

ORDINANCE NO. 2008-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST MELBOURNE GRANTING THE PETITION OF PBR COMMUNITY DEVELOPMENT DISTRICT FOR THE EXPANSION OF THE ESTABLISHED PBR COMMUNITY DEVELOPMENT DISTRICT BOUNDARIES; PROVIDING DESCRIPTION AND BOUNDARIES; PROVIDING SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature created and amended Chapter 190, Florida Statutes, to provide an alternative method to finance and manage basic services for community development; and

WHEREAS, PBR Community Development District, a community development district established by Ordinance Number 2007-35 by the City of West Melbourne on October 17, 2007 has petitioned for the expansion of the PBR Community Development District (the "District"); and

WHEREAS, a public hearing has been conducted by the City Council (the "Council") of the City of West Melbourne, Florida (the "City") in accordance with the requirements and procedures of Section 190.005(2)(d), Florida Statutes, and the applicable requirements and procedures of the City's Charter and Code of Ordinances; and

WHEREAS, the District continues to constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area, thereby providing a solution to the City's planning, management and financing needs for delivery of capital infrastructure therein without overburdening the City and its taxpayers; and

WHEREAS, the Council finds that the statements contained in the Petition are true and correct; and

WHEREAS, the expansion of the District is not inconsistent with any applicable element or portion of the State comprehensive plan or the City's Comprehensive Master Plan; and

WHEREAS, the area of land to be added to the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated development; and

WHEREAS, the expansion of the District is the best alternative available for delivering community development facilities and services to the area that will be served by the District; and

WHEREAS, the proposed facilities and services to be provided by the District will be compatible with the capacity and uses of existing local and regional community development facilities and services; and

WHEREAS, the area that will be served by the District is amenable to separate special district government; and

WHEREAS, the Council finds that the District shall continue to have those general and special powers authorized by Sections 190.011 and 190.012, Florida Statutes, and set forth herein, and that it is in the public interest of all of the citizens of the City that the District have such powers,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST MELBOURNE, FLORIDA:

Section 1. The foregoing findings, which are expressly set forth herein, are hereby adopted and made a part hereof.

Section 2. The Petition to expand PBR Community Development District over the real property described in Exhibit 2 of the Petition, a copy of which is attached hereto, which was filed by the Petitioner, on February 6, 2008, and which Petition is on file at the Office of the Clerk of the Council, is hereby granted. A copy of the Petition is attached and incorporated herein as Exhibit A.

Section 3. The external boundaries of the expanded District are depicted on the location map attached hereto and incorporated herein as Exhibit B.

Section 4. The PBR Community Development District is expanded for the purposes set forth in Chapter 190, Florida Statutes.

Section 5. Pursuant to Section 190.005 (2) (d), Florida Statutes, the charter for the expanded PBR Community Development District shall be Sections 190.006 through 190.047, Florida Statutes, as amended

Section 6. The Council hereby grants to the expanded PBR Community Development District all powers authorized pursuant to Sections 190.011 and 190.012(1), (2)(a), (b), (d), (e) and (f) and (3), Florida Statutes, and hereby finds that it is in the public interest of all citizens of the City to grant such general powers.

Section 7. All bonds issued by the expanded PBR Community Development District pursuant to the powers granted by this ordinance shall be validated pursuant to Chapter 75, Florida Statutes.

Section 8. No bond, debt or other obligation of the expanded PBR Community Development District, nor any default thereon, shall constitute a debt or obligation of the City.

Section 9. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 10. It is the intention of the Council, and it is hereby ordained that the provisions of this ordinance shall be excluded from the City's Code of Ordinances.

Section 11. This ordinance shall become effective ten (10) days after the date of enactment.

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PASSED AND ADOPTED by the City Council of the City of West Melbourne, Brevard County,
Florida, this 18th day of March, 2008.

Hal Rose
MAYOR 3/18/2008

ATTEST:

Nancy Ciummo
CITY CLERK, NANCY CIUMMO

1ST READING: 3/14/2008

2ND READING: 3/18/2008

Exhibit A

BEFORE THE CITY COUNCIL OF THE
CITY OF WEST MELBOURNE, FLORIDA

PETITION TO EXPAND PBR COMMUNITY DEVELOPMENT DISTRICT

Petitioner, PBR Community Development District, a community development district established by Ordinance Number 2007-35 by the City of West Melbourne on October 16, 2007 pursuant to the "Uniform Community Development District Act of 1980," Chapter 190 of the Florida Statutes, (hereinafter "Petitioner") hereby petitions the City Council of the City of West Melbourne, Florida, to expand (hereinafter "Phase II") the established PBR Community Development District (hereinafter "CDD" or "District") with respect to land described herein. In support of this petition, Petitioner states:

1. Location and Size. The Phase II area is located entirely within the incorporated limits of the City of West Melbourne, Florida. **Exhibit 1** describes the general location of the proposed Phase II. The proposed Phase II covers approximately 28.17 acres of land. The site is generally located north of the existing District. The metes and bounds description of the external boundaries of Phase II is described in **Exhibit 2**. The resulting metes and bounds description of the expanded District is also attached as **Exhibit 2**.

2. Excluded Parcels. There are no parcels within the proposed external boundaries of Phase II which are to be excluded.

3. Landowner Consent. Petitioner has obtained written consent to establish Phase II from the owners of one hundred percent (100%) of the real property located within Phase II. Documentation of this consent is set forth in **Exhibit 3**.

4. Name. The proposed name of the Phase II expansion remains PBR Community Development District.

5. Initial Board Members. The five persons designated to serve as initial members of the Board of Supervisors of the proposed Phase II are as follows:

Name: Wayne Bohl
Address: 1700 W. International Speedway Blvd.
Daytona Beach, FL 32114

Name: Bob Elliott
Address: 1700 W. International Speedway Blvd.
Daytona Beach, FL 32114

Name: Mandy York
Address: 1700 W. International Speedway Blvd.
Daytona Beach, FL 32114

Name: Sans Lassiter
Address: 123 Live Oak Avenue
Daytona Beach, FL 32114

Name: John Horency
Address: 9754 Sibley Circle
Orlando, FL 32836

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

6. Existing Zoning and Future Land Use. The existing zoning for lands within the proposed Phase II is shown on **Exhibit 4**. The land within the proposed Phase II is currently undeveloped. The future general distribution, location, and extent of the public and private land uses proposed for the Phase II by future land use plan element of the City of West Melbourne's Future Land Use Plan is shown on **Exhibit 5**.

7. Future Land Uses. The proposed development plan for the lands within the Phase II is described in **Exhibit 6**. Development is scheduled to occur over a three

(3) year period. The proposed land uses for lands contained within the proposed Phase II are consistent with the approved City of West Melbourne Comprehensive Plan.

8. Major Water and Wastewater Facilities. **Exhibit 7** shows the existing major trunk water mains and wastewater interceptors and the major outfall canals and drainage basins for the lands within the proposed Phase II.

9. District Facilities and Services. The District is presently expected to finance, construct, install and maintain improvements and facilities to benefit the lands within the Phase II. **Exhibit 8** describes the type of facilities Petitioner presently expects the District to finance, construct, install and maintain. The estimated costs of construction are also described in **Exhibit 8**. Actual construction timetables and expenditures may vary, due in part to the effects of future changes in the economic conditions upon costs such as labor, services, materials, interest rates and market conditions.

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

11. This petition to expand the District should be granted for the following reasons:

a. Phase II of the District and all land uses and services planned within the proposed expansion are not inconsistent with applicable elements or portions of the effective State Comprehensive Plan or the City of West Melbourne Comprehensive Plan.

b. The area of land within the proposed Phase II is intended to become part of the Development of Regional Impact. It is of a sufficient size and is sufficiently compact and contiguous to be developed as one functional and interrelated development.

c. The expansion of the District will prevent the general body of taxpayers in the City from bearing the burden for installation of the infrastructure and the maintenance of the above-described facilities within the development encompassed by the District and Phase II. The District and Phase II are the best alternatives for delivering community development services and facilities to the proposed development without imposing an additional burden on the general population of the local general-purpose government. Expansion of the District in conjunction with a comprehensively planned development, as proposed, allows for a more efficient use of resources.

