; s. 49, ch. 89-169; s. 11, ch. 91-308.

190.047 Incorporation or annexation of district.—(1) Upon attaining the population standards for incorporation contained in s. 165.061, any district wholly contained within the unincorporated area of a county shall hold a referendum on the question of whether to incorporate. However, any district contiguous to the boundary of a municipality may be annexed to such municipality pursuant to the provisions of chapter 171.

(2) The Department of Community Affairs shall annually monitor the status of the district for purposes of carrying out the provisions of this section.

History.—s. 14, ch. 84-360.

190.048 Sale of real estate within a district; required disclosure to purchaser.—Subsequent to the creation of a district under this chapter, each contract for the sale of real estate within the district shall include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract: "THE (Name of District) DISTRICT IMPOSES TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY THROUGH A SPECIAL TAXING DISTRICT. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

History.—s. 15, ch. 84-360; s. 3, ch. 90-46.

190.049 Special acts prohibited.—Pursuant to s. 11(a)(21), Art. III of the State Constitution, there shall be no special law or general law of local application creating an independent special district which has the powers enumerated in two or more of the paragraphs contained in s. 190.012.

History.—s. 2, ch. 80-407; s. 16, ch. 84-360.

BROOKS OF BONITA SPRINGS COMMUNITY DEVELOPMENT DISTRICT

CHAPTER 42Y-1
BROOKS OF BONITA SPRINGS COMMUNITY DEVELOPMENT DISTRICT

42Y-1.001 Creation and Establishment.
42Y-1.002 Boundary.
42Y-1.003 Supervisors.

42Y-1.001 Creation and Establishment. Brooks of Bonita Springs Community Development District.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History—New 3-23-98.

42Y-1.002 Boundary. The boundaries of the district are as follows:

DESCRIPTION:

Description of The Brooks CDD Boundary limits Being a part of Sections 2.3.10 and 11, Township 47 South, Range 25 East, Lee County, Florida.

