May 24, 2010

Mr. Bob Dennis
Department of Community Planning
Florida Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399

Subject: Scripps Florida – Phase II/Briger Tract Development of Regional Impact Development Order

Dear Mr. Dennis:

At its May 21, 2010 meeting, Council adopted a final report and recommendation for the Development Order (DO) for the Scripps Florida – Phase II/Briger Tract Development of Regional Impact (DRI). While the Council found the DO satisfactorily addressed regional issues and did not recommend appeal of the DO, it did recommend the following:

1) that the City of Palm Beach Gardens attach a more detailed conceptual illustration to Map H based on a normal and regular system of streets, blocks and public open spaces; and the Design Guidelines adopted by the City of Palm Beach Gardens for the Scripps Florida-Phase II/Briger Tract DRI;

2) that the City of Palm Beach Gardens remove the language in DO Conditions 43 and 44 that allows for the relocation of endangered and potentially endangered species offsite; and

3) that the City of Palm Beach Gardens require design of the preserve areas to protect endangered and potentially endangered species on site.

Please call if there are questions. Additional explanation is contained in the attached report and recommendation adopted by Council.

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Mr. Bob Dennis  
May 24, 2010  
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Sincerely,  

Michael J. Busha, AICP  
Executive Director  

MJB:lg  

Attachment  

cc: Samuel Ferreri, TCRPC Chair  
Palm Beach Gardens City Council  
Natalie Wong, Palm Beach Gardens  
Palm Beach County Commission  
Shannon LaRocque, Palm Beach County  
Richard Post, Department of Community Affairs  
Ken Tuma, Urban Design Kilday Studios
MEMORANDUM

To: Council Members
From: Staff
Date: May 21, 2010 Regional Planning Council Meeting
Subject: Scripps Florida – Phase II/Briger Tract Development of Regional Impact Development Order

Introduction

Council reviewed the Scripps Florida – Phase II/Briger Tract Development of Regional Impact (DRI) and adopted an impact assessment report for the project on September 18, 2009. The DRI was issued a Development Order (DO) by the City of Palm Beach Gardens on April 1, 2010. The DO has been rendered to Council and the Department of Community Affairs (DCA). At this point, the Council is to advise DCA on: 1) whether the City’s DO addresses all regional issues raised in Council’s DRI assessment report and recommendations; and 2) whether DCA should appeal the DO. DCA must make the determination whether or not to appeal the DO. Council’s comments to DCA are due on May 24, 2010.

Background

The Scripps Florida – Phase II/Briger Tract DRI is a proposed multi-use development on approximately 681.69 acres in the City of Palm Beach Gardens, Florida. The project site is located immediately east of the Florida Turnpike, south of Donald Ross Road, and north of Hood Road (Appendix A, Project Location Map). The site is divided north-south into two pieces by I-95. The site is bounded by utilities and the Florida Turnpike to the west; the Abacoa DRI to the north, residential and the Benjamin School to the east, and residential and vacant property to the south. The properties to the north of the project are located in the Town of Jupiter.

The Master Development Plan proposes several components, including the Scripps Campus District, a Biotech District, a Town Center District, a Neighborhood District, a Neighborhood Commercial District, and upland and wetland preserve areas (Appendix B, Master Development Plan – Map H). The plan proposes a total of 2,600,000 square feet (SF) of biotech research and development, 1,200,000 SF of office, 500,000 SF of retail, 2,700 residential dwelling units, and a 300-room hotel. Development is proposed to occur in four, four-year phases with buildout in 2028.
Council’s impact assessment report included a comprehensive evaluation of regional issues and 66 recommended DO conditions of approval designed to: 1) minimize or eliminate unfavorable impacts on state and regional resources and facilities; 2) strengthen and detail the master plan to address fundamental regional planning and urban design issues; 3) mitigate affordable housing and environmental impacts; 4) protect archeological resources; and 5) assure that adequate public facilities and infrastructure related to transportation, schools, emergency public shelters, water, sewer, police and fire protection, solid waste disposal, water management, and parks and recreation are provided to support this development.

Evaluation

The Scripps Florida – Phase II/Briger Tract DO (Appendix C, City of Palm Beach Gardens Resolution 80, 2009) addresses most of the concerns raised by Council in the DRI assessment report. All regional issues have been addressed as identified by Council. Additional recommendations on regional issues related to concerns with the Master Development Plan, Upland Preservation, and Listed Species, are provided to the City and DCA for their consideration.

Master Development Plan

Council recommended four DO conditions related to strengthening and detailing the DRI Master Development Plan or “Map H.” None of the four conditions are included in the City’s DO. No additional detail has been provided on Map H (Appendix B, Master Development Plan and Appendix D, Council’s Recommended Conditions).

Council suggested these conditions to assure that: 1) fundamental regional planning, environmental, urban design and public infrastructure efficiency issues are addressed consistent with the Strategic Regional Policy Plan (SRPP); and 2) beneficial design objectives described and committed to by the developer in the DRI application would be realized. Council’s most significant recommendation was to focus all development on the 475-acre parcel east of I-95, using a normal and regular pattern of streets, blocks and open spaces, while leaving the 200-acre parcel west of I-95 for preservation, passive recreation, and other functions.

Several regional benefits of organizing development on this site as recommended by Council were identified in the DRI Assessment Report transmitted to the City on September 28, 2009. These included:

- unified preserve area and management opportunities
- reduced public and private infrastructure costs
- increased feasibility and cost-effectiveness of public transit
- reduced vehicle miles traveled, greenhouse gas emissions, and energy use
- reduced off-site traffic impacts to Hood Road
- increased groundwater recharge
- allowing all environmental mitigation to be done on-site
- increased usable passive recreation area
- improved habitat arrangement for listed species
• reduced land consumption
• greater opportunities for physical activity by facilitating the use of non-motorized modes of travel, such as walking and bicycling
• establishing a more compact, complete, and connected community

An alternative Map H or Master Development Plan was provided by Council to the City, illustrating one way in which regional issues and concerns could be addressed while achieving the benefits listed above.

In its final form, the Scripps Florida – Phase II/Briger Tract DRI Master Development Plan fails to address Council’s fundamental regional planning, urban design, environmental, or infrastructure efficiency concerns and issues identified in Council’s DRI Assessment Report. The Master Development Plan for the DRI cannot be determined to be consistent with Council’s SRPP (see Appendix B, Summary of SRPP Goals, Strategies and Policies Relevant to the DRI Master Development Plan).

The land development scheme for the project is more of an entitlement or concept plan. The plan offers no commitment or reasonable level of assurance that all of the positive features committed to in the DRI application will be realized. The limited road network illustrated on the plan divides the parcel into large pods. This will result in a sprawl development pattern of large, isolated and internally focused pods, connected only by auto-dominant roadways. The plan is vague. It does not portray or assure the type of built environment that will improve the urban form of the City or Region in an efficient and sustainable manner. Condition 5 of the City’s DO adds further uncertainty by allowing the transfer of up to 1,000,000 cumulative SF of office development and 250,000 SF of retail development between the three largest parcels east of I-95.

The City has assigned the DRI a general future land use designation of Mixed Use. The DRI was rezoned by the City to Planned Community Development (PCD), with an underlying zoning of Mixed Use (MXD). The applicant has also prepared a set of local “Design Guidelines” for the project. Although not part of the DRI application or the DO, these guidelines have the potential to positively influence the built environment of the project and address some of Council’s original concerns.

The final version of the Design Guidelines has been made part of the City’s MXD zoning code as was recommended by Council. Unfortunately, because the DRI is zoned PCD, nearly all provisions in the underlying MXD zoning code affecting urban form and the built environment can be waived and are subject to negotiation. As such, the “Design Guidelines” and future land use and local zoning classifications assigned to this DRI by the City provide no assurance the regional issues and concerns outlined above and in Council’s DRI Assessment Report will be addressed consistent with the SRPP.

The DRI process is not used solely as a development entitlement or traffic vesting process. It is a planning process to be used in refining a local government’s general future land use plan into a predictable master plan and set of impacts for a specific area. In return for providing a specific plan of development, the developer receives a long-term, predictable approval to build without additional governmental requirements. This exchange represents the value of the DRI process to
the public and private sectors and provides long-term certainty that state, local and regional issues will be addressed. Allowing an overly flexible and vague master plan reduces the certainty and benefits the public sector should gain from the DRI process.

Over the years, Council has considered the argument for “flexibility” in DRI Master Development Plans. The debate has always revolved around two concerns: 1) too much detail in Map H will result in too many changes in the future that must be processed by government; and 2) it is too difficult or even impossible to do lot, block and street level planning at this stage for large projects.

First, it is surprisingly simple to do master planning at the lot, block and street level for projects of this size or larger. Doing this level of detail, even if labeled “conceptual,” defines the “vision” for the project, leaves very little doubt about what is intended by the developer, and indicates how the development will address regional issues and what the citizens can expect.

Second, a detailed Map H can be prepared that will provide the necessary flexibility for shifting the location of land uses, changing land use mixes, and relocating streets and open spaces without further local, regional and state review. It is possible within a DRI application to establish a very detailed conceptual master plan as part of Map H. This master plan would be viewed as a commitment from the developer to a blueprint for creating final PUD or PCD site plans. It would then be referenced as such in the local DRI DO. This approach would at least provide: 1) immediate clarity to local citizens and the City about the kind of built environment they can expect from this development; 2) an accurate assessment of impacts to state and regional resources and facilities; and 3) a way to minimize or eliminate Map H changes that must be processed by the city, state and regional planning council.

The success of the project will be measured not only in its employment numbers and growth of the local bio-science industry; but in whether and to what extent the urban planning is accomplished and sustainable. Palm Beach County has made a significant investment of public dollars in the project. As such, planning for the project should be exemplary and affirm that the City and County are serious about improving the urban form and sustainability of the area. The City can address the regional concerns related to the DRI Master Development Plan by amending the DO to require the developer to submit and commit to a more detailed conceptual master plan based on a normal and regular system of streets, blocks and public open spaces; and on the Design Guidelines adopted by the City of Palm Beach Gardens for the Scripps Florida-Phase II/Briger Tract DRI.

**Upland Preservation**

The 681.89-acre project site is primarily undeveloped and has an extensive coverage of forested upland communities (Appendix F, Wildlife and Plant Resources Map). The main native upland communities include pine flatwoods (305.98 acres); upland scrub, pine and hardwoods (46.93 acres); pine-mesic oak (17.62 acres); temperate hardwoods (10.80 acres); and dry prairie (0.29 acres). The total amount of upland natural communities on the project site is 381.62 acres. This total does not include other upland communities on site that are impacted by exotic vegetation including, disturbed pine flatwoods (108.37 acres) and dry prairie/mela/euca (7.17 acres).
The Master Development Plan in the DO commits to providing 83.26 acres of upland preservation/restoration on the project site and 12.34 acres off site. The location of the upland preserve area is shaded on the Master Development Plan (Appendix B). There are two issues with the preserve area that are inconsistent with the SRPP. The first issue relates to the quality of the areas proposed for preservation. The second issue relates to the design of the Upland Preserve shown on the Master Development Plan (Appendix B).

**Quantity**

The Scripps Florida – Phase II/Briger Tract DRI Application for Development Approval (ADA) proposed to protect more than 25 percent of the significant upland natural communities located on the project site. Twenty-five percent of 381.62 acres equals 95.40 acres. The DO commits to protecting 83.26 acres on site and 12.34 acres of the upland preservation requirement at an off site location. The 12.34-acre off site option is being afforded to the Scripps II portion of the DRI to maximize the development potential of Palm Beach County's 60.81-acre Scripps campus site. This is consistent with SRPP Regional Policy 6.7.1.2, which states as a minimum baseline measure for consistency with the SRPP, the Regional Planning Council will strive to achieve protection of 25 percent of upland natural communities in the evaluation of development plans.

**Quality**

One issue with the upland preserve area shown on the Master Development Plan is that it includes a variety of areas that are not considered to be the native upland communities discussed above. For example, the upland preserve includes areas identified in the ADA as mobile home units, improved pastures, Brazilian pepper, exotic wetland hardwoods, disturbed pine flatwoods, and several other wetland categories not considered to be upland natural communities. Including these areas has the effect of decreasing the amount of true upland natural communities protected and reducing the ecological value of the preserve area. The proposal to use these areas to meet the 25 percent upland preservation commitment is inconsistent with SRPP Regional Goal 6.7, protection of upland natural communities and ecosystems.

**Design**

Another issue with the uplands is the current design of the Upland Preserve shown on the Master Development Plan (Appendix B) provides for much of the preserve to exist in long, narrow linear strips. These bands of preserve area function primarily as buffers along the boundaries of the project. The narrow linear strips have limited value in providing habitat for wildlife and protected species of plants. This is especially important when listed species, such as the gopher tortoise and hand fern occur on the project site. The design of the Upland Preserve shown on the Master Development Plan in the DO is inconsistent with SRPP Regional Strategy 6.8.1, which states that preserve areas should be designed and established to protect endangered and potentially endangered species.

Council assisted in providing an expedited review of the Scripps Florida – Phase II/Briger Tract DRI. The expedited permitting review process recognizes that economic development projects
have to be thoughtfully planned to take into consideration the protection of the state’s environment. A goal of the process is for the project to provide a net ecosystem benefit. One of the ways this project could provide a net ecosystem benefit is to establish a permanent natural preserve area designed to maximize its ecological potential. The preserve area could be designed to provide a net ecosystem benefit by consolidating the required upland preserve in one location. A consolidated preserve area could accommodate a greater diversity of wildlife, provide more suitable habitat for the protection of endangered and potential endangered plants and animals, and facilitate management of the system.

The City can address the regional concerns related to upland preservation by revising the Master Development Plan to ensure the preserve area is redesigned and established to protect endangered and potentially endangered species on site.

**Listed Species**

Council’s recommended conditions included several special provisions to protect the gopher tortoise (state listed – Threatened), and hand fern (state listed – Endangered) on the project site. In order to protect the gopher tortoise population, recommended Condition 42 (Appendix D, page D-13) called for the developer to develop a detailed management plan that provides for the protection and relocation of gopher tortoises into the preserve areas identified on Map H, Master Development Plan. The recommended condition calls for compliance with the Florida Fish and Wildlife Conservation Commission gopher tortoise protection guidelines for this species. In order to protect the hand fern population on the project site, Condition 43 (Appendix D, page D-14) called for the developer to develop a detailed management plan that provides for the protection of hand fern in the preserve areas identified Map H, Master Development Plan. The details of all protection measures for listed species are to be provided in a Preserve Area Management Plan.

The adopted DO includes conditions requiring the protection of gopher tortoises and hand fern (Appendix C, Conditions 43 and 44 on page C-21) nearly identical to Council’s recommended conditions, except each of the adopted conditions includes the phrase, “or an appropriate off-site recipient area.” The addition of this language would allow all the gopher tortoises and hand fern to be relocated off the project site. This could effectively eliminate one population of each of these species in the region. Furthermore, the applicant has not provided any evidence that hand fern can be relocated successfully. The upland preserve area, which should be at least 95.4 acres, is adequate in size to protect populations of these species on the project site. However, as discussed above under **Upland Preservation**, the upland preserve area should be enlarged and redesigned in order to provide proper protection for the listed species. DO Conditions 43 and 44 are inconsistent with SRPP **Regional Strategy 6.8.1**, which states that preserve areas should be designed and established to protect endangered and potentially endangered species.

The City can address the regional concerns related to listed species by deleting the phrase “or an appropriate off-site recipient area” from Conditions 43 and 44, and by redesigning the Preserve Area to accommodate the listed species as described in the section above under **Upland Preservation**.
Comments

Findings of Fact

Resolution 80, 2009 includes a finding of fact stating that the proposed development is consistent with the report and recommendations of the Treasure Coast Regional Planning Council. However, not all issues have been addressed as recommended in Council’s assessment report. As described in preceding sections of this report, major regional issues related to the Master Development Plan, Upland Preservation, and Listed Species are not adequately addressed in the DO.

Conclusions of Law

Resolution 80, 2009 includes a conclusion of law stating: “the proposed development meets the requirements contained in Section 380 Florida Statutes.” The DCA should consider whether the lack of detail provided on the Master Development Plan/Map H meets the requirement and intent of DCA’s DRI ADA referenced under Chapter 380. The ADA questionnaire describes Map H as showing “proposed land uses and locations, development phasing, major public facilities, utilities, preservation areas, easements, right-of-way, roads, and other significant elements such as transit stops, pedestrian ways, etc.” Showing these plan elements, especially transit stops and pedestrian ways implies a requirement for far more detail than is currently included on Map H. Council considers these elements as well as the entire street network and network of parks and greens as significant elements that are missing from the DRI Master Development Plan and critical in determining: 1) how the plan will function; 2) how the plan will address regional issues; 3) its consistency with the SRPP, and 4) whether developer commitments to connectivity, walkability and design as described in the developer’s DRI Application will be achieved under the proposed master plan.

Transportation

New Exhibit 3 dealing with conversion examples and service generation rates (Appendix C, page C-81) was added to the DO to allow conversion of uses. Conversions are based on the following control values: waste water, potable water, solid waste, and trips segregated into the east and west side of I-95. This section only deals with trips and their generation rates. The following issues have been identified:

- Service Generation Rates – Trip Demand Matrix
  
  i. Approved retail is only 50,000 SF as opposed to 500,000 SF shown in the table: West Side of I-95 – AM Peak Hour.

  ii. Generation rate for Apartment appears to be calculated incorrectly as 0.498, the correct value should be 0.497 trips/unit: West Side of I-95 – AM Peak Hour.

  iii. Generation rate for Apartment appears to be calculated incorrectly as 0.582, the correct value should be 0.583 trips/unit: West Side of I-95 – PM Peak Hour.
iv. Generation rate for Apartment appears to be calculated incorrectly as 0.415, the correct value should be 0.414 trips/unit; East Side of I-95 – AM Peak Hour.

v. Generation rate for Apartment appears to be calculated incorrectly as 0.410, the correct value should be 0.411 trips/unit; East Side of I-95 – PM Peak Hour.

vi. Trip generation rates for Hospital are inconsistent with those included in the Institute of Transportation Engineers’ (ITE) Trip Generation report, 7th Edition. Trip generation rates for Hospital (ITE Land Use 610) are 1.13 trips/bed during the AM and 1.30 trips/bed during the PM peak hour. Exhibit 3 shows 0.900 for AM and 0.800 for PM peak hour.

vii. Trip generation rates for Post Secondary School are inconsistent with those included in the Institute of Transportation Engineers’ (ITE) Trip Generation report, 7th Edition. Trip generation rates for University/College (ITE Land Use 550) are 0.21 trips/student during both the AM and the PM peak hours. Exhibit 3 shows 0.740 for AM – West Side of I-95; 0.340 for AM – East Side of I-95; and 0.220 for PM peak hour, both East and West side of I-95.

The use of the generation rates included in Exhibit 3 of the DO may result in additional traffic impact on regional roadways. The inconsistencies noted above are likely the result of scrivener’s errors, but will require the City to amend the DO to correct Exhibit 3 as presented above.

The adopted DO includes some inconsistencies with Council’s recommended conditions of development included in the assessment report. The following inconsistencies should be reviewed by the City of Palm Beach Gardens and corrected if appropriate:

- A new condition has been added to provide driveways along Hood Road to access the parcel located to the West of I-95. Council’s assessment report recommended no development on this parcel. This issue is discussed in more detail in the section above under Master Development Plan.

- Table 1 included in the Proportionate Share Agreement (Exhibit 2) includes Mobility Improvements by Phase. Mobility Improvements included in Council’s recommended conditions in Phase 2 have been moved to Phase 3 in this table. However, based on Florida Administrative Code, Rule 9J-2.045, Transportation Uniform Standard Rule, “the receiving governmental agency shall agree, as a condition of acceptance, to expeditiously apply the monies for the improvement construction.” This appears to be the intent of the table.

- Condition 15 of the DO was added to allow conversion of general office development into medical or veterinary office. The following conversion rate is included:

  Conversion Rate from General Office (per 1,000 SF) to Medical Office/Veterinary (per 1,000 SF) is 2.5968.
The conversion rate presented above is open to misunderstanding. The City should consider amending the DO to replace the conversion rate as follows:

1,000 SF of Medical/Veterinary Office = 2,596.8 SF of General Office.

The use of the conversion rate recommended above clarifies the DO by eliminating the need to present the examples included in Condition 15.

- Conversion Examples included in Exhibit 3 (Conversion Examples and Service Generation Rates) present “available credits” in parenthesis. Engineers frequently use parenthesis when referring to negative values. However, it is not the case here, as available credits are positive values. It becomes even more confusing when using these values to perform calculations. The following calculations are presented in the exhibit: $6 \text{ trips} - 35 \text{ trips} + (60) \text{ trips} = (31) \text{ trips}$. Engineers are likely to misunderstand the calculation above and get a different value: $6 \text{ trips} - 35 \text{ trips} - 60 \text{ trips} = -89 \text{ trips}$ or $(89) \text{ trips}$. This potential misunderstanding could be avoided by omitting the parenthesis.

Comments Received from Other Review Agencies Interested Parties

Council has received comments on the Scripps Florida – Phase II/Briger Tract DRI DO from the Florida Department of Transportation and the Palm Beach County Environmental Coalition (Appendix G).

The Palm Beach County Environmental Coalition provided a report, *Impacts to Listed Species and Threatened Habitat on Proposed Scripps Phase II Development/Briger Tract*. The report concludes: 1) the surveys conducted did not sufficiently attempt to look for listed species besides gopher tortoise; 2) the applicant’s environmental review does not deal sufficiently with methods for relocating endangered plant species which are still experimental to relocate; 3) the applicant’s environmental surveys failed to map a realistic quantity of listed plants on site; 4) the Florida Fish and Wildlife Conservation Commission does not have someone reviewing DRI applications; 5) the applicant’s environmental review simply assumes lack of presence for species commensal with gopher tortoise; and 6) the applicant did not sufficiently back up their claim of no impacts.

Conclusion

Council finds that the DO satisfactorily addresses regional issues and does not recommend that DCA appeal the DO. Council believes all of its concerns related to the regional issues of the Master Development Plan, Upland Preservation, and Listed Species can be adequately addressed by amending the DO as recommended in this report.

Recommendation

Council should adopt this report and authorize its transmittal to the Florida Department of Community Affairs.

Attachments
List of Appendices

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| Appendix B: | Master Development Plan – Map H .................................. | B-1 |
|            | Summary of SRPP Goals, Strategies and Policies Relevant  |
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APPENDIX B

Summary of SRPP Goals, Strategies and Policies Relevant to the DRI Master Development Plan

This appendix contains a summary of the goals, strategies and policies in the SRPP that are most relevant to the DRI Master Development Plan. Please refer to the SRPP for a more complete discussion of regional issues and additional goals, strategies, and policies.

**Goal 6.1:** Create new neighborhoods and communities.

**Goal 7.1:** A balanced and integrated transportation system.

**Goal 9.1:** Decreased vulnerability of the Region to fuel price increases and supply interruptions.

**Goal 10.1:** Neighborhoods and communities which are served by a variety of transportation modes.

**Goal 15.1:** Preferred forms of development which result in downtown redevelopment and infill, the containment of suburban sprawl and the creation of new cities, towns, and villages.

**Goal 16.1:** The formation of new towns, cities and villages.

**Strategy 6.1.1:** Encourage the formation of sustainable neighborhoods and communities.

**Strategy 7.1.3:** Promote improved community planning and urban design.

**Strategy 7.1.4:** Encourage public transportation alternatives.

**Strategy 7.2.1:** Promote patterns of development which provide better opportunities for the transportation disadvantaged.

**Strategy 7.3.1:** Reduce vulnerability to natural and man-made disaster events through better transportation, land use and community planning.

**Strategy 8.1.1:** Provide levels of public services necessary to achieve a high quality of life, cost effectively.

**Strategy 8.1.2:** Encourage public investments that facilitate preferred forms of development.

**Strategy 12.1.1:** Encourage patterns of development and programs which improve the independence and self-sufficiency of children.
**Strategy 13.1.1:** Encourage patterns of development and programs which minimize dependency on the automobile, encourage and accommodate public transit, and reduce vehicle miles traveled and the amount of vehicle emission discharged into the atmosphere.

**Strategy 14.1.1:** Design and build neighborhoods and districts which emphasize: 1) informal surveillance of public spaces (streets, squares, parking areas and the like) by encouraging appropriate building types and building orientations, and 2) safe and calm streets, where pedestrians and bicyclists can share the space with automobiles.

**Strategy 16.1.1:** Encourage and facilitate preferred forms of development.

**Policy 6.1.1.1:** New neighborhoods and districts should contain a balanced, well-planned, compatible mix of land uses appropriately located so that State, local and regional goals are achieved.

**Policy 6.1.1.2:** New neighborhoods and districts should have compact designs, with a mix of building types.

**Policy 6.1.2.3:** Require that an urban design study be prepared to evaluate development proposals in the countryside.

**Policy 7.1.1.4:** Urban design and architectural studies should be performed when evaluating residential and commercial projects. Such studies should analyze building typology and compatibility, land use mix and the overall impact of the project on the surrounding neighborhood or district.

**Policy 7.1.2.3:** Increase land use densities and the mix of land uses around commuter rail stations and at strategic locations along designated public transportation corridors where consistent with other local and regional goals and strategies.

**Policy 7.1.3.1:** Encourage patterns and forms of development and redevelopment that maximize public transportation alternatives, minimize the use of the Region’s collector and arterial roadway network, and reduce the total amount of daily vehicle miles traveled.

**Policy 7.1.3.2:** Suggests planning development to provide interconnections for pedestrians and public transportation within and between residential areas, schools, employment and retail centers, recreational areas and other public facilities.

**Policy 7.1.3.5:** Orient buildings toward streets to create better pedestrian environments.

**Policy 7.1.3.6:** Locate buildings so they are as convenient and accessible to public transportation facilities and sidewalks as they are to auto parking.

**Policy 7.1.3.7:** Locate parking to the sides and backs of buildings so that pedestrian access and access from public transportation does not require walking through large parking lots to reach building entrances.
Policy 7.1.3.9: Design and locate parking lots and garages to enhance pedestrianism and the character and attractiveness of the area, and to encourage use of alternate modes of transportation.

Policy 7.2.1.1: Encourage patterns and forms of development and redevelopment and street design that will improve mobility opportunities for transit dependent groups especially the poor, handicapped and young.

Policy 7.3.1.2: Plan and design new development and redevelopment to increase the ability of the internal and external roadway network to accommodate emergency traffic, enhance post disaster recovery efforts, and provide central locations for public shelters and emergency relief centers.

Policy 8.1.1.3: Encourage patterns of development which minimize the public cost for providing services, maximize the use of existing service systems and facilities and take into full consideration environmental/physical limitations.

Policy 9.1.1.1: Encourage patterns of development and programs which reduce dependency on the automobile, encourage and accommodate public transit, and reduce the overall use of fossil fuels.

Policy 10.1.1.1: Plan and design development to effectively accommodate alternative modes of transportation.

Policy 12.1.1.1: Consider the special mobility needs of children in all development proposals.

Policy 12.1.1.2: Encourage the location and provision of schools, parks, recreational and other uses (e.g., retail, civic uses, etc.) within biking or walking distance.

Policy 12.1.1.4: Provide sites for civic uses such as schools, parks and libraries within neighborhoods.

Policy 15.1.3.13: Make non-preferred forms of development occurring in undeveloped areas responsible for the full and true infrastructure costs to support the development through buildout.

Policy 16.1.1.1: Local governments should identify appropriate locations for preferred forms of development.

Policy 16.1.1.2: Future land use plans should be prepared for locations considered appropriate for new towns, cities, villages, neighborhoods and districts.
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM BEACH GARDENS, FLORIDA MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW PERTAINING TO THE SCRIPPS FLORIDA PHASE II/BRIGER TRACT DEVELOPMENT OF REGIONAL IMPACT (DRI) AND CONSTITUTING THIS RESOLUTION AS THE DRI DEVELOPMENT ORDER; PROVIDING FOR EXECUTION, TRANSMITTAL AND IMPLEMENTATION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE AND EXPIRATION DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City Council, as the governing body of the City of Palm Beach Gardens, Florida, pursuant to the authority in Chapter 163 and Chapter 166, Florida Statutes, and the City's Land Development Regulations, is authorized and empowered to consider petitions related to zoning and land development orders; and

WHEREAS, the City received petition PDRI-09-02-000002, containing an Application for Development Approval (hereinafter “ADA”) for a development of regional impact known as the Scripps Florida - Phase II/Briger Tract Development of Regional Impact, from The Lester Family Investments, L.P., Richard Thall, Robert Thall, Peter L. Briger, Paul H. Briger, the David Minkin Florida Realty Trust dated December 12, 1996, and Palm Beach County (hereinafter individually or collectively “Developer”); and

WHEREAS, Ken Tuma of Urban Design Kilday Studios is the authorized agent; and

WHEREAS, the Developer proposes to construct 2,600,000 square feet of industrial/research and development/biotech, 1,200,000 square feet of office, 300 hotel rooms, 500,000 square feet of retail development, and 2,700 dwelling units on approximately 681 acres located south of Donald Ross Road, north of Hood Road, and east and west of Interstate 95, as more particularly described herein, consistent with the Master Plan for the Scripps Florida - Phase II/Briger Tract DRI attached as Exhibit 1; and

WHEREAS, the Developer, the City, District Four of the Florida Department of Transportation, and the Florida Department of Transportation Florida’s Turnpike Enterprise have entered into a Proportionate Share Agreement dated April 1, 2010; in order to meet the transportation requirements of the City's comprehensive plan and the Palm Beach County Traffic Performance Standards (TPS) Ordinance. The Proportionate Share Agreement, which is consistent with the requirements of Section 163.3180(12), Florida Statutes, and Rule 9J-2.045, Florida Administrative Code, is incorporated here in and attached as Exhibit 2; and
WHEREAS, the subject site is zoned Planned Development Area (PDA) but is concurrently being rezoned to Planned Community Development (PCD) overlay with an underlying zoning of Mixed Use (MXD) and has a Future Land Use Designation of Mixed Use; and

WHEREAS, the DRI petition was reviewed by the Planning, Zoning, and Appeals Board on October 13, 2009, which recommended approval by a vote of 6-1; and

WHEREAS, the City Council has conducted a duly noticed public hearing on the ADA for the Scripps Florida – Phase II/Briger Tract DRI on April 1, 2010, which was a continuation of public hearings on January 14, 2010, and November 12, 2009; and

WHEREAS, the City Council has considered the evidence and testimony presented by the Applicant and other interested parties and the recommendations of the various City of Palm Beach Gardens' review agencies and staff and has received and considered the Assessment Report and recommendations of the Treasure Coast Regional Planning Council (TCRPC); and

WHEREAS, the City Council deems approval of this Resolution to be in the best interests of the health, safety, and welfare of the residents and citizens of the City of Palm Beach Gardens and the public at large,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM BEACH GARDENS, FLORIDA that:

SECTION 1. FINDINGS OF FACT

1. The foregoing recitals are hereby affirmed and ratified.

2. The proposed development is not in an area of critical state concern designated pursuant to the provisions of Section 380.05, Florida Statutes.