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

e. The area to be served by the proposed Phase II is amenable to separate special-district government.

WHEREFORE, Petitioner respectfully requests the City Council of the City of West Melbourne, Florida to:

- a. Schedule a public hearing in accordance with the requirements of Section 190.005(2)(b), Florida Statutes;
- b. Grant the petition and adopt an ordinance expanding the PBR Community Development District pursuant to Chapter 190, Florida Statutes;
- c. Consent to the Phase II exercise of certain additional powers to finance, fund, plan, establish, acquire, construct, reconstruct, enlarge or extend, equip, operate, and maintain, as appropriate, systems and facilities for transportation, stormwater utilities, parks and facilities for indoor and outdoor recreational, cultural, and other uses all as authorized and described by Section 190.012(2)(a), Florida Statutes.

RESPECTFULLY SUBMITTED, this 6th day of February, 2008.

COBB COLE

By: 

Mark A. Watts
Florida Bar No. 0157521
351 East New York Avenue
DeLand, FL 32724
(386) 736-7700
Attorney for Petitioner

LOCATION MAP

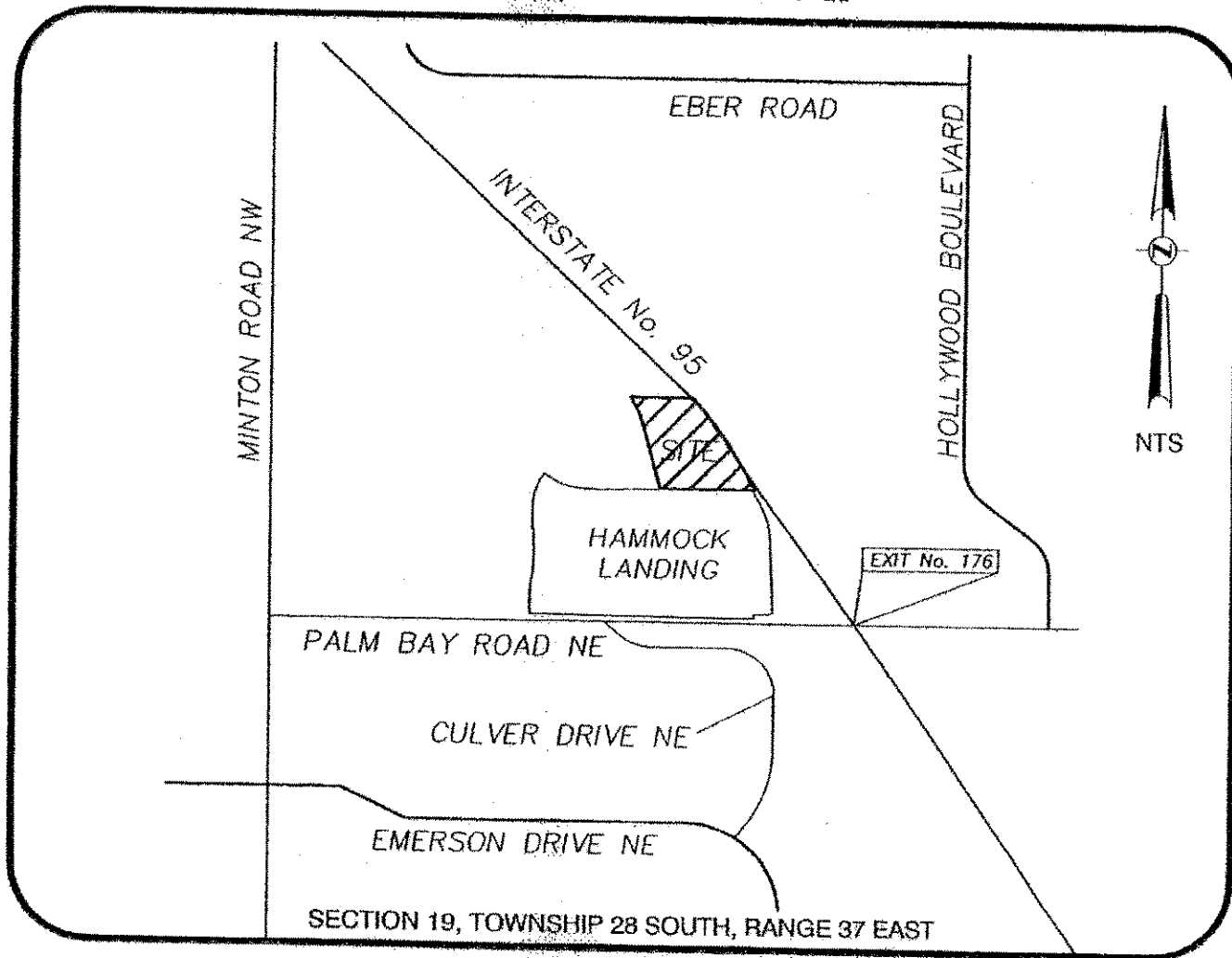


EXHIBIT 1

EXHIBIT 2 - LEGAL DESCRIPTION

Phase II:

LEGAL DESCRIPTION: (ATTORNEYS' TITLE INSURANCE FUND, INC. FUND FILE No. 19-2006-1376 - FURNISHED BY CLIENT) *SEE NOTE 10*
THAT PORTION OF TRACTS 28 AND 29, IN SECTION 19, TOWNSHIP 28 SOUTH, RANGE 37 EAST, FLORIDA INDIAN RIVER LAND COMPANY'S SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 164, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA THAT LIES SOUTHERLY AND WESTERLY OF THE WEST RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY I-95, AND LYING SOUTHERLY OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL No. 72 RUNNING ALONG THE NORTHERLY LINE OF SAID SECTION 19, AND WHICH LIES NORTHERLY OF THAT PARCEL OF LAND CONVEYED TO MELBOURNE TOWN CENTER, LLC, A DELAWARE CORPORATION BY WARRANTY DEED RECORDED IN O.R. BOOK 5565, PAGE 4978, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BOUNDED ON THE WEST BY THE EASTERLY LINE OF THE PROPOSED DIAGONAL ROAD RIGHT-OF-WAY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LEGAL DESCRIPTION FOR PROPOSED DIAGONAL ROAD RIGHT-OF-WAY SOUTH OF CANAL No. 72:

A PARCEL OF LAND IN THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, FOR A ROADWAY RIGHT-OF-WAY ALIGNMENT FOR THE CONSTRUCTION OF A PORTION OF THE DIAGONAL ROAD SOUTH OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL No. 72 AND NORTH OF PALM BAY ROAD;
A PORTION OF THE LOTS 27 AND 28, FLORIDA INDIAN RIVER LAND COMPANY SUBDIVISION OF SECTION 19, TOWNSHIP 28 SOUTH, RANGE 37 EAST, AS RECORDED IN PLAT BOOK 1, PAGE 164, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA SAID RIGHT-OF-WAY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 19, TOWNSHIP 28 SOUTH, RANGE 37 EAST, THENCE S 89°22'11" E, ALONG THE NORTH LINE OF SAID SECTION, FOR A DISTANCE OF 50.00 FEET, TO A POINT ON THE EAST RIGHT OF WAY LINE OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL No. 69; THENCE S 00°25'16" W FOR A DISTANCE OF 45.00 FEET, ALONG THE EAST RIGHT-OF-WAY LINE OF SAID CANAL No. 69 TO AN INTERSECTION POINT WITH THE SOUTH RIGHT-OF-WAY LINE OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL No. 72, SAID INTERSECTION POINT ALSO BEING THE NORTHWEST CORNER OF THE PARCEL OF LAND TO BE PLATTED AS MINTON COVE SUBDIVISION; THENCE S 89°22'11" E FOR A DISTANCE OF 1735.10 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE OF CANAL No. 72, SAID SOUTH RIGHT-OF-WAY LINE BEING COINCIDENT WITH THE NORTH LINE OF THE PARCEL OF LAND TO BE PLATTED AS MINTON COVE SUBDIVISION; TO THE POINT OF BEGINNING (POB) OF THE HEREIN DESCRIBED PARCEL OF LAND SAID POINT OF BEGINNING BEING THE NORTHEAST CORNER OF THE PARCEL OF LAND TO BE PLATTED AS MINTON COVE SUBDIVISION, THE WEST RIGHT-OF-WAY LINE OF THE DIAGONAL ROAD AND A NON-TANGENT POINT ON A CIRCULAR CURVE, CONCAVE SOUTHWESTERLY, WHOSE CHORD IS S 28°42'31" E AND 373.30 FEET IN LENGTH, THE RADIUS POINT OF WHICH BEARS S 48°05'23" W A DISTANCE OF 817.29 FEET AWAY; THE FOLLOWING (3) METES AND BOUNDS CALLS ARE ALONG THE WEST RIGHT-OF-WAY LINE OF THE DIAGONAL ROAD WHICH IS COINCIDENT WITH THE EAST BOUNDARY LINE OF THE PARCEL OF LAND TO BE PLATTED AS MINTON COVE SUBDIVISION, THENCE SOUTHEASTERLY ALONG THE SAID CIRCULAR CURVE, THROUGH A CENTRAL ANGLE OF 26°24'11" FOR A DISTANCE OF 376.62 FEET TO THE POINT OF TANGENCY; THENCE S 10°11'11" E FOR A DISTANCE OF 200.83 FEET; THENCE S 15°23'10" E FOR A DISTANCE OF 691.55 FEET TO THE SOUTHEAST CORNER OF THE PARCEL OF LAND TO BE PLATTED AS MINTON COVE SUBDIVISION; THENCE N 89°58'47" E ALONG THE

EASTERLY PROLONGATION OF THE SOUTHERN BOUNDARY OF THE PARCEL OF LAND TO BE PLATTED AS MINTON COVE SUBDIVISION, FOR A DISTANCE OF 114.76 FEET, TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF THE DIAGONAL ROAD, SAID POINT ALSO BEING A NON-TANGENT POINT ON A CIRCULAR CURVE CONCAVE NORTHEASTERLY WHOSE CHORD IS N 16°37'52" W AND 30.42 FEET IN LENGTH; THE RADIUS POINT OF WHICH BEARS N 72°07'26" E A DISTANCE OF 700.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°29'24" FOR A DISTANCE OF 30.42 FEET, TO A POINT OF TANGENCY; THENCE, N 15°23'10" W FOR A DISTANCE OF 691.55 FEET; THENCE N 18°45'45" W FOR A DISTANCE OF 200.35 FEET, TO THE BEGINNING OF A NON-TANGENT CIRCULAR CURVE, CONCAVE SOUTHWESTERLY WHOSE CHORD IS N 26°25'03" W AND 340.60 FEET IN LENGTH; THE RADIUS POINT OF WHICH BEARS S 74°36'50" W FOR A DISTANCE OF 890.00 FEET; THENCE, NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 22°03'46" FOR A DISTANCE OF 342.71 FEET TO THE INTERSECTION POINT WITH THE SOUTH RIGHT-OF-WAY OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL No. 72; THENCE N 89°22'11" W FOR A DISTANCE OF 104.92 FEET ALONG THE SOUTH RIGHT-OF-WAY OF SAID CANAL No. 72; TO THE POINT OF BEGINNING.

DESCRIPTION BY SURVEYOR:

A PORTION OF TRACTS 27, 28, 29, AND 30 IN SECTION 19, TOWNSHIP 28 SOUTH, RANGE 37 EAST, FLORIDA INDIAN RIVER LAND COMPANY SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 164, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 19, TOWNSHIP 28, SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA AND RUN S 89°22'11" E ALONG THE NORTH LINE OF SAID SECTION 50.00 FEET TO THE EAST RIGHT OF WAY LINE OF THE MELBOURNE-TILLMAN DRAINAGE DISTRICT CANAL No. 69, AS PRESENTLY OCCUPIED; THENCE S 00°25'16" W ALONG SAID EAST RIGHT-OF-WAY LINE 45.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF THE MELBOURNE-TILLMAN DRAINAGE DISTRICT CANAL No. 72, AS PRESENTLY OCCUPIED; THENCE S 89°22'11" E ALONG SAID SOUTH RIGHT-OF-WAY LINE OF CANAL No. 72 A DISTANCE OF 1840.02 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE S 89°22'11" E ALONG SAID SOUTH RIGHT-OF-WAY LINE OF CANAL No. 72 A DISTANCE OF 831.70 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE No. 95 (STATE ROAD No. 9) AND TO A NON-TANGENT INTERSECTION WITH A CIRCULAR CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 3669.83 FEET, A CHORD BEARING OF S 38°10'08" E, AND A CHORD DISTANCE OF 741.18 FEET; THENCE RUN SOUTHEASTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE No. 95 AND ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°35'30", A DISTANCE OF 742.45 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S 32°22'24" E ALONG THE SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE No. 95, A DISTANCE OF 384.55 FEET; THENCE S 28°22'16" E ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE No. 95, A DISTANCE OF 304.68 FEET TO THE NORTHEAST CORNER OF THAT PARCEL OF LAND CONVEYED TO MELBOURNE TOWN CENTER, LLC, A DELAWARE CORPORATION BY WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 5565, PAGE 4978 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE N 89°57'48" W ALONG THE NORTH LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS 5565, PAGE 4978, A DISTANCE OF 1234.33 FEET TO THE EAST RIGHT-OF-WAY LINE OF DIAGONAL ROAD AS DESCRIBED IN OFFICIAL RECORDS BOOK 5655, PAGE 5000, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND TO A NON-TANGENT INTERSECTION WITH A CIRCULAR CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 700.00 FEET, A CHORD BEARING OF N 16°20'35" W, AND A CHORD DISTANCE OF 23.39 FEET; THENCE RUN NORTHWESTERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF DIAGONAL ROAD AND ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°54'51", A DISTANCE OF 23.39 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N 15°23'10" W ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF DIAGONAL ROAD 691.55

FEET; THENCE N 18°45'45" W ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF DIAGONAL ROAD 200.35 FEET TO THE BEGINNING OF A NON-TANGENT CIRCULAR CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 890.00 FEET, A CHORD BEARING OF N 26°25'03" W, AND A CHORD DISTANCE OF 340.60 FEET; THENCE RUN NORTHWESTERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF DIAGONAL ROAD AND ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 22°03'47", A DISTANCE OF 342.71 FEET TO THE POINT OF BEGINNING.
CONTAINING 28.17 ACRES MORE OR LESS AND BEING SUBJECT TO RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS OF RECORD.

