

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: DEVELOPMENT/PLANNING/ZONING	CODE NUMBER: AC-13-19
TITLE: Technical Requirements for Plat Approval	ADOPTED: 11/22/05
	AMENDED: 8/11/09, 9/29/09, 10/17/17, 10/01/24
	ORIGINATING DEPARTMENT: DIVISION OF DEVELOPMENT SERVICES

This amended Administrative Code is effective upon adoption of the Board. All submittals, including resubmittals on active development orders and plat applications, made after the effective date of this amendment must comply with the provisions of this Code.

Plat applications:

All applications for creation of a plat or replat must be filed with the Department of Community Development. Applications, where no record activity has occurred within 90 days of the last submittal or request for additional information, will be deemed withdrawn. If the Development Order associated with submitted plat expires, is withdrawn or otherwise vacated, the plat application will be deemed withdrawn. A new Plat application will be required for any plat application that has been withdrawn or voluntarily terminated by the applicant.

A. Purpose/Scope:

The purpose of this Administrative Code is to set forth the standards and procedures applicable to submitting and obtaining approval for subdivision plats in Lee County. The regulations contained in this code are in addition to those set forth in Florida Statutes Chapter 177, Part I and Florida Administrative Code 5-J17. The code provides the submittal and approval requirements for both Preliminary Plats and Final Plats as those terms are defined in Florida Statutes Chapter 177.

Policy/Procedure:

B. Sheet Layout

1. *Size.* All plats must be drawn on 24" X 36" sheets for recording purposes. However, plats may be provided on 11" x 17" sheets for purposes of review.
2. *Margins.* All sheets must be drawn with at least a 3" left hand margin and ½" margin on the remaining three sides.

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3. *Font.* Lettering must be at least 0.10” in height, unless otherwise stated. The type must be clear and legible. Letters, numbers, and symbols must be properly spaced to avoid touching each other or “bleeding” together.
4. *Line size.* Bearings, distances, and lines depicting the plat boundary as legally described must be distinctly different than the balance of the line sizes used on the plat map (i.e. darker or heavier line size). Text related to surrounding property (i.e. references to “unplatted” or platted parcels) must be lighter/ghosted text.
5. *North Arrow.* The north arrow must be depicted on each page and consistently point to either the top of the page or to the left side of the page.
6. *Key Map.* Plats with more than one sheet of lot layouts must provide a key map depicting the boundary of the platted lands, major blocks of lots, tracts, roadways, street names, matchlines and sheet limits. The key map must fit on one sheet and be prepared at a scale appropriate to show adequate detail.
7. *Scale.* The scale used to draw the plat must be consistent, so that placing each page of the plat together using the matchlines will result in a complete map at the noted scale.
8. *Development Order.* The local development order number and plat number must be included in the lower left hand corner of each sheet within the area of the 3" margin nearest the margin boundary line.
9. *Page numbering.* A space must be provided in the upper right hand corner of each page for the public records instrument number. Each sheet must also be consecutively numbered (i.e., sheet 1 of 2, sheet 2 of 2).

C. Title Block

1. *Name.* The subdivision name must be submitted for review and approval by Development Services prior to preliminary plat review.
2. *Font size and type.*
 - a. Subdivision name: bold type, at least 0.5” high
 - b. Section, Township, Range: bold type, at least 0.3” high
 - c. County and State: at least 0.25” high
 - d. Replat recording references: at least 0.25” high
3. *Subdivision references.* Each time the subdivision name is referenced on the face of the plat, all of the information with respect to replatting and location (i.e., S, T, R) must follow the subdivision name.

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D. Legal Description

1. The boundary dimensions called in the legal description must agree with the bearings and distances depicted on the plat.
2. If the property was previously platted, the legal description must identify the previous plat information, unless the previous plat was vacated in its entirety.
3. The legal description attached to the title opinion or certification must be wholly consistent with the legal description appearing on the face of the plat.

