

Lee County Board Of County Commissioners

Blue Sheet No. 20051481

Agenda Item Summary

1. ACTION REQUESTED/PURPOSE: Conduct second public hearing and then agree to enter into a development agreement with the owners and developers of the Alico Interchange Park DRI that will govern the mitigation of the transportation impacts of the Alico Interchange Park DRI. Accept cash payment received pursuant to this agreement and amend the FY 05/06 - 09/10 CIP to reflect payment. Also approve budget amendment resolution in the amount of \$10,709,662.00.

2. WHAT ACTION ACCOMPLISHES: Finalizes the terms and conditions of the mitigation of transportation impacts for the Alico Interchange Park DRI.

3. MANAGEMENT RECOMMENDATION: Execute development agreement.

4. Departmental Category: 12 **9:35 PH#1**

5. Meeting Date: **10-25-2005**

6. Agenda:	7. Requirement/Purpose: (specify)	
<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Statute	163.3220
<input type="checkbox"/> Administrative	<input type="checkbox"/> Ordinance	
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code	
<input checked="" type="checkbox"/> Public	<input type="checkbox"/> Other	
<input type="checkbox"/> Walk-On	9:30 a.m. or as soon thereafter as may be heard.	

8. Request Initiated:
 Commissioner
 Department County Attorney
 Division Land Use
 By: *Donna Marie Collins*
 Donna Marie Collins

9. Background:

The Florida Legislature adopted the Florida Local Government Development Agreement Act to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic costs of development.

The County and the owners and developers of the Alico Interchange Park DRI propose to enter into the attached development agreement. The agreement outlines the mitigation protocol for the transportation impacts of the Alico Interchange Park DRI. The proposed mitigation entails a lump sum payment of cash that will be applied toward planned improvements to extend Three Oaks Parkway north of Alico Road. The funds will be posted to revenue account number: #20405330700.363249.9003.

The first public hearing was held on October 18, 2005. Florida Statutes requires two public hearings before a local government may enter into a development agreement under the Florida Local Government Development Agreement Act.

Staff recommends that the Board execute the agreement.

Attachment: Draft Development Agreement for Alico Interchange Park DRI dated 10-05-05

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
	N/A	N/A	N/A	<i>[Signature]</i>	Analyst <i>[Signature]</i>	Risk <i>[Signature]</i>	Grants <i>[Signature]</i>	Mgr <i>[Signature]</i>	<i>[Signature]</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY
 COUNTY ADMIN:
 10-12-05
 1:25
 COUNTY ADMIN
 FORWARDED TO:
 10-12-05
 2:15 P.M.

RESOLUTION

Amending the Budget of Transportation Capital Improvements-Fund 30700 to incorporate the unanticipated receipts into Estimated Revenues and Appropriations for the fiscal year 2005-2006.

WHEREAS, in compliance with the Florida Statutes 129.06(2), it is the desire of the Board of County Commissioners of Lee County, Florida, to amend the Transportation Capital Improvements-Fund 30700 budget for \$10,709,662 of the unanticipated revenue from Alico Interchange Park and an appropriation of a like amount for construction costs and;

WHEREAS, the Transportation Capital Improvements-Fund 30700 budget shall be amended to include the following amounts which were previously not included.

ESTIMATED REVENUES

Prior Total:		\$85,259,611
Additions		
20405330700.363249.9003	DRI Fees-Alico Interchange	10,709,662
Amended Total Estimated Revenues		\$95,969,273

APPROPRIATIONS

Prior Total:		\$85,259,611
Additions		
20405330700.506540	Improvements Construction	10,709,662
Amended Total Appropriations		\$95,969,273

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lee County, Florida, that the Transportation Capital Improvements-Fund 30700 budget is hereby amended to show the above additions to its Estimated Revenue and Appropriation accounts.

Duly voted upon and adopted in Chambers at a regular Public Hearing by the Board of County Commissioners on this ____ day of _____, 2005.

ATTEST:
CHARLIE GREEN, EX-OFFICIO CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: _____
DEPUTY CLERK

CHAIRMAN

APPROVED AS TO FORM

OFFICE OF COUNTY ATTORNEY

DOC TYPE YA
LEDGER TYPE BA

DEVELOPER AGREEMENT

THIS DEVELOPER AGREEMENT is entered into on this ___ day of October 2005, by and between **LEE COUNTY**, a political subdivision of the State of Florida, having its principal office at 2115 Second Street, Fort Myers, Florida 33901, hereinafter referred to as "County;" and **CHICO'S RETAIL SERVICES, INC.** a Florida corporation, hereinafter referred to as "Chico's," whose address is 11215 Metro Parkway, Fort Myers, Florida 33912; and **PAUL H. FREEMAN, TRUSTEE**, hereinafter referred to as "Freeman," whose address is 19091 Tamiami Trail S.E., Fort Myers, Florida 33908, (Chico's and Freeman being hereinafter referred to collectively as "Developer").