All that part of Section 2.3.10 and 11, Township 47 South, Range 25 East, Lee County, Florida, being more particularly described as follows:
Beginning at the southeast corner of said Section 10; Thence along the south line of said Section 10 in the following two (2) described courses:
1. South 88'50'19" West 2664.18 feet;
2. South 88'50'37" West 2540.14 feet to the East Right-of-Way line of Seaboard Coast Railroad;
Thence leaving said south line of Section 10, along said East Right-of-Way line of Seaboard Coast Railroad in the following two (2) described courses:
1. North 00'59'47" West 4648.64 feet;
2. continue North 00'59'47" West 2268.16 feet;
Thence leaving said east Right-of-Way line, South 83'46'55" East 192.72 feet;
Thence South 77'55'23" East 169.23 feet;
Thence North 71'17'54" East 139.66 feet;
Thence South 68'38'03" East 93.81 feet;
Thence North 56'27'43" East 151.50 feet;
Thence North 38'46'55" East 99.90 feet;
Thence North 77'48'40" East 213.76 feet;
Thence North 56'09'42" East 159.61 feet;
Thence South 53'38'28" East 139.43 feet;
Thence Southeasterly 347.99 feet along the arc of a tangential circular curve concave to the Northeast, having a radius of 1030.00 feet, through a central angle of 19'21'28" and being sublended by a chord which bears South 63'19'12" East 346.34 feet;
Thence South 72'59'56" East 809.49 feet;
Thence Southeasterly 194.64 feet along the arc of a tangential circular curve concave to the Northeast, having a radius of 1030.00 feet, through a central angle of 10'49'38" and being sublended by a chord which bears South 78'24'45" East 194.35 feet;
Thence South 83'49'34" East 585.05 feet;
Thence Southeasterly 553.03 feet along the arc of a tangential circular curve concave to the Southwest, having a radius of 870.00 feet, through a central angle of 36'25'15" and being sublended by a chord which bears South 65'36'56" East 543.76 feet;
Thence South 47'24'19" East 160.65 feet;
Thence Northeasterly 490.21 feet along the arc of a non-tangential circular curve concave to the Southeast, having a radius of 800.00 feet, through a central angle of 35'06'32" and being sublended by a chord which bears North 60'05'05" East 482.58 feet;
Thence North 77'38'21" East 253.20 feet;
Thence North 13'14'05" East 46.40 feet;
Thence North 76'34'28" East 133.02 feet;
Thence North 09'20'29" East 281.28 feet;
Thence North 03'20'20" East 148.07 feet;
Thence South 81'30'32" East 83.39 feet;
Thence North 82'07'16" East 152.59 feet;
Thence South 31'52'23" East 341.35 feet;
Thence Northeasterly 411.86 feet along the arc of a non-tangential circular curve concave to the Northwest, having a radius of 690.00 feet, through a central angle of 34'11'58" and being sublended by a chord which bears North 41'01'38" East 405.77 feet;
Thence North 23'55'39" East 315.15 feet;
Thence Northeasterly 518.58 feet along the arc of a tangential circular curve concave to the Southeast, having a radius of 1410.00 feet, through a central angle of 21'04'21" and being sublended by a chord which bears North 34'27'50" East 515.66 feet;
Thence North 45'00'00" East 364.09 feet;
Thence Northeasterly and Northwesterly 86.39 feet along the arc of a tangential circular curve concave to the West, having a radius of 55.00 feet, through a central angle of 90'00'00" and being sublended by a chord which bears North 00'00'00" East 77.78 feet to a point of cusp;
Thence South 45'00'00" East 840.17 feet;
Thence Southeasterly and Southwesterly 3046.91 feet along the arc of a tangential circular curve concave to the West, having a radius of 2326.57 feet, through a central angle of 75'02'07" and being sublended by a chord which bears South 07'28'57" East 2833.79 feet;
Thence South 30'02'07" West 450.00 feet;
Thence Southerly 1185.82 feet along the arc of a tangential circular curve concave to the East, having a radius of 2150.00 feet, through a central angle of 31'36'04" and being sublended by a chord which bears South 14'14'05" West 1170.84 feet;
Thence South 01'33'57" East 447.86 feet;
Thence North 88'26'03" East 1702.61 feet;
Thence South 01'33'57" East 765.95 feet;
Thence North 88'26'03" East 206.76 feet;
Thence South 01'33'57" East 150.00 feet;
Thence South 84'26'27" East 1007.78 feet;
Thence South 34'02'13" East 1303.84 feet;
Thence South 05'56'59" East 1244.53 feet to the South line of said Section 11; thence along said South line of Section 11 in the following three (3) described courses:
1. North 82'32'38" West 2165.67 feet;
2. North 82'25'17" West 1350.56 feet;
3. North 82'29'27" West 1348.12 feet to the Point of Beginning of the parcel herein described;
Subject to easements and restrictions of record.

Containing 1249.265 Acres more or less.
Bearings are based on the South line of the Southeast ¼ of said Section 10, being South 88°50'19" West.
Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History—New 3-23-98.

42Y-1.003 Supervisors. The following five persons are designated as the initial members of the Board of Supervisors: John M. Gleeson, David H. Graham, Carl Barraco, Laura Agnew, Wayne Falbey.
Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History—New 3-23-98.

LEE COUNTY ORDINANCE NO. 98-23

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NO. 98-15 TO PROVIDE CONSENT AND AUTHORITY FOR THE EXERCISE OF CERTAIN OPTIONAL POWERS BY THE STONEYBROOK COMMUNITY DEVELOPMENT DISTRICT AS SET FORTH IN F.S. §190.012 (2) (a) AND (d); PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Stoneybrook Community Development District was established in accordance with F.S. §190.005 (2) pursuant to Ordinance No. 98-15 adopted by the Board of County Commissioners on August 4, 1998; and

WHEREAS, on August 26, 1998, the Stoneybrook Community Development District petitioned the Board for authorization to exercise the optional special powers identified in F.S. §190.012 (2) (a) and (d); and

WHEREAS, F.S. §190.012 (2) provides that an established community development district can exercise a number of additional special powers desirable in the management of the District only after the Board of County Commissioners consents to the exercise of these powers; and

WHEREAS, the District specifically requests permission to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain additional systems and facilities for parks and facilities for indoor recreational, cultural and educational uses, as well as security, including, but not limited to, guardhouses, fences and gates, electronic intrusion - detection systems, and patrol cars, when authorized by proper governmental agencies; and