EXHIBIT 2

LEGAL DESCRIPTION: (Phase I & II combined)

A PORTION OF LOT 19, 20, 21, 22, 23, 26, 27, 28, 29, AND 30, FLORIDA INDIAN RIVER LAND COMPANY SUBDIVISION OF SECTION 19, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 164 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 19, THENCE S 89°22'11" E, ALONG THE NORTH LINE OF SAID SECTION 19, A DISTANCE OF 50.00 FEET TO THE EAST LINE OF MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL No. 69 (A 100.00 FOOT WIDE RIGHT OF WAY); THENCE S 00°25'15" W, ALONG SAID EAST LINE, A DISTANCE OF 2599.92 FEET, TO THE NORTH LINE OF MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL No. 73 (A 94.00 FOOT WIDE RIGHT OF WAY); THENCE S 89°21'54" E, ALONG SAID NORTH LINE, A DISTANCE OF 1165.41 FEET TO THE SOUTHEAST CORNER OF THAT PARCEL KNOWN AS LOT A AS DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 5347, PAGE 0733 OF SAID PUBLIC RECORDS AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE THE FOLLOWING 3 COURSES ALONG THE EAST LINE OF SAID LOT A: (1) N 00°19'59" E, A DISTANCE OF 138.25 FEET; (2) N 00°19'18" E, A DISTANCE OF 113.01 FEET; (3) N 06°02'56" E, A DISTANCE OF 60.31 FEET, TO THE NORTHEAST CORNER OF SAID LOT A, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT B AS DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 5347, PAGE 0733 OF SAID PUBLIC RECORDS; THENCE THE FOLLOWING 5 COURSES ALONG THE EAST LINE OF SAID LOT B: (1) N 06°02'47" E, A DISTANCE OF 12.64 FEET, TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 748.70 FEET AND A CENTRAL ANGLE OF 02°47'59"; (2) NORTHERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, A DISTANCE OF 36.58 FEET (SAID ARC SUBTENDED BY A CHORD BEARING N 08°17'35" E, A DISTANCE OF 36.53 FEET), TO A POINT OF TANGENCY; (3) N 09°41'34" E A DISTANCE OF 82.02 FEET, TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 893.00 FEET AND A CENTRAL ANGLE OF 07°03'06"; (4) NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, A DISTANCE OF 109.91 FEET (SAID ARC SUBTENDED BY A CHORD BEARING N 04°09'50" E, A DISTANCE OF 109.84 FEET), TO A POINT OF TANGENCY; (5) N 00°38'17" E, A DISTANCE OF 40.53 FEET, TO THE NORTHEAST CORNER OF SAID LOT B SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT C AS DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 5347, PAGE 733 OF SAID PUBLIC RECORDS; THENCE N 00°38'17" E, ALONG THE EAST LINE OF SAID LOT C, A DISTANCE OF 319.97 FEET, TO THE NORTHEAST CORNER OF SAID LOT C; THENCE N 89°18'40" W, ALONG THE NORTH LINE OF SAID LOT C, A DISTANCE OF 24.72 FEET, TO THE SOUTHEAST CORNER OF THAT PARCEL DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 4833, PAGE 0670 OF SAID PUBLIC RECORDS; THENCE THE FOLLOWING 6 COURSES ALONG THE EASTERLY AND SOUTHERLY LINES OF SAID PARCEL: (1) N00°31'55" E, A DISTANCE OF 239.84 FEET, TO THE POINT OF CURVATURE OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 600.00 FEET AND A CENTRAL ANGLE OF 29°46'58"; (2) NORTHERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, A DISTANCE OF 311.88 FEET, TO A POINT OF TANGENCY; (3) N 30°18'53" E, A DISTANCE OF 75.18 FEET; (4) S 58°00'50" E, A DISTANCE OF 90.19 FEET, TO THE POINT OF CURVATURE OF A CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 715.97 FEET AND A CENTRAL ANGLE OF 32°00'23"; (5) EASTERLY, ALONG THE ARC OF SAID CURVE TO THE LEFT, A DISTANCE OF 399.95 FEET, TO A POINT OF TANGENCY; (6) N 89°58'47" E, A DISTANCE OF 393.05 FEET, TO THE MOST EASTERLY CORNER OF SAID PARCEL; THENCE N 15°23'10" W, ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 7.23 FEET; THENCE S 89°57'48" E TO THE EAST RIGHT-OF-WAY LINE OF DIAGONAL ROAD AS DESCRIBED IN OFFICIAL RECORDS BOOK

5655, PAGE 5000, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND TO A NON-TANGENT INTERSECTION WITH A CIRCULAR CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 700.00 FEET, A CHORD BEARING OF N 16°20'35" W, AND A CHORD DISTANCE OF 23.39 FEET; THENCE RUN NORTHWESTERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF DIAGONAL ROAD AND ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°54'51", A DISTANCE OF 23.39 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N 15°23'10" W ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF DIAGONAL ROAD 691.55 FEET; THENCE N 18°45'45" W ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF DIAGONAL ROAD 200.35 FEET TO THE BEGINNING OF A NON-TANGENT CIRCULAR CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 890.00 FEET, A CHORD BEARING OF N 26°25'03" W, AND A CHORD DISTANCE OF 340.60 FEET; THENCE RUN NORTHWESTERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF DIAGONAL ROAD AND ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 22°03'47", A DISTANCE OF 342.71 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF THE MELBOURNE-TILLMAN DRAINAGE DISTRICT CANAL No. 72, AS PRESENTLY OCCUPIED; THENCE S 89°22'11" E ALONG SAID SOUTH RIGHT-OF-WAY LINE OF CANAL No. 72 A DISTANCE OF 831.70 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE No. 95 (STATE ROAD No. 9) AND TO A NON-TANGENT INTERSECTION WITH A CIRCULAR CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 3669.83 FEET, A CHORD BEARING OF S 38°10'08" E, AND A CHORD DISTANCE OF 741.18 FEET; THENCE RUN SOUTHEASTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE No. 95 AND ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°35'30", A DISTANCE OF 742.45 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S 32°22'24" E ALONG THE SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE No. 95, A DISTANCE OF 384.55 FEET; THENCE S 28°22'16" E ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE No. 95, A DISTANCE OF 304.68 FEET TO THE NORTHEAST CORNER OF THAT PARCEL OF LAND CONVEYED TO MELBOURNE TOWN CENTER, LLC, A DELAWARE CORPORATION BY WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 5565, PAGE 4978 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY THE FOLLOWING 6 COURSES: (1) S 28°21'59" E, A DISTANCE OF 157.11 FEET, TO THE POINT OF CURVATURE OF A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 910.00 FEET AND A CENTRAL ANGLE OF 26°00'00"; (2) SOUTHERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, A DISTANCE OF 412.94 FEET, TO A POINT OF TANGENCY; (3) S 02°21'59" E, A DISTANCE OF 781.30 FEET; (4) S 42°24'43" W, A DISTANCE OF 28.25 FEET; (5) S 87°26'46" W, A DISTANCE OF 174.73 FEET; (6) S 00°37'06" W, A DISTANCE OF 46.75 FEET, TO THE NORTH LINE OF MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL No. 73 (A 94.00 FOOT WIDE RIGHT OF WAY); THENCE N 89°21'54" W, ALONG SAID NORTH LINE, A DISTANCE OF 2355.04 FEET, TO THE POINT OF BEGINNING. CONTAINING 106.89 ACRES MORE OR LESS.

EXHIBIT 3 - Landowner Consent

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

The undersigned understands and acknowledges that PBR Community Development District ("Petitioner") intends to submit a petition to annex the lands on the attached Exhibit A into the existing PBR Community Development District which was established by Ordinance Number 2007-35 by the City of West Melbourne on October 16, 2007 in accordance with the provisions of Chapter 190 of the Florida Statutes.

As an owner of lands which are intended to constitute the annexation into the existing Community Development District, the undersigned understands and acknowledges that pursuant to the provisions of Section 190.005, Florida Statutes, the Petitioner is required to include the written consent to the annexation into the PBR Community Development District of one hundred percent (100%) of the owners of the lands to be annexed into the Community Development District.

The undersigned hereby consents to the annexation into the PBR Community Development District which will include the Property on the attached Exhibit A and agrees to further execute any documentation necessary or convenient to evidence this consent and joinder during the application process for the annexation into the PBR Community Development District.

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

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

Executed this 30 day of January, 2008.