WITNESSETH:

WHEREAS, THE Florida State Legislature has enacted Statutes §163.3220-163.3243, which is cited as the Florida Local Development Agreement Act, authorizing any local government to enter into a development agreement in order to promote certainty in the development approval process, strengthen the public planning process, encourage sound capital improvement planning and financing, assist in assuring there are adequate capital facilities for the development, encourage private participation in comprehensive planning, and reduce the economic costs of development; and

WHEREAS, Chico's has contracted to purchase a portion of the Alico Interchange Park Development of Regional Impact (hereinafter referred to as the "Alico DRI") from Freeman and desires to construct a worldwide corporate headquarters thereon consisting of office, retail and related space which will create jobs and promote economic development within Lee County; and

WHEREAS, in order for Chico's to proceed with its corporate headquarter plans and for Freeman to proceed with development of the remainder of the Alico DRI, the parties desire to pay the transportation mitigation required by the Alico DRI development order in order to obtain vesting from transportation concurrency, so as to promote certainty in the development approval process and assure that adequate transportation facilities exist concurrent with actual development; and

WHEREAS, County and Developer wish to enter into this Agreement to form a contractual relationship regarding the use and development of all that real property described in **Exhibit A**, and be bound by the terms contained herein.

NOW, THEREFORE, it is agreed and understood by and between the parties hereto as follows:

I. DEVELOPER RIGHTS AND DUTIES

A. Public facilities that will service the development project will be provided by Developer in accordance with all applicable ordinances and the approved Second Amended Development Order for the Alico DRI. County finds that, subject to the conditions in the Alico DRI and in this Agreement, public facilities are concurrently available to include transportation, sanitary sewer, solid waste, drainage (all storm water drainage to be provided onsite), potable water, education, parks and recreation, and health systems facilities.

B. The Developer has commenced development of the Alico DRI and has constructed several phases thereof, consisting of in excess of 400 residential dwelling units in accordance with the Alico DRI development order and applicable zoning resolutions. The Alico DRI is also being constructed in accordance with Permit #36-02476-S, originally issued on May 13, 1993, by the South Florida Water Management District, and as subsequently modified. The Alico DRI is located within the Lee County Utilities service area for water and sanitary sewer service. This Development Agreement is intended to address the lump sum prepayment of the transportation proportionate share obligation for the balance of the approved development parameters.

C. The Developer has obtained the following permits on the subject property to date:

1. Lee County Zoning Resolution Z-85-324, as amended by Resolution Z-91-082 and Z-00-034.
2. Third Amended Development Order for Alico Interchange Park DRI (State DRI # 4-8485-54), Lee County Case Number DRI 960535 (formerly 85-11-1 DRI and 91-7-23-DRI-3) approved October 28, 2005.
3. South Florida Water Management District, Conceptual Surface Water Management Permit # 36-02476-S.
4. US Army Corps of Engineers Permit # 199300360.
5. Lee County Administrative Amendment ADD#2005-00180.

D. Pursuant to the approved Second Amended Alico DRI Development Order, in order to vest transportation concurrency for the proposed development within the approved Alico DRI, Developer is required to pre-pay the total proportionate share obligation for transportation mitigation in the amount of \$10,709,662.00 prior to November 10, 2005. Developer hereby agrees to wire this amount, less appropriate credits for roads impact fees previously paid and any other creditable roadway improvement/dedication to Lee County on or before November 10, 2005.

1. The County agrees that the proportionate share payment made pursuant to this paragraph will be used to fund the extension of Three Oaks Parkway north of Alico Road to Daniels Parkway. If that improvement is constructed using other funds or portions of the Alico DRI proportionate share payment remain unexpended, the County may use the remaining funds to make improvements to roadways that will directly benefit the development. The parties agree that the following creditable payments and improvements/dedications will be subtracted from the total proportionate share mitigation amount of \$10,709,662.00:

a. \$1,125,005.00 for roads impact fees previously paid for 494 dwelling units previously permitted within the Alico DRI; and

b. Credit for the dedication and construction of Winged Foot Drive will be addressed outside this development agreement. In accordance with the County's road impact regulations pertaining to credit for land dedication and construction improvements. Acceptance of Winged Foot Drive for county maintenance will be addressed in accordance with the road maintenance acceptance policy set forth in Lee County Administrative Code 11-7.