WHEREAS, staff review of the operations and functions of the Stoneybrook Community Development District and all related information indicates there is no rational basis to refuse authority for the exercise of the additional powers set forth in the District's petition; and

WHEREAS, the Board of County Commissioners has confirmed that the District government has the capability to provide the additional services represented by the special powers the District seeks to exercise; and

WHEREAS, the requested additional powers are not inconsistent and will always be subject to the Lee County Comprehensive Land Use Plan and all related land development regulations; and

WHEREAS, the Board of County Commissioners desires to consent to and

authorize the Stoneybrook Community Development District's exercise of these additional special powers; and

WHEREAS, County Planning staff has reviewed the petition and exhibits submitted by the District and recommends that the Board adopt and enact this ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION ONE: AUTHORITY FOR ORDINANCE

This ordinance is adopted in accordance with F.S. §190.012, and other applicable provisions of law governing county ordinances.

SECTION TWO: AMENDMENT

Ordinance No. 98-15 is amended to provide the Stoneybrook Community Development District with additional powers as outlined below. The balance of Ordinance No. 98-15 remains in full force and effect.

SECTION THREE: AUTHORIZATION FOR EXERCISE OF OPTIONAL POWERS

The Lee County Board of County Commissioners consents to and authorizes the Stoneybrook Community Development District to exercise the additional powers set forth in F.S. §190.012 (2) (a) and (d).

Specifically, the District is authorized to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for:

1. Parks and facilities for indoor and outdoor recreational, cultural and educational uses.

2. Security, including, but not limited to, guardhouses, fences and gates, electronic intrusion - detection systems and patrol cars, when authorized by proper governmental agencies; except that the District may not exercise any police power, but may contract with the appropriate local general - purpose governmental agencies for an increased level of such services within the District boundaries.

SECTION FOUR: STATUTORY PROVISIONS GOVERNING DISTRICT

The Stoneybrook Community Development District will continue to be governed by the provisions of Florida Statutes, Chapter 190.

SECTION FIVE: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION SIX: SEVERABILITY

It is the Board of County Commissioners' intent that if any section, subsection, clause or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such portion will be deemed a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION SEVEN: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intends that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

SECTION EIGHT: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

THE FOREGOING ORDINANCE was offered by Commissioner Ray Judah, who moved its adoption. The motion was seconded by Commissioner Andrew Coy and, being put to a vote, the vote was as follows:

JOHN E. MANNING	AYE
DOUGLAS ST. CERNY	ABSENT
RAY JUDAH	AYE
ANDREW W. COY	AYE
JOHN E. ALBION	AYE

DULY PASSED AND ADOPTED THIS 10th day of November, 1998.

ATTEST:
CHARLIE GREEN, CLERK

By: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of County Attorney

g:\lu\ordinanc\stoney.wpd

DIVISIONS OF FLORIDA DEPARTMENT OF STATE
Office of the Secretary
Division of Administrative Services
Division of Corporations
Division of Cultural Affairs
Division of Elections
Division of Historical Resources
Division of Library and Information Services
Division of Licensing
MEMBER OF THE FLORIDA CABINET

HISTORIC PRESERVATION BOARDS
Historic Florida Keys Preservation Board
Historic Palm Beach County Preservation Board
Historic Pensacola Preservation Board
Historic St. Augustine Preservation Board
Historic Tallahassee Preservation Board
Historic Tampa/Hillsborough County Preservation Board
RINGLING MUSEUM OF ART

FLORIDA DEPARTMENT OF STATE
Sandra B. Mortham
Secretary of State
DIVISION OF ELECTIONS

November 17, 1998

Honorable Charlie Green
Clerk to Board of County Commissioners
Lee County
Minutes Office
Post Office Box 2469
Fort Myers, Florida 33902-2469

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letter dated November 16, 1998 and certified copy of Lee County Ordinance No. 98-23, which was filed in this office on November 17, 1998.