3. The proposed development, upon adoption of the concurrent amendments to the comprehensive plan and land development regulations, is consistent with the City of Palm Beach Gardens Comprehensive Plan and Land Development Regulations.

4. The proposed development is consistent with the report and recommendations of the Treasure Coast Regional Planning Agency.

5. The proposed development is consistent with the State Comprehensive Plan.
SECTION 2. CONCLUSIONS OF LAW

1. Based on the above findings, the proposed development meets the requirements contained in Section 380, Florida Statutes.

2. The proposed development is consistent with the City’s Comprehensive Plan and Land Development Regulations.

3. The proposed development is consistent with the report and recommendations of the Treasure Coast Regional Planning Council.

4. The proposed development is consistent with the State Comprehensive Plan.

SECTION 3. ORDER

The Scripps Florida – Phase II/Briger Tract DRI, petition (PDRI-09-02-000002), is hereby APPROVED for the following development, located on a 681-acre site, more or less, as more particularly described herein, subject to the conditions of approval contained in Section 4:

1. 2,600,000 square feet of industrial/research and development/biotech;

2. 1,200,000 square feet of office;

3. 300 hotel rooms;

4. 500,000 square feet of retail development; and

5. 2,700 dwelling units.

LEGAL DESCRIPTION:

THAT PORTION OF SECTIONS 26 AND 35, TOWNSHIP 41 SOUTH, RANGE 42 EAST, IN PALM BEACH COUNTY, FLORIDA, DESCRIBED IN PARCELS AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 26; THENCE SOUTH 01°20’36” WEST ALONG THE EAST LINE OF SAID SECTION, A DISTANCE OF 75.02 FEET TO A POINT ON A LINE PARALLEL WITH AND SOUTHERLY 75.00 FEET FROM THE NORTH LINE OF SAID SECTION, SAID POINT BEING THE POINT OF BEGINNING, SAID POINT ALSO BEING ON THE SOUTH LINE OF DONALD ROSS ROAD; THENCE SOUTH 01°20’36” WEST ALONG SAID EAST LINE, A DISTANCE OF 2544.53 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER (SE 1/4) OF SAID SECTION 26; THENCE SOUTH 01°17’32” WEST ALONG SAID EAST LINE, A DISTANCE OF 2619.91 FEET TO THE NORTHEAST CORNER OF SAID SECTION 35; THENCE SOUTH 00°48’03” WEST ALONG THE
EAST LINE OF SAID SECTION 35, A DISTANCE OF 1373.03 FEET TO THE NORTH
RIGHT-OF-WAY LINE OF HOOD ROAD, AS DESCRIBED IN DEED BOOK 1146,
PAGE 639, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE
NORTH 88°06'56" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE
OF 639.65 FEET TO THE EAST LINE OF THE LAND DESCRIBED AS PARCEL 280
B(2) IN THE ORDER OF TAKING RECORDED IN OFFICIAL RECORD BOOK 4296,
PAGE 1151 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY; THENCE
ALONG THE BOUNDARY OF SAID PARCEL 280 B(2), NORTH 01°53'04" EAST, A
DISTANCE OF 70.00 FEET; THENCE NORTH 88°06'56" WEST, A DISTANCE OF
32.20 FEET; THENCE NORTH 83°32'30" WEST, A DISTANCE OF 52.96 FEET;
THENCE NORTH 01°53'04" EAST, A DISTANCE OF 15.00 FEET; THENCE NORTH
83°32'30" WEST, A DISTANCE OF 140.45 FEET; THENCE SOUTH 01°53'04" WEST,
A DISTANCE OF 15.00 FEET; THENCE NORTH 83°32'30" WEST, A DISTANCE OF
308.19 FEET; THENCE NORTH 88°06'56" WEST, A DISTANCE OF 117.31 FEET;
THENCE NORTH 00°49'08" EAST, A DISTANCE OF 291.34 FEET; THENCE NORTH
89°10'53" WEST, A DISTANCE OF 70.00 FEET TO THE NORTHWEST CORNER OF
SAID PARCEL 280 B(2), BEING ALSO ON THE WEST LINE OF THE EAST 40.00
FEET OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER
(NE 1/4) OF SAID SECTION 35; THENCE NORTH 00°49'08" EAST ALONG SAID
WEST LINE, A DISTANCE OF 942.23 FEET TO THE NORTH LINE OF SAID
SECTION 35; THENCE NORTH 89°24'49" WEST ALONG SAID NORTH LINE, A
DISTANCE OF 658.23 FEET TO THE WEST LINE OF THE EAST 40.00 FEET OF THE
WEST HALF (W 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE
NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 35; THENCE SOUTH 00°49'41"
WEST ALONG SAID WEST LINE, A DISTANCE OF 549.73 FEET TO THE
NORTHEAST LINE OF THE LAND DESCRIBED IN PARCEL 280 A(1) IN SAID
ORDER OF TAKING RECORDED IN SAID OFFICIAL RECORD BOOK 4296, PAGE
1151; THENCE ALONG THE BOUNDARY OF SAID PARCEL 280 A(1), NORTH
28°00'09" WEST, A DISTANCE OF 626.06 FEET TO THE NORTH LINE OF SAID
SECTION 35; THENCE CONTINUE NORTH 28°00'09" WEST ALONG SAID
BOUNDARY, A DISTANCE OF 3541.88 FEET; THENCE NORTH 24°00'09" WEST
ALONG SAID BOUNDARY, A DISTANCE OF 546.72 FEET TO THE BEGINNING OF A
CURVE THEREIN, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 5635.58
FEET; THENCE NORTHWESTERLY, A DISTANCE OF 544.03 FEET ALONG SAID
CURVE, THROUGH A CENTRAL ANGLE OF 05°31'54" TO A POINT OF TANGENCY;
THENCE CONTINUE ALONG SAID BOUNDARY, NORTH 18°28'15" WEST, A
DISTANCE OF 543.08 FEET; THENCE NORTH 14°39'25" WEST, A DISTANCE OF
177.27 FEET; THENCE NORTH 11°29'21" EAST, A DISTANCE OF 190.36 FEET;
THENCE NORTH 63°46'51" EAST, A DISTANCE OF 190.36 FEET; THENCE NORTH
89°55'36" EAST, A DISTANCE OF 301.88 FEET; THENCE NORTH 87°37'27" EAST, A
DISTANCE OF 296.35 FEET; THENCE NORTH 89°55'45" EAST, A DISTANCE OF
302.02 FEET; THENCE NORTH 00°04'15" WEST, A DISTANCE OF 6.00 FEET TO
THE SOUTHWESTERLY CORNER OF THE LAND DESCRIBED IN PARCEL 280 B(3)
IN SAID ORDER OF TAKING; THENCE ALONG THE SOUTHERLY LINE OF SAID
PARCEL 280 B(3), AS DESCRIBED IN OFFICIAL RECORD BOOK 4296, PAGE 1151,
SAID LINE ALSO BEING THE SOUTHERLY RIGHT-OF-WAY LINE OF ADDITIONAL
Resolution 80, 2009

RIGHT-OF-WAY FOR DONALD ROSS ROAD AS DESCRIBED IN OFFICIAL RECORD BOOK 21129, PAGE 118, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, NORTH 89°55'45" EAST, A DISTANCE OF 1216.68 FEET; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, SOUTH 45°04'14" EAST, A DISTANCE OF 56.57 FEET; THENCE ALONG THE EAST LINE OF SAID ADDITIONAL RIGHT-OF-WAY, NORTH 00°04'14" WEST, A DISTANCE OF 65.00 FEET TO SAID LINE PARALLEL WITH AND SOUTHERLY 75.00 FEET FROM THE NORTH LINE OF SAID SECTION 26; THENCE NORTH 89°55'46" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 2369.16 FEET TO THE POINT OF BEGINNING.

CONTAINING 475.31 ACRES, MORE OR LESS.

TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 26; THENCE NORTH 00°36'37" EAST ALONG THE WEST LINE OF SAID SECTION, A DISTANCE OF 4365.67 FEET TO THE SOUTHWESTERLY BOUNDARY OF THE LAND DESCRIED AS PARCEL 280 A(1) IN THE ORDER OF TAKING RECORDED IN OFFICIAL RECORD BOOK 4296, PAGE 1151 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY; THENCE ALONG SAID BOUNDARY SOUTH 34°23'37" EAST, A DISTANCE OF 112.80 FEET; THENCE SOUTH 33°14'52" EAST, A DISTANCE OF 493.78 FEET ALONG SAID BOUNDARY TO THE BEGINNING OF A CURVE THEREIN, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 11365.16 FEET; THENCE SOUTHEASTERLY, A DISTANCE OF 813.16 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 04°05'58" TO A POINT OF TANGENCY; THENCE SOUTH 29°08'54" EAST, A DISTANCE OF 1189.30 FEET; THENCE SOUTH 28°00'09" EAST ALONG SAID BOUNDARY, A DISTANCE OF 2426.49 FEET TO THE SOUTH LINE OF SAID SECTION 26; THENCE CONTINUE SOUTH 28°00'09" EAST ALONG SAID BOUNDARY, A DISTANCE OF 1464.87 FEET; THENCE NORTH 89°04'14" WEST ALONG SAID BOUNDARY AND ALONG THE NORTH LINE OF THE LAND DESCRIBED IN PARCEL 280 B(1) OF SAID ORDER OF TAKING, A DISTANCE OF 339.10 FEET; THENCE SOUTH 86°53'01" WEST ALONG SAID NORTH LINE, A DISTANCE OF 401.53 FEET TO THE NORTHERLY LINE OF HOOD ROAD; THENCE NORTH 88°06'56" WEST ALONG SAID NORTHERLY LINE, A DISTANCE OF 518.05 FEET TO THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 35; THENCE NORTH 00°50'35" EAST ALONG SAID EAST LINE, A DISTANCE OF 628.52 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER (SW 1/4); THENCE NORTH 89°02'37" WEST, A DISTANCE OF 658.29 FEET TO THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER (SW 1/4); THENCE SOUTH 00°50'56" WEST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER (SW 1/4), A DISTANCE OF 617.85 FEET TO SAID NORTH LINE OF HOOD ROAD; THENCE NORTH 88°06'56" WEST ALONG SAID NORTH LINE, A DISTANCE OF 392.92 FEET TO A POINT ON THE NORTH LINE OF THE FLORIDA'S TURNPIKE RIGHT-OF-WAY AS DESCRIBED IN MINUTES OF THE CIRCUIT COURT BOOK 70, PAGE 443, PALM BEACH COUNTY, FLORIDA; THENCE ALONG SAID
NORTH RIGHT-OF-WAY LINE FOR THE FOLLOWING FOUR [4] COURSES: NORTH 01°53'04" EAST, A DISTANCE OF 10.00 FEET; NORTH 88°06'56" WEST, A DISTANCE OF 350.00 FEET; THENE NORTH 83°28'53" WEST, A DISTANCE OF 503.22 FEET; THENE NORTH 89°00'28" WEST, A DISTANCE OF 73.33 FEET TO THE WEST LINE OF SAID SECTION 35; THENE NORTH 00°51'38" EAST ALONG SAID WEST LINE, A DISTANCE OF 1204.18 FEET TO THE POINT OF BEGINNING.

CONTAINING 206.38 ACRES, MORE OR LESS.

SECTION 4. CONDITIONS OF APPROVAL

This approval is subject to the following conditions, which shall be the responsibility of the Developers and their successors or assigns:

Application for Development Approval

1. The Scripps Florida - Phase II/Briger Tract Development of Regional Impact Application for Development Approval is incorporated herein by reference. It is relied upon; but not to the exclusion of other available information, by the parties in discharging their statutory duties under Chapter 380, Florida Statutes. Substantial compliance with the representations contained in the Application for Development Approval, as modified by Development Order conditions, is a condition for approval. Prior to final approval of any site plan application for the Scripps Florida - Phase II/Briger Tract Development of Regional Impact, the Developer shall revise the Application for Development Approval to ensure that the phasing schedule and development plan are internally consistent within all sections of the Application for Development Approval and Development Order.

For purposes of this condition, the Application for Development Approval shall include the following items:

a) Application for Development Approval dated January 16, 2009; and

b) Supplemental information dated June 2009 and August 2009.

Commencement and Process of Development

2. In the event the Developer fails to commence construction within three years from the effective date of the Development Order, development approval shall terminate, and the development shall be subject to further Development of Regional Impact review by the Treasure Coast Regional Planning Council, Florida Department of Community Affairs, and City of Palm Beach Gardens pursuant to Section 380.06, Florida Statutes. However, this time period shall be tolled during the pendency of any appeal pursuant to Section 380.07, Florida Statutes. For the purpose of this paragraph, construction shall be deemed to have commenced after placement of permanent evidence of a structure (other than a mobile home) on a site, such as the pouring of
slabs or footings or any work beyond the stage of excavation or land clearing, such as the construction of roadways or other utility infrastructure.

**Phasing**

3. The following phasing table for the Scripps Florida - Phase II/Briger Tract Development of Regional Impact is based on information provided in Table 10-A, included in the answer to Question 10 – General Project Description, in the Application for Development Approval.

<table>
<thead>
<tr>
<th>Phase</th>
<th>Years</th>
<th>Industrial/ R&amp;D/ Biotech (SF)</th>
<th>Office (SF)</th>
<th>Retail (SF)</th>
<th>Residential (DU)</th>
<th>Hotel (rooms)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2009-2013</td>
<td>300,000</td>
<td>100,000</td>
<td>500,000</td>
<td>800</td>
<td>300</td>
</tr>
<tr>
<td>2</td>
<td>2014-2018</td>
<td>400,000</td>
<td>200,000</td>
<td>0</td>
<td>850</td>
<td>0</td>
</tr>
<tr>
<td>3</td>
<td>2019-2023</td>
<td>400,000</td>
<td>200,000</td>
<td>0</td>
<td>500</td>
<td>0</td>
</tr>
<tr>
<td>4</td>
<td>2024-2028</td>
<td>1,500,000</td>
<td>700,000</td>
<td>0</td>
<td>550</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>2009-2028</td>
<td>2,600,000</td>
<td>1,200,000</td>
<td>500,000</td>
<td>2,700</td>
<td>300</td>
</tr>
</tbody>
</table>

This table is not intended to restrict the amount or type of development by phase, provided the Development Order in its entirety is followed. Rather, the amount and type of development within each phase is only limited by the following maximum number of trips for each phase. These trip amounts are cumulative (include trips from previous phase), and were derived from the trips generated by the development program for each phase listed above. These trip totals were used to calculate the timing of proportionate share payments and the timing of other required traffic improvements. The maximum number of trips for each phase is as follows:

<table>
<thead>
<tr>
<th>Phase</th>
<th>AM Peak-Hour Trips(^1)</th>
<th>PM Peak-Hour Trips(^1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1,369</td>
<td>2,174</td>
</tr>
<tr>
<td>2</td>
<td>2,397</td>
<td>3,089</td>
</tr>
<tr>
<td>3</td>
<td>3,176</td>
<td>3,778</td>
</tr>
<tr>
<td>4</td>
<td>5,361</td>
<td>5,528</td>
</tr>
</tbody>
</table>

\(^1\) Cumulative net external trips

A phase is considered complete when either the AM or PM Net External Peak-Hour trip number for that phase is met.
Conversion and Transfer of Uses

4. No building permits shall be issued for more than 600 single-family dwelling units, 1,400 townhouses, 700 apartment units, 500,000 square feet of commercial/retail development, 2,600,000 square feet of industrial/research and development/biotech, 1,200,000 square feet of general office, and 300 hotel rooms. These approved uses may be converted to different uses, including Hospitals and Post Secondary Schools, through the use of the Land Use Conversion Matrices included as Exhibit 3. A maximum of 20% of each of the referenced land uses may be increased or decreased, e.g., a maximum of 240,000 square feet of general office can be converted to other land uses, or a maximum of 240,000 square feet of general office can be converted from other uses.

The use of the Land Use Conversion Matrices shall occur as an amendment to the PCD Master Plan. The Department of Community Affairs and the Treasure Coast Regional Planning Council must be provided with thirty (30) days' advance notice of any approval of a PCD Master Plan amendment that contains a conversion of uses utilizing the Land Use Conversion Matrices. Whenever a conversion of uses occurs through utilization of the Land Use Conversion Matrices, an amendment to Map H to reflect that conversion must be included in the next Notice of Proposed Change or Substantial Deviation Application for Development Approval. Any use of the Land Use Conversion Matrices shall be documented in the Biennial Report. The PCD Master Plan shall include a description of all conversions of uses, whether accomplished through use of the Land Use Conversion Matrices or an amendment to the DRI Development Order.

5. The City may approve the transfer of permitted uses between parcels east of I-95, without substantial deviation review pursuant to Chapter 380.06(19), Florida Statutes, as specified below:

a) Up to 1,000,000 cumulative square feet of Office development may be transferred from Parcel B to Parcels A and C; and

b) Up to 250,000 cumulative square feet of Retail development may be transferred from Parcel C to Parcels A and B.

Any Office development transferred from Parcel B to Parcel C may not be converted to any other use using the Land Use Conversion Matrices. The transfer of permitted uses authorized by this condition shall occur as an amendment to the PCD Master Plan. As part of the application for an amendment to the PCD Master Plan that transfers uses pursuant to this condition, a traffic study re-evaluating driveway volumes shall be submitted to the City. The City will forward the study to Palm Beach County for its review. If the County determines that the proposed transfer would necessitate different improvements to those listed in the DRI conditions, the transfer shall not be approved until the DRI Development Order is amended to authorize the proposed transfer and modify the DRI conditions of approval. Whenever a transfer of uses pursuant to this condition occurs, an amendment to Map H to reflect the transfer must be included in the
next Notice of Proposed Change or Substantial Deviation Application for Development Approval.

**Buildout Date**

6. The Scripps Florida - Phase II/Briger Tract Development of Regional Impact shall have a buildout date of December 31, 2028, unless otherwise amended pursuant to the conditions of this Development Order and Section 380.06, *Florida Statutes*.

**Termination Date**

7. This Development Order shall expire on December 31, 2035, unless extended as provided in Section 380.06(19)(c), *Florida Statutes*.

**Transfer of Approval**

8. Notice of transfer of all or a portion of the subject property shall be filed with the City of Palm Beach Gardens. Prior to transfer, the transferee shall assume, in writing on a form acceptable to the City Attorney, any and all applicable commitments, responsibilities, and obligations pursuant to the Development Order. The intent of this provision is to ensure that subsequent property transfers do not jeopardize the unified control, responsibilities, and obligations required of the project as a whole.

**Biennial Report**

9. The biennial report required by Subsection 380.06(18), *Florida Statutes*, shall be submitted every two years on the anniversary date of the adoption of the Development Order and continued every other year thereafter to the City of Palm Beach Gardens, Palm Beach County, Florida Department of Transportation, Treasure Coast Regional Planning Council, Florida Department of Community Affairs, and such additional parties as may be appropriate or required by law. The City of Palm Beach Gardens Growth Management Administrator shall be the local official assigned the responsibility for monitoring the development and enforcing the terms of the Development Order. The contents of the report shall include those items required by Section 5 of this Development Order and Rule 9J-2.025(7), Florida Administrative Code, and in addition shall include:

a) the status of the mobility improvements identified in the Proportionate Share Agreement (Exhibit 2);

b) the amount of Currently Utilized Trips for development, as that term is defined in Paragraph 4.E. of the Proportionate Share Agreement (Exhibit 2);

c) the status of the proportionate share payments required under Paragraph 4B and Paragraph 5A of the Proportionate Share Agreement (Exhibit 2);
d) the amount of new net external AM and PM peak-hour trips for site plans approved during the reporting period and cumulatively for all currently-valid site plan approvals;

e) the conversion of land uses using the Land Use Conversion Matrices, if any, during the current two-year period as well as cumulative land use conversions; and

f) traffic signal warrant analysis and status for the intersections listed in Condition 30.

**General Provisions**

10. Any modifications or deviation from the approved plans or requirements of this Development Order shall be made according to and processed in compliance with the requirements of Section 380.06(19), Florida Statutes, and Rule 9J-2, Florida Administrative Code.

11. The definitions found in Chapter 380, Florida Statutes, shall apply to this Development Order.

12. Reference herein to any governmental agency shall be construed to mean any future instrumentality that may be created or designated as a successor in interest to, or which otherwise possesses the powers and duties to any referenced governmental agency in existence on the effective date of this Development Order.

13. This Development Order shall be binding upon the Developer and its assignees or successors in interest.

**Master Development Plan**

14. Parcel A, the Scripps Campus District, is approved for 1,600,000 square feet of Industrial/Research and Development/Biotech. The Industrial/Research and Development/Biotech square footage includes biotechnology/pharmaceutical/biomedical and other intellectually-based research and development facilities, administrative offices, classrooms, lecture halls, conference rooms, cafeterias, fitness facilities, and ancillary commercial/retail uses (up to 5%). Non-Industrial/Research and Development/Biotech uses are permitted on Parcel A, consistent with the PCD Development Order, through use of the Land Use Conversion Matrices contained in Exhibit 3, subject to the general limitations contained in Condition 4 and the following specific limitation. Neither the Land Use Conversion Matrices nor Condition 66 may be used to convert any of the Industrial/Research and Development/Biotech square footage to residential or retail development or a church.
15. Parcel B, the Biotech District, is approved for 1,000,000 square feet of Industrial/Research and Development/Biotech, 1,200,000 square feet of Office, and 300 Hotel Rooms. The Industrial/Research and Development/Biotech square footage includes biotechnology/pharmaceutical/biomedical and other intellectually-based research and development facilities, administrative offices, classrooms, lecture halls, conference rooms, cafeterias, fitness facilities, ancillary commercial/retail uses (up to 5%), and dorms and residential halls. The Office uses permitted include general and medical and veterinarian offices. However, since the traffic analysis only included general office, any medical or veterinary office uses can only occur through the conversion of general office square footage using the following conversion rate:

Conversion Rate from General Office (per 1,000 SF) to Medical Office/Veterinary (per 1,000 SF) is 2.5968.

Examples:

1. If you want to convert general office to 100,000 square feet of medical office, multiply 100,000 by 2.5968.

Result: 100,000 square feet of medical office × 2.5968 = 259,680 square feet of general office

Thus, general office would need to be reduced by 259,680 square feet in order to create 100,000 square feet of medical office/veterinary office.

2. If you want to know how many square feet of medical office can be built if you eliminate 100,000 square feet of general office, divide 100,000 by 2.5968.

Result: 100,000 square feet of office divided by 2.5968 = 38,509 square feet of medical office.

Thus, 38,509 square feet of medical office could be created by reducing general office by 100,000 square feet.

This conversion rate is based on the lowest value of conversion from the difference in net external AM peak-hour and PM peak-hour trips between general office and medical or veterinary office uses. The conversion of general office to medical office/veterinary permitted by this condition shall occur as an amendment to the PCD Master Plan. Should the Developer desire to undo a previous conversion made pursuant to this condition, the City may approve an amendment to the PCD Master Plan that reinstates the amount of general office development that was originally exchanged for the no-longer desired medical office/veterinary development. All conversions made pursuant to this condition shall be included in the description of all conversion of uses contained on the PCD Master Plan. The Hotel and conference center includes up to 300 hotel rooms. The uses not included within the Industrial/Research and Development/Biotech, or Office square footage, or the Hotel use, but contained in the Land Use Conversion Matrices contained in Exhibit 3, are permitted through use of the Land Use Conversion Matrices, subject to the limitations contained in Conditions 4 and 5.
16. Parcels C, D, E, and F are approved for a total of 350 single-family homes, 800 multi-family condo/townhouse units, and 350 apartments. These units may be located anywhere on these parcels, subject to the density limitations shown on Map H.

17. Parcel C is approved for 450,000 square feet of Retail uses.

18. Parcel G is approved for 250 single-family homes, 600 multi-family condo/townhouse units, and 350 apartments.

19. Parcel H is approved for 50,000 square feet of Commercial/Retail uses.

20. Prior to the Planned Community District approval for the site, the City of Palm Beach Gardens must adopt final Design Guidelines applicable to all development within the DRI. These Design Guidelines shall encourage walkability, mobility options, public transit, and sustainable patterns and forms of development consistent with the TCRPC Strategic Regional Policy Plan.

TRANSPORTATION

Rights-of-Way

21. No building permits for vertical construction for Scripps Florida - Phase II/Briger Tract Development of Regional Impact shall be issued until rights-of-way within the project along Donald Ross Road, Hood Road, and all intersections thereof, have been dedicated free and clear of all liens and encumbrances to Palm Beach County as necessary and consistent with the Palm Beach County Comprehensive Plan. The reservation of mineral rights shall not be considered an encumbrance for purposes of right-of-way dedication.

Proportionate Share Payments

22. The Developer shall meet the DRI and Concurrency Transportation requirements through payment of its proportionate share contribution pursuant to Section 163.3180(12), Florida Statutes, and Rule 9J-2.045, Florida Administrative Code. The Developer has entered into a Proportionate Share Agreement with the Florida Department of Transportation, the Florida Turnpike Enterprise, Palm Beach County, and the City of Palm Beach Gardens in accordance with Section 163.3180(12), Florida Statutes. The Proportionate Share Agreement lists the improvements that will be made with the proportionate share contributions, provides that the contributions will be distributed to the various agencies that have maintenance responsibility over the improvements, and contains the agreement of the various agencies to accept proportionate share payments for impacts to roads that are the responsibility of the agency. The Proportionate Share Agreement, contained in Exhibit 2, is hereby incorporated into this Condition.
23. In order to ensure that the proportionate share contributions are provided in a sufficient and timely manner to mitigate the traffic impacts of the level-of-service deficiencies for which the proportionate share costs were calculated and to comply with the approved project phasing specified in Condition 3, the timing and amount of the proportionate share payments are as follows:

a) No building permits shall be issued until the Developer has paid a proportionate share contribution in the amount of $439,903.

b) No building permits shall be issued for any development that generates more than 1,369 net external AM peak-hour trips or 2,174 net external PM peak-hour trips, whichever occurs first, until the Developer has paid a proportionate share contribution in the amount of $5,245,315.

c) No building permits shall be issued for development that generates more than 2,397 net external AM peak-hour trips or 3,089 net external PM peak-hour trips, whichever occurs first, until the Developer has paid a proportionate share contribution in the amount of $9,375,988.

d) No building permits shall be issued for development that generates more than 3,176 net external AM peak-hour trips or 3,778 net external PM peak-hour trips, whichever occurs first, until the Developer has paid a proportionate share contribution in the amount of $7,144,893.

The payment amounts listed above shall be adjusted to account for changes in construction prices, as outlined in the Proportionate Share Agreement (Exhibit 2).

24. The proportionate share payments do not address the committed Developer improvements for internal project roads and project intersection/entrance improvements along Donald Ross Road, Grandiflora Road, and Hood Road, as specified in this Development Order, and any internal roadway improvements required by the City of Palm Beach Gardens.

25. As it relates to compliance with proportionate share payment obligations, the issuance of all building permits shall be governed by Paragraphs 4.E. and 4.F. of the Proportionate Share Agreement (Exhibit 2).

26. Any proposed delay in payment of the proportionate share payment due or a proposed change to the approved development that increases the authorized number of trips or to the phasing schedule shall require a reanalysis of the proportionate share payment amount as part of any approval of the requested change. Any such change shall require an amendment to the Proportionate Share Agreement and an amendment to the Development Order to include the Amendment to the Proportionate Share Agreement.
Internal Roadways and Access Driveways
(Please refer to Exhibit 4 for a graphic illustration of required internal roadway and access driveways.)

27. No building permits for vertical construction shall be issued until contracts have been let for construction of either of the following roadways:

a) Parkside Drive from Donald Ross Road to its future connection with Heights Boulevard as a minimum two-lane roadway compatible with an ultimate four-lane divided mid-block cross section; or

b) Heights Boulevard from its existing terminus at Donald Ross Road to its future connection at Parkside Drive as a minimum two-lane roadway compatible with an ultimate four-lane divided mid-block cross section.

28. No building permits for vertical construction shall be issued for development that generates more than 1,369 net external AM peak-hour trips or 2,174 net external PM peak-hour trips, whichever occurs first, until contracts have been let for the construction of the following roadways:

a) Parkside Drive from Donald Ross Road to its intersection with Heights Boulevard as a four-lane roadway;

b) Parkside Drive from its intersection with Heights Boulevard to Grandiflora Road as a two-lane roadway compatible with an ultimate four-lane divided mid-block cross section;

c) Parkside Drive from Grandiflora Road to Hood Road as a roadway with a two-lane mid-block cross section;

d) Grandiflora Road as a roadway with a two-lane midblock cross section compatible with an ultimate four-lane divided mid-block cross section from its western terminus to Parkside Drive;

e) Heights Boulevard from Donald Ross Road to its point of departure to an east/west alignment as a roadway with a four-lane divided mid-block cross section; and

f) Heights Boulevard from its point of departure as an east/west alignment to its intersection with Parkside Drive as a roadway with a two-lane mid-block cross section compatible with an ultimate four-lane divided cross section.

