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CLERK OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

ORDINANCE NO. 09-68

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, ESTABLISHING AND NAMING THE CITY GATE COMMUNITY DEVELOPMENT DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; NAMING THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING STATUTORY PROVISIONS AND COMMITMENTS GOVERNING THE DISTRICT; PROVIDING FOR CONSENT TO SPECIAL POWERS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Joseph R. Weber, Vice President on behalf of 850 NWN, LLC and CG II, LLC ("Petitioners"), has petitioned the Board of County Commissioners of Collier County, Florida, a political subdivision of the State of Florida, to establish the CITY GATE COMMUNITY DEVELOPMENT DISTRICT (District); and

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

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

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

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

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

SECTION ONE: AUTHORITY FOR ORDINANCE

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

SECTION TWO: ESTABLISHMENT OF THE CITY GATE COMMUNITY DEVELOPMENT DISTRICT

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

SECTION THREE: DISTRICT NAME

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

SECTION FOUR: DESIGNATION OF INITIAL BOARD MEMBERS

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

- | | | | |
|----|--|----|--|
| 1. | Roger B. Rice
159 Kirtland Drive
Naples, FL 34110 | 4. | Paul P. Pacchiana
2139 Morning Sun Lane
Naples, FL 34119 |
| 2. | Ronald G. Rice
601 Trophy Drive, Unit 503
Naples, FL 34110 | 5. | Jeremy C. Sterk
2875 Garland Road
Naples, FL 34117 |
| 3. | Elena Lindner
3420 22 nd Avenue NE
Naples, FL 34120 | | |

SECTION FIVE: STATUTORY PROVISIONS GOVERNING THE DISTRICT

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

SECTION SIX: CONSENT TO SPECIAL POWERS

Upon the effective date of this Ordinance, the City Gate Community Development District will be duly and legally authorized to exist and exercise all of its general powers as limited by law; and has the right to seek consent from the Collier County Board of County Commissioners for the grant of authority to exercise special powers in accordance with Section 190.012(2), Florida Statutes.

SECTION SEVEN: PETITIONER'S COMMITMENTS

The adoption of this Ordinance is predicated upon the following: that the Petitioners, or their successors and assigns, shall (1) elect one property owner with no affiliation or direct relation to the existing owners or any subsequent developer of the District, to the five member Board of Supervisors at such time as property owners begin occupying businesses in the District, and (2) record a Notice of Assessments containing the specific terms and conditions of any special assessments imposed to secure bonds issued by the District, which notice shall be recorded immediately after any such bond issuance. The Board shall retain any and all rights

and remedies available at law and in equity to enforce Petitioner's Commitments against Petitioner, its successors and assigns.

SECTION EIGHT: CONFLICT AND SEVERABILITY

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

SECTION NINE: INCLUSION IN CODE OF LAWS AND ORDINANCES

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

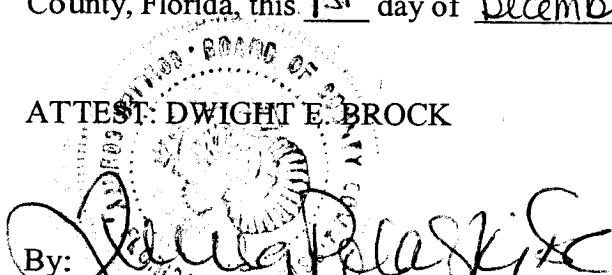
SECTION TEN: EFFECTIVE DATE

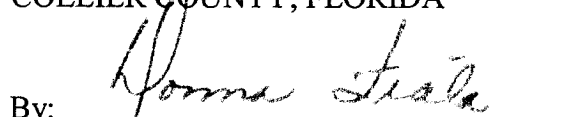
This Ordinance shall become effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 1st day of December, 2009.

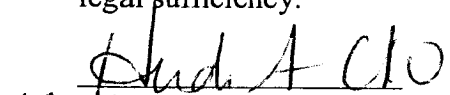
ATTEST: DWIGHT E. BROCK

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: 
Dwight E. Brock, Deputy Clerk
Signature Date: _____

By: 
DONNA FIALA, CHAIRMAN

Approved as to form and legal sufficiency:


for Jeff Klatzkow,
County Attorney

CP\09-CMP-00616\4

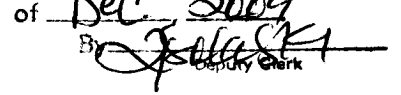
This ordinance filed with the Secretary of State's Office the 4 day of Dec., 2009 and acknowledgement of that filing received this 11 day of Dec., 2009
By: 
Dwight E. Brock, Deputy Clerk