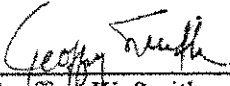
WEST MELBOURNE HOLDINGS II, LLC,
a Florida Limited Liability Company

By: WEST MELBOURNE II, LLC, its sole
Member

By: HAMMOCK LANDING/WEST
MELBOURNE, LLC, its managing member

By: CBL & ASSOCIATES LIMITED
PARTNERSHIP, its sole member and chief
manager

By: CBL HOLDINGS I, INC. its sole general
partner

By: 

Geoffrey W. Smith
Vice President

Phase II:

LEGAL DESCRIPTION: (ATTORNEYS' TITLE INSURANCE FUND, INC. FUND FILE No. 19-2006-1376 - FURNISHED BY CLIENT) *SEE NOTE 10*

THAT PORTION OF TRACTS 28 AND 29, IN SECTION 19, TOWNSHIP 28 SOUTH, RANGE 37 EAST, FLORIDA INDIAN RIVER LAND COMPANY'S SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 164, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA THAT LIES SOUTHERLY AND WESTERLY OF THE WEST RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY I-95, AND LYING SOUTHERLY OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL No. 72 RUNNING ALONG THE NORTHERLY LINE OF SAID SECTION 19, AND WHICH LIES NORTHERLY OF THAT PARCEL OF LAND CONVEYED TO MELBOURNE TOWN CENTER, LLC, A DELAWARE CORPORATION BY WARRANTY DEED RECORDED IN O.R. BOOK 5565, PAGE 4978, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BOUNDED ON THE WEST BY THE EASTERLY LINE OF THE PROPOSED DIAGONAL ROAD RIGHT-OF-WAY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LEGAL DESCRIPTION FOR PROPOSED DIAGONAL ROAD RIGHT-OF-WAY SOUTH OF CANAL No. 72:

A PARCEL OF LAND IN THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, FOR A ROADWAY RIGHT-OF-WAY ALIGNMENT FOR THE CONSTRUCTION OF A PORTION OF THE DIAGONAL ROAD SOUTH OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL No. 72 AND NORTH OF PALM BAY ROAD;

A PORTION OF THE LOTS 27 AND 28, FLORIDA INDIAN RIVER LAND COMPANY SUBDIVISION OF SECTION 19, TOWNSHIP 28 SOUTH, RANGE 37 EAST, AS RECORDED IN PLAT BOOK 1, PAGE 164, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA SAID RIGHT-OF-WAY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 19, TOWNSHIP 28 SOUTH, RANGE 37 EAST, THENCE S 89°22'11" E, ALONG THE NORTH LINE OF SAID SECTION, FOR A DISTANCE OF 50.00 FEET, TO A POINT ON THE EAST RIGHT OF WAY LINE OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL No. 69; THENCE S 00°25'16" W FOR A DISTANCE OF 45.00 FEET, ALONG THE EAST RIGHT-OF-WAY LINE OF SAID CANAL No. 69 TO AN INTERSECTION POINT WITH THE SOUTH RIGHT-OF-WAY LINE OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL No. 72, SAID INTERSECTION POINT ALSO BEING THE NORTHWEST CORNER OF THE PARCEL OF LAND TO BE PLATTED AS MINTON COVE SUBDIVISION; THENCE S 89°22'11" E FOR A DISTANCE OF 1735.10 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE OF CANAL No. 72, SAID SOUTH RIGHT-OF-WAY LINE BEING COINCIDENT WITH THE NORTH LINE OF THE PARCEL OF LAND TO BE PLATTED AS MINTON COVE SUBDIVISION; TO THE POINT OF BEGINNING (POB) OF THE HEREIN DESCRIBED PARCEL OF LAND SAID POINT OF BEGINNING BEING THE NORTHEAST CORNER OF THE PARCEL OF LAND TO BE PLATTED AS MINTON COVE SUBDIVISION, THE WEST RIGHT-OF-WAY LINE OF THE DIAGONAL ROAD AND A NON-TANGENT POINT ON A CIRCULAR CURVE, CONCAVE SOUTHWESTERLY, WHOSE CHORD IS S 28°42'31" E AND 373.30 FEET IN LENGTH, THE RADIUS POINT OF WHICH BEARS S 48°05'23" W A DISTANCE OF 817.29 FEET AWAY; THE FOLLOWING (3) METES AND BOUNDS CALLS ARE ALONG THE WEST RIGHT-OF-WAY LINE OF THE DIAGONAL ROAD WHICH IS COINCIDENT WITH THE EAST BOUNDARY LINE OF THE PARCEL OF LAND TO BE PLATTED AS MINTON COVE SUBDIVISION, THENCE SOUTHEASTERLY ALONG THE SAID CIRCULAR CURVE, THROUGH A CENTRAL ANGLE OF 26°24'11" FOR A DISTANCE OF 376.62 FEET TO THE POINT OF TANGENCY; THENCE S 10°11'11" E FOR A DISTANCE OF 200.83 FEET; THENCE S 15°23'10" E FOR A DISTANCE OF 691.55 FEET TO THE SOUTHEAST CORNER OF THE PARCEL OF LAND TO BE PLATTED AS MINTON COVE SUBDIVISION; THENCE N 89°58'47" E ALONG THE EASTERLY PROLONGATION OF THE SOUTHERN BOUNDARY OF THE PARCEL OF LAND TO