29. No building permits for vertical construction shall be issued for development that generates more than 2,397 net external AM peak-hour trips or 3,089 net external PM peak-hour trips, whichever occurs first, until contracts have been let for the construction of the following roadways:
a) Parkside Drive from its intersection with Heights Boulevard to Grandiflora Road as a roadway with a four-lane divided mid-block cross section;

b) Heights Boulevard from its point of departure as an east/west alignment to its intersection with Parkside Drive as a roadway with a four-lane divided mid-block cross section; and

c) Grandiflora Road between Parkside Drive and Central Boulevard as a four-lane divided cross section.

30. Scripps Florida - Phase II/Briger Tract Development of Regional Impact shall have the following connections to the external roadway network consistent with Map H, Master Development Plan:

- Four connections to Donald Ross Road, as listed in Conditions 31 a.-d.;
- Three connections to Hood Road, as listed in Condition 31 f. and Conditions 33 a. and b.; and
- One connection to Central Boulevard via Grandiflora Road.

a) For the intersections listed in Conditions 31.c., 31.f., 33.a., and 33.b., which are not currently signalized, signalization shall be provided, if warranted, through completion of the DRI. A signal warrant study for each of these intersections shall be submitted with the biennial report according to the following schedule until signalization is warranted. For the intersection listed in Condition 31.c., the first warrant study shall be included in the next biennial report after construction of the required improvements at that intersection. For the intersections listed in Conditions 31.f., 33.a. and 33.b., the first warrant study shall be included in the next biennial report after the first building permit for vertical construction is issued for development west of I-95.

b) No building permits for vertical construction for development that generates more than 1,369 net external AM peak hour trips or 2,174 net external PM peak hour trips, whichever occurs first, shall be issued until performance security in an amount to be determined by the Palm Beach County Traffic Division is posted with the City for all costs associated with the traffic signals for the intersections listed in Conditions 31.c. and 31.f.

c) No building permits for vertical construction for development west of I-95 that generates more than 39 net AM peak-hour trips or 297 net PM peak-hour external trips shall be issued until performance security in an amount to be determined by the Palm Beach County Traffic Division to be sufficient to fund all costs associated with a traffic signal at only one intersection is posted with the City for the traffic signals for the intersections listed in Conditions 33.a. and 33.b.
d) If Palm Beach County approves a signal warrant study submitted with the biennial report showing that signalization is warranted, if Palm Beach County provides written notice to the Developer with a copy to the City that a signal warrant study was conducted between biennial reports showing that signalization is warranted at one of the above intersections, the Developer shall install a mast arm traffic signal at the warranted intersection within twelve months of approval or receipt of notice by Palm Beach County. If the Developer fails to complete the signal installation within this time frame, the County Engineer, at his/her sole discretion, shall have the right to request funds be drawn from the performance security (surety drawn) and Palm Beach County may then complete all required work.

e) Upon completion of the DRI, a signal warrant study shall be conducted and submitted to the City for any of the intersections listed in paragraph a) above that have not been signalized. The signal warrant study will be forwarded to Palm Beach County for its review. If a signal is warranted at any intersection, the Developer shall be responsible for installing the warranted signal. For any intersection that Palm Beach County determines does not warrant a signal, the performance security shall be returned, and the Developer shall have no further obligation for constructing the traffic signal at that intersection.

31. No building permits for vertical construction shall be issued for development that generates more than 1,369 net external AM peak-hour trips or 2,174 net external PM peak-hour trips, whichever occurs first, until contracts have been let to provide the following lane geometry and signal modifications, if required:

a) **Donald Ross Road and Heights Boulevard**

   - **Northbound**
     - Two left-turn lanes
     - One through lane
     - One right-turn lane
   - **Southbound**
     - Two left-turn lanes
     - One through lane
     - One free-flow right-turn lane
   - **Eastbound**
     - Two left-turn lanes
     - Three through lanes
     - One right-turn lane
   - **Westbound**
     - Two left-turn lanes
     - Three through lanes
     - One right-turn lane

b) **Donald Ross Road and Parkside Drive**

   - **Northbound**
     - Two left-turn lanes
     - One through lane
     - One right-turn lane
   - **Southbound**
     - One left-turn lane
     - One through lane
<table>
<thead>
<tr>
<th>Eastbound</th>
<th>Westbound</th>
</tr>
</thead>
<tbody>
<tr>
<td>One right-turn lane</td>
<td>Two left-turn lanes</td>
</tr>
<tr>
<td>Two left-turn lanes</td>
<td>Three through lanes</td>
</tr>
<tr>
<td>Three through lanes</td>
<td>One right-turn lane</td>
</tr>
</tbody>
</table>

**c) Donald Ross Road and FAU**

<table>
<thead>
<tr>
<th>Northbound</th>
<th>Southbound</th>
<th>Eastbound</th>
<th>Westbound</th>
</tr>
</thead>
<tbody>
<tr>
<td>One left-turn lane</td>
<td>One left-turn lane</td>
<td>One left-turn lane</td>
<td>One left-turn lane</td>
</tr>
<tr>
<td>One through lane</td>
<td>One through lane</td>
<td>Three through lanes</td>
<td>One right-turn lane</td>
</tr>
</tbody>
</table>

**d) Donald Ross Road and Eastern Driveway (right in/right out only)**

<table>
<thead>
<tr>
<th>Northbound</th>
<th>Eastbound</th>
<th>Westbound</th>
</tr>
</thead>
<tbody>
<tr>
<td>One right-turn lane</td>
<td>Three through lanes</td>
<td>Three through lanes</td>
</tr>
<tr>
<td>One right-turn lane</td>
<td>One right-turn lane</td>
<td></td>
</tr>
</tbody>
</table>

**e) Grandiflora Road and Central Boulevard**

<table>
<thead>
<tr>
<th>Northbound</th>
<th>Southbound</th>
<th>Eastbound</th>
<th>Westbound</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two left-turn lanes</td>
<td>One left-turn lane</td>
<td>One left-turn lane</td>
<td>One left-turn/through lane</td>
</tr>
<tr>
<td>Two through lanes</td>
<td>Two through lanes</td>
<td>One right-turn lane</td>
<td>One right-turn lane</td>
</tr>
<tr>
<td>One right-turn lane</td>
<td>One right-turn lane</td>
<td>One right-turn lane</td>
<td></td>
</tr>
</tbody>
</table>

**f) Hood Road and Parkside Drive**

<table>
<thead>
<tr>
<th>Northbound</th>
<th>Southbound</th>
<th>Eastbound</th>
</tr>
</thead>
<tbody>
<tr>
<td>One left-turn lane</td>
<td>One left-turn lane</td>
<td>One left-turn lane</td>
</tr>
<tr>
<td>One through lane</td>
<td>One through lane</td>
<td>One through lane</td>
</tr>
</tbody>
</table>

C-17
Westbound  One left-turn lane  
One through lane  
One right-turn lane  

32. No building permits for vertical construction shall be issued for development that generates more than 3,176 net external AM peak-hour trips or 3,778 net external PM peak-hour trips, whichever occurs first, until contracts have been let to provide the following lane geometry and signal modifications, if warranted:

   a) Donald Ross Road and Heights Boulevard – Provide an additional northbound left turn lane to provide triple left-turn lanes; and

   b) Grandiflora Road and Central Boulevard – Add a separate westbound through lane to provide one left-turn lane, one through lane, and one through/right-turn lane.

33. No building permits for vertical construction shall be issued for development in Parcels G and/or Parcel H until contracts have been let to provide the following lane geometry:

   a) **Hood Road and Western Driveway**  
      Southbound  Two exiting lanes  
      Eastbound  One through lane  
      Westbound  One right-turn lane  
                 One through lane

   b) **Hood Road and Driveway into Parcel H**  
      Northbound  One left-turn lane  
      One through lane  
      Southbound  One left-turn lane  
      One through lane  
      Eastbound  One left-turn lane  
      One through lane  
      One right-turn lane  
      Westbound  One left-turn lane  
      One through lane  
      One right-turn lane

**Other Issues**

34. A trip generation analysis shall be performed prior to each site plan approval. The trip generation analysis shall present calculations for both AM and PM peak-hour and shall rely upon the approved rates for trip generation, pass-by and internal capture for the phase in which the development occurs, as approved in the DRI. The trip generation shall be cumulative and include all currently-valid previous site plan approvals. Development order conditions shall be evaluated to determine triggering of
any conditions. Should a trip generation analysis demonstrate that development of the
site plan under consideration would trigger any development order condition, the
following shall apply:

a) For transportation Conditions 28, 29, 31, and 32, the site plan may be
approved; however, no building permits shall be issued for any development that
would exceed the triggering number of trips for the condition until the condition
has been met; and

b) For non-transportation Conditions 53, 60, and 61, no site plan that would
trigger the condition shall be approved until the condition has been met.

35. Prior to site plan approval, a traffic study shall be submitted to and approved
by the City of Palm Beach Gardens to determine:

a) Lane geometry for impacted internal roadways and their intersections, and

b) Timing of signalization at project driveways.

36. No additional building permits for vertical construction shall be issued after
December 31, 2033, until a traffic study has been conducted, submitted to, and
approved by the City of Palm Beach Gardens, Palm Beach County, Florida Department
of Transportation, Treasure Coast Regional Planning Council, and the Department of
Community Affairs. This traffic study shall be performed in a manner consistent with
methodology approved by the City of Palm Beach Gardens, Palm Beach County,
Florida Department of Transportation, and the Treasure Coast Regional Planning
Council. The study shall identify any improvements necessary to maintain the subject
transportation network at adopted levels of service. Additional building permits for
vertical construction shall not be issued after December 31, 2033, until mitigation for the
roadway improvements necessary to maintain adopted levels of service has been
incorporated into the development order.

ENVIRONMENTAL AND NATURAL RESOURCES

Preserve Area Management

37. The Developer shall prepare a Preserve Area Management Plan for the
upland and wetland preserve areas identified on the Scripps Florida - Phase II/Briger
Tract Development of Regional Impact Map H, Master Development Plan. The plan
shall: 1) identify locations in the preserve area where upland or wetland natural
communities will be created, enhanced, or restored; 2) identify management procedures
and provide a schedule for their implementation; 3) include procedures for maintaining
suitable habitat for state-listed and federally-listed species; 4) include methods to
remove nuisance and exotic vegetation and any other species that are determined to
threaten the natural communities; 5) include plans to permanently mark the preserve
area and provide access for passive recreation, education, or scientific study; and 6)
identify a permanent funding source and define a responsible entity for the maintenance and implementation of the management plan in perpetuity. The management plan shall be approved by the City of Palm Beach Gardens in consultation with the U.S. Fish and Wildlife Service, Florida Fish and Wildlife Conservation Commission, and South Florida Water Management District prior to the initiation of any site-clearing activity.

38. The Developer shall install temporary fencing around all upland and wetland preservation areas prior to commencing site clearing adjacent to the preserve area. The fencing shall clearly identify and designate the boundaries of the preserve area and minimize the potential disturbance of the preserve area during land clearing and construction. The temporary fencing shall be established at least 10 feet outside of the boundaries of the preserve areas and shall remain in place until the completion of the finish grading on the area adjacent to the fencing.

Upland Preservation

39. Prior to final approval of any site plan application for the project, the Developer shall identify the location of all upland preserve areas that have been shown on the PCD Master Development Plan. The intent of this condition is to provide protection of upland natural communities, to provide habitat for wildlife and listed species, and to assist in improving water quality by buffering wetlands and water bodies. The continued viability and maintenance of the preserve areas shall be assured through a Conservation Easement with the City of Palm Beach Gardens, South Florida Water Management District, or Northern Palm Beach County Improvement District. The easement shall be properly executed and recorded prior to the issuance of building permits for any portion of the project.

Wetlands

40. The Developer shall protect and enhance the wetland identified as A on Map F, Wetland Impact Map, in the Scripps Florida - Phase II/Briger Tract Development of Regional Impact Application for Development Approval. Prior to final approval of any site plan application for the Scripps Florida - Phase II/Briger Tract Development of Regional Impact, the Developer shall identify the location of all wetlands to be protected on Map H, Master Development Plan. The preserved and enhanced wetlands shall be protected within a Conservation Easement established with the City of Palm Beach Gardens, South Florida Water Management District, or Northern Palm Beach County Improvement District. The easement shall be properly executed and recorded prior to the issuance of building permits for any future portion of the project.

41. The Developer shall coordinate with the City of Palm Beach Gardens, South Florida Water Management District, and U.S. Army Corps of Engineers to determine the exact acreage and type wetland mitigation required to offset wetland impacts on the project site. Wetland mitigation requirements shall be determined following the Unified Mitigation Assessment Method provided in Chapter 62-345, Florida Administrative Code. Methods for the creation and management of wetland mitigation areas on the
project site, as outlined in the ERP, shall be described in the Preserve Area Management Plan to be approved by the City of Palm Beach Gardens prior to the initiation of any site-clearing activity.

42. All wetland mitigation east of I-95 shall be completed prior to or simultaneous with the elimination of existing wetlands on the site east of I-95, and all wetland mitigation west of I-95 shall be completed prior to or simultaneous with the elimination of existing wetlands on the site west of I-95. The detailed plans for mitigation shall be approved by the City of Palm Beach Gardens and South Florida Water Management District prior to the initiation of the mitigation plan and prior to the approval of any site plan for any portion of the project. Reasonable assurance of financial ability to carry out the commitments in the approved mitigation plan shall be provided in a method agreed to and approved by the South Florida Water Management District.

Listed Species

43. In order to protect the gopher tortoise population on the project site, the Developer or an authorized entity shall develop a detailed management plan that provides for the protection and relocation of gopher tortoises into the preserve areas identified on the Scripps Florida - Phase II/Briger Tract Development of Regional Impact Map H, Master Development Plan, or an appropriate off-site recipient area. The Developer or an authorized entity shall comply with the Florida Fish and Wildlife Conservation Commission gopher tortoise protection guidelines for this state-listed threatened species. Details of the gopher tortoise protection measures shall be provided in the Preserve Area Management Plan, which shall be approved by the City of Palm Beach Gardens prior to the initiation of any site-clearing activity.

44. In order to protect the hand fern population on the project site, the Developer or an authorized entity shall develop a detailed management plan that provides for the protection of hand fern in the preserve areas identified on the Scripps Florida - Phase II/Briger Tract Development of Regional Impact Map H, Master Development Plan, or an appropriate off-site recipient area. The Developer or an authorized entity shall comply with all recommendations by the City of Palm Beach Gardens in consultation with the Florida Department of Agriculture and Consumer Services regarding the maintenance and management of habitat for this state-listed endangered species. Details of the hand fern protection measures shall be provided in the Preserve Area Management Plan, which shall be approved by the City of Palm Beach Gardens prior to the initiation of any site-clearing activity.
45. In the event it is determined that any additional state-listed or federally-listed plant or animal species is resident on, or otherwise significantly dependent upon the project site, the Developer shall cease all activities which might negatively affect that individual population and immediately notify the City of Palm Beach Gardens. The Developer shall provide proper protection to the satisfaction of the City of Palm Beach Gardens, U.S. Fish and Wildlife Service, and the Florida Fish and Wildlife Conservation Commission.

Exotic Species

46. Prior to obtaining building permits for any future structure located on a particular development parcel, the Developer of such parcel shall remove from that parcel all Australian-pine, Brazilian pepper, downy rose-myrtle, melaleuca, Old World climbing fern, and any other nuisance and invasive exotic vegetation listed under Category I of the Florida Exotic Pest Plant Council’s “2007 List of Invasive Plant Species.” Removal shall be in a manner that minimizes seed dispersal by any of these species. There shall be no planting of these species on site. Methods and a schedule for the removal of exotic and nuisance species should be approved by the City of Palm Beach Gardens. The entire site, including wetlands and conservation areas, shall be maintained free of these species in perpetuity, in accordance with all applicable permits.

Stormwater Management

47. The Developer of each development parcel shall design and construct a stormwater management system within such development parcel to retain the maximum volumes of water consistent with the South Florida Water Management District’s and Northern Palm Beach County Improvement District’s criteria for flood control. At a minimum, all discharged water from the surface water management system shall meet the water quality standards of Florida Administrative Code Rule 17-3.

48. The Developer shall work with the City of Palm Beach Gardens to minimize the amount of impervious surface constructed for automobile parking on the project site. The Developer and the City should consider the use of pervious parking lot materials where feasible.

49. The surface water management system shall utilize Best Management Practices to minimize the impact of chemical runoff associated with lawn and landscape maintenance. The Developer shall coordinate with the South Florida Water Management District and Northern Palm Beach County Improvement District to formulate and implement Best Management Practices to reduce the use of pesticides and fertilizers throughout the project.
50. Maintenance and management efforts required to assure the continued viability of all components of the surface water management system shall be the financial and physical responsibility of the Developer, a community development district, Northern Palm Beach County Improvement District, or other entity acceptable to the City of Palm Beach Gardens. Any entities subsequently replacing the Developer shall be required to assume the responsibilities outlined above.

Water Supply

51. No building permits for vertical construction shall be issued until the Developer demonstrates that the Seacoast Utility Authority, or other public utility provider, has an adequate permitted allocation of potable water and adequate potable water treatment and delivery facilities to meet the demands of the development for which the building permit for vertical construction is requested.

52. The preferred source of irrigation water shall be treated wastewater effluent at such time as this source is made available to the site. The project shall be equipped with an irrigation water distribution system to provide reclaimed water to serve all portions of the site requiring irrigation. No individual home wells shall be constructed on the project site. Prior to availability of a sufficient supply of reclaimed water, other water supply sources may be used for landscape irrigation, subject to meeting the South Florida Water Management District's permitting criteria in effect at the time of permit application.

53. Prior to the commencement of any development that generates more than 1,369 net external AM peak-hour trips or 2,174 net external PM peak-hour trips, whichever occurs first, the Developer shall provide written confirmation from the Seacoast Utility Authority, or other public utility provider, that: 1) adequate capacity of reclaimed water is available to serve the project site; and 2) adequate reclaimed water treatment and delivery facilities are available to meet the needs of the project site. In the event that the preceding criteria cannot be met, other water supply sources may be used for landscape irrigation subject to meeting the South Florida Water Management District's permitting criteria in effect at the time of permit application.

54. The residential and non-residential uses in the project shall utilize low-volume water use plumbing fixtures and Florida-friendly (drought tolerant) landscape techniques, and other water conserving devices and/or methods. The commercial uses in the project shall also utilize self-closing and/or metered water faucets. These devices and methods shall meet the criteria outlined in the water conservation plan of the public water supply permit issued to the Seacoast Utility Authority by the South Florida Water Management District.
Wastewater Management

55. No residential subdivision plat shall be recorded nor final site plan approved for any development parcel until the Developer has provided written confirmation from the Seacoast Utility Authority, or other public utility provider, that: 1) adequate capacity for wastewater treatment is available to serve such development parcel; and 2) the Developer or others have provided the necessary wastewater system extensions to serve the development parcel.

Solid Waste and Hazardous Materials

56. Prior to the issuance of the first non-residential building permit for vertical construction for the project, the Developer shall prepare a Hazardous Waste Management Plan for the non-residential uses and have it approved by the City of Palm Beach Gardens. The plan should identify off-site disposal plans, on-site waste handling, generation, and emergency procedures for each generator of hazardous waste. At a minimum, the plan shall:

a) require disclosure by all owners or tenants of the property of all hazardous materials or waste proposed to be stored, used, or generated on premises;

b) require the inspection of all premises storing, using, or generating hazardous materials or waste prior to commencement of operation, and periodically thereafter, to assure that proper facilities and procedures are in place to properly manage hazardous materials projected to occur;

c) provide minimum standards and procedures for storage, prevention of spills, containment of spills, and transfer and disposal of such materials or waste;

d) provide for proper maintenance, operation, and monitoring of hazardous materials and waste management systems, including spill and hazardous materials and waste containment systems;

e) detail actions and procedures to be followed in case of spills or other accidents involving hazardous materials or waste;

f) guarantee financial and physical responsibility for spill cleanup; and

g) include a program for continued monitoring of surface and groundwater on the site.
Air Quality

57. No later than 90 days prior to the issuance of the first building permit for vertical construction for each phase of development beyond Phase 1, as more specifically defined by the AM and PM peak-hour trip thresholds specified in Condition 3, the Developer shall submit a Carbon Monoxide Air Quality Analysis based on the latest guidelines to the Florida Department of Environmental Protection for its review and approval. The analysis shall demonstrate that the National Ambient Air Quality Standards for Carbon Monoxide will not be violated as a result of this project and, if necessary, shall include mitigation measures for which the Developer shall be responsible.

58. During land clearing and site preparation, soil treatment techniques appropriate for controlling unconfined particulate emissions shall be undertaken. If construction on a parcel will not begin within 30 days of clearing, the soil shall be stabilized until construction of the parcel begins. Cleared areas may be sodded, seeded, landscaped, mulched, or stabilized by other means as may be permitted by the City of Palm Beach Gardens. Minimal clearing for access roads, survey lines, fence installation, or construction trailers and equipment staging areas is allowed without the need for soil stabilization. The purpose of this condition is to minimize dust production and soil erosion during land clearing and to prevent soil particulates from becoming airborne between the time of clearing and construction. The development shall comply with all National Pollutant Discharge Elimination System requirements.

HUMAN RESOURCE ISSUES

Housing

59. The Developer shall provide 142 workforce housing units on the Scripps Florida - Phase II/Briger Tract Development of Regional Impact affordable to very low income worker households at the following affordability threshold illustrated in the following table:

<table>
<thead>
<tr>
<th>Income Group</th>
<th>Demand</th>
<th>Maximum Income Limits</th>
<th>Affordability Thresholds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Low</td>
<td>142</td>
<td>$33,000</td>
<td>Purchase Price: $95,683</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Rent: $728</td>
</tr>
<tr>
<td>Total</td>
<td>142</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1 HUD FY 2008 Median Household Income of $66,000 for Palm Beach County.
2 Affordability limits for home prices (for-sale housing) and maximum rental rates by income group.

The mitigation of the significant adequate housing impact can be addressed by the Developer by constructing 142 workforce housing units on site within the affordability threshold for Very Low Income households.
Any workforce housing units to be provided under this condition shall be integrated within the development and designed to be compatible with the overall project. All affordable units shall be constructed on site, uniformly dispersed throughout the project, and designed to the same exterior standard as other units in the development. The applicant, Developer, and/or property owner shall record in the public record a guarantee, for a minimum period of 25 years for ownership units and for rental units, which maintains the affordability of units that are required to be workforce housing.

In lieu of workforce housing units, the provision or allowance of accessory apartments, as defined in the Design Guidelines, on a minimum of 142 individual building lots, including single-family lots and townhome lots, shall satisfy the requirement for the provision of workforce housing. Accessory units shall not be counted against the total number of units proposed for the Scripps Florida - Phase II/Briger Tract Development of Regional Impact.

Police and Fire Protection

60. Prior to the commencement of any development that generates more than 1,369 net external AM peak-hour trips or 2,174 net external PM peak-hour trips, whichever occurs first, the Developer shall provide written confirmation from the City of Palm Beach Gardens Fire Rescue Department verifying that adequate facilities, equipment, and personnel are available to service the Scripps Florida - Phase II/Briger Tract Development based on the demand from the project.

61. Prior to the commencement of any development that generates more than 1,369 net external AM peak-hour trips or 2,174 net external PM peak-hour trips, whichever occurs first, the Developer shall provide written confirmation from the City of Palm Beach Gardens Police Department verifying that adequate facilities, equipment, and personnel are available to service the Scripps Florida Phase II/Briger Tract Development based on the demand from the project.

Hurricane Preparedness

62. No residential subdivision plat shall be recorded nor final site plan approved for any development parcel until the Developer has written confirmation from the Palm Beach County Division of Emergency Management that adequate emergency regular and special needs shelter capacities are available for that residential subdivision plat within the Scripps Florida - Phase II/Briger Tract Development of Regional Impact.
Parks and Recreation

63. The PCD shall not be approved until the Developer has provided a plan approved by the City of Palm Beach Gardens for the provision of neighborhood and community recreational sites and facilities to meet the demand created by residential development in the project. Neighborhood parks should serve as prominent visual and social focal points of each neighborhood, and provide for informal, non-programmed recreational activities. At a minimum, 15 percent of the project area, or 103 acres of recreation and open space area as required by the City of Palm Beach Gardens Land Development Code, shall be established to serve area residents of the Scripps Florida - Phase II/Briger Tract Development of Regional Impact. Neighborhood and community recreational facilities shall be available to serve projected demand in accordance with the plan approved by the City of Palm Beach Gardens.

Historic and Archaeological Sites

64. The Developer shall protect and set aside from development the archaeological site, 8PB13953, in accordance with the recommendations from the Florida Department of State, Division of Historical Resources. Site 8PB13953 is a prehistoric midden located in a hammock in the southwest quadrant of the parcel and is identified as “Archaeologically Significant Site” on Map H, Master Development Plan.

65. In the event of discovery of any archaeological artifacts during construction of the project, construction shall stop in the area of discovery and immediate notification shall be provided to the City of Palm Beach Gardens and the Division of Historical Resources, Florida Department of State. Proper protection shall be provided to the satisfaction of the City of Palm Beach Gardens and the Division of Historical Resources.

Churches and Schools

66. Elementary, middle, and high schools are permitted anywhere within the DRI. Churches are permitted anywhere within the DRI except on Parcels A and B. However, because no trips were included in the traffic analysis for churches and the listed schools, they are only permitted if they do not generate any additional net external AM peak-hour trips and net external PM peak-hour trips over the amount of net external AM peak-hour trips and net external PM peak-hour trips authorized for the DRI. The exchange table below contains the exchange rates for the uses that may be converted to churches or elementary, middle, and high schools. These rates ensure that no additional net external AM peak-hour trips or PM peak-hour trips will be generated as a result of the conversion:
<table>
<thead>
<tr>
<th>Land use to be added</th>
<th>Land Use</th>
<th>Single Family (per DU)</th>
<th>Apartment (per DU)</th>
<th>Condo/TH (per DU)</th>
<th>Retail (per 1,000 SF)</th>
<th>Research and Dev't (per 1,000 SF)</th>
<th>General Office (per 1,000 SF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Church (per 1,000 SF)</td>
<td>0.8477</td>
<td>1.4599</td>
<td>1.8462</td>
<td>0.5456</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Elementary School (per student)</td>
<td>0.3600</td>
<td>0.4963</td>
<td>0.5545</td>
<td>0.5192</td>
<td>0.9764</td>
<td>1.0887</td>
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<tr>
<td>Middle School (per student)</td>
<td>0.4320</td>
<td>0.5956</td>
<td>0.6654</td>
<td>0.6231</td>
<td>1.1716</td>
<td>1.3065</td>
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<tr>
<td>High School (per student)</td>
<td>0.2389</td>
<td>0.3294</td>
<td>0.4324</td>
<td>0.3446</td>
<td>0.6480</td>
<td>0.7226</td>
<td></td>
</tr>
</tbody>
</table>

* Note: Rate is based on the rate that results in the lowest value of conversion from either the AM or PM peak-hour outbound rates.

**Examples:**

1. If you want to add 50,000 square feet of Church by decreasing Retail square footage, how many square feet of Retail would you need to reduce?

   Instruction = Multiply 50,000 by the number that connects the "Church" row with the "Retail" column (0.5456)
   Multiply 50,000 square feet x 0.5456 = 27,280 square feet
   You must reduce Retail by 27,280 SF.

2. If you want to know how many square feet of a Church you can build if you eliminate 100,000 square feet of retail:

   Go to the Church row and follow to Retail column, find 0.5456
   Divide 100,000 by 0.5456 = 183,284 SF of Church

The exchange of uses permitted by this condition shall occur as an amendment to the PCD Master Plan. Should the Developer desire to undo a previous exchange made pursuant to this condition, the City may approve an amendment to the PCD Master Plan that reinstates the amount of development that was originally exchanged for the no-longer-desired church or school. All exchanges of uses made pursuant to this condition shall be included in the description of all conversion of uses contained on the PCD Master Plan.

**SECTION 5. BIENNIAL REPORT**

1. The Developer shall make a biennial report as required by Section 380.06 (15) and (18), Florida Statutes. The first biennial report shall be submitted on the second anniversary of the adoption of the DRI Development Order. Subsequent reports shall be submitted every two years on the anniversary date of the adoption of the DRI Development Order.
2. In addition to the requirements contained in the conditions of approval, the biennial report shall include the following:

a) Any changes in the plan of development, or in the representations contained in the Application for Development Approval, or in the phasing for the reporting period and for the next reporting period;

b) A summary comparison of development activity proposed and actually conducted for the reporting period;

c) Identification of undeveloped tracts of land, other than individual single-family lots, that have been sold, transferred, or leased to a separate entity or developer;

d) Identification and intended use of lands purchased, leased, or optioned by any of the Developers adjacent to the original DRI site since the Development Order was issued;

e) An assessment of the Developer's and local government's compliance with each individual condition of approval contained in this Development Order and the commitments specified in the Application for Development Approval and which have been identified by the City, the Treasure Coast Regional Planning Council, or the Department of Community Affairs as being significant;

f) Any request for a substantial deviation determination that was filed in the reporting period or is anticipated to be filed during the next reporting period;

g) An indication of a change, if any, in local government jurisdiction for any portion of the development since the Development Order was issued;

h) A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number, and purpose of each;

i) The biennial report shall include a statement that all the agencies listed in Condition 9 or added pursuant to Condition 9 have been sent copies of the biennial report;

j) A copy of any recorded notice of the adoption of a Development Order or the subsequent modifications of an adopted Development Order that was recorded by the Developer pursuant to Subsection 380.06(15), Florida Statutes; and

k) Any other information requested by the City of Palm Beach Gardens to be included in the biennial report.
SECTION 6. MODIFICATIONS TO APPROVAL

1. Except as permitted by the conditions of approval, any modifications or deviations from the approval plans or requirements of this Development Order shall be submitted to the City of Palm Beach Gardens for a determination as to whether the change constitutes a substantial deviation as provided in Section 380.06(19), Florida Statutes.

2. Purchasers and lessees of lots or parcels within the DRI shall not be considered the Developer for purposes of modifying the provisions of the Development Order pursuant to 380.06(19), Florida Statutes, or appealing any changes to the Development Order pursuant to Section 380.07, Florida Statutes, unless so designated by an original Developer or successor Developer.