Sincerely,

Liz Cloud

Liz Cloud, Chief
Bureau of Administrative Code

LC/mw

RECEIVED NOV 2 0 1998

BUREAU OF ADMINISTRATIVE CODE
The Elliot Building • 401 South Monroe Street • Tallahassee, Florida 32399-0250 • (850) 488-8427
FAX: (850) 488-7869 • WWW Address: http://www.dos.state.fl.us • E-Mail: *election@mail.dos.state.fl.us*

ORDINANCE NO. 2873

AN ORDINANCE
To Be Entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, ESTABLISHING HERITAGE PALMS COMMUNITY DEVELOPMENT DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; NAMING THE DISTRICT; CONFIRMING THE DISTRICT CHARTER SET FORTH IN FLORIDA STATUTES SECTIONS 190.006 -190.041, PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS: U.S. Home Corporation has petitioned the City Council, City of Fort Myers, to establish HERITAGE PALMS COMMUNITY DEVELOPMENT DISTRICT; and

WHEREAS: The City Council, after proper published notice, conducted a local public information-gathering hearing as required by law and finds as follows:

1. The petition is complete in that it meets the requirements of Florida Statutes Section 190.005(1)(a), and all statements contained within the petition are true and correct.

2. The City staff and City Attorney have reviewed and approved the petition for establishment of the proposed district.

3. The costs to the City and government agencies from establishment of the district are nominal. There is no adverse impact on competition or employment from district establishment. The persons affected by establishment are the future landowners, present landowners, City of Fort Myers and its taxpayers, and the State of Florida. There is a net economic benefit flowing to these persons from district establishment as the entity to manage and finance the statutory services identified. The impact of district establishment and function on competition and the employment market is marginal and generally positive, as is the impact on small business. None of the reasonable public or private alternatives, including an assessment of less costly and less intrusive methods and of probable costs and benefits of not

adopting the rule, is as economically viable as establishing the district. Methodology is set forth in the economic impact statement on file. The statement of estimated regulatory costs of the petitioner on district establishment is adequate.

4. Establishment by ordinance of the proposed district, created by general law and whose charter is Florida Statutes Section 190.006 – Section 190.041, is not inconsistent with the City of Fort Myers Comprehensive Plan and is not inconsistent with the State Comprehensive Plan.

5. The area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

6. The district is the best alternative available for delivering community development services and facilities to the area that will be serviced by the district.

7. The community development systems, facilities and services of the district will not be incompatible with the capacity and uses of existing local and regional community development services and facilities.

8. The area that will be served by the district is amenable to separate special district government.

9. The proposed district, once established, may petition the City Council for consent to exercise one or more of the powers granted by charter in Florida Statutes Section 190.012 (2), the exercise of which has been reviewed and assessed as of the affective date of this ordinance. Nothing herein constitutes consent by the City of the exercise by the district of any one of the special powers set forth in Florida Statutes, Section 190.012(2).

10. That upon the effective date of this Ordinance, the proposed Heritage Palms Community Development District shall be duly and legally established and created, authorized to exist and to exercise all of its general and special powers limited by its general law charter; and that consent by the City of Fort Myers in any future ordinance to any special power in Florida

Statutes Section 190.012(2), does not in any way revisit the question of establishment of the district and its authority and power to exercise its limited powers under law.

11. All notice requirements of law were met and complete notice was timely given.

BE IT ENACTED BY THE CITY COUNCIL OF CITY OF FORT MYERS, FLORIDA, that:

SECTION 1: DISTRICT NAME. The community development district herein established shall henceforth be known as Heritage Palms Community Development District.

SECTION 2: AUTHORITY FOR ORDINANCE. This Ordinance is adopted pursuant to Florida Statutes Section 190.005, and other applicable provisions of law governing city ordinances.

SECTION 3: ESTABLISHMENT OF HERITAGE PALMS COMMUNITY DEVELOPMENT DISTRICT. Heritage Palms Community Development District, created by law, is hereby established within the boundaries of the real property described in Exhibit "A" attached hereto and incorporated by referenced.