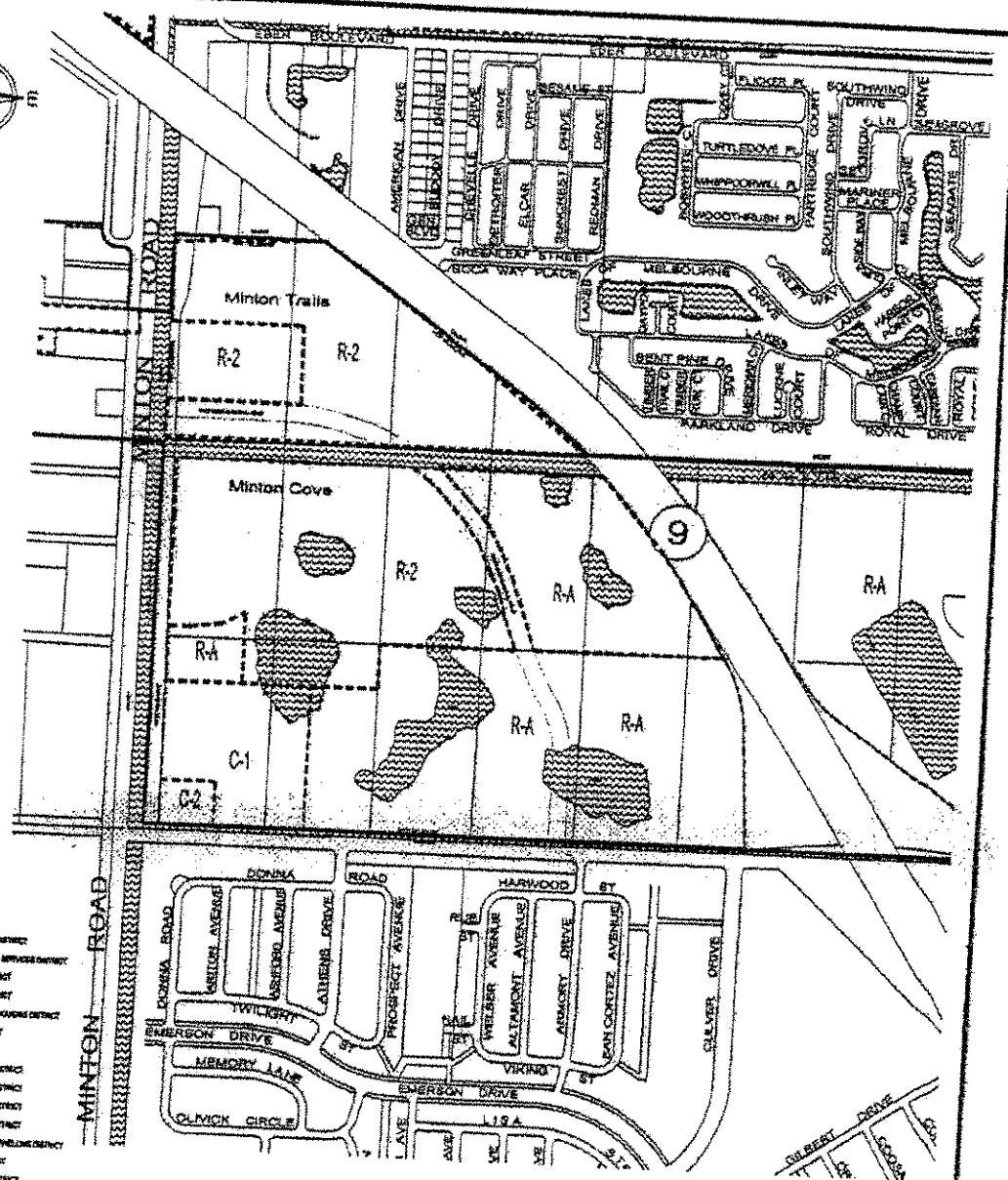
BE PLATTED AS MINTON COVE SUBDIVISION, FOR A DISTANCE OF 114.76 FEET, TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF THE DIAGONAL ROAD, SAID POINT ALSO BEING A NON-TANGENT POINT ON A CIRCULAR CURVE CONCAVE NORTHEASTERLY WHOSE CHORD IS N 16°37'52" W AND 30.42 FEET IN LENGTH; THE RADIUS POINT OF WHICH BEARS N 72°07'26" E A DISTANCE OF 700.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°29'24" FOR A DISTANCE OF 30.42 FEET, TO A POINT OF TANGENCY; THENCE, N 15°23'10" W FOR A DISTANCE OF 691.55 FEET; THENCE N 18°45'45" W FOR A DISTANCE OF 200.35 FEET, TO THE BEGINNING OF A NON-TANGENT CIRCULAR CURVE, CONCAVE SOUTHWESTERLY WHOSE CHORD IS N 26°25'03" W AND 340.60 FEET IN LENGTH; THE RADIUS POINT OF WHICH BEARS S 74°36'50" W FOR A DISTANCE OF 890.00 FEET; THENCE, NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 22°03'46" FOR A DISTANCE OF 342.71 FEET TO THE INTERSECTION POINT WITH THE SOUTH RIGHT-OF-WAY OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL No. 72; THENCE N 89°22'11" W FOR A DISTANCE OF 104.92 FEET ALONG THE SOUTH RIGHT-OF-WAY OF SAID CANAL No. 72; TO THE POINT OF BEGINNING.

DESCRIPTION BY SURVEYOR:

A PORTION OF TRACTS 27, 28, 29, AND 30 IN SECTION 19, TOWNSHIP 28 SOUTH, RANGE 37 EAST, FLORIDA INDIAN RIVER LAND COMPANY SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 164, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 19, TOWNSHIP 28, SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA AND RUN S 89°22'11" E ALONG THE NORTH LINE OF SAID SECTION 50.00 FEET TO THE EAST RIGHT OF WAY LINE OF THE MELBOURNE-TILLMAN DRAINAGE DISTRICT CANAL No. 69, AS PRESENTLY OCCUPIED; THENCE S 00°25'16" W ALONG SAID EAST RIGHT-OF-WAY LINE 45.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF THE MELBOURNE-TILLMAN DRAINAGE DISTRICT CANAL No. 72, AS PRESENTLY OCCUPIED; THENCE S 89°22'11" E ALONG SAID SOUTH RIGHT-OF-WAY LINE OF CANAL No. 72 A DISTANCE OF 1840.02 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE S 89°22'11" E ALONG SAID SOUTH RIGHT-OF-WAY LINE OF CANAL No. 72 A DISTANCE OF 831.70 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE No. 95 (STATE ROAD No. 9) AND TO A NON-TANGENT INTERSECTION WITH A CIRCULAR CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 3669.83 FEET, A CHORD BEARING OF S 38°10'08" E, AND A CHORD DISTANCE OF 741.18 FEET; THENCE RUN SOUTHEASTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE No. 95 AND ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°35'30", A DISTANCE OF 742.45 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S 32°22'24" E ALONG THE SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE No. 95, A DISTANCE OF 384.55 FEET; THENCE S 28°22'16" E ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE No. 95, A DISTANCE OF 304.68 FEET TO THE NORTHEAST CORNER OF THAT PARCEL OF LAND CONVEYED TO MELBOURNE TOWN CENTER, LLC, A DELAWARE CORPORATION BY WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 5565, PAGE 4978 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE N 89°57'48" W ALONG THE NORTH LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS 5565, PAGE 4978, A DISTANCE OF 1234.33 FEET TO THE EAST RIGHT-OF-WAY LINE OF DIAGONAL ROAD AS DESCRIBED IN OFFICIAL RECORDS BOOK 5655, PAGE 5000, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND TO A NON-TANGENT INTERSECTION WITH A CIRCULAR CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 700.00 FEET, A CHORD BEARING OF N 16°20'35" W, AND A CHORD DISTANCE OF 23.39 FEET; THENCE RUN NORTHWESTERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF DIAGONAL ROAD AND ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°54'51", A DISTANCE OF 23.39 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N 15°23'10" W ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF DIAGONAL ROAD 691.55 FEET; THENCE N 18°45'45" W ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF

DIAGONAL ROAD 200.35 FEET TO THE BEGINNING OF A NON-TANGENT CIRCULAR CURVE
CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 890.00 FEET, A CHORD BEARING OF
N 26°25'03" W, AND A CHORD DISTANCE OF 340.60 FEET; THENCE RUN NORTHWESTERLY
ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE OF DIAGONAL ROAD AND ALONG THE
ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 22°03'47", A DISTANCE OF 342.71
FEET TO THE POINT OF BEGINNING.
CONTAINING 28.17 ACRES MORE OR LESS AND BEING SUBJECT TO RIGHTS-OF-WAY,
EASEMENTS AND RESTRICTIONS OF RECORD.



64 LOW DENSITY COMMERCIAL DISTRICT
 65 AMUSEMENT, OFFICE AND SERVICE DISTRICT
 66 GENERAL COMMERCIAL DISTRICT
 67 COMMERCIAL-PURCHASE DISTRICT
 68 LIGHT INDUSTRIAL AND WAREHOUSES DISTRICT
 69 GENERAL INDUSTRIAL DISTRICT
 70 INSTITUTIONAL RESIDENCE
 71 SINGLE-FAMILY RESIDENTIAL DISTRICT
 72 SINGLE-FAMILY RESIDENTIAL DISTRICT
 73 SINGLE-FAMILY RESIDENTIAL DISTRICT
 74 SINGLE-FAMILY RESIDENTIAL DISTRICT
 75 SINGLE-FAMILY RESIDENTIAL DISTRICT
 76 CH. TWO- AND TWO-AND-A-HALF-FAMILY, TOWNHOUSE DISTRICT
 77 MULTIFAMILY DWELLING DISTRICT
 78 RESIDENTIAL-GROWING YOUTH DISTRICT
 79 PLANNED DEVELOPMENT FOR RESIDENTIAL VEHICLE PARK
 80 PLANNED RESIDENTIAL DEVELOPMENT FOR MOBILE HOME TRAIL
 81 SINGLE-FAMILY MOBILE HOME RESIDENTIAL DISTRICT
 82 SINGLE-FAMILY MOBILE HOME RESIDENTIAL DISTRICT