SECTION 7. DOWNZONING

Prior to December 31, 2033, the Scripps Florida – Phase II/Briger Tract Development of Regional Impact shall not be subject to downzoning, unit density reduction, or intensity reduction, unless the City demonstrates that substantial changes in the conditions underlying the approval of the Development Order have occurred, or that the Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by the City of Palm Beach Gardens to be essential to the public health, safety, or welfare. The Developer's substantial compliance with the representations regarding the project's description and economic activity areas, including the biotech development component of the DRI, which have been incorporated herein pursuant to the adoption of the conditions, are deemed to be essential to the public health, safety, and welfare. The City of Palm Beach Gardens has expressly relied upon these representations in the formulation of various conditions of approval; consequently, the failure to substantially comply with these representations may constitute substantial changes which may be cause for downzoning, unit density reduction, or intensity reduction.

SECTION 8. EFFECTIVE DATE

1. Certified copies of this Development Order shall be transmitted immediately by certified mail or other delivery service for which a receipt as proof of service is required to the Department of Community Affairs, the Treasure Coast Regional Planning Council, The Lester Family Investments, L.P., Richard Thall, Robert Thall, Peter L. Briger, Paul H. Briger, the David Minkin Florida Realty Trust dated December 12, 1996, and Palm Beach County. This Development Order shall become effective upon its transmittal to all of the above-listed entities and people. The date of transmittal shall be the effective date of the Development Order.
2. If a notice of appeal is filed pursuant to Section 380.07, *Florida Statutes*, the effectiveness of the Development Order is stayed until the completion of the appeal process. Any time periods in the conditions of approval measured from the approval date, adoption date, or effective date of the Development Order shall be measured from the effective date and those time periods are tolled during any period that the effectiveness of the Development Order is stayed.

**SECTION 9. SEVERABILITY**

In the event that any portion or section of this Development Order is deemed to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Development Order, which shall remain in full force and effect.

(The remainder of this page intentionally left blank)
PASSED AND ADOPTED this ___ day of April, 2010.

CITY OF PALM BEACH GARDENS, FLORIDA

BY: David Levy, Mayor

ATTEST:

BY: Patricia Snider, CMC, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY: R. Max Lohman, City Attorney

I, Patricia Snider, City Clerk of the City of Palm Beach Gardens do hereby certify that this is a true copy as taken from the Official records of the City of Palm Beach Gardens.

City Clerk

Date 4/5/10

VOTE:

AYE  NAY  ABSENT

MAYOR LEVY

VICE MAYOR PREMUROSO

COUNCILMEMBER RUSSO

COUNCILMEMBER JABLIN

COUNCILMEMBER BARNETT
EXHIBIT 2
THE SCRIPPS FLORIDA PHASE II/BRIGER PROPORTIONATE SHARE AGREEMENT

This Scripps Florida Phase II/Briger Proportionate Share Agreement (hereinafter “Agreement”) is made and entered into as of this 

$\text{\textsuperscript{t}st \ day of November, 2013}$, by and between the Lester Family Investments L.P., Richard Thall, Robert Thall, Peter L. Briger, Paul H. Briger, and the David Minkin Florida Realty Trust dated December 12, 1996 (hereinafter “Lester”), Palm Beach County, a political subdivision of the State of Florida (hereinafter “County”), the City of Palm Beach Gardens, Florida, a municipal corporation (hereinafter “City”), District Four of the Florida Department of Transportation, an agency of the State of Florida (hereinafter “FDOT”), and the Florida Department of Transportation Florida’s Turnpike Enterprise (hereinafter “FTE”).

WITNESSETH:

WHEREAS, the County and Lester (hereinafter jointly referred to as “Applicants” are joint applicants of that certain Development of Regional Impact (hereinafter “DRI”) known as the Scripps Florida Phase II/Briger DRI (hereinafter “Project”) located on certain real property in Palm Beach Gardens, Florida, as more particularly described on Exhibit A attached hereto (hereinafter the “Property”); and

WHEREAS, the County and Lester desire to provide for proportionate share mitigation payments pursuant to section 163.3180(12), and section 380.06, Florida Statutes, and Rule 9J-2.045(7), Florida Administrative Code, to address the traffic impacts anticipated from development of this Project throughout build-out; and

WHEREAS, the County and Lester seek approval of the DRI by the City, and a certification of concurrency reservation for 2.6 million square feet of Industrial/R&D/biotech

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uses, 1.2 million square feet of office uses, 500,000 square feet of retail uses, 2,700 residential units, and 300 hotel rooms for the Property more specifically described on Exhibit A; and

WHEREAS, the Property owned by the Lesters (hereinafter “Lester Property”) described on the attached Exhibit B seeks approval of and certificate of concurrency reservation for the following uses: 1.0 million square feet of Industrial/R&D/biotech, 1.2 million square feet of office uses, 500,000 square feet of retail, 2,700 residential units, and 300 hotel rooms; and

WHEREAS, the property described in the attached Exhibit C (hereinafter “County Property”) seeks approval of and certificate of concurrency reservation for the following uses which are consistent with the Grant Agreement between Palm Beach County and Scripps Research Institute: 1.6 million square feet of Industrial/R&D/biotech; and

WHEREAS, Lester and the County have agreed that their respective share of the total proportionate share obligation under this Agreement shall be 79.74 percent for the Lester Property and 20.26 percent for the County Property as more fully set forth herein; and

WHEREAS, pursuant to section 163.3180(12), and section 380.06, Florida Statutes, and Rule 9J-2.045(7), Florida Administrative Code, FDOT, FTE, the County, and the City have agreed to accept the Project’s proportionate share payment as adequately mitigating the transportation impacts of the Project on significantly impacted state and regional roadways within the respective jurisdiction of the foregoing through build-out. Payment of the Project’s proportionate share shall satisfy the transportation concurrency requirements of the County and City’s Comprehensive Plan, concurrency management systems, traffic performance standards, Section 380.06, and Chapter 163.3180 as may be amended from time to time; and

WHEREAS, the approved traffic study for the DRI identifies the timing and development phasing for the required proportionate share payments; and
WHEREAS, the payment schedule contained in this Agreement provides for the County’s Advance Payment at the beginning of the Project, County Property Fee payments upon the issuance of Building Permits for vertical construction (hereinafter “Building Permits”) on the County Property, impact fee payments and proportionate share payments by phase for the development of the Lester Property, and the reimbursement to the County of its Advance Payment with interest at the end of the Project after the total required proportionate share payment has been made; and

WHEREAS, the payment requirements and schedule contained in this Agreement will result in the amount of proportionate share payments made throughout the life of the Project being in conformity with the schedule of payments contained in the approved traffic study.

NOW, THEREFORE, for and in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County, Lester, FDOT, FTE and the City, do hereby covenant, stipulate and agree as follows:

1. **Incorporation of recitals.** The foregoing recitals are true and correct and hereby incorporated by the parties as part of this Agreement as if fully set forth herein.

2. **Determination of proportionate share payments.**

   A. The parties hereto acknowledge and agree that the attached Table 1 contains the proportionate share contribution required at each phase, the peak hour trip thresholds for each phase, a priority list of improvements that are to be constructed and/or implemented to mitigate transportation impacts, an identification of the government agency with maintenance responsibility over each improvement, and the estimated cost of each improvement. Lester and the County have agreed that each shall be responsible for a Part of the total proportionate share contribution, with the obligation for the Lester Property contained in Paragraph 4.B. and the
County Property obligation contained in Paragraph 4.C. FDOT, FTE, the County, and the City acknowledge and agree that these payments adequately mitigate offsite transportation impacts of the Project on all state and regional roadways through build-out, and shall be final and binding as required by Section 163.3180(12), Florida Statutes, Chapter 380, Florida Statutes, and Chapter 9J-2.045, Florida Administrative Code. The County and the City further acknowledge and agree that, as long as payments are timely made consistent with this Agreement, payment of the Project’s proportionate share shall satisfy the transportation concurrency requirements of the County and City’s Comprehensive Plan, concurrency management systems, and traffic performance standards. Lester and the County acknowledge and agree that the proportionate share payments and the improvements listed in Table 1 do not include the committed developer improvements for internal project roads and project intersection/entrance improvements along Donald Ross Road, Hood Road and Grandiflora Road as specified in the adopted DRI Development Order, and that development of the Project is phased to those improvements as specified in the Development Order.

B. In recognition that construction prices may change over the life of the project, any portion of the Lester Property proportionate share not paid on or before January 1, 2011, shall be subject to the following escalator calculation:

The cost adjustment for the total amount of each payment shall be based on the Bureau of Labor Statistics Producer Price Index (PPI) for Highway and Street Construction Industries (BHWY-
Highway and Street Construction). The starting point for the index comparison shall be January 2010. The payment shall be adjusted by the percentage change in the PPI from the January 2010 starting point to the most recently published PPI value (including preliminary values) at the time of the proposed payment.
C. Any portion of the County’s Advance Payment pursuant to paragraph 5.A not paid on or before January 1, 2011, shall be subject to the same escalator calculation contained in paragraph 2.B.

3. Allocation and Timing of Project’s proportionate share payments.

A. All proportionate share payments made pursuant to this Agreement shall be made directly to Palm Beach County. The parties hereto acknowledge and agree that proportionate share payments received shall be allocated to the improvements in the priority order set forth in Table 1, as it may be amended pursuant to paragraph 8. The County shall establish a separate account (hereinafter “Proportionate Share Trust Account”) for the management and disposition of proportionate share payments, which shall be distributed to the appropriate governmental agency consistent with the terms of this Agreement.

B. The monies allocated to the County for improvements in phases 1, 2 and 3 shall be adjusted to include the full cost of the improvements, including but not limited to design costs, right-of-way acquisition, construction and construction engineering inspection. As long as there are sufficient funds in the Proportionate Share Trust Account for all or part of these improvements and all preceding improvements (including the applicable portion of the FTE/FDOT Reserve Funds, as defined in paragraph 3.D. below), the County shall be authorized to withdraw the estimated cost for each phase of each improvement according to the following schedule:

i. For design, no sooner than 30 days prior to award of a design contract for the improvement, and

ii. For right of way acquisition, no sooner than 30 days following submittal of 65 percent design plans by the design consultant, and
iii. For construction, no sooner than 30 days prior to award of a construction contract for the improvement.

Upon completion of an improvement, if the actual cost of the improvement exceeded the funds withdrawn by the County, the County shall be authorized to withdraw additional funds from the Proportionate Share Trust Account up to the difference. If the actual cost of all phases of the improvement is less than the funds withdrawn by the County, the County shall return excess funds to the Proportionate Share Trust Account. If there are not sufficient funds in the Proportionate Share Trust Account for any phase of these improvements, the County shall have the option to advance the payment and then withdraw funds for expenses incurred when funds become available. The County shall establish estimated costs for right of way acquisition and construction upon receipt of 96 percent design plans for each of these improvements and reserve these funds in the Proportionate Share Trust Account (hereinafter “Reserve Funds”).

C. The monies allocated to the City for improvements in phases 3 and 4 shall be adjusted by the escalator percentage applied to the Lester phase 3 and phase 4 proportionate share payments, respectively, pursuant to paragraph 2.B. As long as there are sufficient funds in the Proportionate Share Trust Account for all or a part of the City improvements and all preceding improvements (including the Reserve Funds and the applicable portion(s) of the FTE/FDOT Reserve Funds, as defined in Paragraph 3.D. below), the City shall be authorized to withdraw funds for its improvements in the priority order shown in Table 1, as it may be amended pursuant to paragraph 8. The City may elect to make a partial withdrawal based on availability of funds and then withdraw the balance of its allocation when funds become available.

D. The monies allocated to FTE and FDOT for improvements in phases 3 and 4 shall be adjusted by the escalator percentage applied to the Lester phase 3 and phase 4 proportionate
share payments, respectively, pursuant to paragraph 2.B. As long as there are sufficient funds in the Proportionate Share Trust Account for an FTE or FDOT improvement and all preceding improvements (including the Reserve Funds), and FTE or FDOT can demonstrate that its own funds were expended in the construction of its respective improvement(s) in Table 1, FTE or FDOT shall be authorized to withdraw the funds for their respective improvements in the priority order shown in Table 1, or as amended pursuant to paragraph 8. The withdrawal amount shall be the actual funds expended or the allocated amount in Table 1 after escalator adjustment, whichever is less. If FTE or FDOT is not eligible to withdraw funds at the time funds are available for a specific improvement, the allocated funds in Table 1 for that improvement shall be reserved in the Proportionate Share Trust Account (hereinafter “FTE/FDOT Reserve Funds”). FTE or FDOT shall have eighteen (18) months from the time the trip threshold for the phase preceding the improvement is exceeded to demonstrate that the allocated funds and the associated improvement have been programmed in the FDOT 5-Year Work Program and another five (5) years to demonstrate that funds have been expended towards the improvement, or the allocated funds in Table 1 shall be forfeited and the allocation of funds shall proceed to the next unfunded improvement in Table 1.

E. The monies allocated to the County for intersection improvements in phase 4 shall be the total proportionate share payment for the Project after escalator adjustments, including any accrued interest in the Proportionate Share Trust Account, less the monies allocated for all other improvements in Table 1 as it may be amended pursuant to paragraph 8. As long as there are remaining funds in the Proportionate Share Trust Account for intersection improvements and all preceding improvements (including the Reserve Funds and the FTE/FDOT Reserve Funds), the
County shall be authorized to withdraw the funds for these improvements in the priority order shown in Table 1 as it may be amended pursuant to paragraph 8.

F. FDOT, FTE, the County and the City acknowledge and agree that, as long as the payments are timely made under this Agreement, the payment amounts set forth in Table 1, as adjusted pursuant to paragraphs 2.B. and 2.C., adequately mitigate the transportation impacts of the Project on all state and regional roadways through Project buildout. FDOT, FTE, the County and the City agree that the contributed monies received by each entity shall only be used for improvements listed in priority order in Table 1, as it may be amended pursuant to paragraph 8. If the adjustments to distributed monies in paragraph 3.B. above result in inadequate funds to complete all improvements shown in Table 1, the available funds shall be allocated to each entity in the priority order in Table 1 until exhausted. Each entity agrees to expeditiously apply the received money to construction and/or implementation of the listed improvements. Delay of improvements or revisions to the improvements shall have no bearing on the ability of the Applicants to pull building permits or develop the DRI.

G. The County shall immediately notify the City in writing whenever a proportionate share payment is made by or received by the County. The notice shall include the date the payment was made or received and the amount of the payment. For County road impact fees and County Property Fees collected and deposited in the Proportionate Share Trust Account pursuant to Paragraphs 4.C., 6.A., and 6.B., the County shall notify the City twice per year, and additionally upon written request, of the amount deposited in the Proportionate Share Trust Account from these County road impact fees and County Property Fees.

4. Project thresholds, timing of payment.
A. The Project trip thresholds and proportionate share payments shall be tracked independently for the Lester Property and the County Property as shown in Table 1. However, the cumulative trips associated with both Properties may only exceed the cumulative trips for a given phase if the total proportionate share payments received (including the County’s Advance Payment) meet or exceed the cumulative required Proportionate Share payment for the subsequent phase.

B. The Lester Property shall be responsible for a total of $17,707,143 of the total proportionate share payment of $22,206,099. All payments made after January 1, 2011, shall be subject to the escalator provision set forth in Paragraph 2.B. As to the Lester Property: (i) No Building Permits shall be issued for the Lester Property until the Lester Part of proportionate share Payment One in the amount of $350,779 is paid to Palm Beach County as set forth in Table 1. The Lester Property shall receive a credit for road impact fees in this amount upon receipt of the payment. (ii) Building Permits shall not be issued for uses generating more than 1,204 net AM peak hour trips or 2,036 net PM peak hour trips for the Lester Property until the Lester Part of proportionate share Payment Two in the amount of $4,182,614.00 is paid to Palm Beach County as set forth in Table 1. The amount due shall be reduced by the amount of road impact fees paid through the due date for this proportionate share payment. (iii) Building Permits shall not be issued for uses generating more than 1,993 net AM peak hour trips or 2,761 net PM peak hour trips on the Lester Property until the Lester Part of proportionate share Payment Three in the amount of $7,476,413.00 is paid to Palm Beach County. The amount due shall be reduced by the amount of road impact fees paid through the due date for this proportionate share payment that were not applied toward earlier proportionate share payments. (iv) Building Permits shall not be issued for uses generating more than 2,546 net AM peak hour trips or 3,279 net PM peak
hour trips on the Lester Property until the Lester Part of proportionate share Payment Four in the amount of $3,697,338.00 is paid to Palm Beach County. The amount due shall be reduced by the amount of road impact fees paid through the due date for this proportionate share payment that were not applied toward earlier proportionate share payments. The Lester Property shall receive a credit for road impact fees equal to the final amount of each proportionate share payment upon receipt of the payment. Upon receipt of proportionate share Payment Four, the Lester Property shall be deemed to have met its obligation under this Agreement and shall be fully vested for transportation concurrency purposes to develop the uses approved for the Lester Property.

C. The County Property shall be responsible for a total of $4,498,956 of the total proportionate share payment of $22,206,099. The County’s Advance Payment pursuant to paragraph 5.A. constitutes a prepayment of the proportionate share obligation, including the full obligation for the County Property. In order to provide funds to reimburse the County for the Advance Payment, development of the County Property shall be subject to the following fee: No Building Permits shall be issued for the County Property until the permit applicant makes a payment to Palm Beach County in the amount of $2.82 per gross square foot of Industrial/R&D/biotech building area included in the permit being sought (hereinafter “County Property Fee”). This County Property Fee shall be increased at a rate of three (3) percent compounded annually starting on the date the County makes the Advance Payment and continuing through the date of the payment of the County Property Fee. If the permit contains any development that is not considered Industrial/R&D/biotech square footage, that square footage will be converted to its equivalent in Industrial/R&D/biotech square footage using the DRI transportation land use conversion Matrix for purposes of calculating the County Property Fee owed for that building permit application. All County Property Fee payments shall be made
directly to Palm Beach County. The permit applicant must provide a receipt for payment of the County Property Fee from Palm Beach County to the City prior to the issuance of the building permit. The receipt for payment of the County Property Fee must include the amount of development covered by the payment, the net AM peak hour trips and net PM peak hour trips covered by the payment, and the amount of any additional impact fee or other legislatively adopted alternative fee payment that must be paid prior to the issuance of any building permit. All County Property Fee payments received by the County shall be deposited in the Proportionate Share Trust Account. Once the County has collected $4,498,956 in unadjusted County Property Fees (unadjusted County Property Fees are the County Property Fees collected at the base rate of $2.82 per square foot of Industrial/R&D/biotech and excludes any County Property Fees collected as a result of the three (3) percent increase compounded annually to the base rate of $2.82), no further County Property Fee payments shall be required and the County Property shall be deemed to have met its obligation under this Agreement and shall be fully vested for transportation concurrency purposes to develop the uses approved for the County Property.

D. In order to ensure that development of a portion of the Project may continue without limitation relating to future required proportionate share payments, a property owner may elect to prepay County road impact fees, prepay County Property Fees, or assign a County road impact fee credit obtained through a proportionate share payment to a specific parcel(s). Prepaid County road impact fees shall be paid to the City. Prepaid County Property Fees shall be paid to the County. The assignment of County impact fee credit must be provided in writing to the County Impact Fee Coordinator with a copy to the County Traffic Director and must include the specific parcel(s) receiving the credit, the amount of the credit, the uses and intensities receiving
the credit and the number of net AM peak hour trips and net PM peak hour trips associated with
the credit. The County shall notify the City in writing when a prepayment of County Property
Fees has occurred and when an assignment of County road impact fee credits has occurred. The
written notice from the County must include the specific parcel covered by the prepayment or
assignment, the uses and densities/intensities associated with the prepayment or assignment, and
the number of net AM peak hour trips and net PM peak hour trips that are covered by the
prepayment or assignment.

E. The net AM peak hour trips and net PM peak hour trips generated by development
that has received a building permit, prepaid County road impact fees or County Property Fees, or
had County road impact fee credit specifically assigned to it shall be added together by the City
to calculate currently utilized trips (hereinafter "Currently Utilized Trips"). Net AM peak hour
trips and net PM peak hour trips associated with prepaid County road impact fees, prepaid
County Property Fees or the assignment of County road impact fees shall not be considered
Currently Utilized Trips until the City issues a written confirmation specifying the amount of net
AM peak hour trips and PM peak hour trips that are recognized as Currently Utilized Trips.
Prior to issuing such written confirmation, net AM peak hour trips and net PM peak hour trips
covered by the prepayment of County road impact fees, prepayment of County Property Fees or
the assignment of County road impact fee credit shall be added to the Currently Utilized Trips in
order to determine if any threshold for making a proportionate share payment in Paragraphs 4.A.
(Total Project) or 4.B. (Lester Property) is exceeded. If any of the additional trips would result
in any threshold in Paragraphs 4.A. or 4.B being exceeded, the City shall issue the written
confirmation only for the amount of trips that do not exceed any threshold for making a
proportionate share payment. Any trips resulting from the prepayment of impact fees, the
prepayment of County Property Fees, or the assignment of impact fee credit that were not confirmed as Currently Utilized Trips because a threshold for a proportionate share payment in Paragraphs 4.A. or 4.B. was exceeded shall be re-evaluated once the required proportionate share payment is made. Development that is included in the Currently Utilized Trips may continue to pull building permits without limitation relating to any future required proportionate share payments.

F. Prior to the issuance of any building permit for development not already included in the Currently Utilized Trips, net AM peak hour trips and net PM peak hour trips generated by new development seeking building permits shall be added to the Currently Utilized Trips in order to determine if any threshold in Paragraphs 4.A. and 4.B. is exceeded. No building permits for development that would exceed any threshold in Paragraphs 4.A. and 4.B. shall be issued until the required proportionate share payment is made.

5. **County Advance Payment.**

A. The County has determined that a thriving biomedical industry is critical to the continued economic development of Palm Beach County and that successful development of the Project will further advance this significant public interest. In recognition of this interest, the County agrees to advance payment in the amount of Six Million ($6,000,000) Dollars ("Advance Payment") in order to expedite the improvement of Donald Ross Road from I-95 to Heights Boulevard including necessary interchange improvements at Donald Ross Road and I-95. This payment shall be made no later than 180 days after the effective date of the DRI Development Order.

B. The County shall be entitled to repayment of the Advance Payment plus interest at a rate of three (3) percent compounded annually starting on January 1, 2010 and continuing
through the time of the repayment. Repayment may only occur once the total proportionate share payment, which is $22,206,099 plus any additional adjustments based on the escalator calculations in paragraphs 2.B. and 2.C. and including the County’s Advance Payment has been received and deposited in the Proportionate Share Trust Account (hereinafter “Repayment Funding Condition”). The County may only withdraw funds in the Proportionate Share Trust Account that are in excess of the Repayment Funding Condition funds (hereinafter “Excess Funds”), as repayment for its Advance Payment. In no event shall the County be entitled to use any of the Repayment Funding Condition funds for reimbursement of the Advance Payment. The County understands and acknowledges that there may not be sufficient Excess Funds to cover the full reimbursement.

6. **Road Impact Fees.**

   A. The Lester Property shall be subject to Palm Beach County road impact fees pursuant to Article 13 of the Unified Land Development Code, as may be amended and/or replaced by legislatively mandated suitable alternative (e.g. mobility fee). Development on the Lester Property will pay such road impact fees beginning with the first building permit less any credits established through the payment of Proportionate Share obligations. Until the full proportionate share amount for the Lester Property has been paid, all impact fees or alternative fees such as a mobility fee collected by the County for this Project shall be deposited in the Proportionate Share Trust Account.

   B. Development on the County Property shall be subject to Palm Beach County road impact fees pursuant to Article 13 of the Unified Land Development Code. The County Property Fee shall be a credit against any impact fee or other legislatively adopted alternative fee. So long as the County Property Fee due at time of issuance of building permit exceeds the road impact
fee required for the same permit, no impact fee is paid. In the event that the road impact fee payment or legislatively adopted alternative fee (e.g. mobility fee) required for a building permit exceeds the amount required by this Agreement, the permit applicant shall be responsible for paying the amount of the impact fee or other legislatively adopted alternative fee not offset by the County Property Fee. Any impact fees, mobility fees or other legislatively adopted fees collected by the County pursuant to this paragraph shall not be deposited in the Proportionate Share Trust Account. The receipt issued by the County for payment of the County Property Fee shall specify the amount of any impact fee or other legislatively adopted fee that must be paid prior to the issuance of a building permit.

C. Any road impact fees due shall be collected by Palm Beach Gardens prior to issuance of the building permit(s) requiring their payment. The City shall clearly identify these road impact fees as relating to this Project and shall transfer them to Palm Beach County. Until the full proportionate share amount for the Lester Property has been paid, the County shall deposit the fees collected pursuant to Paragraph 6.A. in the Proportionate Share Trust Account.

7. **Contribution in lieu of assessment for off-site improvements.** Northern Palm Beach County Improvement District ("the District") has created its Unit of Development No. 2C ("Unit No. 2C") which encompasses the Property and at some point in the future, the District may issue bonds in order to finance the construction of on-site and off-site public infrastructure for the benefit of some or all of the Property. In such event, the District and the other parties hereto acknowledge that the County’s timely payment of the $6,000,000 specified in Paragraph 5 for construction of the therein identified off-site improvements shall for the purposes of the District’s Unit No. 2C: (a) constitute a capital contribution in lieu of a District assessment for the District’s construction of any of the off-site improvements described in attached Table 1, and (b)
the District shall not impose any Unit No. 2C assessments upon the County Property to pay for the District’s construction, if any, of some or all of the off-site improvements described in attached Table 1. The District’s conditioned consent to and acceptance of the terms, provisions and understandings set forth in this Paragraph 7 is attached hereto, identified as Exhibit D and incorporated herein by this reference.

8. **Reallocation of Proportionate Share Payments to Alternative Improvements.** The parties recognize that over the life of the Project, changed conditions may result in an Improvement identified in Table 1 being unnecessary, postponed to a later phase or no longer financially feasible. In order to ensure all proportionate share funds are applied to regionally significant transportation improvements to mitigate the Project’s impacts, FDOT, FTE, the County and the City (hereinafter the “Government Parties”) may identify alternative improvements. FDOT, FTE, the County, and the City may reorder the priority of projects in Table 1 within and/or between development phases or reallocate proportionate share funds each has received to alternative improvements upon written consent of all the Government Parties. Delay of improvements or revisions to the improvements shall have no bearing on the ability of the Applicant to pull building permits or develop the DRI.

9. **Governing Law/Binding Effect.** This Agreement shall be interpreted and governed by Florida law in effect as of the date of this Agreement. Each of the parties hereto warrants and represents that this Agreement is valid, binding and enforceable against them in accordance with the terms and conditions of Florida law.

10. **Remedies.** The parties hereto shall have all rights and remedies provided hereunder and under Florida law with respect to the enforcement of this Agreement and hereby acknowledge and agree that each party hereto shall have the right and remedy to bring an action or actions for
specific performance and such other equitable or injunctive relief as appropriate or necessary to
enforce this Agreement. The parties agree that the venue for any enforcement action shall be the
Circuit Court in and for Palm Beach County.

11. **Notice of Default.** The parties acknowledge and agree that no party shall be considered
in default for failure to perform under this Agreement until such party has received written notice
specifying the nature of such default or failure to perform and said party fails to cure said default
or fails to perform within thirty (30) days of receipt of written notice.

12. **Notices.** All notices which are required or permitted under this Agreement shall be given
to the parties by certified mail, return receipt requested, hand delivery, or express courier, and
shall be effective upon receipt when delivered to the parties at the addresses set forth herein
below (or such other address as provided by the parties by written notice delivered in accordance
with this paragraph):

As to:

LESTER

Howard Lester

44 Cocoanut Row

Palm Beach, FL 33480

With copies to:

Alan Ciklin

Casey Ciklin Lubitz Martens & O'Connell

Northbridge Tower I

515 North Flagler Drive, Suite 1900

West Palm Beach, FL 33401
and

Chuck Lubitz
Casey Ciklin Lubitz Martens & O'Connell
Northbridge Tower I
515 North Flagler Drive, Suite 1900
West Palm Beach, FL 33401

PALM BEACH COUNTY
Shannon LaRocque, P.E.
Assistant County Administrator
Governmental Center
301 N Olive Ave.
West Palm Beach, FL 33401

With Copies to:
Marlene Everitt, Esq.
Assistant County Attorney
Governmental Center
301 N Olive Ave.
West Palm Beach, FL 33401

and

Tanya McConnell, P.E.
Deputy County Engineer
2300 N Jog Road, Third Floor
West Palm Beach, FL 33411-2745
CITY OF PALM BEACH GARDENS

City of Palm Beach Gardens
10500 North Military Trail
Palm Beach Gardens, Fl 33410
Attn: City Manager

With a Copy to:

City of Palm Beach Gardens
10500 North Military Trail
Palm Beach Gardens, Fl. 33410
Attn: City Attorney

FLORIDA DEPARTMENT OF TRANSPORTATION – DISTRICT FOUR

Florida Department of Transportation – District Four
3400 West Commercial Boulevard
Fort Lauderdale, FL 33309
Attn: James A. Wolfe, P.E. (District Secretary)

FLORIDA DEPT. OF TRANSPORTATION – FLORIDA’S TURNPike ENTERPRISE

Jennifer Olson, P.E.
Deputy Executive Director and Chief Operating Officer
Florida’s Turnpike Enterprise
PO Box 613069
Ocoee, FL 34761

13. Amendments. No amendment, modification or other changes in this Agreement shall be binding upon the parties unless in writing executed by all of the parties.
14. **Successors and Assigns Bound.** The rights and obligations contained in this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto, including any successor in title to the Lester Property, the County Property, or to all or any part of either Property.

15. **Incorporation into the DRI Development Order.** This Agreement shall be attached as an exhibit to the DRI Development Order and incorporated therein by reference.

16. **Recording.** This Agreement shall be recorded in the Public Records of Palm Beach County at the joint applicants’ expense.