SECTION 4: DESIGNATION OF INITIAL BOARD MEMBERS. The following five (5) persons are herewith designated to be the initial members of the Board of Supervisors:

a. Peter R. Comeau, Regional Vice President
US Home Inc.
10491 Six Mile Cypress Parkway
Suite 104
Fort Myers, FL 33912
Telephone No.: (941) 278-1177
Fax No.: (941) 279-1914

b. Tim Martin, Vice President
US Home Inc.
5975 Cattlemen Lane
Sarasota, FL 34232
Telephone No.: (941) 379-4911
Fax No.: (941) 379-5521

c. Brian Sabean, Vice President Controller
US Home Inc.
10491 Six Mile Cypress Parkway
Suite 104
Fort Myers, FL 33912
Telephone No.: (941) 278-1177
Fax No.: (941) 279-1914

d. Jeff Ledward, CPA
6249 Presidential Court, Suite B
P.O. Box 06576
Fort Myers, FL 33906
Telephone No.: (941) 489-1011

e. Steven Kushner, P.A.
1375 Jackson Street, Suite 202
Fort Myers, FL 33901
Telephone No.: (941) 337-0800
Fax No.: (941) 337-7909

SECTION 5: STATUTORY PROVISIONS CONSTITUTING HERITAGE PALMS DISTRICT CHARTER. Heritage Palms Community Development District is a single and special purpose local government whose charter is in the general law, Florida Statutes Section 190.006 - Section 190.041.

SECTION 6: INTERLOCAL AGREEMENT REGARDING DELIVERY OF WATER, SEWER, REUSE AND SOLID WASTE SYSTEMS. This Heritage Palms Community Development District is hereby established subject to and with the filing of a jointly executed Interlocal Agreement between City Council and the Heritage Palms Community Development District concerning the delivery of water, sewer, reuse and solid waste systems, facilities and services, said Agreement to be executed within ninety (90) days after establishment of the Heritage Palms Community Development District; if no such Agreement is forthcoming, then City Council will initiate action under Florida Statutes Section 190.046, by unilateral non-emergency ordinance to take over all of the systems, facilities and services constituting the special powers of the District under its uniform charter.

SECTION 7: CONFLICT AND SEVERABILITY. In the event this Ordinance conflicts with any other ordinance of the City of Fort Myers or other applicable law, the more restrictive shall apply as long as not inconsistent with

or prohibited by Florida Statutes Section 190. If any phase or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION 8: EFFECTIVE DATE. This ordinance shall become effective immediately upon adoption.

ORDINANCE NO. 2873

PASSED IN PUBLIC SESSION of the City Council of the City of Fort Myers, Florida, this 21st day of September, A.D., 1998.

	Dr. W. Robert Anderson
AYE	Veronica S. Shoemaker
AYE	Ann M. Knight, Ed.D.
AYE	Richard G. Bashaw
AYE	Brenda S. Brewer Council Members

APPROVED this 21st day of September A.D., 1998, at 6:46 o'clock p.m.

Bruce T. Grady, Mayor

FILED in the Office of the City Clerk this 21st day of September, A.D., 1998.

Marie Adams, City Clerk

ORDINANCE NO. 2873

EXHIBIT "A"

Banks Engineering, Inc.
10501 Six Mile Cypress Parkway - Suite 104
Fort Myers, Florida 33912
Ph: (941) 939-5490
Fax: (941) 939-2523