CIVIL ENGINEERING 1500 CURLEW ROAD, STE 100
LAND PLANNING PALM HARBOR, FLORIDA
TRAFFIC/TRANSPORTATION 34684
LANDSCAPE ARCHITECTURE
ENVIRONMENTAL SCIENCES
SURVEYING PHONE (727) 788-9504
FAX (727) 784-6862
GIS ANDGROUP.COM

ZONING EXHIBIT
HAMMOCK LANDINGS
WEST MELBOURNE
BREVARD COUNTY, FLORIDA

EXHIBIT 5

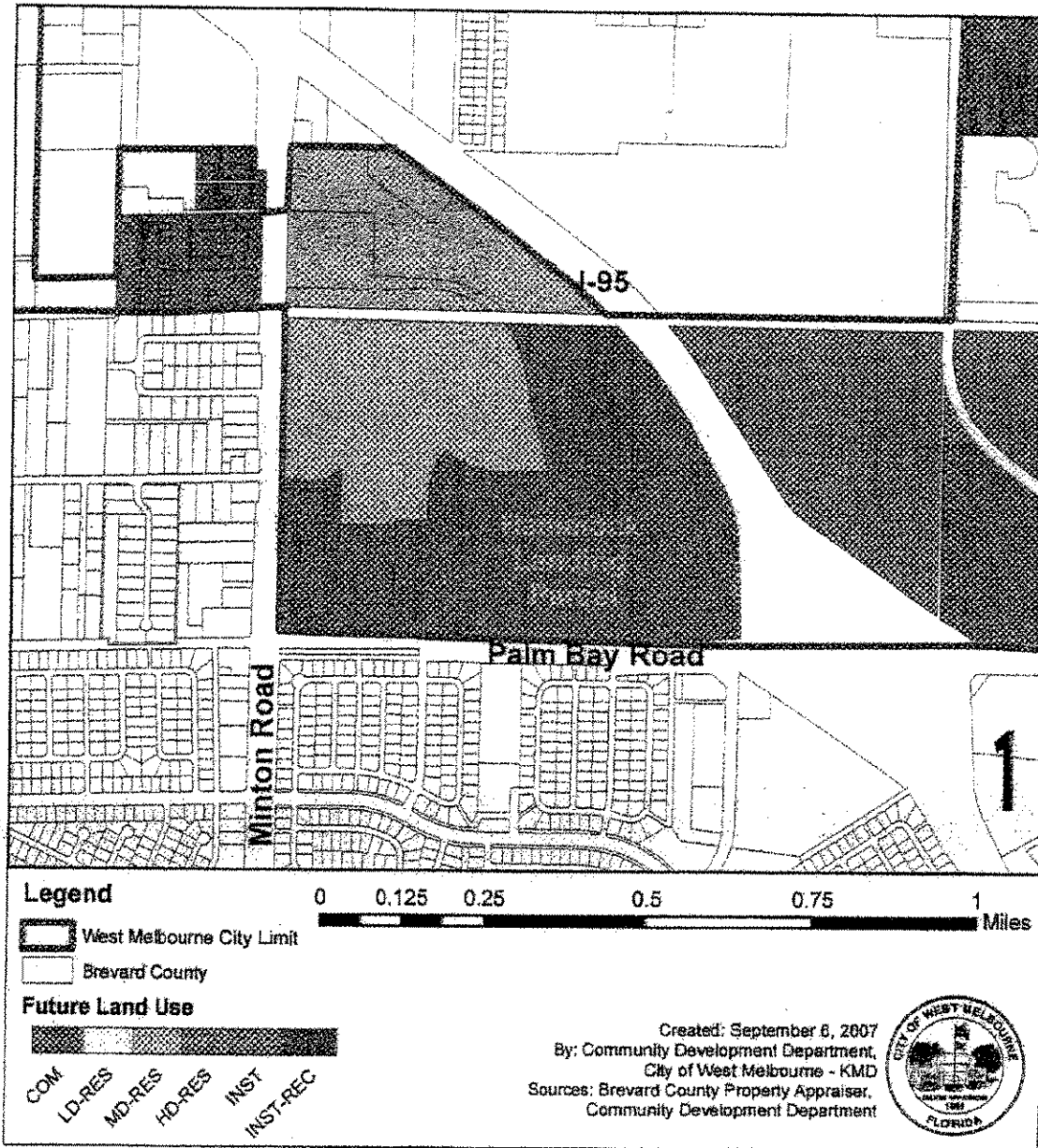


EXHIBIT 8

West Melbourne (PBR CDD) North Parcel Bond Sizing Estimate

PBR PH 2 INFRASTRUCTURE COST ESTIMATES

<u>Infrastructure Category</u>	<u>Cost Estimate</u>
Stormwater Management (Includes Grading)	\$3,626,009
Sanitary Sewer System	\$444,303
Water System	\$491,817
Onsite Entry, Sidewalk, Landscaping & Irrigation	\$2,406,236
Permits, Professional Fees, Inflation, Etc.	<u>\$930,921</u>
Total	\$7,899,286

PBR PH2 BOND SIZING ESTIMATE

<u>Bond Fund</u>	<u>Fund Amount</u>		
Construction Fund	\$7,899,286	Rate:	7.50%
Debt Service Reserve	\$1,021,135	Periods:	30
Capitalized Interest	\$2,757,065	Months Cap. I.:	36
Underwriter's Discount	\$180,900		
Costs of Issuance	\$200,000		
Rounding	<u>\$1,614</u>		
Total Par	\$12,060,000		



**STATEMENT OF ESTIMATED
REGULATORY COSTS
SUPPORTING THE PETITION
TO AMEND THE BOUNDARIES
OF THE PBR COMMUNITY
DEVELOPMENT DISTRICT**

January 30, 2008

Prepared by:

**Fishkind & Associates, Inc.
12051 Corporate Blvd.
Orlando, Florida 32817**

**STATEMENT OF ESTIMATED REGULATORY COSTS
PBR Community Development District**

January 30, 2008

1.0 Introduction

1.1 Purpose

This statement of estimated regulatory costs ("SERC") supports the petition ("Petition") to amend the boundaries of the PBR Community Development District ("District"). The District currently includes approximately 78.72 acres of land on which the developer plans to develop its Hammock Landing retail project ("Project"). The District's Board of Directors proposes to expand the boundaries of the District as it currently exists to include an additional 28.17 acres of land ("Expansion Acreage").

The Project, which will be located on the property within the original District and the Expansion Acreage, is planned to contain an estimated 750,000 square feet of commercial retail and office space. The property within the original District and the Expansion Acreage is located exclusively within the boundaries of the City of West Melbourne ("City"), Florida. The District proposes to provide public infrastructure and community services to the property within the Expansion Acreage as described more fully below.

1.2 Scope of the Analysis

The limitations on the scope of this SERC are explicitly set out in Section 190.002(2)(d), F.S. (governing Community Development District formation or alteration) as follows:

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

1.3 Requirements for Statement of Estimated Regulatory Costs

Florida Statute Section 120.541(2) defines the elements a statement of estimated regulatory costs must contain:

- (a) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.
- (b) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state and local revenues.
- (c) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governmental entities, required to comply with the requirements of the rule. As used in this paragraph, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, and the cost of monitoring and reporting.
- (d) An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S.
- (e) Any additional information that the agency determines may be useful.
- (f) In the statement or revised statement, whichever applies, a description of any good faith written proposal submitted under paragraph (1) (a) and either a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

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

The proposed District will provide public infrastructure and services to the properties contained within the Expansion Acreage. The categories of public infrastructure planned for the Expansion Acreage are found in Table 1, below. All of the ultimate property owners in the District will be required to comply with District rules. The properties located within the Expansion Acreage may also be encumbered with debt issued by the District to pay for the installation of the infrastructure outlined in Table 1. Property owners may also be responsible for the operation and maintenance expenses incurred by the District to ensure that the infrastructure continues to serve the lands within the Expansion Acreage in the future.