E. The Alico DRI Development Order indicates that the project is projected to generate 4,489 peak hour external trips. Based upon the traffic analysis prepared by the Developer and reviewed by the County concurrent with this Agreement, the traffic impacts associated with the development parameters described in this paragraph do not exceed the 4,489 peak hour external trips and the traffic impacts reviewed pursuant to the Alico DRI. Developer's payment will render the Alico DRI concurrent as to transportation for the build out level of development set forth in the Alico DRI Development Order, as amended pursuant to the provisions of this Agreement, up to 4,489 peak hour external trips. The concurrency vesting provided by this paragraph will extend through November 10, 2011, or for the life of any development order issued prior to November 10, 2011, whichever is later, unless this Agreement is amended.

The scope of the transportation concurrency vesting contemplated herein includes: a maximum of 1,446,000 square feet of combined total office/retail square footage (which currently includes up to 750,000 square feet planned for corporate headquarters/office use), provided the retail square footage does not exceed a maximum of 1,120,000 square feet; 400 hotel rooms; and 800 residential dwelling units (5.0 dwelling units per gross residential acre). All references to square footage in this agreement refer to gross leaseable area. Maximum building height is 95 feet.

F. Further local development orders within the Alico DRI for the development parameters described above will not be subject to transportation concurrency review through November 10, 2011. The Developer's payment described in this Agreement is in lieu of the payment of roads impact fees. Accordingly, the builders and contractors within the Alico DRI are not obligated to pay roads impact fees, except for building

permits obtained prior to the effective date of this Agreement. When builders or the Developer apply for building permits within the Alico DRI, the County will not issue building permits until the permit applicant provides notarized documentation from the respective Developer (as defined below) that confirms credits have been granted to the permit applicant consistent with the sample statement attached hereto as Exhibit B. The term "respective Developer" as used in the preceding sentence means Chico's for the area of the Alico DRI located west of Three Oaks Parkway and Freeman for the area located east of Three Oaks Parkway. The County will issue building permits only for the type and amount of development authorized in the documentation.

G. Changes to the zoning approvals for the Alico DRI will be permitted without amendment to this Agreement, provided that the external trip generation does not exceed 4489 peak hour external trips, and provided further that such amendments comply with all other applicable land use regulations. Square footage associated with common enclosed walkways connecting various parts of the Chico's corporate headquarters campus will not be counted towards the development square footage for the Alico DRI, provided the common enclosed walkways are not utilized as work space or office space.

H. Developer has filed and will pursue to completion a Notice of Proposed Change (NOPC) to the approved Alico DRI Second Amended Development Order to amend Map H and conform the amended Master Plan of Development to the development parameters identified above and location of uses described in ADD2005-00180, to extend the build out date for the Alico DRI Second Amended Development Order by two additional years, and to amend the Development Order text to reference this Agreement.

I. The Developers (or either of them acting independently) may further amend the Alico DRI in the future. Any NOPC will be processed and evaluated in accordance with all applicable provisions contained in Florida Statutes §380.06.

II. APPLICABLE LAND USE REGULATIONS

A. Lee County's regulations and policies governing the development of land on the date of execution of this development agreement will govern the development of the project for duration of the development agreement.

B. The County may apply subsequently adopted laws and policies to the project subject to this development agreement only if the County has held a public hearing and determined:

1. the subsequently adopted laws and policies are not in conflict with the laws and policies governing the development agreement and do not prevent the development of the land uses, intensities, or densities in the development agreement;

2. the laws and policies are essential to the public health, safety, or welfare, and expressly state that they apply to a development that is subject to a development agreement;

3. the laws and policies are specifically anticipated and provided for in this development agreement;

4. the County demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this development agreement; or,

5. this development agreement is based on substantially inaccurate information supplied by the developer.

C. This section may not be interpreted to abrogate rights that may vest pursuant to common law.

III. **CONSISTENCY** Pursuant to Florida Statutes §163.3231, this Agreement and the proposed development contemplated herein have been reviewed as of the effective date of the Agreement for consistency by the Lee County Community Development Department, and found to be consistent with the Lee Plan, the Lee County Land Development Code and all other local land development regulations applicable to this development project.