DESCRIPTION OF A PARCEL OF
LAND LYING SECTIONS 4 AND 5,
TOWNSHIP 45 SOUTH, RANGE 25 EAST

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTIONS 4 AND 5, TOWNSHIP 45 SOUTH, RANGE 25 EAST, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 6" X 6" CONCRETE MONUMENT MARKING THE SOUTHWEST CORNER OF SECTION 5, TOWNSHIP 45 SOUTH, RANGE 25 EAST, THENCE N.01°05'26"W. ALONG THE WEST LINE OF THE SOUTH QUARTER (S 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 5 FOR 661.09 FEET TO THE NORTH LINE OF SAID FRACTION, PASSING THROUGH A 4" X 4" CONCRETE MONUMENT ("STARNES NO. 2465") AT 631.08 FEET; THENCE N.88°24'52"E. ALONG THE NORTH LINE OF SAID FRACTION FOR 2583.90 FEET TO A 4" X 4" CONCRETE MONUMENT AND THE NORTHEAST CORNER OF SAID FRACTION, PASSING THROUGH A 4" X 4" CONCRETE MONUMENT AT 675.98 FEET; THENCE N.00°14'53"W. ALONG THE WEST LINE OF THE WEST HALF (W ½) OF THE SOUTHEAST QUARTER (SE 1/4) OF SAID SECTION 5 FOR 1317.99 FEET TO A 4" X 4" CONCRETE MONUMENT MARKING THE SOUTHEAST CORNER OF TRACT 18, DEER RUN FARMS, UNRECORDED; THENCE S.88°30'22"W. ALONG THE SOUTH LINE OF SAID TRACT 18 FOR 650.81 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 18, PASSING THROUGH A 4" X 4" CONCRETE MONUMENT AT 620.81 FEET; THENCE N.00°27'33"W. ALONG THE WEST LINE OF SAID TRACT 18 AND THE WEST LINE OF THE EAST QUARTER (E 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 5 FOR 329.82 FEET TO THE NORTHWEST CORNER OF SAID TRACT 18; THENCE N.88°31'44"E. ALONG THE NORTH LINE OF SAID TRACT 18 FOR 652.02 FEET TO A 4" X 4" CONCRETE MONUMENT MARKING THE NORTHEAST CORNER OF SAID TRACT 18, PASSING THROUGH A 4" X 4" CONCRETE MONUMENT AT 30.00 FEET; THENCE N.00°14'53"W. ALONG SAID WEST LINE OF THE WEST HALF (W ½) OF THE SOUTHEAST QUARTER (SE 1/4) OF SAID SECTION 5 FOR 329.90 FEET TO A 5/8" IRON ROD (LB 6690) MARKING THE NORTHWEST CORNER OF SAID FRACTION; THENCE N00°14'53"W ALONG THE WEST LINE OF THE WEST HALF (W ½) OF THE NORTHEAST QUARTER (NE 1/4) FOR 150.03 FEET TO A 5/8" IRON ROD (LB 6690) MARKING AN INTERSECTION WITH A LINE PARALLEL WITH AND 150.00 FEET NORTH OF (AS MEASURED ON A PERPENDICULAR) THE SOUTH LINE OF SAID FRACTION; THENCE N88°33'05"E ALONG SAID LINE FOR 1209.68 FEET TO A 5/8" IRON ROD (LB 6690) MARKING AN INTERSECTION WITH A LINE PARALLEL WITH AND 100.00 FEET WEST OF (AS MEASURED ON A PERPENDICULAR) THE EAST LINE OF SAID FRACTION; THENCE N00°01'17"E ALONG SAID LINE FOR 2485.02 FEET TO A 5/8" IRON ROD (LB 6690) MARKING AN INTERSECTION WITH THE NORTH LINE OF SAID FRACTION; THENCE N88°47'24"E ALONG SAID NORTH LINE FOR 100.02 FEET TO A 4" X 4" CONCRETE MONUMENT ALONG THE NORTHEAST QUARTER OF SAID FRACTION; THENCE N88°47'24"E ALONG THE NORTH LINE OF THE EAST HALF (E ½) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 5 FOR 1321.29 FEET TO A 6" X 6" CONCRETE MONUMENT MARKING THE CORNER COMMON TO SECTIONS 4 AND 5; THENCE N.88°59'02"E. ALONG THE NORTH LINE OF THE

NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 4 FOR 1800.92 FEET TO AN INTERSECTION WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF WINKLER AVENUE EXTENSION AS SHOWN IN OFFICIAL RECORDS BOOK 2364 AT PAGE 3521 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.09°05'44"E. ALONG SAID RIGHT-OF-WAY LINE FOR 4.79 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1507.40 FEET; THENCE SOUTH EASTERLY ALONG SAID RIGHT-OF-WAY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 45°15'08" FOR 1190.54 FEET; THENCE S.54°20'52"E. ALONG SAID RIGHT-OF-WAY LINE FOR 193.17 FEET; THENCE S35°39'24"W FOR 300.00 FEET; THENCE S54°20'52"E FOR 727.00 FEET TO AN INTERSECTION WITH THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SIX MILE CYPRESS PARKWAY SHOWN IN OFFICIAL RECORDS BOOK 1194 AT PAGE 944 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.35°39'24"W. ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF SIX MILE CYPRESS PARKWAY FOR 4345.84 FEET TO A 5/8" IRON ROD MARKING THE INTERSECTION OF SAID RIGHT-OF-WAY LINE AND THE SOUTH LINE OF SAID SECTION 4; THENCE S.88°55'10"W. ALONG SAID SECTION LINE FOR 425.46 FEET TO A 6" X 6" CONCRETE MONUMENT MARKING THE CORNER COMMON TO SECTIONS 4 AND 5; THENCE S.88°50'15"W. ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF SAID SECTION 5 FOR 2645.06 FEET TO A 3" X 4" CONCRETE MONUMENT MARKING THE SOUTHWEST CORNER OF SAID FRACTION, PASSING THROUGH A 3" X 3" CONCRETE MONUMENT AT 1322.53 FEET; THENCE S.88°22'05"W. ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 5 FOR 2574.22 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 524.25 ACRES, MORE OR LESS.