E. Additional Mapping Requirements

1. *Location Map.* A location or vicinity sketch must be included on the first sheet of the plat to show the subdivision location relative to one or more arterial or collector roads. Section and township lines must also be shown.
2. *Dimension tables.* Any dimensioning placed in tabular form must be placed on the same sheet as the layout information for the lots, streets or other boundary lines being dimensioned.
3. *Bearings.* Bearing references must be actual references, not assumed.
4. *Distances.* Distances on a record plat may be expressed by either a note defining that all distances are in feet or using foot marks (') at the end of each distance.
5. *Plat boundary calls.* Where a plat dimension call will fit on the course to be dimensioned, the call must be placed on the course and not in a table. To the extent possible, all outbound dimension calls must be placed on the outbound side of the course.
6. *Bulkhead or Mean High Water Lines.* Bulkhead or mean high water lines must be shown on the plat.
7. *Access to the County right-of-way system.* All lots and parcels must abut and have access to a road that meets the minimum construction standards set forth in section 10-296, LDC. Plats creating lots that do not have access to the County road system via either an improved road meeting county standards or via a roadway that will be constructed prior to development of the lot and is the subject of a valid surety document, will not be approved.
8. *Lots.* Lots or tracts created via the plat must comply with the minimum property development regulations for the zoning district in which it is located or be approved by the Director pursuant to section 34-2221(1). Notwithstanding, residual parcels not meeting the minimum requirements under this subsection may be created for the limited purposes of construction of

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surface water management systems, right of way, drainage, utilities, and other uses as determined by the Development Review Director.

9. *Abutting lands.* Abutting subdivisions must be identified by name and Plat Book/Page or instrument number reference in ghosted or lighter solid, dashed or dotted lettering than that used to establish the platted boundary. Likewise, if the land is not platted, it must be identified by the reference “unplatted”.

F. Dedication

1. The dedication must identify the specific purpose of each tract or easement created by the plat and the person or entity with the right to use the tract or easement.
2. All elements of the infrastructure created by the plat (i.e. surface water management, lakes, landscaping, conservation easements, recreational areas, streets, common areas, PUEs, etc.) must be dedicated to an appropriate Maintenance Entity with the authority and responsibility to maintain the improvements. Dedications of infrastructure must include language stating that the entity receiving the dedicated infrastructure includes the responsibility for maintenance.
3. Reservation of rights to the property owner creating the plat is permitted, subject to compliance with 2, above.
4. The dedication must be executed with deed formality. For example, two witnesses to the owner’s signature and notarization of the owner’s signature.
5. Easements or rights dedicated to Lee County or the public are deemed accepted upon execution and recording of the plat. However, the County is not responsible for maintenance of the dedicated easements without separate formal action by the Board affirmatively accepting this obligation.

G. Infrastructure Maintenance/Property Owner Association Documents

1. *Infrastructure to be maintained.* The County requires that an entity responsible for maintaining the infrastructure improvements shown on the development order associated with the Plat must be designated in the plat dedication and legally existing prior to final plat approval. The improvements that must be maintained include, but are not limited to: drainage easements, roads, landscaping, utility easements, open space, lighting, common areas, recreational areas, golf course, conservation easements, preservation easements and lakes. No maintenance entity is required if there are no such infrastructure improvements shown or created under the associated development order. Exemption: if the infrastructure improvements are limited to only road(s) and the plat creates four (4) lots or less, the road(s) may be maintained through a covenant that runs with the land providing assurance to the owners of the contiguous property that the road(s) will be continually maintained. The owners of the contiguous property must be provided with

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a legal right to enforce the assurance that the road(s) be continually maintained. Legal documents providing for continual maintenance may only be accepted after review and approval by the County Attorney's Office for compliance with this exemption.

2. *Maintenance Entities.* The following entities are acceptable entities for infrastructure maintenance responsibilities supporting the subdivision:
 - a. *Property Owners Association* (master or neighborhood). A property owners association established in accordance with Florida Statutes.
 - b. *Community Development District.* An established CDD. The CDD must affirmatively accept the dedication and corresponding maintenance responsibility by joining in the execution of the plat or submitting an executed Resolution from the CDD Board of Directors stating acceptance of the designated dedications and corresponding maintenance responsibility. The CDD Resolution must be approved by the County and recorded in the public records.
 - c. *Property Owner.* The property owner is not an acceptable Maintenance Entity. However, the owner may reserve rights necessary to continue development of the project, as long as a maintenance entity is also established and is provided the necessary dedicated interest.
3. *Property Owner Association Documents.*
 - a. All subdivisions, where the associated development order provides for common infrastructure, must establish a property owners association in accordance with Florida Statutes. The property owner association documents must be reviewed and approved by the County in conjunction with the plat review and approval. These documents must include, at a minimum, provisions addressing the items outlined in the County checklist attached as Exhibit A. If the Property Owners Association Documents include provisions authorizing encroachments, the following statement must be set forth in the same section allowing the encroachment: “*Such encroachments will likely constitute a violation of County Regulations. Lee County does not expressly or by implication authorize encroachments. This section does not limit Lee County’s ability to pursue all available remedies to prevent, remove, or extinguish encroachments violating county regulations. Lee County will not permit or allow encroachments into any easement dedicated to, or owned by, the public.*”
 - b. A complete set of property owner association documents consists of: (a) the articles of incorporation; (b) the bylaws; (c) a Declaration; and, (d) the completed county checklist. The checklist must correspond to and accompany the documents submitted.