IV. **NOTICE AND HEARING** Pursuant to Florida Statutes §163.3225, the County has conducted two (2) public hearings regarding this Agreement. The first public hearing was held on October 18, 2005, before the Lee County Board of County Commissioners, and the second public hearing was held on October 25, 2005, before the Lee County Board of County Commissioners. The Board of County Commissioners entertained presentations from County staff, the Developer, and from the general public at said public hearings.

V. **DURATION OF DEVELOPMENT AGREEMENT** This Agreement will remain in full force and effect until November 10, 2014, unless terminated earlier as provided herein. This Development Agreement may be extended by mutual consent of the County and the Developer, subject to a public hearing in accordance with Section 163.3225, Fla. Stat.

VI. **AMENDMENTS, CANCELLATION OR TERMINATION** This Agreement may be amended or canceled by mutual consent of County and Developer, or their successors in interest. All County ordinances and policies governing the development of land at the time of execution of this Agreement will govern this development project for the duration of this Agreement. County may only apply subsequently adopted ordinances or policies to this project pursuant to Section 163.3233(2), Fla. Stat. County expressly reserves all police powers granted to it under the Florida State Constitution, as may be relevant and applicable to the regulation of this development project. In the event Developer fails to

make the payment specified herein by November 10, 2005, this agreement will terminate and be of no further force or effect.

VII. **PERIODIC REVIEW** Pursuant to Section 163.3235, Fla. Stat., the Lee County Community Development Department will review the development project regulated by this Agreement at least once every twelve (12) months, on the anniversary of the effective date of this Agreement, to determine if there has been good faith compliance with the terms of this Agreement. If the County determines, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of this Agreement, County will notify the Developer of the reason for non-compliance and allow Developer to cure such non-compliance in accordance with the provisions of Paragraph XI of this Agreement.

VIII. **NOTICES** Notices may be mailed to the following addresses by certified mail, return receipt requested:

If to Chico's: Chico's Retail Services, Inc.
11215 Metro Parkway
Fort Myers, Florida 33912
Attn: A. Alexander Rhodes, Corporate Counsel

with a copy to: Russell P. Schropp, Esquire
P. O. Box 280
Fort Myers, FL 33902-0280

If to Freeman: Paul H. Freeman, Trustee
c/o Alan C. Freeman
19091 Tamiami Trail, S.E.
Fort Myers, FL 33908

with a copy to: Paul H. Freeman, Esq.
1840 West 49th Street
Suite 410
Hialeah, FL 33012

If to County: Lee County Clerk's Office
P. O. Box 398
Fort Myers, FL 33902

with copy to: Lee County Attorney's Office
P. O. Box 398
Fort Myers, FL 33902
Attn: Donna Marie Collins

IX. **REMEDIES; ATTORNEYS FEES** This Agreement may be enforced by either party as against the other by appropriate action in law or equity filed in a court of competent jurisdiction. The parties agree that venue for such action will be in Lee County, Florida. In any litigation arising from or out of this Agreement, the prevailing party will be entitled to recover reasonable attorneys fees and costs paid, including attorneys fees and costs from any appeal therefrom.

X. **ENFORCEMENT** This Agreement will be enforceable, unless lawfully terminated or cancelled, by all parties to the Agreement or any party's successor in interest, notwithstanding any subsequent changes in any applicable ordinance or policy adopted by County which alters or amends the ordinances, policies, or regulations applicable to the development project at the time of execution of this Agreement. An aggrieved or adversely affected party as defined by Section 163.3215(2), Fla. Stat., or the Florida Department of Community Affairs may file an action for injunctive relief in the appropriate circuit court to enforce the terms of this Agreement or challenge compliance of the Agreement with Florida law.

XI. **PROCEDURE TO DECLARE AND CURE DEFAULT IN ALL CIRCUMSTANCES OTHER THAN A FAILURE TO PAY.** If Developer fails to comply with the terms of this Agreement within thirty (30) days of receipt of written notice from the County alleging that Developer is in violation of those specific provisions of this Agreement which are identified in said notice, unless said notice provides Developer with a longer period of time in which to cure the violation, Developer has the right, but not the obligation, to take the County's determination before the Board of County Commissioners using the procedures set forth below. The Board of County Commissioners may declare the Developer to be in default, provide Developer with an additional period of time in which to cure a default, or take such other action as it deems appropriate, the purpose of this provision being to provide Developer with the means to bring before the Board of County Commissioners, for its consideration, any dispute Developer may have with the notice of a violation. The Board of County Commissioners' review of any such dispute is not a quasi-judicial proceeding which requires the Commissioners to observe any particular rule of procedure or evidence. The purpose of the Commissioners' review is to provide an informal means of dispute resolution to the parties. It is not intended to confer any procedural or substantive right or obligation on any party to this Agreement.