PARCEL SUBJECT TO EASEMENTS, RIGHTS-OF-WAY, RESTRICTIONS AND RESERVATIONS OF RECORD.

PARCEL SUBJECT TO RIGHT-OF-WAY EASEMENTS AS SHOWN IN OFFICIAL RECORDS BOOK 1300 AT PAGES 1118, 1125, 1138 AND 1142.

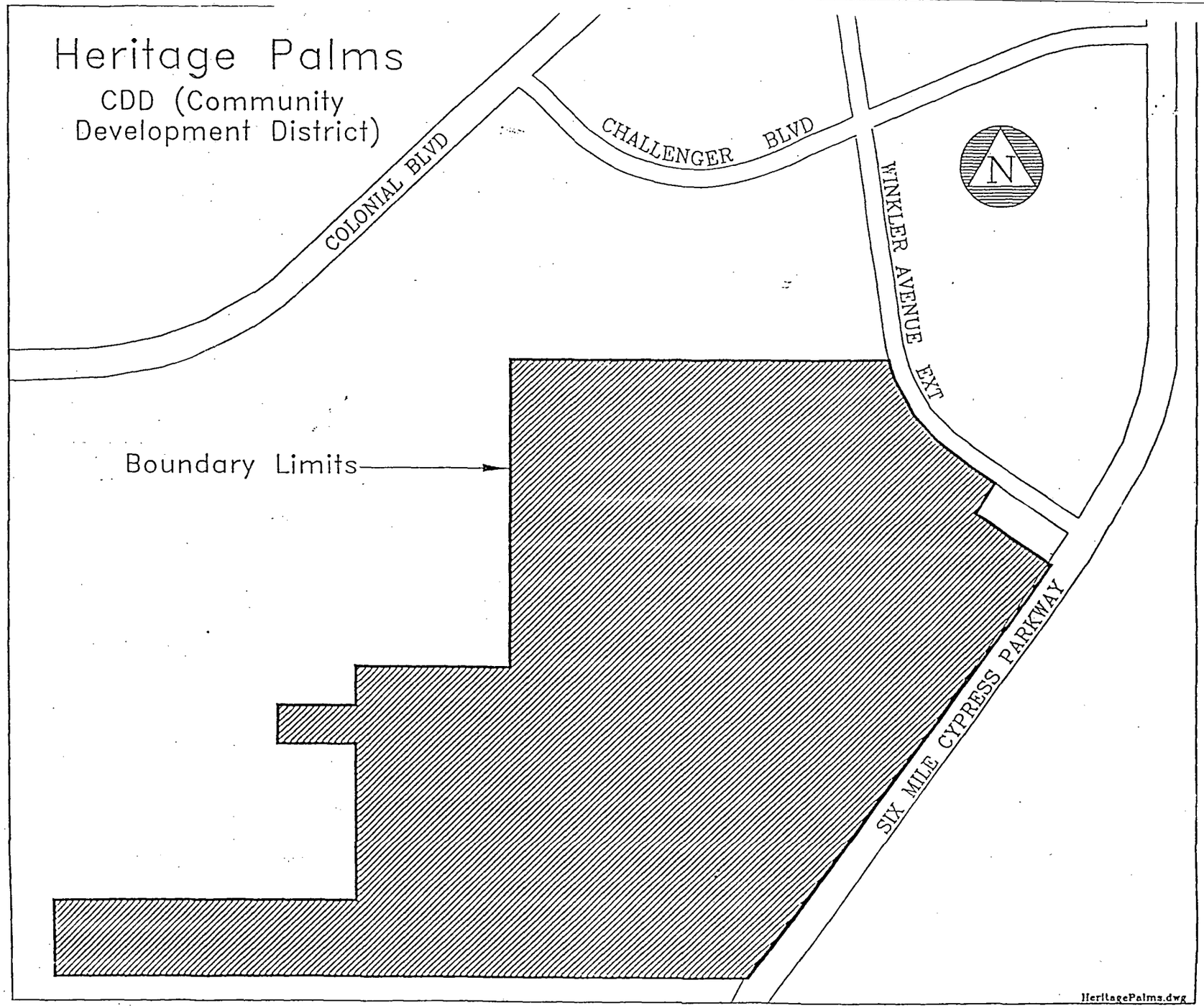
PARCEL SUBJECT TO A ROADWAY EASEMENT AS SHOWN IN OFFICIAL RECORDS BOOK 1324 AT PAGES 2195 AND 2196.