17. **Effective Date and Tolling.** This Agreement shall become effective upon the date it is executed by the last party to it and the DRI Development Order necessary for its implementation is effective. If the Development Order is tolled for a period of time pursuant to section 380.06(19)(c), Florida Statutes, due to pendency of or administrative or judicial proceeding relating to development permits, or the effectiveness of the development order is stayed by an appeal or challenge filed pursuant to Section 380.07(3)-(5), Florida Statutes, the obligations under this Agreement shall be tolled for the same period of time.

18. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute duplicates of one and the same instrument.

**IN WITNESS WHEREOF,** the parties hereto have caused these presents to be executed in manner and form sufficient to bind them as of the date set forth herein below.
Signed, sealed and delivered in the presence of:

(Colleen A. DiLiberti)

(Witness Signature)

(Charles A. Lubitz)

(Print Witness Signature)

(Dawn Anders)

(Witness Signature)

(Ann Z. Anders)

(Print Witness Signature)

THE LESTER FAMILY INVESTMENTS
L.P., a Delaware limited partnership

By: PHL Financial Consulting Co., Inc., as
General Partner

By: [Signature]

(Print Signatory's Name)

Its: [President]

RICHARD THALL

ROBERT THALL
Signed, sealed and delivered in the presence of:

(Witness Signature)

(Print Witness Signature)

(Witness Signature)

(Print Witness Signature)

(Kenneth Kalenderian)

(Print Witness Signature)

(Kenneth Kalenderian)

(Print Witness Signature)

(Richard Thall)

(Robert Thall)

THE LESTER FAMILY INVESTMENTS L.P., a Delaware limited partnership

By: PHL Financing Consulting Co., Inc., as General Partner

By: (Signature)

(Print Signatory's Name)

Its: __________________________

C-58
Signed, sealed and delivered in the presence of:

(Witness Signature)

(Print Witness Signature)

(Witness Signature)

(Print Witness Signature)

(Witness Signature)

(Print Witness Signature)

(Witness Signature)

(Print Witness Signature)

1. Andrew Abrams
   (Witness Signature)
   (Print Witness Signature)

2. Robert Thall
   (Witness Signature)
   (Print Witness Signature)

THE LESTER FAMILY INVESTMENTS L.P., a Delaware limited partnership

By: PHL Financing Consulting Co., Inc., as General Partner

By: _____________________________
   (Signature)
   (Print Signatory's Name)

Its: _____________________________

RICHARD THALL

ROBERT THALL

C-59
1. (Witness Signature)  
   Eileen Schaefer  
   (Print Witness Signature)

2. (Witness Signature)  
   Erika Soldano  
   (Print Witness Signature)

(Please provide additional context or information to complete the document.)

---

THE DAVID MINKIN FLORIDA REALTY TRUST

By: ____________________________  
   (Signature)

   ____________________________  
   (Print Signatory's Name)

Its: ____________________________
(Witness Signature)

(Charles A. Lubitz)

(Print Witness Signature)

(Charles A. Lubitz)

(Witness Signature)

(Ann Z. Anders)

(Print Witness Signature)

(Peter L. Briger)

(Paul H. Briger)

(Witness Signature)

(Charles A. Lubitz)

(Print Witness Signature)

(Charles A. Lubitz)

(Witness Signature)

(Ann Z. Anders)

(Print Witness Signature)

(The David Minkin Florida Realty Trust)

(By)

(Howard Lester)

(Signature)

(Print Signatory's Name)

(Its)
ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

By: [Signature]
   Deputy Clerk

(SEAL)

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: [Signature]
   Burt Aaronson, Chairman

WITNESSES:

Signature of Witness

Printed Name of Witness

Signature of Witness

Printed Name of Witness

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: [Signature]
   County Attorney

Approved as to Terms
and Conditions

By: [Signature]
CITY OF PALM BEACH GARDENS, FLORIDA,  
A Florida Municipal Corporation 

By: ________________________  
David Levy, Mayor 

Date: 4/1/10 

ATTEST: 

By: Patricia Snider, CMC, City Clerk 

APPROVED AS TO FORM AND LEGAL SUFFICIENCY 

By: R. Max Lohman, City Attorney 

I, ________________________ City Clerk of the City of Palm Beach Gardens do hereby certify that this is a true copy as taken from the Official records of the City of Palm Beach Gardens. 

City Clerk ________________________ 

Date 4/15/10 

C-64
WITNESSES:

Signature of Witness

Printed Name of Witness

Signature of Witness

Printed Name of Witness

FLORIDA DEPARTMENT
OF TRANSPORTATION – DISTRICT FOUR

By: James A. Wolfe, P.E., District Secretary

Date: JAN 11 2010
WITNESSES:

Carol A. Bethiaume
Signature
Carol A. Bethiaume
Typed or Printed Name

Floyd D. Holland
Signature
Floyd D. Holland
Typed or Printed Name

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
FLORIDA'S TURNPike ENTERPRISE

By: 

Jennifer Olson, P.E.
Deputy Executive Director
and Chief Operating Officer

Date: 11/11/10

{Corporate Seal}

APPROVED AS TO FORM AND LEGALITY:

By:

Office of the Turnpike General Counsel


<table>
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<th>Phase</th>
<th>Proportionate Share Payment due at Start of Phase</th>
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$17,707,143 $4,498,956 $22,206,099

Notes:  
1. Actual proportionate share payment for the Lester Property may be adjusted by the escalator clause in paragraph 2.B and may be reduced by the amount of road impact fees paid to Palm Beach County through the due date for the proportionate share payment pursuant to paragraph 4.B.  
2. Palm Beach County will make the Advance Payment of $6,000,000, which may be adjusted by the escalator clause in paragraph 2.C. Development on the County Property will be required to make County Property Fee payments prior to each building permit issued in the amount of $2.82 per square foot or as adjusted by paragraph 4.C.  
3. The actual cost of these improvements will be used to determine the exact amount disbursed to the County.  
4. These estimated costs will be adjusted by the escalator percentage applied to the Lester phase 3 and 4 prop share payments to determine the exact amount disbursed to each entity.  
5. Phase 4 intersection improvements may include: a) Donald Ross Rd/Central Blvd; b) Donald Ross Rd/Military Trail; c) Donald Ross Rd/SR 811  
6. The estimated cost shall be adjusted to be the total proportionate share payment for the Project after escalator adjustments, including any accrued interest in the Proportionate Share Trust Account, less the monies allocated for all other improvements in Table 1.
EXHIBIT A
THAT PORTION OF SECTIONS 26 AND 35, TOWNSHIP 41 SOUTH, RANGE 42 EAST, IN PALM BEACH COUNTY, FLORIDA, DESCRIBED IN PARCELS AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 26; THENCE SOUTH 01°20'36" WEST ALONG THE EAST LINE OF SAID SECTION, A DISTANCE OF 75.02 FEET TO A POINT ON A LINE PARALLEL WITH AND SOUTHERLY 75.00 FEET FROM THE NORTH LINE OF SAID SECTION, SAID POINT BEING THE POINT OF BEGINNING, SAID POINT ALSO BEING ON THE SOUTH LINE OF DONALD ROSS ROAD; THENCE SOUTH 01°20'36" WEST ALONG SAID EAST LINE, A DISTANCE OF 2544.53 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER (SE 1/4) OF SAID SECTION 26; THENCE SOUTH 01°17'32" WEST ALONG SAID EAST LINE, A DISTANCE OF 2619.91 FEET TO THE NORTHEAST CORNER OF SAID SECTION 35; THENCE SOUTH 00°48'03" WEST ALONG THE EAST LINE OF SAID SECTION 35, A DISTANCE OF 1373.03 FEET TO THE NORTH RIGHT-OF-WAY LINE OF HOOD ROAD, AS DESCRIBED IN DEED BOOK 1146, PAGE 639, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 88°06'56" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 639.65 FEET TO THE EAST LINE OF THE LAND DESCRIBED PARCEL 280 B(2) IN THE ORDER OF TAKING RECORDED IN OFFICIAL RECORD BOOK 4296, PAGE 1151 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY; THENCE ALONG THE BOUNDARY OF SAID PARCEL 280 B(2), NORTH 01°53'04" EAST, A DISTANCE OF 70.00 FEET; THENCE NORTH 88°06'56" WEST, A DISTANCE OF 32.20 FEET; THENCE NORTH 83°32'30" WEST, A DISTANCE OF 52.96 FEET; THENCE NORTH 01°53'04" EAST, A DISTANCE OF 15.00 FEET; THENCE NORTH 83°32'30" WEST, A DISTANCE OF 140.45 FEET; THENCE SOUTH 01°53'04" WEST, A DISTANCE OF 15.00 FEET; THENCE NORTH 83°32'30" WEST, A DISTANCE OF 308.19 FEET; THENCE NORTH 88°06'56" WEST, A DISTANCE OF 117.31 FEET; THENCE NORTH 00°49'08" EAST, A DISTANCE OF 291.34 FEET; THENCE NORTH 89°10'53" WEST, A DISTANCE OF 70.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 280 B(2), BEING ALSO ON THE WEST LINE OF THE EAST 40.00 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 35; THENCE NORTH 00°49'08" EAST ALONG SAID WEST LINE, A DISTANCE OF 942.23 FEET TO THE NORTH LINE OF SAID SECTION 35; THENCE NORTH 89°24'49" WEST ALONG SAID NORTH LINE, A DISTANCE OF 658.23 FEET TO THE WEST LINE OF THE EAST 40.00 FEET OF THE WEST HALF (W 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 35; THENCE SOUTH 00°49'41" WEST ALONG SAID WEST LINE, A DISTANCE OF 549.73 FEET TO THE NORTHEAST LINE OF THE LAND DESCRIBED IN PARCEL 280 A(1) IN SAID ORDER OF TAKING
RECORDED IN SAID OFFICIAL RECORD BOOK 4296, PAGE 1151; THENCE ALONG THE BOUNDARY OF SAID PARCEL 280 A(1), NORTH 28°00'09" WEST, A DISTANCE OF 626.06 FEET TO THE NORTH LINE OF SAID SECTION 35; THENCE CONTINUE NORTH 28°00'09" WEST ALONG SAID BOUNDARY, A DISTANCE OF 3541.88 FEET; THENCE NORTH 24°00'09" WEST ALONG SAID BOUNDARY, A DISTANCE OF 546.72 FEET TO THE BEGINNING OF A CURVE THEREIN, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 5635.58 FEET; THENCE NORTHEASTERLY, A DISTANCE OF 544.09 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°31'54" TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID BOUNDARY, NORTH 18°28'15" WEST, A DISTANCE OF 543.08 FEET; THENCE NORTH 14°39'25" WEST, A DISTANCE OF 177.27 FEET; THENCE NORTH 11°29'21" EAST, A DISTANCE OF 190.36 FEET; THENCE NORTH 63°46'51" EAST, A DISTANCE OF 190.36 FEET; THENCE NORTH 89°55'36" EAST, A DISTANCE OF 301.88 FEET; THENCE NORTH 87°37'27" EAST, A DISTANCE OF 296.35 FEET; THENCE NORTH 89°55'45" EAST, A DISTANCE OF 302.02 FEET; THENCE NORTH 00°04'15" WEST, A DISTANCE OF 6.00 FEET TO THE SOUTHWESTERLY CORNER OF THE LAND DESCRIBED IN PARCEL 280 B(3) IN SAID ORDER OF TAKING; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 280 B(3), AS DESCRIBED IN OFFICIAL RECORD BOOK 4296, PAGE 1151, SAID LINE ALSO BEING THE SOUTHERLY RIGHT-OF-WAY LINE OF ADDITIONAL RIGHT-OF-WAY FOR DONALD ROSS ROAD AS DESCRIBED IN OFFICIAL RECORD BOOK 21129, PAGE 218, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, NORTH 89°55'45" EAST, A DISTANCE OF 1216.68 FEET; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, SOUTH 45°04'14" EAST, A DISTANCE OF 56.57 FEET; THENCE ALONG THE EAST LINE OF SAID ADDITIONAL RIGHT-OF-WAY, NORTH 00°04'14" WEST, A DISTANCE OF 65.00 FEET TO SAID LINE PARALLEL WITH AND SOUTHERLY 75.00 FEET FROM THE NORTH LINE OF SAID SECTION 26; THENCE NORTH 89°55'46" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 2369.16 FEET TO THE POINT OF BEGINNING.

CONTAINING 475.31 ACRES, MORE OR LESS.

TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 26; THENCE NORTH 00°36'37" EAST ALONG THE WEST LINE OF SAID SECTION, A DISTANCE OF 4365.67 FEET TO THE SOUTHWESTERLY BOUNDARY OF THE LAND DESCRIBED AS PARCEL 280 A(1) IN THE ORDER OF TAKING RECORDED IN OFFICIAL RECORD BOOK 4296, PAGE 1151 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY; THENCE ALONG SAID BOUNDARY SOUTH 34°23'37" EAST, A DISTANCE OF 112.80 FEET; THENCE SOUTH 33°14'52" EAST, A DISTANCE OF 493.78 FEET ALONG SAID BOUNDARY TO THE BEGINNING OF A CURVE THEREIN, CONCAVE
SOUTHWESTERLY, HAVING A RADIUS OF 11365.16 FEET; THENCE SOUTHEASTERLY, A DISTANCE OF 813.16 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 04°05'58" TO A POINT OF TANGENCY; THENCE SOUTH 29°08'54" EAST, A DISTANCE OF 1199.30 FEET; THENCE SOUTH 28°00'09" EAST ALONG SAID BOUNDARY, A DISTANCE OF 2426.49 FEET TO THE SOUTH LINE OF SAID SECTION 26; THENCE CONTINUE SOUTH 28°00'09" EAST ALONG SAID BOUNDARY, A DISTANCE OF 1464.87 FEET; THENCE NORTH 89°04'14" WEST ALONG SAID BOUNDARY AND ALONG THE NORTH LINE OF THE LAND DESCRIBED IN PARCEL 280 B(1) OF SAID ORDER OF TAKING, A DISTANCE OF 339.10 FEET; THENCE SOUTH 86°53'01" WEST ALONG SAID NORTH LINE, A DISTANCE OF 401.53 FEET TO THE NORTHERLY LINE OF HOOD ROAD; THENCE NORTH 88°06'56" WEST ALONG SAID NORTHERLY LINE, A DISTANCE OF 518.05 FEET TO THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 35; THENCE NORTH 00°50'35" EAST ALONG SAID EAST LINE, A DISTANCE OF 628.52 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER (SW 1/4); THENCE NORTH 89°02'37" WEST, A DISTANCE OF 658.29 FEET TO THE NORTWEST CORNER OF SAID SOUTHWEST QUARTER (SW 1/4); THENCE SOUTH 00°50'56" WEST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER (SW 1/4), A DISTANCE OF 617.85 FEET TO SAID NORTH LINE OF HOOD ROAD; THENCE NORTH 88°06'56" WEST ALONG SAID NORTH LINE, A DISTANCE OF 392.92 FEET TO A POINT ON THE NORTH LINE OF THE FLORIDA'S TURNPIKE RIGHT-OF-WAY AS DESCRIBED IN MINUTES OF THE CIRCUIT COURT BOOK 70, PAGE 443, PALM BEACH COUNTY, FLORIDA; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE FOR THE FOLLOWING FOUR [4] COURSES: NORTH 01°53'04" EAST, A DISTANCE OF 10.00 FEET; NORTH 88°06'56" WEST, A DISTANCE OF 350.00 FEET; THENCE NORTH 83°28'53" WEST, A DISTANCE OF 503.22 FEET; THENCE NORTH 89°00'28" WEST, A DISTANCE OF 73.33 FEET TO THE WEST LINE OF SAID SECTION 35; THENCE NORTH 00°51'38" EAST ALONG SAID WEST LINE, A DISTANCE OF 1204.18 FEET TO THE POINT OF BEGINNING.

CONTAINING 206.38 ACRES, MORE OR LESS.

DATE OF SIGNATURE ________________________________

JONATHAN T. GILBERT
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERT. NO. 5604
EXHIBIT B
BRIGER DRI – LESTER/DAVID MINKIN TRUST PROPERTY

LEGAL DESCRIPTION

THAT PORTION OF SECTIONS 26 AND 35, TOWNSHIP 41 SOUTH, RANGE 42 EAST, IN PALM BEACH COUNTY, FLORIDA, DESCRIBED IN PARCELS AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 26; THENCE SOUTH 01°20'36" WEST ALONG THE EAST LINE OF SAID SECTION, A DISTANCE OF 75.02 FEET TO A POINT ON A LINE PARALLEL WITH AND SOUTHERLY 75.00 FEET FROM THE NORTH LINE OF SAID SECTION, SAID POINT BEING THE POINT OF BEGINNING, SAID POINT ALSO BEING ON THE SOUTH LINE OF DONALD ROSS ROAD; THENCE SOUTH 01°20'36" WEST ALONG SAID EAST LINE, A DISTANCE OF 2544.53 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER (SE 1/4) OF SAID SECTION 26; THENCE SOUTH 01°17'32" WEST ALONG SAID EAST LINE, A DISTANCE OF 2619.91 FEET TO THE NORTHEAST CORNER OF SAID SECTION 35; THENCE SOUTH 00°48'03" WEST ALONG THE EAST LINE OF SAID SECTION 35, A DISTANCE OF 1373.03 FEET TO THE NORTH RIGHT-OF-WAY LINE OF HOOD ROAD, AS DESCRIBED IN DEED BOOK 1146, PAGE 639, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 88°06'58" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 639.65 FEET TO THE EAST LINE OF THE LAND DESCRIBED PARCEL 280 B(2) IN THE ORDER OF TAKING RECORDED IN OFFICIAL RECORD BOOK 4296, PAGE 1151 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY; THENCE ALONG THE BOUNDARY OF SAID PARCEL 280 B(2), NORTH 01°53'04" EAST, A DISTANCE OF 70.00 FEET; THENCE NORTH 88°06'56" WEST, A DISTANCE OF 32.20 FEET; THENCE NORTH 83°32'30" WEST, A DISTANCE OF 52.96 FEET; THENCE NORTH 01°53'04" EAST, A DISTANCE OF 15.00 FEET; THENCE NORTH 83°32'30" WEST, A DISTANCE OF 140.45 FEET; THENCE SOUTH 01°53'04" WEST, A DISTANCE OF 15.00 FEET; THENCE NORTH 83°32'30" WEST, A DISTANCE OF 308.19 FEET; THENCE NORTH 88°06'56" WEST, A DISTANCE OF 117.31 FEET; THENCE NORTH 00°49'08" EAST, A DISTANCE OF 291.34 FEET; THENCE NORTH 89°10'53" WEST, A DISTANCE OF 70.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 280 B(2), BEING ALSO ON THE WEST LINE OF THE EAST 40.00 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 35; THENCE NORTH 00°49'08" EAST ALONG SAID WEST LINE, A DISTANCE OF 942.23 FEET TO THE NORTH LINE OF SAID SECTION 35; THENCE NORTH 89°24'49" WEST ALONG SAID NORTH LINE, A DISTANCE OF 658.23 FEET TO THE WEST LINE OF THE EAST 40.00 FEET OF THE WEST HALF (W 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 35; THENCE SOUTH 00°49'41" WEST ALONG SAID WEST LINE, A DISTANCE OF 549.73 FEET TO THE NORTHEAST LINE OF THE LAND DESCRIBED IN PARCEL 280 A(1) IN SAID ORDER OF TAKING.
RECORDED IN SAID OFFICIAL RECORD BOOK 4296, PAGE 1151; THENCE ALONG THE BOUNDARY OF SAID PARCEL 280 A(1) NORTH 28°00'09" WEST, A DISTANCE OF 626.06 FEET TO THE NORTH LINE OF SAID SECTION 35; THENCE CONTINUE NORTH 28°00'09" WEST ALONG SAID BOUNDARY, A DISTANCE OF 3541.88 FEET; THENCE NORTH 24°00'09" WEST ALONG SAID BOUNDARY, A DISTANCE OF 546.72 FEET TO THE BEGINNING OF A CURVE THEREIN, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 5635.58 FEET; THENCE NORTHWESTERLY, A DISTANCE OF 544.09 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°31'54" TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID BOUNDARY, NORTH 18°28'15" WEST, A DISTANCE OF 543.08 FEET; THENCE NORTH 14°39'25" WEST, A DISTANCE OF 177.27 FEET; THENCE NORTH 11°29'21" EAST, A DISTANCE OF 190.36 FEET; THENCE NORTH 63°46'51" EAST, A DISTANCE OF 190.36 FEET; THENCE NORTH 89°55'36" EAST, A DISTANCE OF 301.88 FEET; THENCE NORTH 87°37'27" EAST, A DISTANCE OF 296.35 FEET; THENCE NORTH 89°55'45" EAST, A DISTANCE OF 302.02 FEET; THENCE NORTH 00°04'15" WEST, A DISTANCE OF 6.00 FEET TO THE SOUTHWESTERLY CORNER OF THE LAND DESCRIBED IN PARCEL 280 B(3) IN SAID ORDER OF TAKING; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 280 B(3), AS DESCRIBED IN OFFICIAL RECORD BOOK 4296, PAGE 1151, SAID LINE ALSO BEING THE SOUTHERLY RIGHT-OF-WAY LINE OF ADDITIONAL RIGHT-OF-WAY FOR DONALD ROSS ROAD AS DESCRIBED IN OFFICIAL RECORD BOOK 21129, PAGE 218; PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, NORTH 89°55'45" EAST, A DISTANCE OF 1216.68 FEET; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, SOUTH 45°04'14" EAST, A DISTANCE OF 56.57 FEET; THENCE ALONG THE EAST LINE OF SAID ADDITIONAL RIGHT-OF-WAY, NORTH 00°04'14" WEST, A DISTANCE OF 65.00 FEET TO SAID LINE PARALLEL WITH AND SOUTHERLY 75.00 FEET FROM THE NORTH LINE OF SAID SECTION 26; THENCE NORTH 89°55'46" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 2369.16 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 26; THENCE NORTH 00°36'37" EAST ALONG THE WEST LINE OF SAID SECTION, A DISTANCE OF 4365.67 FEET TO THE SOUTHWESTERLY BOUNDARY OF THE LAND DESCRIBED AS PARCEL 280 A(1) IN THE ORDER OF TAKING RECORDED IN OFFICIAL RECORD BOOK 4296, PAGE 1151 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY; THENCE ALONG SAID BOUNDARY SOUTH 34°23'37" EAST, A DISTANCE OF 112.80 FEET; THENCE SOUTH 33°14'52" EAST, A DISTANCE OF 493.78 FEET ALONG SAID BOUNDARY TO THE BEGINNING OF A CURVE THEREIN, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 11365.16 FEET; THENCE SOUTHEASTERLY, A DISTANCE OF 813.16 FEET ALONG SAID CURVE,
THROUGH A CENTRAL ANGLE OF 04°05'58" TO A POINT OF TANGENCY; THENENCE SOUTH 29°08'54" EAST, A DISTANCE OF 1199.30 FEET; THENENCE SOUTH 28°00'09" EAST ALONG SAID BOUNDARY, A DISTANCE OF 2426.49 FEET TO THE SOUTH LINE OF SAID SECTION 26; THENENCE CONTINUE SOUTH 28°00'09" EAST ALONG SAID BOUNDARY, A DISTANCE OF 1464.87 FEET; THENENCE NORTH 89°04'14" WEST ALONG SAID BOUNDARY AND ALONG THE NORTH LINE OF THE LAND DESCRIBED IN PARCEL 280 B(1) OF SAID ORDER OF TAKING, A DISTANCE OF 339.10 FEET; THENENCE SOUTH 86°53'01" WEST ALONG SAID NORTH LINE, A DISTANCE OF 401.53 FEET TO THE NORTHERLY LINE OF HOOD ROAD; THENENCE NORTH 88°06'56" WEST ALONG SAID NORTHERLY LINE, A DISTANCE OF 518.05 FEET TO THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 35; THENENCE NORTH 00°50'35" EAST ALONG SAID EAST LINE, A DISTANCE OF 628.52 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER (SW 1/4); THENENCE NORTH 89°02'37" WEST, A DISTANCE OF 658.29 FEET TO THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER (SW 1/4); THENENCE SOUTH 00°50'56" WEST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER (SW 1/4), A DISTANCE OF 617.85 FEET TO SAID NORTH LINE OF HOOD ROAD; THENENCE NORTH 88°06'56" WEST ALONG SAID NORTH LINE, A DISTANCE OF 392.92 FEET TO A POINT ON THE NORTH LINE OF THE FLORIDA'S TURNPIKE RIGHT-OF-WAY AS DESCRIBED IN MINUTES OF THE CIRCUIT COURT BOOK 70, PAGE 443, PALM BEACH COUNTY, FLORIDA; THENENCE ALONG SAID NORTH RIGHT-OF-WAY LINE FOR THE FOLLOWING FOUR [4] COURSES: NORTH 01°53'04" EAST, A DISTANCE OF 10.00 FEET; NORTH 88°06'56" WEST, A DISTANCE OF 350.00 FEET; THENENCE NORTH 83°28'53" WEST, A DISTANCE OF 603.22 FEET; THENENCE NORTH 89°00'28" WEST, A DISTANCE OF 73.33 FEET TO THE WEST LINE OF SAID SECTION 35; THENENCE NORTH 00°51'38" EAST ALONG SAID WEST LINE, A DISTANCE OF 1204.18 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING:

SCRIPPS PARCEL I – O.R.B. 21129, Pgs. 218 & 229

THAT PORTION OF SECTION 26, TOWNSHIP 41 SOUTH, RANGE 42 EAST, IN PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 26; THENENCE SOUTH 89°55'48" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 26, A DISTANCE OF 2371.01 FEET; THENENCE SOUTH 00°04'12" EAST, A DISTANCE OF 1280.00 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1210.00 FEET; THENENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°02'48", AN
ARC DISTANCE OF 212.17 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1210.00 FEET, THROUGH A CENTRAL ANGLE OF 33°57'12", AN ARC DISTANCE OF 717.04 FEET TO A POINT OF TANGENCY; THENCE SOUTH 44°04'12" EAST, A DISTANCE OF 19.33 FEET; THENCE SOUTH 00°55'48" WEST, A DISTANCE OF 56.57 FEET; THENCE SOUTH 45°55'48" WEST, A DISTANCE OF 1046.96 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 50.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 53°07'48", AN ARC DISTANCE OF 46.36 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 100.00 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 16°13'00", AN ARC DISTANCE OF 28.30 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 50.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 53°35'38", AN ARC DISTANCE OF 46.77 FEET TO A POINT OF COMPOUND CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 2376.96 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 33°26'46", AN ARC DISTANCE OF 1387.54 FEET TO THE INTERSECTION WITH A RADIAL LINE; THENCE NORTH 79°53'00" EAST ALONG SAID RADIAL LINE, A DISTANCE OF 1166.96 FEET TO THE POINT OF BEGINNING.

AND ALSO LESS AND EXCEPT:

SCRIPPS PARCEL II – O.R.B. 21129, Pgs. 218 & 229

THAT PORTION OF SECTION 26, TOWNSHIP 41 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 26; THENCE SOUTH 89°55'48" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 26, A DISTANCE OF 2371.01 FEET; THENCE SOUTH 00°04'12" EAST, A DISTANCE OF 140.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00°04'12" EAST, A DISTANCE OF 1140.00 FEET TO A POINT OF CURVATURE OF A CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1210.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°02'48", AN ARC DISTANCE OF 212.17 FEET TO THE INTERSECTION OF A RADIAL LINE; THENCE SOUTH 79°53'00" WEST ALONG A LINE RADIAL TO THE FOLLOWING CURVE, A DISTANCE OF 1166.96 FEET TO A POINT ON SAID CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 2376.96 FEET; THENCE
NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°02'48", AN ARC DISTANCE OF 416.79 FEET TO A POINT OF TANGENCY; THENCE NORTH 00°04'12" WEST, A DISTANCE OF 1140.00 FEET; THENCE NORTH 44°55'47" EAST, A DISTANCE OF 56.57 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF DONALD ROSS ROAD AS DESCRIBED IN OFFICIAL RECORDS BOOK 4296, PAGE 1151, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 89°55'47" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE AND EASTERLY PROLONGATION, A DISTANCE OF 1086.96 FEET; THENCE SOUTH 45°04'12" EAST, A DISTANCE OF 56.57 FEET TO THE POINT BEGINNING.

CONTAINING 611.69 ACRES, MORE OR LESS.

3/25/10

DATE OF SIGNATURE

JONATHAN T. GILBERT
PROFESSIONAL SURVEYOR AND.mapper
FLORIDA CERT. NO. 5604

**O.R.B. = OFFICIAL RECORD BOOK (PALM BEACH COUNTY PUBLIC RECORDS)**
PARCEL I

THAT PORTION OF SECTION 26, TOWNSHIP 41 SOUTH, RANGE 42 EAST, IN PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 26; THENCE SOUTH 89°55′48″ WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 26, A DISTANCE OF 2371.01 FEET; THENCE SOUTH 00°04′12″ EAST, A DISTANCE OF 1280.00 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1210.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°02′48″, AN ARC DISTANCE OF 212.17 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1210.00 FEET, THROUGH A CENTRAL ANGLE OF 33°57′12″, AN ARC DISTANCE OF 717.04 FEET TO A POINT OF TANGENCY; THENCE SOUTH 44°04′12″ EAST, A DISTANCE OF 19.33 FEET; THENCE SOUTH 00°55′48″ WEST, A DISTANCE OF 56.57 FEET; THENCE SOUTH 45°55′48″ WEST, A DISTANCE OF 1046.96 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 50.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 53°07′48″, AN ARC DISTANCE OF 46.36 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 100.00 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 16°13′00″, AN ARC DISTANCE OF 28.30 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 50.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 53°35′38″, AN ARC DISTANCE OF 46.77 FEET TO A POINT OF COMPOUND CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 2376.96 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 33°26′46″, AN ARC DISTANCE OF 1387.54 FEET TO THE INTERSECTION WITH A RADIAL LINE; THENCE NORTH 79°53′00″ EAST ALONG SAID RADIAL LINE, A DISTANCE OF 1166.96 FEET TO THE POINT OF BEGINNING.