Notwithstanding any provisions in the applicable local code of regulations regulating appeals of administrative decisions, if the County makes a finding of non-compliance and a notice of violation is sent, and the Developer, within thirty (30) days after receipt of notice thereof, disputes in writing the finding of such non-compliance and/or the allegation of such violation, then such finding and the written response of the Developer will be referred to the Board of County Commissioners, which consistent with the provisions and purposes set forth above, will conduct an informal hearing, of which Developer will be given the right to present its arguments.

XII. **SEVERABILITY** If any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any part of the law of the State of Florida, the validity

of the remaining portions or provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

XIII. **ENTIRE AGREEMENT** This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement supercedes all previous communications, representations, or agreements, either verbal or written, regarding a development agreement for the development project between the parties.

XIV. **CHOICE OF LAW** This Agreement will be governed by the laws of the State of Florida, both as to interpretation and performance.

XV. **CONFLICT OF LAWS** If state or federal laws are enacted subsequent to the execution of this Agreement that are applicable to and preclude either parties' compliance with the terms of this Agreement, the Agreement will be modified as is necessary to comply with the relevant state or federal laws.

XVI. **INCORPORATION BY REFERENCE** All documents, exhibits, and agreements referred to in this Agreement are hereby incorporated by reference.

XVII. **RECORDATION IN PUBLIC RECORDS AND EFFECTIVE DATE** In accordance with Florida Statutes Section 163.3239, the County will record this Development Agreement with the Clerk of the Circuit Court promptly after the Chairman's signature, but in no event later than 14 days of its execution. The County will submit a copy of the recorded agreement to the Department of Community Affairs. This Development Agreement is not effective until it is properly recorded in the public records of Lee County and until 30 days after receipt by the Department of Community Affairs.

XVIII. **CONTINGENT OBLIGATION** The rights and obligations under this Agreement of each respective Developer are contingent upon the respective Developer being an owner of real property within the Alico DRI at the time payment is due under the terms of this Agreement. Either Developer may proceed under the terms of this Agreement by making the timely payment of the proportionate share obligation for transportation mitigation specified in paragraph I.B. above.

XIX. **ASSIGNMENT**. The Developers may assign the benefits and obligations of this Agreement to a third party. Assignments must be in writing, with two witnesses and notarized. Written evidence of assignment must be provided to the County. The parties agree only the Developer or their designees are permitted to proceed through the building permit process without paying impact fees in accordance with paragraph I.F.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

*Signed, sealed and delivered
in the Presence of:*

DEVELOPER:
CHICO'S RETAIL SERVICES, INC., a Florida
corporation

Witness

By: _____

Its: _____

Date: _____

Witness

**PAUL H. FREEMAN, INDIVIDUALLY
AND AS TRUSTEE**

Witness

Paul H. Freeman

Witness

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____ 2005, by _____ of _____ (name of officer or agent, title of officer or agent) **CHICO'S RETAIL SERVICES, INC.**, a Florida corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ as identification.

(Signature of person taking acknowledgment)

(Name typed, printed, or stamped)
(Title or Rank)
(Serial Number, if any)

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____ 2005, by Paul H. Freeman in his individual capacity and as Trustee, who is personally known to me or has produced _____ as identification.

(Signature of person taking acknowledgment)

(Name typed, printed, or stamped)
(Title or Rank)
(Serial Number, if any)

Approved and accepted for and on behalf of Lee County, Florida, this 25 day of October 2005.