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- c. Prior to execution, or simultaneously with, recording of the Plat, the documents must be recorded in the public records. Proof as to recording must be provided prior to final execution of the plat by the County, unless being simultaneously recorded by Staff. Appropriate proof of recording includes a reference to the OR Book and Page or Instrument number of the recorded documents; or, including the fully executed documents for recording in conjunction with recording of the plat. If recorded prior to the plat, any plottable easements created in the property owner association documents will be required to be shown on the plat.

H. Title Certification and Boundary Survey

- 1. *Title Certification.* The Title Certification or Opinion of Title must conform to the Approved Form attached as Exhibit E and provide the following:

- a. The owner or owners of the fee title.
- b. All persons or entities holding a mortgage secured by the property.
- c. All easements affecting the property to be platted whether recorded or unrecorded. A general reference to easements, restrictions, etc. found within Agreements or POA/HOA documents is not acceptable. The type of easements located within all recorded Agreements or Documents must be specifically identified in the Title Certificate or Opinion of Title.
- d. If an easement affecting the property to be platted affects an entire parcel, tract, or portion of the plat and/or the easement cannot be plotted, the easement must be identified as unable to be plotted within the Title Certification, Opinion of Title, or Survey Notes; otherwise, the specific location of the easement must be identified on the plat.
- e. Legal description of the property covered by the title opinion. This description must match, exactly, the legal description on the face of the plat.
- f. *Age of Title Certification or Opinion of Title.* The Title Certification or Opinion of Title must be less than 90 days old at the time it is submitted to the County in support of the plat review.

Prior to final plat approval an updated title certification that is less than 90 days old or a Gap Affidavit executed by the Property Owner demonstrating no title changes or conveyances of interest in the property have occurred between the date of the last title certification and date of execution of the plat must be provided.

- 2. *Boundary Survey.* A boundary survey of the property proposed for platting must be submitted as part of the initial plat submittal package. The survey must be prepared based upon the title

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certification document submitted to the County in accordance with this Code. All easements encumbering the property must be specifically shown and identified. The survey may not include notes or broad exceptions such as, "subject to rights, restrictions, reservations, and/or easements of record." If an easement is located across an entire tract, parcel, or portion of the plat and cannot be plotted, the easement must be identified within the Survey Notes as unable to be plotted; otherwise, the specific location of the easement must be identified on the survey.

If the property subject to platting was previously platted (i.e. a replat) and all of the boundaries of the subject property are dimensioned in the original plat, then a boundary survey is not required. The legal description will be the reference to the original plat. However, if the dimensions of the subject property differ from those in the original plat, then a boundary survey, including a metes and bounds legal description will be required.

I. Easements

1. Existing Easements.

- a. Existing recorded easements must be depicted on the plat with a reference to the OR Book and Page or instrument number, as well as a brief description of the easement (i.e. access, ingress/egress, FPL, PUE etc.). Existing platted easements that were created by the original plat must be shown unless being removed by the replat. If an easement is located across an entire tract or parcel and cannot be plotted, the easement must be identified as unable to be plotted in the survey notes and on the title certificate or title opinion; otherwise, the specific location of the easement must be identified on the plat.
- b. Lots or tracts created over, or co-located with, existing recorded easements are subordinate to the recorded easement. The use of the lot or tract may not overburden or diminish the rights under the existing recorded easement.

2. Utility Easements.

- a. Utility review letters. The applicant is solely responsible for submitting the proposed plat to the appropriate utility entities and obtaining written review and recommendation from each entity relative to the proposed location of utility easements located on the plat. A copy of the utility entity response, including plat corrections and letters of review and recommendation, must be provided by the Applicant.
- b. Unless an approved waiver, variance, or deviation is provided, Ten-foot wide utility easements must be provided adjacent to the right-of-way on both sides of new roads.