CONTAINING 30.00 ACRES, MORE OR LESS.

TOGETHER WITH:
PARCEL II

THAT PORTION OF SECTION 26, TOWNSHIP 41 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 26; THENCE SOUTH 89°55’48" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 26, A DISTANCE OF 2371.01 FEET; THENCE SOUTH 00°04’12" EAST, A DISTANCE OF 140.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00°04’12" EAST, A DISTANCE OF 1140.00 FEET TO A POINT OF CURVATURE OF A CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1210.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°02’48", AN ARC DISTANCE OF 212.17 FEET TO THE INTERSECTION OF A RADIAL LINE; THENCE SOUTH 79°53’00" WEST ALONG A LINE RADIAL TO THE FOLLOWING CURVE, A DISTANCE OF 1166.96 FEET TO A POINT ON SAID CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 2376.96 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°02’48", AN ARC DISTANCE OF 416.79 FEET TO A POINT OF TANGENCY; THENCE NORTH 00°04’12" WEST, A DISTANCE OF 1140.00 FEET; THENCE NORTH 44°55’47" EAST, A DISTANCE OF 56.57 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF DONALD ROSS ROAD AS DESCRIBED IN OFFICIAL RECORDS BOOK 4296, PAGE 1151, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 89°55’47" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE AND EASTERNLY PROLONGATION, A DISTANCE OF 1086.96 FEET; THENCE SOUTH 45°04’12" EAST, A DISTANCE OF 56.57 FEET TO THE POINT OF BEGINNING.

CONTAINING 40.00 ACRES, MORE OR LESS.

3/29/10

DATE OF SIGNATURE

JONATHAN T. GILBERT
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERT. NO. 5664

**O.R.B. = OFFICIAL RECORD BOOK (PALM BEACH COUNTY PUBLIC RECORDS)
CONSENT AND ACCEPTANCE

Northern Palm Beach County Improvement District (District), an independent special district of the State of Florida, created and operating in accordance with the provisions of Chapter 2000-467, Laws of Florida, as amended and supplemented and other applicable provisions of Florida Statutes, does, by this instrument, consent to and accept the terms, conditions and understandings set forth in Paragraph 7 of the attached Proportionate Share Agreement (Agreement), provided, however nothing in the Agreement or this instrument shall obligate the District to fund or construct any of the referenced on-site, off-site or alternative improvements. Further, if in accordance with Paragraph 8 there is a reallocation of the County's proportionate share payment or substitution of one or more alternative improvements for any of the off-site improvements specified in Paragraph 5 for which such payment was to be used, this Consent and Acceptance shall thereupon cease to limit or restrict the District's levy of assessments upon the County Property until the District has been able to satisfy any applicable provisions of its enabling legislation, statutory requirements and/or contractual obligations that must be addressed due to such changes and thereafter executes and approves a new Consent and Acceptance that establishes the description and cost of the improvement(s) for which the reallocation of the County's advance proportionate share payment is attributable.

Executed by the undersigned authorized representative of the Northern Palm Beach County Improvement District this 17th day of December, 2009.

Attest:

Northern Palm Beach County Improvement District

By: O’Neal Bardin, Jr.

Copies

By: Deborah A. Diaz, President

(District Seal)
SCRIPPS FLORIDA PHASE II / BRIGER TRACT DRI
CONVERSION EXAMPLES & SERVICE GENERATION RATES
EXHIBIT 3

Subject to the limitations contained in the conditions of approval, the developer may increase or decrease certain uses within the approved development program by using the Exchange Matrices contained in this Exhibit. All proposed increases in use will be analyzed to identify the impacts of the proposed increase on potable water, waste water, solid waste and traffic. The amount of development that must be decreased in order to allow the proposed increase shall be calculated for potable water, waste water, solid waste and traffic. In order to ensure that the proposed change to the development program does not create any additional or un-reviewed regional impacts, the highest conversion rate shall be used to calculate how much of a reduction in approved uses will be required to add the desired use. The service generation rates used in these calculations are included on pages 5 - 6.

Because each conversion is based on the most impacted infrastructure category, the exchange rate to go from one use to another will not necessarily be the same if the conversion is reversed. As a result, a conversion of Use "A" to Use "B" followed by a subsequent conversion of the same amount of Use "B" back to Use "A" can result in an overall reduction of the amount of Use "A".

Over time, sequential conversions between various uses could result in a substantial reduction of permitted development for the DRI. In order to minimize this reduction, this conversion process allows for the excess infrastructure impacts on the types of infrastructure not used in a conversion to become a credit against future conversions. The following examples illustrate how this process works.

If a request is made to convert one DRI use (old) to a another DRI use (new) the steps below should be followed:

EXAMPLE 1: The applicant requests to add a 100-bed Hospital (new) by reducing the Biotech/Industrial/R&D (old) use within the Biotech District on the east side of I-95:

STEP 1: Using the generation rates calculate the new demand for each service (water, waste water, solid waste and trips) that will be generated by the new DRI use.

STEP 2: Subtract or add any previous credits that resulted from prior conversions, if applicable, from the new demand to get the net demand. For this example, we assume there are no previous credits.

STEP 3: To calculate how much of the old DRI use will need to be converted to allow for the new DRI use, divide the net demand by the generation rate of the old use for each service. The result will establish the control values for each service.

STEP 4: Find the largest value under the converted use column. This will be your control value. Please note that a negative number in the converted use column indicates that no sq ft or units are lost and negative numbers are NOT the maximum value. In this example, the maximum control is solid waste and the Industrial/R&D/Biotech will need to be reduced by 161,326 sf. This reduction will be reflected on the amended PCD Plan and Map H.

<table>
<thead>
<tr>
<th>PROPOSED HOSPITAL</th>
<th>GENERATION RATE (NEW USE)</th>
<th>NEW DEMAND (NEW USE)</th>
<th>PREVIOUS CREDITS</th>
<th>NET DEMAND (NEW USE)</th>
<th>GENERATION RATE (OLD USE)</th>
<th>CONVERTED BIOTECH/INDUST/R&amp;D</th>
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</thead>
<tbody>
<tr>
<td>WASTE WATER</td>
<td>100 beds x</td>
<td>200 gpd/bed =</td>
<td>20,000 gpd -</td>
<td>0 gpd =</td>
<td>20,000 gpd /</td>
<td>0.30 gpd/sf =</td>
</tr>
<tr>
<td>POTABLE WATER</td>
<td>100 beds x</td>
<td>200 gpd/bed =</td>
<td>20,000 gpd -</td>
<td>0 gpd =</td>
<td>20,000 gpd /</td>
<td>0.30 gpd/sf =</td>
</tr>
<tr>
<td>SOLID WASTE</td>
<td>100 beds x</td>
<td>5,840 lbs/yr/bed =</td>
<td>594,000 lbs/yr -</td>
<td>0 lbs/yr =</td>
<td>564,000 lbs/yr /</td>
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</tr>
<tr>
<td>TRIPS - EAST SIDE AM</td>
<td>100 beds x</td>
<td>0.000 trips/bed =</td>
<td>90 trips -</td>
<td>0 trips =</td>
<td>90 trips /</td>
<td>0.927 trips/1000 sf =</td>
</tr>
<tr>
<td>TRIPS - EAST SIDE PM</td>
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<td>80 trips /</td>
<td>0.717 trips/1000 sf =</td>
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</table>

Scripps Florida Phase II/Briger DRI
Exhibit 3
March 4, 2010
1
**STEP 5:** Calculate if any service credits were generated from the conversion. First, determine how much of each service will be "released" by the reduction in the old use. Then subtract out the new demand created by the new use, apply any credits to get the new available credit balance.

<table>
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<tr>
<th>BIO/INDUST/ R&amp;D REDUCTION</th>
<th>GENERATION RATE (OLD USE)</th>
<th>DEMAND (OLD USE)</th>
<th>NEW DEMAND (NEW USE)</th>
<th>PREVIOUS CREDITS</th>
<th>AVAILABLE CREDITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>WASTE WATER</td>
<td>161,328 sf x</td>
<td>0.30 gpd/sf</td>
<td>48,398 gpd -</td>
<td>20,000 gpd +</td>
<td>0 gpd =</td>
</tr>
<tr>
<td>POTABLE WATER</td>
<td>161,328 sf x</td>
<td>0.30 gpd/sf</td>
<td>48,398 gpd -</td>
<td>20,000 gpd +</td>
<td>0 gpd =</td>
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<td>SOLID WASTE</td>
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<td>3.62 lbs/sf/yr</td>
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<td>0 lbs/yr =</td>
</tr>
<tr>
<td>TRIPS - WEST SIDE AM</td>
<td>161,328 sf x</td>
<td>0 trips/1000 sf =</td>
<td>0 trips -</td>
<td>0 trips +</td>
<td>0 trips =</td>
</tr>
<tr>
<td>TRIPS - WEST SIDE PM</td>
<td>161,328 sf x</td>
<td>0 trips/1000 sf =</td>
<td>0 trips -</td>
<td>0 trips +</td>
<td>0 trips =</td>
</tr>
<tr>
<td>TRIPS - EAST SIDE AM</td>
<td>161,328 sf x</td>
<td>0.927 trips/1000 sf =</td>
<td>150 trips -</td>
<td>0 trips =</td>
<td>(60) trips</td>
</tr>
<tr>
<td>TRIPS - EAST SIDE PM</td>
<td>161,328 sf x</td>
<td>0.717 trips/1000 sf =</td>
<td>116 trips -</td>
<td>0 trips =</td>
<td>(38) trips</td>
</tr>
</tbody>
</table>

**EXAMPLE 2:** The applicant submits a Site Plan to construct 50,000 sf of Retail (not using conversion) and to add 10,000 sf of Retail (new) by reducing the number of Single Family units (old) (i.e. by using conversion) in the Neighborhood Commercial District on the west side of I-95.

**STEP 1:** Using the generation rates, calculate the new demand for each service (water, waste water, solid waste and trips) that will be generated by the new DRI use.

**STEP 2:** Subtract or add any previous credits that resulted from prior conversions, if applicable, from the new demand to get the net demand. For this example, we have available credits from the previous conversion.

**STEP 3:** To calculate how much of the old DRI use will need to be converted to allow for the new DRI use, divide the net demand by the generation rate of the old use for each service. The result will establish the control values for each service.

**STEP 4:** Find the largest value under the converted use column. This will be your control value. Please note that a negative number in the converted use column indicates that no sq ft or units are lost and negative numbers are NOT the maximum value. In this example, the maximum control is waste water and the Single Family will need to be reduced by 57 units. This reduction will be reflected on the amended PCD Plan and Map H.
**STEP 5:** Calculate if any service credits were generated from the conversion and the resulting reduction in 57 units. First, determine how much of each service will be "released" by the reduction in the old use. Then subtract out the new demand created by the new use, apply any credits to get the new available credit balance.

<table>
<thead>
<tr>
<th>SINGLE FAMILY REDUCTION</th>
<th>GENERATION RATE (OLD USE)</th>
<th>DEMAND (OLD USE)</th>
<th>NEW DEMAND (NEW USE)</th>
<th>PREVIOUS CREDITS</th>
<th>AVAILABLE CREDITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>WASTE WATER</td>
<td>57 units x 275 gpd/unit =</td>
<td>15,675 gpd -</td>
<td>1,000 gpd +</td>
<td>(28,398) gpd =</td>
<td>(43,073) gpd</td>
</tr>
<tr>
<td>POTABLE WATER</td>
<td>57 units x 350 gpd/unit -</td>
<td>19,950 gpd -</td>
<td>1,000 gpd +</td>
<td>(28,398) gpd =</td>
<td>(47,348) gpd</td>
</tr>
<tr>
<td>SOLID WASTE</td>
<td>57 units x 3900 lbs/unit/yr =</td>
<td>222,300 lbs/yr -</td>
<td>25,200 lbs/yr +</td>
<td>0 lbs/yr =</td>
<td>(197,100) lbs/yr</td>
</tr>
<tr>
<td>TRIPS - WEST SIDE AM</td>
<td>57 units x 0.732 trips/unit =</td>
<td>42 trips -</td>
<td>7 trips +</td>
<td>0 trips =</td>
<td>(35) trips</td>
</tr>
<tr>
<td>TRIPS - WEST SIDE PM</td>
<td>57 units x 0.924 trips/unit =</td>
<td>53 trips -</td>
<td>53 trips +</td>
<td>0 trips =</td>
<td>0 trips</td>
</tr>
<tr>
<td>TRIPS - EAST SIDE AM</td>
<td>57 units x 0 trips/unit =</td>
<td>0 trips -</td>
<td>0 trips +</td>
<td>(60) trips =</td>
<td>(60) trips</td>
</tr>
<tr>
<td>TRIPS - EAST SIDE PM</td>
<td>57 units x 0 trips/unit =</td>
<td>0 trips -</td>
<td>0 trips +</td>
<td>(36) trips =</td>
<td>(36) trips</td>
</tr>
</tbody>
</table>

**EXAMPLE 3:** The applicant requests to add 57 Single Family units (new use) by reducing the Retail square footage (old use) on the East side of I-95.

**STEP 1:** Using the generation rates, calculate the new demand for each service (water, waste water, solid waste and trips) that will be generated by the new DRI use.

**STEP 2:** Subtract or add any previous credits that resulted from prior conversions, if applicable, from the new demand to get the net demand. For this example, we have available credits from previous conversions.

**STEP 3:** To calculate how much of the old DRI use will need to be converted to allow for the new DRI use, divide the net demand by the generation rate of the old use for each service. The result will establish the control values for each service.

**STEP 4:** Find the largest value under the converted use column. This will be your control value. Please note that a negative number in the converted use column indicates that no sq ft or units are lost and negative numbers are NOT the maximum value. In this example, the maximum control is solid waste and Retail will need to be reduced by 10,000 sq ft. This reduction will be reflected on the amended PCD Plan and Map H.

<table>
<thead>
<tr>
<th>PROPOSED SINGLE FAMILY</th>
<th>GENERATION RATE (NEW USE)</th>
<th>NEW DEMAND (NEW USE)</th>
<th>PREVIOUS CREDITS</th>
<th>NET DEMAND (NEW USE)</th>
<th>GENERATION RATE (OLD USE)</th>
<th>CONVERTED RETAIL</th>
</tr>
</thead>
<tbody>
<tr>
<td>WASTE WATER</td>
<td>57 units x 275 gpd/unit =</td>
<td>15,675 gpd -</td>
<td>-27,398 gpd /</td>
<td>0.10 gpd/sf =</td>
<td>-273,980 sf</td>
<td></td>
</tr>
<tr>
<td>POTABLE WATER</td>
<td>57 units x 350 gpd/unit -</td>
<td>19,950 gpd -</td>
<td>-27,398 gpd /</td>
<td>0.10 gpd/sf =</td>
<td>-273,980 sf</td>
<td></td>
</tr>
<tr>
<td>SOLID WASTE</td>
<td>57 units x 3,900 lbs/unit/yr =</td>
<td>222,300 lbs/yr -</td>
<td>147,600 lbs/yr -</td>
<td>74,700 lbs/yr /</td>
<td>10,000 sf</td>
<td></td>
</tr>
<tr>
<td>TRIPS - EAST SIDE AM</td>
<td>57 units x 0.809 trips/unit =</td>
<td>35 trips -</td>
<td>-25 trips /</td>
<td>0.638 trips/1000 sf =</td>
<td>-39,903 sf</td>
<td></td>
</tr>
<tr>
<td>TRIPS - EAST SIDE PM</td>
<td>57 units x 0.629 trips/unit =</td>
<td>36 trips -</td>
<td>0 trips /</td>
<td>2.14 trips/1000 sf =</td>
<td>-69 sf</td>
<td></td>
</tr>
</tbody>
</table>

Scripps Florida Phase II/Briger DRI
Exhibit 3
March 4, 2010
3
**STEP 6:** Calculate if any service credits were generated from the conversion and the resulting reduction of Retail by 10,000 sq ft. First, determine how much of each service will be "released" by the reduction in the old use. Then subtract out the new demand created by the new use, apply any credits to get the new available credit balance.

<table>
<thead>
<tr>
<th></th>
<th><strong>RETAIL REDUCTION</strong></th>
<th><strong>GENERATION RATE (OLD USE)</strong></th>
<th><strong>DEMAND (OLD USE)</strong></th>
<th><strong>NEW DEMAND (NEW USE)</strong></th>
<th><strong>PREVIOUS CREDITS</strong></th>
<th><strong>AVAILABLE CREDITS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>WASTE WATER</td>
<td>10,000 sf x</td>
<td>0 gpd/unit = -</td>
<td>1,000 gpd -</td>
<td>15,675 gpd +</td>
<td>(42,073) gpd =</td>
<td>(28,398) gpd +</td>
</tr>
<tr>
<td>POTABLE WATER</td>
<td>10,000 sf x</td>
<td>0 gpd/unit = -</td>
<td>1,000 gpd -</td>
<td>19,950 gpd +</td>
<td>(47,348) gpd =</td>
<td>(28,398) gpd +</td>
</tr>
<tr>
<td>SOLID WASTE</td>
<td>10,000 sf x</td>
<td>7.47 lbs/afy = -</td>
<td>74,700 lbs/yr -</td>
<td>222,300 lbs/yr +</td>
<td>(147,900) lbs/yr =</td>
<td>0 lbs/yr +</td>
</tr>
<tr>
<td>TRIPS - WEST SIDE AM</td>
<td>10,000 sf x</td>
<td>0 trips/1000 sf = =</td>
<td>0 trips -</td>
<td>0 trips +</td>
<td>(35) trips =</td>
<td>(35) trips +</td>
</tr>
<tr>
<td>TRIPS - WEST SIDE PM</td>
<td>10,000 sf x</td>
<td>0 trips/1000 sf = =</td>
<td>0 trips -</td>
<td>0 trips +</td>
<td>0 trips =</td>
<td>0 trips +</td>
</tr>
<tr>
<td>TRIPS - EAST SIDE AM</td>
<td>10,000 sf x</td>
<td>0.638 trips/1000 sf = =</td>
<td>6 trips -</td>
<td>35 trips +</td>
<td>(60) trips =</td>
<td>(31) trips +</td>
</tr>
<tr>
<td>TRIPS - EAST SIDE PM</td>
<td>10,000 sf x</td>
<td>2.14 trips/1000 sf = =</td>
<td>21 trips -</td>
<td>35 trips +</td>
<td>(35) trips =</td>
<td>(21) trips +</td>
</tr>
</tbody>
</table>
## SERVICE GENERATION RATES

### WASTE WATER DEMAND MATRIX

<table>
<thead>
<tr>
<th></th>
<th>Industrial/R&amp;D/ Biotech</th>
<th>Office</th>
<th>Retail</th>
<th>Single Family</th>
<th>Multi Family</th>
<th>Apartment</th>
<th>Hotel</th>
<th>Hospital</th>
<th>Post Secondary School</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Approved</strong></td>
<td>2,600,000</td>
<td>1,200,000</td>
<td>500,000</td>
<td>600</td>
<td>1,400</td>
<td>700</td>
<td>300</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td><strong>Generation Rate</strong></td>
<td>0.30 gpd/sf</td>
<td>0.10 gpd/sf</td>
<td>0.10 gpd/sf</td>
<td>275 gpd/unit</td>
<td>250 gpd/unit</td>
<td>250 gpd/unit</td>
<td>100 gpd/room</td>
<td>200 gpd/bed</td>
<td>20 gpd/student</td>
</tr>
<tr>
<td><strong>Total Approved Generation</strong></td>
<td>780,000</td>
<td>120,000</td>
<td>50,000</td>
<td>165,000</td>
<td>350,000</td>
<td>175,000</td>
<td>30,000</td>
<td><strong>1,670,000 gallons per day</strong></td>
<td></td>
</tr>
</tbody>
</table>

### POTABLE WATER DEMAND MATRIX

<table>
<thead>
<tr>
<th></th>
<th>Industrial/R&amp;D/ Biotech</th>
<th>Office</th>
<th>Retail</th>
<th>Single Family</th>
<th>Multi Family</th>
<th>Apartment</th>
<th>Hotel</th>
<th>Hospital</th>
<th>Post Secondary School</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Approved</strong></td>
<td>2,600,000</td>
<td>1,200,000</td>
<td>500,000</td>
<td>600</td>
<td>1,400</td>
<td>700</td>
<td>300</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td><strong>Generation Rate</strong></td>
<td>0.30 gpd/sf</td>
<td>0.10 gpd/sf</td>
<td>0.10 gpd/sf</td>
<td>350 gpd/unit</td>
<td>250 gpd/unit</td>
<td>250 gpd/unit</td>
<td>100 gpd/room</td>
<td>200 gpd/bed</td>
<td>20 gpd/student</td>
</tr>
<tr>
<td><strong>Total Approved Generation</strong></td>
<td>780,000</td>
<td>120,000</td>
<td>50,000</td>
<td>210,000</td>
<td>350,000</td>
<td>175,000</td>
<td>30,000</td>
<td><strong>1,715,000 gallons per day</strong></td>
<td></td>
</tr>
</tbody>
</table>

---

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Scripps Florida Phase II/Briger DRI  
Exhibit 3  
March 4, 2010
### DOMESTIC SOLID WASTE DEMAND MATRIX

<table>
<thead>
<tr>
<th></th>
<th>Industrial/R&amp;D/ Biotech</th>
<th>Office</th>
<th>Retail</th>
<th>Single Family</th>
<th>Multi family</th>
<th>Apartment</th>
<th>Hotel</th>
<th>Hospital</th>
<th>Post Secondary School</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Approved</strong></td>
<td></td>
<td>2,600,000</td>
<td>1,200,000</td>
<td>500,000</td>
<td>600</td>
<td>1,400</td>
<td>700</td>
<td></td>
<td>300 rm (200,000 sf)</td>
</tr>
<tr>
<td><strong>Generation Rate</strong> (pounds per year per sq ft/unit/room/ bed/student)</td>
<td>3.62 lbs/sf/yr</td>
<td>2.52 lbs/sf/yr</td>
<td>7.47 lbs/sf/yr</td>
<td>1.95 tons/unit/yr (3,800 lbs)</td>
<td>0.72 tons/unit/yr (1,440 lbs)</td>
<td>0.72 tons/unit/yr (1,440 lbs)</td>
<td>2,853.3 tons/bed/yr (5,840 lbs)</td>
<td>2.92 lbs/student/yr</td>
<td></td>
</tr>
<tr>
<td><strong>Total Approved Generation</strong></td>
<td>9,412,000</td>
<td>3,024,000</td>
<td>3,735,000</td>
<td>2,340,000</td>
<td>2,016,000</td>
<td>1,008,000</td>
<td>856,000</td>
<td></td>
<td>22,391,000 pounds per year</td>
</tr>
</tbody>
</table>

### TRIPS DEMAND MATRIX - WEST SIDE OF I-95 - AM PEAK HOUR

<table>
<thead>
<tr>
<th></th>
<th>Industrial/R&amp;D/ Biotech</th>
<th>Office</th>
<th>Retail</th>
<th>Single Family</th>
<th>Multi family</th>
<th>Apartment</th>
<th>Hotel</th>
<th>Hospital</th>
<th>Post Secondary School</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Approved</strong></td>
<td></td>
<td>n/a</td>
<td>n/a</td>
<td>50 (500,000)</td>
<td>250</td>
<td>600</td>
<td>350</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Generation Rate</strong> (trips per 1,000 sq ft/unit/student)</td>
<td>n/a</td>
<td>n/a</td>
<td>0.740 trips/1,000 sq ft</td>
<td>0.732 trips/1,000 sq ft</td>
<td>0.368 trips/1,000 sq ft</td>
<td>0.498 trips/1,000 sq ft</td>
<td>n/a</td>
<td>n/a</td>
<td>0.740 trips/student</td>
</tr>
<tr>
<td><strong>Total Approved Generation</strong></td>
<td>37</td>
<td>183</td>
<td>215</td>
<td>174</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>609 west AM peak trips</td>
</tr>
</tbody>
</table>
### TRIPS DEMAND MATRIX - WEST SIDE OF I-95 - PM PEAK HOUR

<table>
<thead>
<tr>
<th></th>
<th>Industrial/ R&amp;D/ Biotech</th>
<th>Office</th>
<th>Retail</th>
<th>Single Family</th>
<th>Multi family</th>
<th>Apartment</th>
<th>Hotel</th>
<th>Hospital</th>
<th>Post Secondary School</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Approved</strong></td>
<td>n/a</td>
<td>n/a</td>
<td>50 (50,000)</td>
<td>250</td>
<td>600</td>
<td>350</td>
<td>n/a</td>
<td>n/a</td>
<td>*</td>
</tr>
<tr>
<td><strong>Generation Rate</strong></td>
<td>n/a</td>
<td>n/a</td>
<td>5.300 trips/1,000 sq ft/unit/student</td>
<td>0.924 trips/unit</td>
<td>0.410 trips/unit</td>
<td>0.582 trips/unit</td>
<td>n/a</td>
<td>n/a</td>
<td>0.220 trips/student</td>
</tr>
<tr>
<td><strong>Total Approved Generation</strong></td>
<td>265</td>
<td>231</td>
<td>246</td>
<td>204</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>946 west PM peak trips</td>
</tr>
</tbody>
</table>

### TRIPS DEMAND MATRIX - EAST SIDE OF I-95 - AM PEAK HOUR

<table>
<thead>
<tr>
<th></th>
<th>Biotech/ R&amp;D</th>
<th>Office</th>
<th>Retail</th>
<th>Single Family</th>
<th>Multi family</th>
<th>Apartment</th>
<th>Hotel</th>
<th>Hospital</th>
<th>Post Secondary School</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Approved</strong></td>
<td>2600 (2,600,000)</td>
<td>1200 (1,200,000)</td>
<td>450 (450,000)</td>
<td>350</td>
<td>800</td>
<td>350</td>
<td>300</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td><strong>Generation Rate</strong></td>
<td>0.927 trips/1,000 sq ft/unit/student</td>
<td>1.106 trips/1,000 sq ft</td>
<td>0.638 trips/1,000 sq ft</td>
<td>0.606 trips/unit</td>
<td>0.284 trips/unit</td>
<td>0.415 trips/unit</td>
<td>0.477 trips/room</td>
<td>0.900 trips/bed</td>
<td>0.340 trips/student</td>
</tr>
<tr>
<td><strong>Total Approved Generation</strong></td>
<td>2,411</td>
<td>1,327</td>
<td>287</td>
<td>212</td>
<td>227</td>
<td>145</td>
<td>143</td>
<td></td>
<td>4,752 east AM peak trips</td>
</tr>
</tbody>
</table>
## Trips Demand Matrix - East Side of I-95 - PM Peak Hour

<table>
<thead>
<tr>
<th></th>
<th>Biotech/R&amp;D</th>
<th>Office</th>
<th>Retail</th>
<th>Single Family</th>
<th>Multi Family</th>
<th>Apartment</th>
<th>Hotel</th>
<th>Hospital</th>
<th>Post Secondary School</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approved</td>
<td>2600 (2,600,000)</td>
<td>1200 (1,200,000)</td>
<td>450 (450,000)</td>
<td>350</td>
<td>800</td>
<td>350</td>
<td>300</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>Generation Rate</td>
<td>0.717 trips/1,000 sq ft</td>
<td>0.893 trips/1,000 sq ft</td>
<td>2.140 trips/1,000 sq ft</td>
<td>0.629 trips/unit</td>
<td>0.275 trips/unit</td>
<td>0.410 trips/unit</td>
<td>0.327 trips/room</td>
<td>0.800 trips/bed</td>
<td>0.220 trips/student</td>
</tr>
<tr>
<td>Total Approved Generation</td>
<td>1,865</td>
<td>1,072</td>
<td>963</td>
<td>220</td>
<td>220</td>
<td>144</td>
<td>98</td>
<td></td>
<td>4,582 east PM peak trips</td>
</tr>
</tbody>
</table>
APPENDIX D

COUNCIL’S RECOMMENDED CONDITIONS

The Florida Department of Community Affairs rules require the local government Development Order to incorporate the Development of Regional Impact Application for Development Approval by reference, recite the quantities of uses approved, phasing and buildout dates, provide a termination date, and provide for biennial reports. The expiration date should be set to allow reasonable time for completion of all development and compliance with all conditions in the Development Order. Enough time should be allowed between the buildout date and the expiration date for the developer to request any needed extension to the buildout date. These requirements can be met by including the following conditions in the Development Order:

Application for Development Approval

1. The Scripps Florida – Phase II/Briger Tract Development of Regional Impact Application for Development Approval is incorporated herein by reference. It is relied upon, but not to the exclusion of other available information, by the parties in discharging their statutory duties under Chapter 380, Florida Statutes. Substantial compliance with the representations contained in the Application for Development Approval, as modified by Development Order conditions, is a condition for approval. Prior to final approval of any site plan application for the Scripps Florida – Phase II/Briger Tract Development of Regional Impact, the developer shall revise the Application for Development Approval to ensure that the phasing schedule and development plan are internally consistent within all sections of the Application for Development Approval and Development Order.