**BOARD OF COUNTY COMMISSIONERS OF
LEE COUNTY**, a political subdivision
of the State of Florida

ATTEST:
CHARLIE GREEN, CLERK

By: _____
Chairman or Vice-Chairman

By: _____
Deputy Clerk

[Type or print name]

Approved as to Form:

By: _____
Lee County Attorney's Office

Exhibits:

- A. Legal Description
- B. Sample Authorization to Obtain Building Permit

DESCRIPTION:

A TRACT LYING IN SECTION 10, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER, (N.W. $\frac{1}{4}$) OF SAID SECTION 10; THENCE RUN N.01° 15'48"W. ALONG THE WEST LINE OF SAID SECTION 10 FOR 2637.82 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF ALICO ROAD; THENCE RUN ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING COURSE AND DISTANCES, N.89°08'44"E. FOR 244.41 FEET; THENCE RUN S.74°33'31"E. FOR 141.38 FEET; THENCE RUN S.65°46'01"E. FOR 201.00 FEET; THENCE RUN 87°25'27"E. FOR 400.78 FEET, THENCE RUN N.89°00'34"E. FOR 400.00 FEET; THENCE RUN S.87°28'25"E. FOR 106.98 FEET TO THE WEST RIGHT-OF-WAY LINE OF THREE OAKS PARKWAY; THENCE RUN ALONG SAID WEST RIGHT-OF-WAY LINE THE FOLLOWING COURSES AND DISTANCES, S.00°58'54"E. FOR 300.71 FEET; THENCE RUN 615.47 FEET ALONG A CURVE CONCAVE NORTHEASTERLY WITH A RADIUS OF 1220.00 FEET AND A DELTA OF 28°54'17"; THENCE RUN S.29°53'11" E. FOR 647.75 FEET; THENCE RUN 556.80 FEET ALONG A CURVE CONCAVE SOUTHWESTERLY WITH A RADIUS OF 1120.00 FEET AND A DELTA OF 28°29'03"; THENCE RUN S.01°24'08"E, FOR 348.53 FEET TO THE NORTH RIGHT-OF-WAY LINE OF WINGED FOOT DRIVE; THENCE RUN ALONG THE NORTH RIGHT-OF-WAY LINE OF WINGED FOOT DRIVE THE FOLLOWING COURSES AND DISTANCES, S.88°34'57"W. FOR 126.37 FEET; THENCE RUN 513.78 FEET ALONG A CURVE CONCAVE SOUTHEASTERLY WITH A RADIUS OF 2050.00 AND A DELTA OF 14°21'35"; THENCE RUN S.74°13'22"W. FOR 871.41 FEET; THENCE RUN 488.36 FEET ALONG A CURVE CONCAVE NORTHWESTERLY WITH A RADIUS OF 1950.00 FEET AND A DELTA OF 14°20'57"; THENCE RUN S.88°34'19"W. FOR 120.05 FEET TO THE WEST LINE OF SAID SECTION 10; THENCE RUN N.01°26'W. ALONG SAID WEST LINE FOR 150.06 FEET TO THE POINT OF BEGINNING.

The total area of the subject property is 4,591,716 square feet or 105.41 acres, more or less.

Section 10, Township 46 South, Range 25 East
Lee County, Florida



ALICO ROAD

U.S. 41

SITE

THREE OAKS
PARKWAY

WINGED FOOT
DRIVE

INTERSTATE NO. 75

VICINITY MAP
(NOT TO SCALE)

EXHIBIT "A"

Page 3 of 4

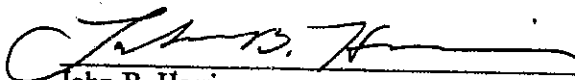
DESCRIPTION:

A tract or parcel of land lying in Section 10, Township 46 South, Range 25 East, Lee County, Florida, described as follows:

Commencing at the Northeast corner of the Southwest Quarter (S.W.1/4) of said Section 10; thence run N.01°21'19"W. along the East line of the Northeast Quarter (N.E.1/4) of said Section 10 for 123.39 feet; thence run S.89°16'59"W. for 140.02 feet; thence run S.01°21'42"E. for 92.23 feet to a point of curvature; thence run Southwesterly for 23.53 feet along the arc of a curve concave Northwesterly, with a radius of 15.00 feet, a delta of 89°51'36", a chord bearing of S.43°34'06"W. and a chord distance of 21.19 feet to a point of non-tangency; thence run S.88°35'49"W. for 141.22 feet; thence run S.88°34'55"W. for 124.91 feet to the Easterly right-of-way line of Three Oaks Parkway (100 feet from centerline); thence run N.01°23'30"W. along said Easterly right-of-way line for 553.80 feet to a point of curvature; thence run Northwesterly for 631.37 feet along the arc of a curve concave Southwesterly, with a radius of 1270.00 feet, a delta of 28°29'03", a chord bearing of N.15°38'01"W. and a chord distance of 600.29 feet to a point of tangency; thence run N.29°52'33"W. along said Easterly right-of-way line for 647.75 feet to a point of curvature; thence run Northwesterly along said Easterly right-of-way line for 539.80 feet along the arc of a curve concave Northeasterly, with a radius of 1070.00 feet, a delta of 28°54'17", a chord bearing of N.15°25'24"W. and a chord distance of 534.09 feet to a point of tangency; thence run N.00°58'16"W. for 293.16 feet to the Southerly right-of-way line of Alico Road; thence run N.89°00'43"E. along said Southerly right-of-way line for 266.19 feet; thence run S.87°10'27"E. along said Southerly right-of-way line for 493.03 feet; thence run S.58°57'34"E. for 204.08 feet to a point on the Westerly right-of-way line of Interstate Highway # 75; thence run S.30°48'27"E. along said Westerly right-of-way line for 1414.02 feet to a point of curvature; thence run Southeasterly along said Westerly right-of-way line for 737.73 feet along the arc of a curve concave Southwesterly, with a radius of 1543.02 feet, a delta of 27°23'37", a chord bearing of S.17°06'38"E. and a chord distance of 730.72 feet to a point of tangency; thence run S.03°24'50"E. along said Westerly right-of-way line for 225.00 feet to a point of curvature; thence run Southeasterly along said Westerly right-of-way line for 260.91 feet along the arc of a curve concave Northeasterly, with a radius of 5823.58 feet, a delta of 02°34'01", a chord bearing of S.04°41'51"E. and a chord distance of 260.89 feet to a point on the South line of the Northeast Quarter (N.E.1/4) of the aforesaid Section 10; thence run S.89°18'02"W. along the South line of Said Northeast Quarter (N.E.1/4) for 834.55 feet to the point of beginning.

Said tract contains 67.169 acres, more or less and is subject to easements, restrictions and reservations of record.

Bearings are based on the South line of the Northeast Quarter (N.E.1/4) of the aforesaid Section 10 as being S.89°18'02"W.



John B. Harris
P.S.M. #4631
March 28, 2005

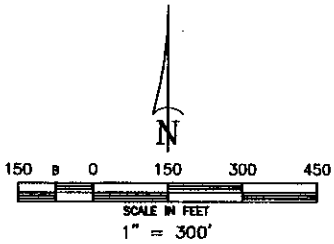
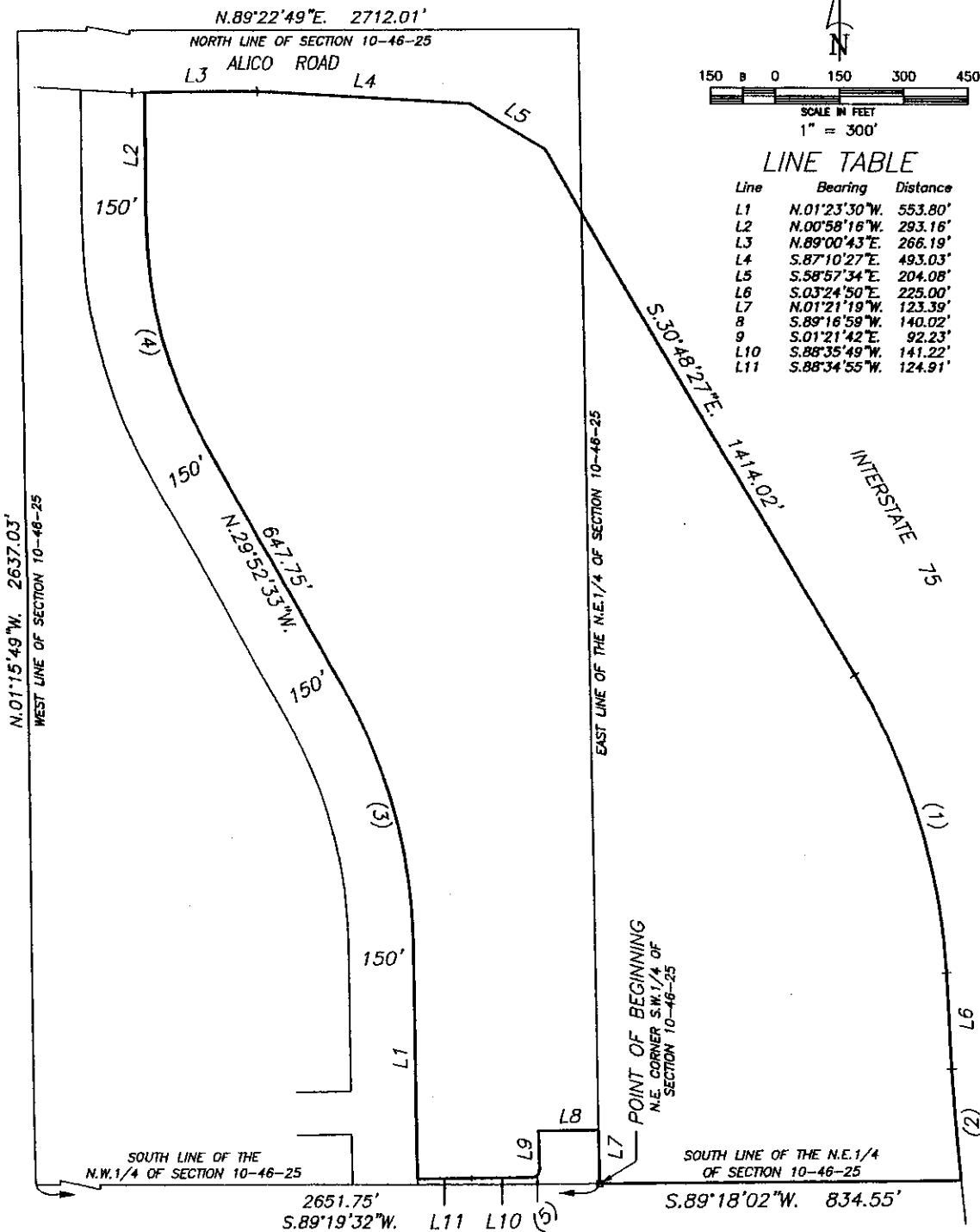
HARRIS - JORGENSEN, INC.
2706 S.E. SANTA BARBARA PLACE
CAPE CORAL, FLORIDA
PHONE: (239) 772-9939
FAX: (239) 772-1315