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- c. Utility easements must be located in accordance with the utility company requirements as stated in the utility entity review letter.
- d. The reservation of any interest, or co-location of other easements within the area dedicated as a public utility easement, must be specifically subordinated to the public utility easement use. This can be accomplished by including appropriate language in the dedication.

3. *Easement/Tract Table.*

All previously existing easements (recorded or unrecorded) and newly created easements and tracts depicted on the plat must be identified in a separate Easement/Tract Table (8½ by 11 inch sheet). The Table must identify the easement or tract with a reference to the OR Book and Page or instrument number, if previously recorded, as well as a brief description of the easement or tract (i.e. access, ingress/egress, FPL, PUE, Future Development, Lake, R.O.W., etc.). The Table must also identify the location of the easement or tract on the Plat (for example: Page 3, lower left corner of Tract A, Page 2 adjacent to Smith Lane, or Page 12, upper right hand corner of plat, etc.).

J. Notices and Signature Blocks

1. *Notices.* The following notices must appear on the first page of the plat, as follows.

- a. In bold, 20-point type or larger (.277 inches):

NOTICE

Lands described in this plat may be subdivided by the developer without the roads, drainage, water and sewer facilities being accepted for maintenance by Lee County. Any purchaser of a lot in this subdivision is advised to determine whether the lot may be subject to assessment or called upon to bear a portion or all of the expense of construction, maintenance, or improvement of roads, drainage, water and sewer facilities.

- b. In bold type:

NOTICE: This plat, as recorded in its graphic form, is the official depiction of the subdivided lands described herein and will in no circumstances be supplanted in authority by any other graphic or digital form of the plat. There may be additional restrictions that are not recorded on this plat that may be found in the public records of this County.

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- c. For property located within Airport Noise Zones B, C and D, the Plat or Replat must include the following Notice:

THE SOUTHWEST FLORIDA INTERNATIONAL AIRPORT IS IN PROXIMITY TO THIS (INSERT NAME OF PLAT/CONDOMINIUM/DEVELOPMENT, AS APPROPRIATE). THERE IS POTENTIAL FOR NOISES CREATED BY AND INCIDENTAL TO THE OPERATION OF THE AIRPORT AS OUTLINED IN LEE COUNTY LAND DEVELOPMENT CODE SECTION 34-1004.

2. *Signature blocks related to Certification and Approval.* The following certifications and signature blocks must appear on the face of the plat, preferably the first page, as follows.

- a. *Review by County Professional Surveyor and Mapper.*

Review by the designated County PSM determined that this plat conforms to the requirement of F.S. Ch. 177, Part I.

Gary W. Rashford PSM
Lee County Designated PSM

Names listed within this Code may be changed without further amendments to this Code.

- b. *Preparing Surveyor's certification.*

I hereby certify that the attached plat of (a replat of...as recorded at Plat Book...) was prepared under my direction and supervision and complies with all of the survey requirements of Chapter 177, Florida Statutes. I further certify that the permanent reference monuments (PRMs) have been placed at the locations shown on the plat.

SEAL _____
Name of Preparing Surveyor, PSM (Registration number)
Name of Business Entity (Business Entity Certificate Number)
Surveyor's business address

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c. *Clerk of Court Certification.*

I hereby certify that the attached plat of (a replat of ... as recorded at Plat Book...), a subdivision located in Section __, Township__ South, Range__ East, Lee County, Florida, was filed for record at _____.m., this ____ day of _____, 20____ and duly recorded as Instrument # _____ in the Public Records of Lee County, Florida.

Kevin C. Karnes
Lee County Clerk of Court

d. *County Approvals*

This plat is accepted and approved by the Board of County Commissioners, Lee County, Florida this ____ day of _____, 20__.

Name: _____
Chairman

Name: _____
Lee County Clerk of Court

Mikki Rozdolski, Director
Department of Community
Development

Ohdet Kleinmann, P.E., Director
Division of Development Services

[Leave Blank]
Assistant County Attorney

e. *Mortgage Consent and Joinder.* The mortgage consent and joinder may either appear on the face of the plat or be executed as a separate document that is recorded in conjunction with the plat. A statement similar to the following may be used if the Mortgagee will be signing the face of the plat. The consent and joinder must be executed with the same formality as a deed.

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_____ Bank hereby joins in and consents to the dedication appearing on the face of the Plat.