Exhibit A

LEGAL DESCRIPTION OF CITY GATE COMMUNITY DEVELOPMENT DISTRICT

A PORTION OF THE NORTH ONE-HALF OF SECTION 35, TOWNSHIP 49 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A PK NAIL AND DISC NO. LB5982 MARKING THE NORTHWEST CORNER OF SECTION 35, TOWNSHIP 49 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA; THENCE NORTH 89°13'01" EAST, ALONG THE NORTH LINE OF SAID SECTION 35 AND THE SOUTH LINE OF SAFE HARBOR, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 26, PAGES 22 AND 23, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, AND THE NORTH LINE OF LOT 1, CITY GATE COMMERCE CENTER, PHASE ONE, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 41, PAGES 6 AND 7, OF SAID PUBLIC RECORDS, FOR A DISTANCE OF 590.33 FEET, TO THE NORTHEAST CORNER OF SAID LOT 1, FOR A POINT OF BEGINNING; THENCE CONTINUE, NORTH 89°13'01" EAST, ALONG SAID NORTH LINE OF SAID SECTION 35, AND THE SOUTH LINE OF SAFE HARBOR AND THE SOUTH LINE OF GOLDEN GATE ESTATES, UNIT NO. 28, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 7, PAGES 19 AND 20, OF SAID PUBLIC RECORDS, FOR 4,692.14 FEET, TO A CONCRETE MONUMENT NOW SET AT THE SOUTHEAST CORNER OF TRACT 169, GOLDEN GATE ESTATES, UNIT NO. 28 AND THE NORTHEAST CORNER OF SAID SECTION 35; THENCE SOUTH 00°55'48" WEST FOR 2,673.79 FEET, TO A CONCRETE MONUMENT FOUND AT THE NORTHEAST CORNER OF LOT 18, WHITE LAKE CORPORATE PARK, PHASE THREE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 34, PAGES 45 AND 46 OF SAID PUBLIC RECORDS; THENCE SOUTH 89°00'01" WEST, ALONG THE NORTH LINE OF SAID LOT 18, AND THE NORTH LINE OF WHITE LAKE CORPORATE PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 31, PAGES 26 THROUGH 28, INCLUSIVE FOR 4,000.85 FEET TO THE SOUTHEAST CORNER OF LOT 16, CITY GATE COMMERCE CENTER, PHASE ONE; THENCE NORTH 00°47'14" EAST, ALONG THE EAST LINE OF LOTS 16, 15 AND TRACT "A" OF SAID PHASE ONE PLAT, AND THE WEST RIGHT-OF-WAY LINE OF A 170 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY EASEMENT, RECORDED IN OFFICIAL RECORD BOOK 681, PAGE 1210, OF SAID PUBLIC RECORDS, FOR 2,072.75 FEET; THENCE NORTH 58°30'03" WEST, ALONG THE SOUTHWESTERLY LINE OF SAID 170 FOOT WIDE F.P. & L. EASEMENT, FOR 596.93 FEET; THENCE SOUTH 61°09'57" WEST, ALONG THE SOUTHERLY LINE OF PARCEL "E", AS RECORDED IN RECORD BOOK 3965, PAGE 2873, OF SAID PUBLIC RECORDS, FOR 203.97 FEET, TO THE EASTERLY LINE OF THE CITY GATE COMMERCE CENTER, PHASE ONE; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID PHASE ONE, THE FOUR FOLLOWING COURSES;

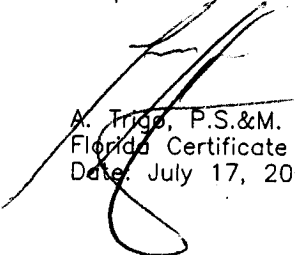
- 1) NORTH 00°47'14" EAST FOR 124.70 FEET; THENCE
- 2) NORTH 31°30'28" EAST FOR 70.02 FEET; THENCE
- 3) NORTH 29°30'45" WEST FOR 52.47 FEET; THENCE
- 4) NORTH 00°28'39" WEST FOR 163.01 FEET, TO THE POINT OF BEGINNING.

CONTAINING 253.05 ACRES, MORE OR LESS.

SUBJECT TO RESTRICTIONS, EASEMENTS AND RESERVATIONS OF RECORD.

BEARINGS FOR THE ABOVE DESCRIBED PROPERTY ARE BASED ON THE NORTH LINE OF SECTION 35, TOWNSHIP 49 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA - BEING NORTH 89°13'01" EAST.

Prepared by:


A. Trigg, P.S.&M.
Florida Certificate No. 2982
Date: July 17, 2008

STATE OF FLORIDA)

COUNTY OF COLLIER)

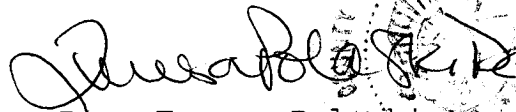
I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

ORDINANCE 2009-68

Which was adopted by the Board of County Commissioners on the 1st day of December, 2009, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 3rd day of December, 2009.

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



By: Teresa Polanski,
Deputy Clerk