SKETCH OF
**A PARCEL OF LAND LYING
IN SECTION 10**

TOWNSHIP 46 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

NOTE: INFORMATION FOR BOUNDARY SHOWN HEREON TAKEN
FROM SURVEYS BY JORGENSEN SURVEYING, INC. AND TRASK
ASSOCIATES, INC.

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION!



LINE TABLE

Line	Bearing	Distance
L1	N.01°23'30"W	553.80'
L2	N.00°58'16"W	293.16'
L3	N.89°00'43"E	266.19'
L4	S.87°10'27"E	493.03'
L5	S.58°57'34"E	204.08'
L6	S.03°24'50"E	225.00'
L7	N.01°21'19"W	123.39'
L8	S.89°16'59"W	140.02'
L9	S.01°21'42"E	92.23'
L10	S.88°35'49"W	141.22'
L11	S.88°34'55"W	124.81'

CURVE TABLE

NO.	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
1	1543.02'	27°23'37"	737.73'	730.72'	S.17°06'38"E
2	5823.58'	02°34'01"	260.91'	260.89'	S.04°41'51"E
3	1270.00'	28°29'03"	631.37'	600.29'	N.15°38'01"W
4	1070.00'	28°54'17"	539.80'	534.09'	N.15°25'24"W
5	15.00'	89°51'36"	23.53'	21.19'	S.43°34'06"W

THIS IS NOT A SURVEY!

JOB #: 30AKS-175-ALICO
SKETCH DATE: 3/7/05

EXHIBIT B

ALICO INTERCHANGE PARK DRI

**AUTHORIZATION TO OBTAIN BUILDING PERMIT
WITHOUT THE PAYMENT OF ROAD IMPACT FEES
(SAMPLE)**

The XYZ Corporation is hereby authorized by _____ to obtain a building permit in Tract _____ of the Alico Interchange Park DRI. A legal description of this parcel is set forth in Exhibit A, attached hereto.

In accordance with the Alico Interchange Park DRI Development Agreement, this document is a limited authorization for the following amount of development to be permitted without the payment of road impact fees.

- ___ Single Family Units
- ___ Multi Family Units
- ___ Service/Office Square Feet
- ___ General Retail Square Feet
- ___ Other Use - _____ Square Feet
- ___ Hotel Rooms

Building permits in excess of the square footage identified or for uses other than identified above are expressly prohibited.

Developer's Authorized Representative

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this ___ day of _____, 20__, by _____, who is personally known to me or has produced _____ as identification.

Notary Public

(SEAL)

Print Name

Commission Expiration Date

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