Name: _____

Title: _____

President, Vice-President or CEO

(Bank SEAL) or with two subscribing witnesses

State of _____

County of _____

The foregoing consent and joinder was acknowledged before me this ____ day of _____, 20____ by _____, as _____ of _____ Bank. He/She is personally known to me or has produced the following identification: _____

Notary Public

- f. *CDD Acceptance and Acknowledgment.* If portions of the infrastructure are dedicated to a Community Development District (CDD), then the CDD must accept the dedication and affirmatively acknowledge the obligation to maintain the infrastructure that is the subject of the dedication. This may be accomplished either by signing the face of the plat or by separate resolution of the CDD (approved by County Attorney's Office and recorded in conjunction with plat.)

_____ CDD hereby accepts the dedication and acknowledges responsibility for maintenance of the infrastructure associated with the dedication.

Community Development District

By: _____

Name: _____

Secretary

Name: _____

CHAIR

Board of Supervisors

(SEAL)

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K. Monumentation

1. *Permanent Reference Monuments (PRM).*

- a. *Definition.* These monuments must meet the definition set forth in FS §177.031(15)
- b. *Placement.* PRMs must be set in accordance with FS §177.091(7).
- c. *Timing.* All PRMs must be set prior to recording of the plat.
- d. *Proof.* The surveyors' certification substantiates compliance with this requirement.

2. *Permanent Control Points (PCP).*

- a. *Definition.* These monuments must meet the definition set forth in FS §177.031(13).
- b. *Placement.* PCPs must be set in accordance with the provisions in FS §177.091(8). PCPs must be easily detectable at the time the final Certificate of Compliance is requested using conventional instruments for locating survey monuments.
- c. *Timing.* PCPs must be set prior to the expiration of the on-site infrastructure surety or approval of the final release of this surety document. No partial releases will be approved for setting PCPs.
- d. *Proof.* The surveyor responsible for setting the PCPs must submit an affidavit indicating that the PCPs are set as identified on the recorded plat. This affidavit is required in order to obtain a final Certificate of Compliance from Lee County for the development order supporting the subject plat approval. Multiple affidavits may be submitted if more than one surveyor is involved. However, the County will not process partial releases of the infrastructure bond based solely upon completion of portions of the monumentation.

3. *Lot Corners.*

- a. *Definition.* These monuments must meet the definition set forth in FS §177.031(22).
- b. *Placement.* Lot corners must be set in accordance with the provisions of FS §177.091(9).
- c. *Timing.* Lot corners must be set prior to the expiration of the on-site infrastructure surety or approval of the final release of this surety document. No partial releases will be approved for setting monuments.

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- d. *Proof.* The surveyor responsible for setting the lot corners must submit an affidavit indicating that the lot corners are set as identified on the recorded plat together with signed and sealed copies of field notes indicating the field locations of the lot corners. This affidavit is required in order to obtain a final Certificate of Compliance from Lee County for the development order supporting the plat approval. Multiple affidavits may be submitted if more than one surveyor is involved. However, partial releases of the infrastructure bond based solely upon completion of portions of the monumentation will not be processed.

L. Infrastructure Surety

1. *Infrastructure to be assured.* The infrastructure necessary to support approval of the plat must be in place or covered by an approved surety instrument prior to final plat approval. For purposes of this Administrative Code, infrastructure includes, but it is not limited to the following: roads, surface water management system, landscaping, utilities, conservation areas and plat monumentation.
2. *Minimum elements/criteria of all infrastructure surety documents.*
- a. Lee County, a political subdivision of the State of Florida, must be a named beneficiary.
 - b. The surety document must provide 110% of the full cost of installing the infrastructure improvements approved by the County.
 - c. If the proposed improvements will not be constructed within one year of the issuance of the final development order, the amount of the surety must be automatically increased by 10% compounded for each year of the life of the surety. In the alternative, the surety may be renewed annually at 110% of the cost of completing the remaining required improvements. (The latter alternative will require submittal and approval of a new instrument annually.)
 - d. The instrument must be printed on the official bond letterhead of the insuring entity or the parent company (i.e. insurance holding company). Acceptable letterhead will include the name, address and phone number of the insuring entity. Additionally, if the insuring entity is a subsidiary of a parent corporation or holding entity, then the holding entity must also be identified in the letterhead. In the alternative, the official holding company letterhead may be used with identification of the insuring entity (name, address and phone number) in the body of the bond.
 - e. The instrument must provide that Florida Law will control action under the instrument.
 - f. The instrument must state the name and physical address of the place where demand can be made and provide a valid contact phone number to the institution/department where information can be exchanged regarding action under the instrument.