For purposes of this condition, the Application for Development Approval shall include the following items:

a. Application for Development Approval dated January 16, 2009; and


Commencement and Process of Development

2. In the event the developer fails to commence construction within three years from the effective date of the Development Order, development approval shall terminate and the development shall be subject to further Development of Regional Impact review by the Treasure Coast Regional Planning Council, Florida Department of Community Affairs, and City of Palm Beach Gardens pursuant to Section 380.06, Florida Statutes. However, this time period shall be tolled during the pendency of any appeal pursuant to Section 380.07, Florida Statutes. For the purpose of this paragraph, construction shall be deemed to have commenced after placement of permanent evidence of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation or land clearing, such as the construction of roadways or other utility infrastructure.
Phasing

3. The phasing of the Scripps Florida – Phase II/Briger Tract Development of Regional Impact is approved as follows:

<table>
<thead>
<tr>
<th>Phase¹</th>
<th>Years</th>
<th>Biotech R&amp;D (SF)</th>
<th>Office (SF)</th>
<th>Retail (SF)</th>
<th>Residential (DU)</th>
<th>Hotel (rooms)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2009-2013</td>
<td>300,000</td>
<td>100,000</td>
<td>500,000</td>
<td>800</td>
<td>300</td>
</tr>
<tr>
<td>2</td>
<td>2014-2018</td>
<td>400,000</td>
<td>200,000</td>
<td>0</td>
<td>850</td>
<td>0</td>
</tr>
<tr>
<td>3</td>
<td>2019-2023</td>
<td>400,000</td>
<td>200,000</td>
<td>0</td>
<td>500</td>
<td>0</td>
</tr>
<tr>
<td>4</td>
<td>2024-2028</td>
<td>1,500,000</td>
<td>700,000</td>
<td>0</td>
<td>550</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>2009-2028</td>
<td>2,600,000</td>
<td>1,200,000</td>
<td>500,000</td>
<td>2,700</td>
<td>300</td>
</tr>
</tbody>
</table>

¹ This phasing table is based on information provided in Table 10-A included in the answer to Question 10 – General Project Description, of the Application for Development Approval. This table is not intended to restrict the amount of development by phase, provided the Development Order in its entirety is followed. In the event that a conversion table is employed, then the phasing table shall be updated accordingly and included in the biennial report.

Buildout Date

4. The Scripps Florida – Phase II/Briger Tract Development of Regional Impact shall have a buildout date of December 31, 2028, unless otherwise amended pursuant to the conditions of this Development Order and Section 380.06, Florida Statutes.

Termination Date

5. This Development Order shall expire on December 31, 2035, unless extended as provided in Section 380.06(19)(c), Florida Statutes.

Transfer of Approval

6. Notice of transfer of all or a portion of the subject property shall be filed with the City of Palm Beach Gardens. Prior to transfer, the transferee shall assume in writing on a form acceptable to the City Attorney, any and all applicable commitments, responsibilities, and obligations pursuant to the Development Order. The intent of this provision is to ensure that subsequent property transfers do not jeopardize the unified control, responsibilities, and obligations required of the project as a whole.

Biennial Report

7. The biennial report required by subsection 380.06(18), Florida Statutes, shall be submitted every two years on the anniversary date of the adoption of the Development Order and continued every other year thereafter to the City of Palm Beach Gardens, Palm Beach County, Florida Department of Transportation, Treasure Coast Regional Planning Council, Florida Department Community Affairs, and such additional parties as may be appropriate or required by law. The City of Palm Beach
Gardens Growth Management Administrator shall be the local official assigned the responsibility for monitoring the development and enforcing the terms of the Development Order. The contents of the report shall include those items required by this Development Order and Rule 9J-2.025(7), Florida Administrative Code, and in addition shall include:

a. the status of the mobility improvements to be provided by the maintaining agencies with monies from the proportionate share contribution,
b. conversion of land uses, if any, during the current two year period as well as cumulative land use conversions, and
c. trip generation study determining new net external trips during both the AM and the PM peak hours due to the existing development

General Provisions

8. Any modifications or deviation from the approved plans or requirements of this Development Order shall be made according to and processed in compliance with the requirements of Section 380.06(19), Florida Statutes and Rule 9J-2, Florida Administrative Code.

9. The definitions found in Chapter 380, Florida Statutes shall apply to this Development Order.

10. Reference herein to any governmental agency shall be construed to mean any future instrumentality that may be created or designated as a successor in interest to, or which otherwise possesses the powers and duties to any referenced governmental agency in existence on the effective date of this Development Order.

11. This Development Order shall be binding upon the developer and its assignees or successors in interest.

REGIONAL PLANNING

Master Development Plan

12. Prior to final approval of any site plan application for the Scripps Florida – Phase II/Briger Tract Development of Regional Impact, the developer shall revise Map H, Master Development Plan, to illustrate that development is limited to the northern two-thirds of the Briger Parcel east of I-95. The portion of the parcel west of I-95 should be designated as preserve area and used for passive recreation. Map H, Master Development Plan, should illustrate clearly defined neighborhood structure with street, block, and open space locations as illustrated in the Alternative Master Development Plan.

13. Prior to final approval of any site plan application for the Scripps Florida – Phase II/Briger Tract Development of Regional Impact, the developer shall revise the
Design Guidelines so that the Block Style development pattern applies to all districts. It is especially important that the block structure is evident along the proposed spine road with frequent cross streets to manage speeds and provide the access and environment necessary to accommodate pedestrians and public transit as illustrated in the Alternative Master Development Plan.

14. Prior to final approval of any site plan application for the Scripps Florida – Phase II/Briger Tract Development of Regional Impact, the developer shall revise Map H, Master Development Plan, to illustrate Donald Ross Road as a boulevard section with a frontage road that provides parallel on-street parking to the businesses and residences that will face the corridor as illustrated in the Alternative Master Development Plan.

15. Prior to final approval of any site plan application for the Scripps Florida – Phase II/Briger Tract Development of Regional Impact, the developer shall provide:

a. Detailed design guidelines depicting street sections (sidewalks and street trees to be provided on both sides of the street), placement of parking, building locations, pedestrian and service connections, and architectural standards as illustrated in the Alternative Master Development Plan.

b. Detailed neighborhood plans that illustrate street and block sizes and locations, parks and open space locations, building type and use locations, transit stop locations and shelter designs, and provide clear assurance of overall project connectivity as illustrated in the Alternative Master Development Plan.

Local Recommendation

16. In order for this project to reduce greenhouse gas emission, vehicle miles traveled, energy usage; and encourage walkability, mobility options, public transit, and sustainable patterns and forms of development consistent with the Strategic Regional Policy Plan, the City of Palm Beach Gardens is encouraged to adopt and codify the final Design Guidelines as local land development regulations contained within an overlay zoning district. Council staff is available upon request to assist the City of Palm Beach Gardens in carrying out this recommendation.

TRANSPORTATION

Rights of Way

17. No building permits for Scripps Florida – Phase II/Briger Tract Development of Regional Impact shall be issued until right-of-way within the project along Donald Ross Road, Hood Road, and all intersections thereof, has been dedicated free and clear of all liens and encumbrances to Palm Beach County as necessary and consistent with the Palm Beach County Comprehensive Plan.
## Proportionate Share Payments

18. Consistent with the Florida Administrative Code Rule 9J-2.045, Transportation Uniform Standard Rule, the following table identifies all roadway improvements required by the project, the total cost of roadway improvements, the developer’s proportionate cost share of those roadway improvements and the maintaining agency for the impacted and improved roadways. The following table shall be attached as an exhibit to the local Development Order issued by the City of Palm Beach Gardens for the Scripps Florida – Phase II/Briger Tract Development of Regional Impact:

### Proportionate Share Table

<table>
<thead>
<tr>
<th>Maintaining Agency</th>
<th>Segment/Intersection</th>
<th>From</th>
<th>To</th>
<th>Location</th>
<th>Existing Lanes</th>
<th>Service Volume</th>
<th>Prepaid Lanes</th>
<th>Service Volume</th>
<th>Cost of Improvement</th>
<th>Proportionate Share Percentage</th>
<th>Developer’s Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>FDOT</td>
<td>Seddontown Rd</td>
<td>Florida Turnpike</td>
<td>I-95 Interchange</td>
<td>EB 6D 6D 2570 8D+ 4540</td>
<td>$2,163,729</td>
<td>4.23%</td>
<td>$141,100</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FDOT</td>
<td>Seddontown Rd</td>
<td>Florida Turnpike</td>
<td>I-95 Interchange</td>
<td>WB 6D 2570 8D+ 3330</td>
<td>$2,163,729</td>
<td>3.35%</td>
<td>$132,238</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FDOT</td>
<td>PGA Blvd</td>
<td>S R 811 Gardens Mall</td>
<td>I-95</td>
<td>EB 6D 2570 8D 3330</td>
<td>$613,636</td>
<td>17.00%</td>
<td>$104,318</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FDOT</td>
<td>PGA Blvd</td>
<td>S R 811 Gardens Mall</td>
<td>I-95</td>
<td>WB 6D 3500 8D 3330</td>
<td>$613,636</td>
<td>17.00%</td>
<td>$104,318</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FDOT</td>
<td>PGA Blvd</td>
<td>S R 811 Gardens Mall</td>
<td>I-95</td>
<td>WB 6D 3500 8D 3330</td>
<td>$613,636</td>
<td>17.00%</td>
<td>$104,318</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Phase 1 Total** $4,299,003

| FDOT               | Donald Ross Rd | I-95 Interchange | Heights | EB 6D 2570 8D+ 4540 | $2,000,000 | 65.95% | $1,918,672 |
| FDOT               | Donald Ross Rd | I-95 Interchange | Heights | WB 6D 2570 8D+ 3330 | $2,000,000 | 65.95% | $1,918,672 |
| FDOT               | Military Trail   | PGA Blvd         | I-95 | EB 6D 2570 8D+ 4540 | $3,122,482 | 20.21% | $612,248 |
| FDOT               | Military Trail   | PGA Blvd         | I-95 | EB 6D 2570 8D+ 4540 | $3,122,482 | 20.21% | $612,248 |
| FDOT               | Military Trail   | PGA Blvd         | I-95 | WB 6D 3500 8D 3330 | $3,122,482 | 20.21% | $612,248 |
| FDOT               | Military Trail   | PGA Blvd         | I-95 | WB 6D 3500 8D 3330 | $3,122,482 | 20.21% | $612,248 |
| FDOT               | Military Trail   | PGA Blvd         | I-95 | WB 6D 3500 8D 3330 | $3,122,482 | 20.21% | $612,248 |

**Phase 2 Total** $5,246,014

| FDOT               | Donald Ross Rd | Prosperity Farms Rd | Ellison-Wilson Rd | EB 6D 2570 8D 3250 | $406,087 | 12.11% | $40,599 |
| FDOT               | Military Trail | PGA Blvd           | I-95             | EB 6D 2570 8D 3330 | $2,583,686 | 20.64% | $533,314 |
| FDOT               | Military Trail | PGA Blvd           | I-95             | EB 6D 2570 8D 3330 | $2,583,686 | 20.64% | $533,314 |
| FDOT               | Central Blvd   | PGA Blvd           | I-95             | EB 6D 2570 8D 3330 | $2,583,686 | 20.64% | $533,314 |
| FDOT               | Central Blvd   | PGA Blvd           | I-95             | EB 6D 2570 8D 3330 | $2,583,686 | 20.64% | $533,314 |
| FDOT               | Central Blvd   | PGA Blvd           | I-95             | EB 6D 2570 8D 3330 | $2,583,686 | 20.64% | $533,314 |
| FDOT               | Central Blvd   | PGA Blvd           | I-95             | EB 6D 2570 8D 3330 | $2,583,686 | 20.64% | $533,314 |
| FDOT               | Central Blvd   | PGA Blvd           | I-95             | EB 6D 2570 8D 3330 | $2,583,686 | 20.64% | $533,314 |

**Phase 3 Total** $9,375,888

| FDOT               | Donald Ross Rd | Heights Rd         | Central Blvd | EB 6D 2570 8D 3330 | $2,198,233 | 29.74% | $453,685 |
| FDOT               | Donald Ross Rd | Central Blvd       | S R 811       | EB 6D 2570 8D 3330 | $2,147,111 | 2.63% | $356,670 |
| FDOT               | Donald Ross Rd | Central Blvd       | S R 811       | EB 6D 2570 8D 3330 | $2,147,111 | 2.63% | $356,670 |
| FDOT               | Donald Ross Rd | Prosperity Farms Rd | Ellison-Wilson Rd | EB 6D 2570 8D 3330 | $2,147,111 | 2.63% | $356,670 |
| FDOT               | Donald Ross Rd | Prosperity Farms Rd | Ellison-Wilson Rd | EB 6D 2570 8D 3330 | $2,147,111 | 2.63% | $356,670 |
| FDOT               | Donald Ross Rd | Prosperity Farms Rd | Ellison-Wilson Rd | EB 6D 2570 8D 3330 | $2,147,111 | 2.63% | $356,670 |
| FDOT               | Donald Ross Rd | Prosperity Farms Rd | Ellison-Wilson Rd | EB 6D 2570 8D 3330 | $2,147,111 | 2.63% | $356,670 |
| FDOT               | Donald Ross Rd | Prosperity Farms Rd | Ellison-Wilson Rd | EB 6D 2570 8D 3330 | $2,147,111 | 2.63% | $356,670 |
| FDOT               | Donald Ross Rd | Prosperity Farms Rd | Ellison-Wilson Rd | EB 6D 2570 8D 3330 | $2,147,111 | 2.63% | $356,670 |

**Phase 4 Total** $7,144,893

**GRAND TOTAL** $22,389,589

D-5
19. Consistent with *Florida Administrative Code Rule 9J-2.045: Transportation Uniform Standard Rule*, the developer shall pay the proportionate share contribution to the agency that has maintenance responsibility over the impacted roadway link unless otherwise specified in an interlocal agreement between the maintaining agencies. The maintaining agencies have agreed to distribute funds and construct improvements as outlined in the following table. This Mobility Improvements Table may be amended by consent of all of the parties to the original agreement.

**Mobility Improvements Table**

<table>
<thead>
<tr>
<th>Responsible Agency</th>
<th>Improvements</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>PBC</td>
<td>Donald Ross Road - Improvements at the intersections with I-95 and widening to Height Blvd.</td>
<td>$ 6,000,000</td>
</tr>
<tr>
<td></td>
<td><strong>Phase 1 Total</strong> $ 6,000,000</td>
<td></td>
</tr>
<tr>
<td>PBC</td>
<td>Hood Road - 4 Lanes from Parkside Dr. to Central Blvd.</td>
<td>$ 1,500,000</td>
</tr>
<tr>
<td>PBG</td>
<td>Trolley/Circulator System</td>
<td>$ 1,500,000</td>
</tr>
<tr>
<td>PBC</td>
<td>Intersection improvements at:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>a) Central Blvd. &amp; Hood Rd.; and</td>
<td>$ 3,500,000</td>
</tr>
<tr>
<td></td>
<td>b) Central Blvd. &amp; PGA Blvd.</td>
<td></td>
</tr>
<tr>
<td>FTE</td>
<td>Turnpike improvements at the ramps and/or intersections with either Indiantown Rd. or PGA Blvd.</td>
<td>$ 1,500,000</td>
</tr>
<tr>
<td>FDOT</td>
<td>Indiantown Rd. and I-95 - Signalize and extend eastbound left-turn lane</td>
<td>$ 1,000,000</td>
</tr>
<tr>
<td></td>
<td><strong>Phase 2 Total</strong> $ 9,000,000</td>
<td></td>
</tr>
<tr>
<td>PBG</td>
<td>Trolley/Circulator System</td>
<td>$ 2,500,000</td>
</tr>
<tr>
<td>FDOT</td>
<td>Construct Park &amp; Ride Lot within Study Area</td>
<td>$ 1,500,000</td>
</tr>
<tr>
<td>PBC</td>
<td>Intersection Improvements*</td>
<td>$ 2,000,000</td>
</tr>
<tr>
<td></td>
<td><strong>Phase 3 Total</strong> $ 6,000,000</td>
<td></td>
</tr>
<tr>
<td>PBC</td>
<td>Intersection Improvements*</td>
<td>$ 1,206,098</td>
</tr>
<tr>
<td></td>
<td><strong>Phase 4 Total</strong> $ 1,206,098</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>GRAND TOTAL</strong> $ 22,206,098</td>
<td></td>
</tr>
</tbody>
</table>

PBC: Palm Beach County
PBG: Palm Beach Gardens
FTE: Florida Turnpike Enterprise
FDOT: Florida Department of Transportation

* Intersection improvements may include:
  a) Donald Ross Rd. and Central Blvd.
  b) Donald Ross Rd. and Military Tr.
  c) Donald Ross Rd. and S R 811
  d) Central Blvd. and PGA Blvd.
  e) Central Blvd. and Hood Rd.

Prioritization of these intersection improvements will be subject to the consent of all parties to the original agreement. At a minimum, prioritizing these intersection improvements shall consider proximity of intersection to the project, intersection
delay, cost, safety concerns, and existing character and pedestrian nature of the intersection.

The following are also applicable to this proportionate share condition:

a. The proportionate share payments and improvements listed above do not include the committed developer improvements for internal project roads and project intersection/entrance improvements along Donald Ross Road, and Hood Road and any local roadway improvements required by the City of Palm Beach Gardens or Palm Beach County.

b. The phased proportionate share contribution is to be paid by the developer based on trip thresholds.

c. The proportionate share costs are in 2009 dollars and shall be adjusted by the cost of inflation at the time payment is made to the appropriate agencies.

d. The exact/best location of the Park and Ride lot has yet to be determined and may be better-located outside the limits of the project site.

20. No final Development Order shall be issued until the developer has entered into a proportionate share agreement with the Florida Department of Transportation, the Florida Turnpike Enterprise, Palm Beach County, and the City of Palm Beach Gardens in accordance with F.S. 163.3180(12). Pursuant to this agreement, the parties agree to apply the proportionate share contribution to the improvements listed in the Mobility Improvements Table, which will insure that the contributions are provided in a sufficient and timely manner to mitigate the traffic impacts of the level-of-service deficiencies for which the proportionate share cost was calculated. The agreement shall be included as an exhibit to the development order.

21. No building permits shall be issued until the developer has paid a proportionate share contribution in the amount of $439,903 (2009 dollars) to Palm Beach County. 2009 dollars shall be adjusted by the cost of inflation at the time payment is made.

22. No buildings permits shall be issued for development that generates more than 1,369 net external AM peak hour trips, or 2,174 net external PM peak hour trips, whichever occurs first, until the developer has paid a proportionate share contribution in the amount of $5,245,315 (2009 dollars) to Palm Beach County. 2009 dollars shall be adjusted by the cost of inflation at the time payment is made.

23. No buildings permits shall be issued for development that generates more than 2,397 net external AM peak hour trips, or 3,089 net external PM peak hour trips, whichever occurs first, until the developer has paid a proportionate share contribution in the amount of $9,375,988 (2009 dollars) to Palm Beach County. 2009 dollars shall be adjusted by the cost of inflation at the time payment is made.
24. No buildings permits shall be issued for development that generates more than 3,176 net external AM peak hour trips, or 3,778 net external PM peak hour trips, whichever occurs first, until the developer has paid a proportionate share contribution in the amount of $7,144,893 (2009 dollars) to Palm Beach County. 2009 dollars shall be adjusted by the cost of inflation at the time payment is made.

25. As described in the Proportionate Share Table, the developer shall contribute $4,000,000 (2009 dollars) toward the Trolley/Circulator System and $1,500,000 toward the Park & Ride Lot to be constructed somewhere within the study area. The 2009 dollars shall be adjusted by the cost of inflation at the time payment is made to the appropriate agencies.

**Internal Roadways and Access Driveways**

26. No buildings permits shall be issued until contracts have been let for construction of either of the following roadways:

a. Parkside Drive from Donald Ross Road to its future connection with Heights Boulevard; or

b. Heights Boulevard from its existing terminus at Donald Ross Road to its future connection at Parkside Drive.

27. No certificates of occupancy shall be issued for development that generates more than 1,369 net external AM peak hour trips or 2,174 net external PM peak hour trips, whichever occurs first, until the following roadways have been completely built and open to the public:

a. Parkside Drive from Donald Ross Road to Hood Road;

b. Heights Boulevard from Donald Ross Road to Parkside Drive; and

c. Grandiflora Road from its existing terminus west of Central Boulevard to Parkside Drive.

28. No certificates of occupancy shall be issued for development that generates more than 2,397 net external AM peak hour trips or 3,089 net external PM peak hour trips, whichever occurs first, until contracts have been let for the following roadway improvement:

a. Widen Grandiflora Road between Parkside Drive and Central Boulevard to a Four-Lane-Divided cross section.

29. At a minimum, Scripps Florida – Phase II/Briger Tract Development of Regional Impact shall have the following connections to the external roadway network consistent with Map H, Master Development Plan:
- Four connections to Donald Ross Road;
- One connection to Hood Road; and
- Two connections to Central Boulevard.

30. No certificates of occupancy shall be issued for development that generates more than 1,369 net external AM peak hour trips or 2,174 net external PM peak hour trips, whichever occurs first, until the following intersections have been built or improved with the following lane geometry/signalization, as needed:

   a. **Donald Ross Road and Heights Boulevard**
   
   Northbound  
   Two left-turn lanes  
   One through lane  
   One right-turn lane  

   Southbound  
   Two left-turn lanes  
   One through lane  
   One free flow right-turn lane  

   Eastbound  
   Two left-turn lanes  
   Three through lanes  
   One right-turn lane  

   Westbound  
   Two left-turn lanes  
   Three through lanes  
   One right-turn lane  

   b. **Donald Ross Road and Parkside Drive**
   
   Northbound  
   Two left-turn lanes  
   One through lane  
   One right-turn lane  

   Southbound  
   One left-turn lane  
   One through lane  
   One right-turn lane  

   Eastbound  
   Two left-turn lanes  
   Three through lanes  
   One right-turn lane  

   Westbound  
   Two left-turn lanes  
   Three through lanes  
   One right-turn lane  

   c. **Donald Ross Road and FAU**
   
   Northbound  
   One left-turn lane  
   One through lane  

   Southbound  
   One left-turn lane  
   One through lane  

   Eastbound  
   One left-turn lane  
   Three through lanes  
   One right-turn lane
Westbound  One left-turn lanes
            Three through lanes

d. Donald Ross Road and Eastern Driveway
Northbound  One right-turn lane
Eastbound  Three through lanes
            One right-turn lane
Westbound  Three through lanes

e. Grandiflora Road and Central Boulevard
Northbound  Two left-turn lanes
            Two through lanes
Southbound  One left-turn lane
            Two through lanes
            One right-turn lane
Eastbound  One left-turn lane
            One through lane
            One right-turn lane
Westbound  One left-turn/through lane
            One right-turn lane

f. Hood Road and Parkside Drive
Northbound  One left-turn lane
            One through lanes
Southbound  One left-turn lane
            One through lane
Eastbound  One left-turn lane
            One through lane
            One right-turn lane
Westbound  One left-turn lane
            One through lane
            One right-turn lane

Signalization at this intersection shall be provided when warranted and approved by Palm Beach County or within two years after the final certificate of occupancy for the entire development is issued.

31. No certificates of occupancy shall be issued for development that generates more than 3,176 net external AM peak hour trips or 3,778 net external PM peak hour trips, whichever occurs first, until the following intersections have been built or improved with the following additional lanes:

a. Donald Ross Road and Heights Boulevard – Provide an additional northbound left turn lane to provide triple left turn lanes; and

b. Grandiflora Road and Central Boulevard – Add a separate westbound through lane to provide one left turn lane, one through lane and one through/right turn lane
Other Issues

32. A trip generation analysis shall be performed prior to each site plan approval. The trip generation analysis shall present calculations for both AM and PM peak hour and shall rely upon the approved rates for trip generation, pass-by and internal capture for the phase in which the development occurs, as approved in the Development of Regional Impact. The trip generation shall be cumulative and include all previous site plan approvals. Development order conditions shall be evaluated to determine triggering of any transportation conditions.

33. During the site plan approval process, a traffic study shall be submitted to the City of Palm Beach Gardens to determine, as a minimum:

   a. Lane geometry for internal roadways and their intersections; and

   b. Timing of signalization improvements at project driveways.

34. No building permits shall be issued for Parcel A through F for more than 600 single-family dwelling units, 1,400 townhouses, 700 apartment units, 500,000 square feet of commercial/retail development, 2,600,000 square feet of research and development, 1,200,000 square feet of general office, and 300 hotel rooms. Building permits for additional land uses in Parcels A through F may be issued consistent with the use of the Land Use Conversion Matrix included in the Application for Development Approval for the Scripps Florida – Phase II/Briger Tract Development of Regional Impact. A maximum of 20% of the referenced land uses may be increased or decreased; e.g., a maximum of 240,000 square feet of general office can be converted to other land uses, or a maximum of 240,000 square feet of general office can be converted from other uses.

35. No additional building permits shall be issued after December 31, 2033 until a traffic study has been conducted, submitted to and approved by the City of Palm Beach Gardens, Palm Beach County, Florida Department of Transportation, Treasure Coast Regional Planning Council, and the Department of Community Affairs. This traffic study shall be performed in a manner consistent with methodology approved by the City of Palm Beach Gardens, Palm Beach County, Florida Department of Transportation, and the Treasure Coast Regional Planning Council. The study shall identify any improvements necessary to maintain the subject transportation network at adopted levels of services.

Additional building permits shall not be issued after December 31, 2033 until mitigation for the roadway improvements necessary to maintain adopted levels of service has been incorporated into the development order.
ENVIRONMENTAL AND NATURAL RESOURCES

Preserve Area Management

36. The developer shall prepare a Preserve Area Management Plan for the upland and wetland preserve areas identified on the Scripps Florida – Phase II/Briger Tract Development of Regional Impact Map H, Master Development Plan. The plan shall: 1) identify locations in the preserve area where upland or wetland natural communities will be created, enhanced, or restored; 2) identify management procedures and provide a schedule for their implementation; 3) include procedures for maintaining suitable habitat for state and federally listed species; 4) include methods to remove nuisance and exotic vegetation and any other species that are determined to threaten the natural communities; 5) include plans to permanently mark the preserve area and provide access for passive recreation, education, or scientific study; and 6) identify a permanent funding source and define a responsible entity for the maintenance and implementation of the management plan in perpetuity. The management plan shall be approved by the City of Palm Beach Gardens in consultation with the U.S. Fish and Wildlife Service, Florida Fish and Wildlife Conservation Commission, and South Florida Water Management District prior to the initiation of site clearing activities.

37. The developer shall install temporary fencing around all upland and wetland preservation areas prior to commencing site clearing adjacent to the preserve area. The fencing shall clearly identify and designate the boundaries of the preserve area and minimize the potential disturbance of the preserve area during land clearing and construction. The temporary fencing shall be established at least 10 feet outside of the boundaries of the preserve areas and shall remain in place until the completion of the finish grading on the area adjacent to the fencing.

Upland Preservation

38. The developer shall preserve all of the upland natural communities on the western side of I-95 shown on Map F, Vegetation Associations Map, in the Scripps Florida – Phase II/Briger Tract Development of Regional Impact Application for Development Approval. Prior to final approval of any site plan application for the project, the developer shall identify the location of all upland preserve areas on Map H, Master Development Plan. The intent of this condition is to provide protection of upland natural communities, to provide habitat for wildlife and listed species, and to assist in improving water quality by buffering wetlands and water bodies. The continued viability and maintenance of the preserve areas shall be assured through a Conservation Easement with the City of Palm Beach Gardens, South Florida Water Management District, or Northern Palm Beach County Improvement District. The easement shall be properly executed and recorded prior to issuance of building permits for any portion of the project.
Wetlands

39. The developer shall protect and enhance Wetland A in the parcel east of I-95, and all twelve wetlands on the parcel west of I-95 identified on Map F, Wetland Impact Map, in the Scripps Florida – Phase II/Briger Tract Development of Regional Impact Application for Development Approval. Prior to final approval of any site plan application for the Scripps Florida – Phase II/Briger Tract Development of Regional Impact, the developer shall identify the location of all wetlands to be protected on Map H, Master Development Plan. The preserved and enhanced wetlands shall be protected within a Conservation Easement established with City of Palm Beach Gardens, South Florida Water Management District, or Northern Palm Beach County Improvement District. The easement shall be properly executed and recorded prior to issuance of building permits for any future portion of the project.

40. The developer shall coordinate with the City of Palm Beach Gardens, South Florida Water Management District, and U.S. Army Corps of Engineers to determine the exact acreage and type wetland mitigation required to off set wetland impacts on the project site. All wetland mitigation shall be located on the project site. Wetland mitigation requirements shall be determined following the Unified Mitigation Assessment Method provided in Chapter 62-345, Florida Administrative Code. Methods for the creation and management of wetland mitigation areas on the project site shall be described in the Preserve Area Management Plan to be approved by the City of Palm Beach Gardens.

41. All wetland mitigation shall be completed prior to or simultaneous with the elimination of existing wetlands on the site. The detailed plans for mitigation shall be approved by the City of Palm Beach Gardens and South Florida Water Management District prior to the initiation of the mitigation plan and prior to the release of any site plan for all or a portion of the project. Reasonable assurance of financial ability to carry out the commitments in the approved mitigation plan shall be provided in a method agreed to and approved by the City of Palm Beach Gardens. Assurances and commitments shall be approved by the City of Palm Beach Gardens staff prior to release of any site plan for all or a portion of the project.

Listed Species

42. In order to protect the gopher tortoise population on the project site, the developer or an authorized entity shall develop a detailed management plan that provides for the protection and relocation of gopher tortoises into the preserve areas identified on the Scripps Florida – Phase II/Briger Tract Development of Regional Impact Map H, Master Development Plan. The developer or an authorized entity shall comply with the Florida Fish and Wildlife Conservation Commission gopher tortoise protection guidelines for this State listed threatened species. Details of the gopher tortoise protection measures shall be provided in the Preserve Area Management Plan.
43. In order to protect the hand fern population on the project site, the developer or an authorized entity shall develop a detailed management plan that provides for the protection of hand fern in the preserve areas identified on the Scripps Florida – Phase II/Briger Tract Development of Regional Impact Map H, Master Development Plan. The developer or an authorized entity shall comply with all recommendations by the City of Palm Beach Gardens in consultation with the Florida Department of Agriculture and Consumer Services regarding the maintenance and management of habitat for this State listed endangered species. Details of the hand fern protection measures shall be provided in the Preserve Area Management Plan.

44. In the event that it is determined that any additional representative of a state or federally listed plant or animal species is resident on, or otherwise significantly dependent upon the project site, the developer shall cease all activities which might negatively affect that individual population and immediately notify the City of Palm Beach Gardens. The developer shall provide proper protection to the satisfaction of the City of Palm Beach Gardens, U.S. Fish and Wildlife Service, and Florida Fish and Wildlife Conservation Commission.