Of course, prior to the sell out of the real estate within the Expansion Acreage, all of the undeveloped land owned by the developer and any other landowner will also be under the jurisdiction of the District and subject to the corresponding debt obligations.

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

3.1 Costs to Governmental Agencies of Implementing and Enforcing Ordinance

State Governmental Entities

The cost to State entities to review or enforce the proposed District boundary amendments will be very modest. The District comprises less than 1,000 acres and is located entirely within the boundaries of the City. Therefore, the City (and not the Florida Land and Water Adjudicatory Commission) will review and act upon the Petition to amend the District's boundaries.

There are minimal additional ongoing costs to various State entities to implement and enforce the proposed ordinance. The District is a special purpose unit of local government, and it is required to file various reports to the State of Florida, the Department of Community Affairs and other agencies of the State. The filing requirements are outlined in the attached Appendix. However, the additional costs to the State and its various departments to process the additional filings from the District are very low, since the State routinely processes filings from many other similar districts.

City of West Melbourne

The Petition to amend the boundaries of the District will require the City to review the Petition and its supporting exhibits. In addition, the City will hold public hearings to discuss the Petition and consider any public input. These activities will absorb staff time and the time of the City's Board of Commissioners. However, these costs are very modest at most for the following reasons. First, the review of the Petition to form the District does not include an analysis of the Project itself. In fact, such a review of the Project is prohibited by statute. Second, the Petition contains all of the information necessary for its review. Third, the City currently has the staff necessary to review the petition. Fourth, no capital costs are involved in the review. Fifth, the City routinely processes similar petitions for land use and zoning changes that are far more complicated than this petition to

amend the boundaries of the District. Finally, the filing fees paid to the City on account of the Petition are designed to offset any costs involved with the review of the position.

The City will incur negligible additional annual costs if the Petition is approved. The District is an independent unit of local government, so the District is responsible for its own budget, reporting, and the full conduct of its powers within its boundaries. The District will provide the City with its budget each year for the City's review and comment, but no City action on the budget is required. If the City voluntarily accepts the conveyance of a public infrastructure improvement funded by the District, the City will incur costs related to the operation and maintenance of that facility or service. However, acceptance of the facility or service would be voluntary on the part of the City. Further, the City would have the power to levy fees or taxes to offset the operation and maintenance expenses of the conveyed facility or service. Table 1 below outlines any facilities or services planned to serve the property within the Expansion Acreage that the City will maintain and operate.

3.2 Impact on State and Local Revenues

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

Property taxes accruing to the City from properties located within the District are not split with the Community Development District. Further, any non-ad valorem assessments levied by Community Development Districts will not count against any millage caps imposed on other taxing authorities, such as the City, providing services to the lands within the District (including the lands within the Expansion Acreage). It is also important to note that any debt obligations incurred by the District to construct its infrastructure, or for any other reason, are not debts of the State of Florida or any unit of local government. By State law debts of the District are strictly its own responsibility.

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

The District plans to provide various community facilities and services to the property in the Expansion Acreage, as outlined in Table 1 below.

Table 1. Proposed Facilities and Services

<u>Facility</u>	<u>Funded By</u>	<u>Ownership and Maintenance</u>
Stormwater Management	CDD	CDD
Roadway Improvements	CDD	City
Utilities	CDD	City
Landscape & Irrigation	CDD	CDD

Table 2 below presents the District's share of costs associated with the implementation of the Public Infrastructure serving the property within the Expansion Acreage.

Table 2. Summary of Estimated Capital Costs for Public Infrastructure Serving the District

<u>Infrastructure Category</u>	<u>Cost Estimate</u>
Stormwater Management (Includes Grading)	\$3,626,009
Sanitary Sewer System	\$444,303
Water System	\$491,817
Onsite Entry, Sidewalk, Landscaping & Irrigation	\$2,406,236
Permits, Professional Fees, Inflation, Etc.	<u>\$930,921</u>
Total	<u>\$7,899,286</u>

Prospective future landowners in the District may be required to pay non-ad valorem assessments levied by the District to secure the debt incurred through bond issuance. An estimate of the bond sizing required to fund the costs outlined in Table 2 is found in Table 3 below.

Table 3. Estimate of Bond Sizing Required to Raise Capital Construction Funds

<u>Bond Fund</u>	<u>Fund Amount</u>
Construction Fund	\$7,899,286
Debt Service Reserve	\$1,021,135
Capitalized Interest	\$2,757,065
Underwriter's Discount	\$180,900
Costs of Issuance	\$200,000
Rounding	<u>\$1,614</u>
Total Par	<u>\$12,060,000</u>

In addition to the levy of non-ad valorem assessments for debt service, the District may also impose a non-ad valorem assessment to fund the operations and maintenance of the facilities and services planned to serve the property within the Expansion Acreage.

It is important to note that the various costs outlined in Table 2 are typical for developments of the type contemplated here. In other words, there is nothing peculiar about the District's financing that requires additional infrastructure over and above what would normally be needed. Therefore, these costs are not in addition to normal development costs. Instead, the facilities and services provided by the District are substituting in part for developer-provided infrastructure and facilities. Along these same lines, District-imposed assessments for operations and maintenance costs are similar to what would be charged in any event by a property owners' association common to most master planned developments.

Real estate markets are quite efficient, because buyers and renters evaluate all of the costs and benefits associated with various alternative locations. Therefore, market forces preclude developers from marking up the prices of their products beyond what the competition allows. To remain competitive the operations and maintenance charges must also be in line with the competition.

Furthermore, the decision by new property owners to locate within the District, or more specifically, the Expansion Acreage, is completely voluntary. So, ultimately, all owners and users of the affected property choose to accept the District's costs in tradeoff for the benefits that the District provides.

The District is an alternative means to finance necessary community services. District financing is no more expensive, and often less

than is a POA. Second, the proposed District is a unit of local government. Therefore, unlike the POA the District must abide by all governmental rules and regulations.

A District also is preferable to these alternatives from a government accountability perspective. With a District as proposed, property owners within the District would have a focused unit of government under their direct control. The District can then be more responsive to property owner needs without disrupting other City responsibilities.

Fishkind & Associates certifies that this SERC meets the requirements for a SERC as set out in Chapter 120.541, F.S.

We have developed over 100 SERCs. Below is a listing of some of the Districts for which we have prepared SERCs.

- Urban Orlando (Baldwin Park) Community Development District
- The Lake Nona "Family" of Community Development Districts
- Palazzo Del Lago Community Development District
- Winter Garden Village at Fowler Groves Community Development District
- Gardens at Millenia Community Development District
- New Port Tampa Bay Community Development District
- The Tradition "Family" of Community Development Districts
- The Williams "Family" of Community Development Districts
- Marshall Creek Community Development District
- Cedar Hammock Community Development District
- Meditera Community Development District
- Brooks Community Development District
- Pelican Marsh Community Development District
- Pelican Landing Community Development District
- Fiddler's Creek Community Development District 1

APPENDIX

LIST OF DISTRICT REPORTING REQUIREMENTS

REPORT	FLORIDA STATUTE SECTION	DATE
Annual Financial Audit	11.45	12 months after end of fiscal year
Annual Financial Report (AFR)	218.32	by March 31
Financial Disclosure Form 1	112.3144	by July 1
Public Depositor	215	by November 15
Proposed Budget	190.008	by June 15
Adopted Budget	190.008	by October 1
Public Facilities Report	189.415	by March 1
Public Meetings Schedule	189.417	beginning of fiscal year
Bond Report	218.38	when issued
Registered Agent	189.417	30 days after formation
Notice of Establishment	190.0485	30 days after formation

LOCATION MAP