BEARINGS ARE BASED ON THE NORTH LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 4 AS BEARING N.89°08'38"E.

DESCRIPTION PREPARED JANUARY 16, 1998.

FILE:1135.70

ORDINANCE NO. 2873



Stormwater rules have Lee worried

By PETE WINTON 1/5/94
News-Press staff writer

What Lee County water officials have warned about for years has finally come true, and it might mean a new tax.

The county has been notified by the federal government that it must begin complying with stricter federal stormwater management regulations designed to protect federal waters from runoff pollution.

And that's likely to revive a debate about whether a stormwater utility tax is needed as officials scramble to find money for the program.

The controversial tax — $36 a year for unincorporated homeowners — was approved, then repealed in 1991. Discussions began again last year but were put on hold in the summer.

The idea behind the utility was to set aside $8 million a year to beef up water conservation, purification and management projects including: replacing culverts that don't adequately prevent flooding; building filter marshes and retention ponds to help purify water before it is discharged; and building canal weirs to block runoff and allow water to seep into aquifers.

The permit the county will need to qualify for is issued by the Environmental Protection Agency's National Pollution Discharge Elimination System.

Roland Ottolini, with the county's division of natural resource management, said Wednesday that the county will be required to file the first part of its application for the permit by June 1995. The application will detail existing programs and funding sources.

A second part of the application detailing the county's water quality problems and cleanup options is due June 1996.

At this point, Ottolini said, he doesn't know how much money will be needed to meet the regulations.

Until detailed testing is done, "I don't know were we stand in terms of our water quality," he said. But, he added, some new money probably will be needed.

"Hopefully, we'll get a clean bill of health," Ottolini said. "But with the land uses we have, we can predict" at least some pollution.

TEL: Jan 07 94 9:58 No.(

State gives grant to let Martin buy preservation land

1-7-94
By Laura Woody
of the News staff P.S.L. News

TALLAHASSEE. — Martin County on Thursday was awarded more than $1 million from the Florida Communities Trust for acquisition of two Lands for You parcels.

County Commissioner Maggy Hurchalla attended the meeting to present two Martin County projects: the Gomez project south of SeaBranch and the Lake Okeechobee Ridge Project, a proposed 5-mile hiking trail on the east shore of the lake.

The trust awarded $25.7 million in matching grants for land-conservation projects around the state Thursday. Both acquisition projects Martin County submitted were funded.

The money is given to counties that have already passed a bond issue to acquire the lands.

The 22-acre Gomez parcel is on the east side of Southeast Gomez Avenue, south of the SeaBranch parcel.

> *"The trust ranks the lands it will fund and tells you how far down you're going; and meanwhile you die several deaths."*
>
> **— Maggy Hurchalla, commissioner**

Both are also partially funded by the $20 million Lands For You bond referendum approved in 1989 to buy land for recreational uses and for preservation.

Hurchalla said the two parcels qualified for the grants because they are not of statewide significance and may never be included on the state Conservation and Recreation Lands (CARL) program's acquisition list.

"The trust ranks the lands it will fund and tells you how far down you're going, and meanwhile you die several deaths and understand why you don't play the lottery — it's because you go to these land-