Exotic Species

45. Prior to obtaining building permits for any future structure located on a particular development parcel, the developer of such parcel shall remove from that parcel all Australian-pine, Brazilian pepper, downy rose-myrtle, melaleuca, Old World climbing fern, and any other nuisance and invasive exotic vegetation listed under Category I of the Florida Exotic Pest Plant Council’s “2007 List of Invasive Plant Species.” Removal shall be in a manner that minimizes seed dispersal by any of these species. There shall be no planting of these species on site. Methods and a schedule for the removal of exotic and nuisance species should be approved by the City of Palm Beach Gardens. The entire site, including wetlands and conservation areas, shall be maintained free of these species in perpetuity, in accordance with all applicable permits.

Stormwater Management

46. The developer of each development parcel shall design and construct a stormwater management system within such development parcel to retain the maximum volumes of water consistent with South Florida Water Management District and Northern Palm Beach County Improvement District criteria for flood control. At a minimum, all discharged water from the surface water management system shall meet the water quality standards of Florida Administrative Code Rule 17-3.

47. The developer shall work with the City of Palm Beach Gardens to minimize the amount of impervious surface constructed for automobile parking on the project site. The developer and the City should consider the use of pervious parking lot materials where feasible.
48. The surface water management system shall utilize Best Management Practices to minimize the impact of chemical runoff associated with lawn and landscape maintenance. The developer shall coordinate with the South Florida Water Management District and Northern Palm Beach County Improvement District to formulate and implement Best Management Practices to reduce the use of pesticides and fertilizers throughout the project.

49. Maintenance and management efforts required to assure the continued viability of all components of the surface water management system shall be the financial and physical responsibility of the developer, a community development district, or other entity acceptable to the City of Palm Beach Gardens. Any entities subsequently replacing the developer shall be required to assume the responsibilities outlined above.

**Water Supply**

50. No building permits shall be issued until the developer demonstrates that the Seacoast Utility Authority, or other public utility provider, has an adequate permitted allocation of potable water and adequate potable water treatment and delivery facilities to meet the demands of the development for which the building permit is requested.

51. The preferred source of irrigation water shall be treated wastewater effluent at such time as this source is made available to the site. The project shall be equipped with an irrigation water distribution system to provide reclaimed water to serve all portions of the site requiring irrigation. No individual home wells shall be constructed on the project site. Prior to availability of a sufficient supply of reclaimed water, other water supply sources may be used for landscape irrigation subject to meeting South Florida Water Management District permitting criteria in effect at the time of permit application.

52. Prior to the commencement of Phase 2 of the development, the developer shall provide written confirmation from the Seacoast Utility Authority that: 1) adequate capacity of reclaimed water is available to serve the project site; and 2) adequate reclaimed water treatment and delivery facilities are available to meet the needs of the project site.

53. The project shall utilize ultra-low volume water use plumbing fixtures, self-closing and/or metered water faucets, drought tolerant landscape techniques, and other water conserving devices and/or methods. These devices and methods shall meet the criteria outlined in the water conservation plan of the public water supply permit issued to the Seacoast Utility Authority by the South Florida Water Management District.
Wastewater Management

54. No residential subdivision plat shall be recorded nor final site plan approved for any development parcel until the developer has provided written confirmation from the Seacoast Utility Authority that: 1) adequate capacity for wastewater treatment is available to serve such development parcel; and 2) the developer or others have provided the necessary wastewater system extensions to serve the development parcel.

Solid Waste and Hazardous Materials

55. Prior to obtaining a certificate of occupancy for any structure in Phase 1 of development, the developer shall prepare a Hazardous Waste Management Plan and have it approved by the City of Palm Beach Gardens. The plan should identify off-site disposal plans, on-site waste handling, generation and emergency procedures for each generator of hazardous waste. At a minimum, the plan shall:

a. require disclosure by all owners or tenants of the property of all hazardous materials or waste proposed to be stored, used, or generated on premises;

b. require the inspection of all premises storing, using, or generating hazardous materials or waste prior to commencement of operation, and periodically thereafter, to assure that proper facilities and procedures are in place to properly manage hazardous materials projected to occur;

c. provide minimum standards and procedures for storage, prevention of spills, containment of spills, and transfer and disposal of such materials or waste;

d. provide for proper maintenance, operation, and monitoring of hazardous materials and waste management systems including spill and hazardous materials and waste containment systems;

e. detail actions and procedures to be followed in case of spills or other accidents involving hazardous materials or waste;

f. guarantee financial and physical responsibility for spill clean-up; and

g. include a program for continued monitoring of surface and groundwater on the site.

Air Quality

56. No later than 90 days prior to the issuance of the first certificate of occupancy for each phase of development beyond Phase 1, the developer shall submit a Carbon Monoxide Air Quality Analysis based on the latest guidelines to the Florida Department of Environmental Protection for their review and approval. The analysis
shall demonstrate that the National Ambient Air Quality Standards for Carbon Monoxide will not be violated as a result of this project and if necessary, shall include mitigation measures for which the developer shall be responsible.

57. During land clearing and site preparation, soil treatment techniques appropriate for controlling unconfined particulate emissions shall be undertaken. If construction on a parcel will not begin within thirty days of clearing, the soil shall be stabilized until construction of the parcel begins. Cleared areas may be sodded, seeded, landscaped, mulched, or stabilized by other means as may be permitted by the City of Palm Beach Gardens. Minimal clearing for access roads, survey lines, fence installation, or construction trailers and equipment staging areas is allowed without the need for soil stabilization. The purpose of this condition is to minimize dust production and soil erosion during land clearing and to prevent soil particulates from becoming airborne between the time of clearing and construction. The development shall comply with all National Pollutant Discharge Elimination System requirements.

HUMAN RESOURCE ISSUES

Housing

58. The developer shall provide 142 workforce housing units on the Florida - Phase II / Briger Tract Development of Regional Impact affordable to very low income worker households at the following affordability threshold illustrated in the following table:

<table>
<thead>
<tr>
<th>Income Group</th>
<th>Demand</th>
<th>Maximum Income Limits</th>
<th>Affordability Thresholds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very-low</td>
<td>142</td>
<td>$33,000</td>
<td>$95,683 $728</td>
</tr>
<tr>
<td>Total</td>
<td>142</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1 HUD FY 2008 Median Household Income of $66,000 for Palm Beach County.
2 Affordability limits for home prices (for-sale housing) and maximum rental rates by income group.

The mitigation of the significant adequate housing impact can be addressed by the developer in one of the following ways:

a. The developer shall construct 142 workforce housing units on site within the affordability threshold for Very Low Income households; or

b. The developer shall make a one time in-lieu payment of $81,500 per unit. The payment shall be deposited in a Workforce Housing Trust Fund to be established by the City of Palm Beach Gardens to provide for workforce housing.

Any workforce housing units to be provided under this condition shall be integrated within the development and designed to be compatible with the overall project. All affordable units shall be constructed onsite, uniformly dispersed throughout the project, and designed to the same exterior standard as other units in the development.
The developer and/or property owner shall record in the public record a guarantee, for a minimum period of twenty-five years for ownership units and for rental units, which maintains the affordability of units that are required to be workforce housing.

In lieu of workforce housing units, the provision or allowance of accessory apartments, as defined in the Design Guidelines, on a minimum of 142 individual building lots, including single family lots and townhome lots, shall satisfy the requirement for the provision of workforce housing. Accessory units shall not be counted against the total number of units proposed for the Scripps Florida – Phase II/Briger Tract Development of Regional Impact.

Schools

59. No residential subdivision plat shall be recorded nor final residential site plan approved for any development parcel until the developer obtains a letter from the School District of Palm Beach County stating that they have met the concurrency requirements.

60. If the developer chooses to mitigate part or all of the project's educational impacts with charter school facilities, such facilities shall be chartered with the School District of Palm Beach County. All charter schools shall adhere to the following development, operational and design standards, which shall be included in the charter contract:

   a. All charter schools shall be reviewed and approved by the School District of Palm Beach County and all relevant state review authorities.

   b. No charter schools shall be populated and operate in a manner that will negatively affect the desegregation balance in Palm Beach County.

   c. All charter schools shall be built according to the State Requirements for Educational Facilities standards set forth in Florida Statutes.

   d. All charter schools shall follow the building policies and practices of the School District of Palm Beach County, including but not limited to architecture, building materials, and an Enhanced Hurricane Protection Area required for public schools or structural hardening.

   e. All charter schools shall be available and subject to inclusion in the inventory of emergency shelters for Palm Beach County.

   f. The core facilities for all charter schools, including but not limited to cafeteria, media center, administrative offices, and land area available for recreational uses, parking areas, and stormwater retention, shall be sized to accommodate the standard educational facility sizes as adopted by the School District of Palm Beach County.
g. All charter schools shall be located along publicly-owned roadways, with safe bicycle and pedestrian access for students, and accessible to any member of the general public.

Police and Fire Protection

61. No residential subdivision plat shall be recorded nor final site plan approved for any development parcel until the developer has received written confirmation from the City of Palm Beach Gardens Police Department indicating that adequate facilities and police protection are in place to serve the development parcel. The methodology used to determine the demand created as a result of the project and the standards used to determine adequate police protection shall be approved by the City of Palm Beach Gardens Police Department.

62. No residential subdivision plat shall be recorded nor final site plan approved for any development parcel until the developer has received written confirmation from both the City of Palm Beach Gardens Fire Rescue Department and Palm Beach County Fire Rescue that each agency has adequate facilities, equipment and personnel to serve the Scripps Florida – Phase II/Briger Tract Development of Regional Impact at the beginning of each phase of development. The methodology used to determine the demand created as a result of the project and the standards used to determine adequate fire and emergency medical services shall be approved by the City of Palm Beach Gardens Fire Rescue Department and Palm Beach County Fire Rescue.

Hurricane Preparedness

63. No residential subdivision plat shall be recorded nor final site plan approved for any development parcel until the developer has written confirmation from the Palm Beach County Division of Emergency Management that adequate emergency regular and special needs shelter capacities are available for that residential subdivision plat within the Scripps Florida – Phase II/Briger Tract Development of Regional Impact.

Parks and Recreation

64. No residential subdivision plat shall be recorded nor final site plan approved for any development parcel until the developer has provided a plan approved by the City of Palm Beach Gardens for the provision of neighborhood and community recreational sites and facilities to meet the demand created by residential development in the project. Neighborhood parks should serve as prominent visual and social focal points of each neighborhood, and provide for informal, non-programmed recreational activities. At a minimum, 15 percent of the project area, or 103 acres of recreation and open space area as required by the City of Palm Beach Gardens Land Development Code shall be established to serve area residents of the Scripps Florida – Phase II/Briger Tract Development of Regional Impact. Neighborhood and community recreational facilities shall be available to serve projected demand in
accordance with the plan approved by the City of Palm Beach Gardens Parks
Recreation and Parks Divisions.

Historic and Archaeological Sites

65. The developer shall protect and set aside from development the archaeological site,
8PB13953, in accordance with the recommendations from the Florida Department of
State, Division of Historical Resources. Site 8PB13953 is a prehistoric midden
located in a hammock in the southwest quadrant of the parcel and is identified as
"Archaeologically Significant Site" on Map H, Master Development Plan.

66. In the event of discovery of any archaeological artifacts during construction of the
project, construction shall stop in the area of discovery and immediate notification
shall be provided to the City of Palm Beach Gardens and the Division of Historical
Resources, Florida Department of State. Proper protection shall be provided to the
satisfaction of the City of Palm Beach Gardens and the Division of Historical
Resources.
APPENDIX G

Correspondence

This appendix contains correspondence related to the Scripps Florida – Phase II/Briger Tract DRI:

Florida Department of Transportation ............................................................... G-2
Palm Beach County Environmental Coalition.................................................. G-3
Mr. Michael J. Busha, AICP  
Executive Director  
Treasure Coast Regional Planning Council  
421 SW Camden Avenue  
Stuart, FL 34994

SUBJECT: Scripps Florida Phase II/Briger Tract Development of Regional Impact (DRI)  
Palm Beach Gardens, Palm Beach County  
Original Development Order (DO)

Dear Mr. Busha:

In response to the letter dated April 12, 2009 from Mr. D. Ray Eubanks of Florida Department of Community Affairs, the Department has reviewed the DO associated with the Scripps Florida Phase II/Briger Tract DRI.

The Department has participated in the review and drafting of the recommended DO in conjunction with TCRPC and other review agencies. The final DO was adopted by the City of Palm Beach Gardens on April 1, 2010 through Resolution 80, 2009. This adopted DO is consistent with what was reviewed and recommended; therefore, the Department has no objections.

Please feel free to contact us at (954) 777-4601 should you have any questions.

Sincerely,

Gustavo Schmidt, P.E.  
District Planning and Environmental Engineer

GS: cw/kai

cc: D. Ray Eubanks - Community Program Administrator, FDCA  
Kathleen Neill - Office of Policy Planning Director, FDOT  
Gerry O’Reilly - Director of Transportation Development, FDOT  
Nancy Ziegler – District Modal Development Administrator, FDOT  
Steve Braun - Transportation Planning and Environmental Manager, FDOT  
Shi-Chiang Li - Systems Planning Manager, FDOT  
Chon Wong - Senior Transportation Specialist, FDOT
Impacts to Listed Species and Threatened Habitat on Proposed Scripps Phase II Development / Briger Tract

Draft

Palm Beach County Environmental Coalition
pbceenvirocoalition@gmail.com

Everglades Earth First!
evergladesearthfirst@gmail.com

Prepared for Palm Beach Gardens Council Hearing on April 1st 2010
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Introduction

In analyzing the Environmental Services Inc (ESI) document *Scripps Florida - Phase II / Briger Tract DRI, Part III Environmental Resources Impacts* some basic flaws appear regarding the methodology of species to be focused on, and thus the transect layout plan. In addition, field work has revealed a much greater number of some Florida listed endangered species than the documents prepared by ESI would suggest. Lastly the impacts and possible impacts of the development upon state and federal listed species, do not appear to justify the finding that “the project will not have significant impact” which the applicant reached\(^1\).

Gaps in Methodology

In the applicant’s DRI environmental document they describe their methodology as follows.

> "After a review of the site habitat types, transects were designed to survey the property for the presence of state or federally listed species. A series of pedestrian transects was located throughout the property, concentrating on the habitat types with the greatest probability of being occupied by the species identified as potentially occurring on-site. Transect locations are shown on Map G, Wildlife and Plant Resources Map.

> The wildlife surveys were conducted in September and October 2008. The time period was chosen to coincide with cooler temperatures and fall avian migration to maximize potential wildlife observations. The surveys were conducted using pedestrian belt transects and pedestrian loop trail transects based on FWC methodology. The area evaluated far exceeds the FWC requirement of 1,500 linear feet per 100 acres. Each belt transects covered an area that was approximately 810 feet long and 65 feet wide. The transects were placed throughout upland habitat with a focus on areas where gopher tortoises or species associated with gopher tortoise burrows may be observed."

This process of attempting to select habitat for gopher tortoise has essentially ignored habitat for listed plant species, for example hand fern (see Table for ESI’s list of potential and observed species). Hand fern prefers margins of wetlands out to pine uplands, grows almost exclusively in the boot of cabbage palms, and commonly dies in attempts to relocate it.

We appreciate the focus on the gopher tortoise, but it is less at risk than hand fern according to the listed status in Florida. While it is common to relocate gopher tortoises, it is not quite as feasible for

\(^1\) *Scripps Florida - Phase II / Briger Tract DRI Part III – Environmental Resources Impacts December 2008 Question 12, Page 16*

\(^2\) *Scripps Florida - Phase II / Briger Tract DRI Part III – Environmental Resources Impacts December 2008 Question 12, Page 5*
plants such as hand fern. Nor can the relocation of species make up for the lost habitat this development would entail.

**Impacts of Development**

**Commensal Species**
The applicant’s consultants state the following.

"The project will not have significant impact on state or federally listed wildlife or plant resources. Gopher tortoises that fall within proposed development areas on the project site will be relocated to on-site or off-site appropriate recipient areas in accordance with FWC guidelines and permitting procedures. Because the population of gopher tortoises is small and fragmented due to lack of suitable habitat, it is not anticipated that commensal species such as the gopher frog, Florida mouse and eastern indigo snake are utilizing the site. However, if any of these species were observed during tortoise relocation activities, they would be captured and relocated with the gopher tortoises.

Listed plant species including hand fern and royal fern that fall within proposed development areas may possibly be relocated to unimpacted areas of the project site. The applicant will consult with local government and FWC to determine if a relocation effort for these species would be desired and necessary to support the existing populations of the species in the region."

We feel that assuming the lack of presence of eastern indigo snake, gopher frog, Florida mouse based on only 5 days of fieldwork is premature. Based on the status of all of the commensal species, there should be a more thorough review of the site by completing Environmental Impact Statement (EIS).

**Threatened Habitat**

Florida has more endangered and threatened species than any other continental state. The problem facing all of these listed species is habitat destruction. What this project will be doing, even with the relocation of every single listed species discovered on the project, is destroying habitat that is becoming increasingly rare and is capable of supporting these species. Relocation may help save a few individuals, but on a species level it equates to a loss of habitat.

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3 Scripps Florida - Phase II/Briger Tract DRI Part III – Environmental Resources Impacts December 2008 Question 12, Page 17

4 Scripps Florida - Phase II/Briger Tract DRI Part III – Environmental Resources Impacts December 2008 Question 12, Page 12
Habitat types contained on the proposed development site are listed in the very high risk category of FWC's Florida's Wildlife Legacy Initiative, because of limited habitat remaining. The report specifically places Scrub and Natural Pineland habitat at very high risk for, "Conversion to housing and urban development" and at very high threat rank overall.

No Dedicated DRI Review

"ESI coordinated with Florida Fish and Wildlife Conservation Commission (FWC) in regard to the wildlife and plant surveys required for the Application for Development Approval (ADA). Mary Anne Poole of FWC and Jennifer Goff of FWC were contacted, and both had input in the preparation of our wildlife survey methodology. However, because FWC is currently reorganizing and there is not a person dedicated to DRI reviews, we were guided to utilize the new draft Wildlife Conservation Planning Tool and to comply with the 1988 methodology protocol."

In the above paragraph they state that there is not a person dedicated to DRI reviews. This circumstance has not given this project the attention that it deserves during the DRI process. This is a large group of properties totaling 681 acres, a size that is increasingly rare in this region of Florida, giving this property great significance.

Palm Beach Gardens Comprehensive Plan

The City of Palm Beach Gardens makes its commitment to preservation of valuable habitat and listed species clear in the Conservation Element of the comprehensive plan. The city recognizes the threat to several habitat types found on the Briger Tract, and claims that it will maintain development regulations to protect them. The entirety of the section Objective 6.1.4 in the Palm Beach Gardens Comprehensive Plan, Conservation Element speaks very strongly, but some particularly relevant parts are found below.

"All endangered and threatened plant, animal and marine populations are protected"7

"Development orders and permits for development and redevelopment activities shall be issued only if the protection and conservation of wildlife, marine life and natural systems are ensured consistent with the goals, objectives, and policies of this Comprehensive Plan."8

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5 Florida's Wildlife Legacy Initiative, page 40

6 Scripps Florida - Phase II / Briger Tract DRI Part III – Environmental Resources Impacts December 2008 Question 12, Page 5

7 City of Palm Beach Gardens Comprehensive Plan, Conservation Element, Objective 6.1.4.1

8 City of Palm Beach Gardens Comprehensive Plan, Conservation Element, Objective 6.1.4.2
“The project design provides for the protection and preservation of valuable or unique existing natural resources, listed species and environmentally significant lands on site.”

Cumulative Impacts

The National Environmental Policy Act (NEPA) states:

“The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.”

Given the cumulative impacts to the environment found in the region, it would seem wise to consider that in a more detailed analysis of planned actions on the site. At the very least to begin to address the potential impacts of the applicant’s project, an EIS should be prepared for the project addressing concerns over endangered species and the cumulative impact of regional development.

Field Observations

In the applicant’s surveys, they found and mapped only 2 cabbage palms containing hand fern in all 30 belt transects and approximately 3.6 miles of loop trail transects (see Map 2 for ESI’s Part III Map G from the DRI application).

Our focus was to search in likely habitat for hand fern in particular, but to give the property another good look again in addition to the applicant’s consultants. We searched for hand fern in particular because the applicant’s methodology seemed solely focused on gopher tortoise, ignoring listed plant species on site. In the month of March 2010 citizen surveyors checked largely on wetland margins both on and off the loop trail transects where we found concentrations of cabbage palms, and enough moisture to support hand ferns. Due to time constraints we were unable to give the site as thorough and methodical survey as it deserves.

We documented each observed location with a GPS location, photograph and notes, Map 1 shows them visually laid out on the site. For observed listed species observations and notes, see Table 1. Relevant photographs are included in Appendix 1.

---

9 City of Palm Beach Gardens Comprehensive Plan, Conservation Element, Objective 6.1.4.5

10 NEPA 40 CFR Section 1508.7
Hand Fern
We found an additional 55 cabbage palms containing populations of hand fern, several of which were on the loop trail and belt transects that the applicant surveyed.

Royal Fern
We found several royal fern plants on the edges of several wetlands. This species is a candidate for the Florida endangered species list and was listed as found on the site, but no locations were shown by the applicant.

Gopher Tortoise
We found several gopher tortoise burrows scattered throughout the site which did not fall within their survey transects.

Giant Wild Pine
We found several giant wild pine plants growing in the pine flatwoods. Though this species of bromeliad is listed in the State of Florida as endangered it was not listed in the applicant's survey.

Other Species
We observed unidentified species of Pawpaw and ground lichens commonly associated with the threatened and increasingly rare scrub habit type.

We are certain that there are additional listed species on site that we did not have the resources to properly survey for and map. In addition our survey time was not the correct time to be looking for many of the listed flowering plants and it remains an open question if they are to be found given the shortcomings of the existing survey data.

Conclusions
In conclusion we have five main points to make regarding what we've read in the applicant’s environmental documents, the city’s comprehensive plan, and based on what we have seen on site.

The surveys conducted did not sufficiently attempt to look for listed species besides gopher tortoise. The methodology was explicitly laid out to find gopher tortoise, and not for the multitude of other likely listed species.

The applicant’s environmental review does not deal sufficiently with methods for relocating endangered plant species which are still experimental to relocate. In conversations with plant nurseries, they explained that relocating hand fern was still in experimental phases and could not be relied upon.
The applicant’s environmental surveys failed to map a realistic quantity of listed plants on site. Hand ferns in particular were found in several instances inside the boundaries of the applicant’s intensive survey transects, which they did not find.

The FWC does not have someone reviewing DRI applications. This results in incomplete oversight of impacts to listed species under FWC jurisdiction, failing the objectives of Palm Beach Gardens Comprehensive Plan’s Conservation Element.

The applicant’s environmental review simply assumes lack of presence for species commensal with gopher tortoise. Seeing as it’s often difficult to find these species, and the near impossibility of finding them during construction activities, it would be prudent to put more work in to search for these often listed species.

The applicant did not sufficiently back up their claim of no impacts. Considering the quantity of endangered species found on site by citizen surveyors, and the context of habitat destruction throughout the region, it seems extremely difficult to suggest that there would be no impact. The direct and cumulative impacts are worth further investigation. There should be a full EIS for the proposed project.
### Table 1: Listed species sighted on Briger Tract by citizen surveyors

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
<th>Status</th>
<th>Habitat</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limpkin</td>
<td>Aramus guarauna</td>
<td>SSC</td>
<td>Water edges</td>
<td></td>
</tr>
<tr>
<td>Little blue heron</td>
<td>Egretta caerulea</td>
<td>SSC</td>
<td>Water edges</td>
<td></td>
</tr>
<tr>
<td>Great egret</td>
<td>Ardea alba</td>
<td>SSC</td>
<td>Water edges</td>
<td></td>
</tr>
<tr>
<td>SE American kestrel</td>
<td>Falco sparverius paulus</td>
<td>FL T</td>
<td>Open areas</td>
<td>Possible*</td>
</tr>
<tr>
<td>Hand fern</td>
<td>Ophioglossum palmatum</td>
<td>FL E</td>
<td>Wetland margins</td>
<td></td>
</tr>
<tr>
<td>Royal fern</td>
<td>Osmunda regalis</td>
<td>FL CE</td>
<td>Wetland margins</td>
<td></td>
</tr>
</tbody>
</table>

* American Kestrel sighted in SE corner of study area, surveyors were unable to determine with certainty of Southeast versus Northern American kestrel before it flew.

### Status Key

- **US** – Federally Listed
- **FL** – State Listed
- **E** – Endangered
- **T** – Threatened
- **SSC** – Species of Special Concern
- **C** – Candidate Species
Table 2: Species Observed and Possible as listed by the applicant’s consultants

<table>
<thead>
<tr>
<th>Scientific Name and Common Name</th>
<th>Federal Status</th>
<th>State Status</th>
<th>Preferred Habitat</th>
<th>Probability of Occurrence on Project Site</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Calopogon multiflorus</em></td>
<td>E</td>
<td></td>
<td>Wet prairie/flatwood habitat</td>
<td>Possible</td>
</tr>
<tr>
<td>(Many-flowered grasspink)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Linum carteri var. smallii</em></td>
<td>E</td>
<td></td>
<td>Pine rocklands and flatwoods</td>
<td>Possible</td>
</tr>
<tr>
<td>(Carter’s large-flowered flax)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Nemastylis floridana</em></td>
<td>E</td>
<td></td>
<td>Freshwater and grassland habitat</td>
<td>Possible</td>
</tr>
<tr>
<td>(Celestial lily)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Ophioglossum palmatum</em></td>
<td>E</td>
<td></td>
<td>Hammock/cabbage palm habitat</td>
<td>Observed</td>
</tr>
<tr>
<td>(Hand fern)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Osmunda regalis</em></td>
<td>CE</td>
<td></td>
<td>Forested wetlands, hammocks</td>
<td>Observed</td>
</tr>
<tr>
<td>(Royal fern)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Panicum abscissum</em></td>
<td>E</td>
<td></td>
<td>Depression marshes</td>
<td>Possible</td>
</tr>
<tr>
<td>(Cutthroat grass)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Tillandsia valenzuelana</em></td>
<td>T</td>
<td></td>
<td>Upland scrub-pine and hardwoods</td>
<td>Observed</td>
</tr>
<tr>
<td><em>Tillandsia flexuosa</em></td>
<td>T</td>
<td></td>
<td>Pine and oak hammocks</td>
<td>Possible</td>
</tr>
<tr>
<td>(Banded wild pine)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Rana capito</em></td>
<td>SSC</td>
<td></td>
<td>Sandhill scrub</td>
<td>Possible (gopher tortoise burrows present)</td>
</tr>
<tr>
<td>(Gopher frog)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Alligator mississippiensis</em></td>
<td>T(S/A)</td>
<td>SSC</td>
<td>Marshes, swamps, lakes, rivers, ponds</td>
<td>Possible</td>
</tr>
<tr>
<td>(American alligator)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Drymarchon couperi</em></td>
<td>T</td>
<td>T</td>
<td>Tracts of sandhill and gopher tortoise burrows</td>
<td>Possible</td>
</tr>
<tr>
<td>(Eastern indigo snake)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Gopherus polyphemus</em></td>
<td>T</td>
<td></td>
<td>Sandhill, scrub, dry hammocks</td>
<td>Observed</td>
</tr>
<tr>
<td>(Gopher tortoise)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Pituophis melanoleucus</em></td>
<td>SSC</td>
<td></td>
<td>Sandhills, pasture, scrubby flatwoods</td>
<td>Possible</td>
</tr>
<tr>
<td><em>mugitus</em></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Florida pine snake)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Aramus guarauna</em></td>
<td>SSC</td>
<td></td>
<td>Marshes, swamps, rivers, pond Margins</td>
<td>Possible</td>
</tr>
<tr>
<td>(Limpkin)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

11 Summarized from TABLE 12-B, STATE AND FEDERALLY LISTED SPECIES POTENTIALLY OCCURRING IN PALM BEACH COUNTY, FLORIDA, Scripps Florida Phase II / Briger Tract DRI and TABLE 12-C, Wildlife Species Observed on-Site, Palm Beach County, Florida 2008, Scripps Florida Phase II / Briger Tract DRI
<table>
<thead>
<tr>
<th>Species</th>
<th>Category</th>
<th>Habitat</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Egretta caerulea</em> (Little blue heron)</td>
<td>SSC</td>
<td>Marshes, swamps, streams, ponds, lakes</td>
<td>Possible</td>
</tr>
<tr>
<td><em>Egretta thula</em> (Snowy egret)</td>
<td>SSC</td>
<td>Marshes, swamps, streams, ponds, lakes</td>
<td>Observed</td>
</tr>
<tr>
<td><em>Egretta tricolor</em> (Tricolored heron)</td>
<td>SSC</td>
<td>Marshes, swamps, streams, ponds, lakes</td>
<td>Possible</td>
</tr>
<tr>
<td><em>Eudocimus albus</em> (White ibis)</td>
<td>SSC</td>
<td>Marshes, swamps, ditches</td>
<td>Observed</td>
</tr>
<tr>
<td><em>Falco sparverius paulus</em> (Southeastern American kestrel)</td>
<td>T</td>
<td>Open forests, prairies, pastures</td>
<td>Possible</td>
</tr>
<tr>
<td><em>Grus canadensis pratensis</em> (Florida sandhill crane)</td>
<td>T</td>
<td>Marshes, open fields, and pastures</td>
<td>Possible</td>
</tr>
<tr>
<td><em>Mycteria americana</em> (Wood stork)</td>
<td>E</td>
<td>Cypress swamps, marshes</td>
<td>Possible</td>
</tr>
<tr>
<td><em>Sciurus niger shermani</em> (Sherman’s fox squirrel)</td>
<td>SSC</td>
<td>Pine forests or savannas</td>
<td>Possible</td>
</tr>
</tbody>
</table>

**Status Key**

E – Endangered (so few or depleted in number or so restricted in range that it is in imminent danger of extinction)

T – Threatened (facing a very high risk of extinction in the future)

T(S/A) – Threatened due to similarity of appearance

SSC – Species of Special Concern (facing a moderate risk of extinction in the future)

C – Candidate species

NSH – No Suitable Habitat
Appendix 1: Site Photographs
Photo 1: Pine Flatlands

Photo 2: Hand Fern
Photo 3: Royal Fern

Photo 4: Gopher Tortoise Burrow