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- g. An approved certified engineer's cost estimate must be an attachment to the instrument.
 - h. The instrument must state the name of the project, development order number, name of the applicant under the development order, name of the project's developer, if different from the development order applicant, and the estimated date of project completion.
 - i. The venue for any action under the surety instrument will be Lee County, Florida.
3. *Types of Surety Documents.* Lee County has created sample form surety instruments that will be found acceptable to the County if properly executed. The forms are attached hereto as Exhibits "B", "C", and "D".
- a. *Performance Assurance Bond.* The performance assurance bond is the County's preferred surety instrument. A sample bond form is attached as Exhibit B. Use of an alternative bond form may prevent or delay approval. The bond must meet the following additional criteria:
 - (1) The Bond company must hold an A.M. Best rating of A- or better as to the general policy holders rating, and Class VII or better as to the financial category. The A.M. Best rating will be determined based upon the information provided at the following website "www.ambest.com".
 - (2) The bond company must be a Florida licensed insurance company. Compliance with the license requirement will be determined based upon review of the information set forth at Florida Office of Insurance Regulation's website.
 - (3) The bond must be printed on official letterhead
 - b. *Letters of Credit.* A sample Letter of Credit is attached as Exhibit C. Use of an alternative form may prevent or delay approval. The letter must meet the following additional criteria.
 - (1) The terms of the letter must establish a single location within Florida where presentation of demand can be made and payment will be rendered. If the location is outside of Lee County, the letter must provide that presentation of demand can be made by mail.
 - (2) The letter must state the name and physical address of the place where demand can be made and provide a valid contact phone number to the institution/department where information can be exchanged regarding action under the letter.

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- (3) The letter must be established as a sight demand letter, or be payable “at sight.”
 - (4) The letter must specifically provide that payment will be made to Lee County within three business days after the letter is presented to the identified entity. Payment must be made at the local office of the institution where the demand is made; or through overnight mail if the bank or institution is located outside Lee County.
 - (5) The letter must state that it is subject to the 2007 Revision of Uniform Customs and Practice for Documentary Credits, UCP 600, and (ICC Publication No. 600).
 - (6) The issuing bank or a confirming or advising bank (if applicable) must have a rating of A or higher from Moody’s Investors Service, Fitch Ratings, or Standard & Poor’s. If the issuing bank does not maintain such a rating and a confirming or advising bank with an A rating is not used, the letter will not be accepted or renewed. The Applicant must provide satisfactory evidence that the issuing bank or confirming bank meets these criteria.
- c. *Escrow Agreement.* An escrow agreement may be established to cover the infrastructure costs. The entity acting as escrow agent must be an institution recognized by the State of Florida, in good standing and specifically approved by Lee County in advance of establishing the account. Nothing within this Code may be held to require the County to approve an escrow agreement with an entity that does not provide adequate assurances of the entity’s ability to perform under the terms of the Agreement. The form escrow agreement must be used to establish the escrow account. If a bank account is to be used to hold the funds, then the physical address of the institution, along with a phone number and contact person must be included; the bank account number must be specifically stated in the escrow agreement and the funds must be dedicated to the escrow account in a manner that will prevent removal or reduction of the escrow amount without prior county approval. A sample escrow agreement is attached as Exhibit D. Use of an alternative form may prevent or delay approval.
- d. *Cash escrow with the County.* The applicant may choose to establish a cash escrow account with the County to cover the cost of the outstanding infrastructure improvements required to support final plat approval. The applicant may request a refund of the escrow funds once the improvements are constructed and a certificate of compliance has been issued for the improvements.
- e. Departures from the criteria set out in Section L may be approved by the County Attorney’s Office subject to the providing of adequate assurances that the surety document sufficiently covers the infrastructure improvements.

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4. *Certificate of Compliance.* The infrastructure surety requirement may be satisfied by presentation of a Certificate of Compliance for the infrastructure necessary to support final plat approval. This Certificate of Compliance must cover all of the improvements identified as required by the approved development order supporting the plat approval.
5. *Releases.* Surety releases will be allowed for improvements as they are constructed based upon approval of a revised engineer's certified cost estimate. However, partial releases will not be reviewed or approved if based solely on completed monumentation. A final Certificate of Compliance is required in order to obtain a full release of the surety instrument approved to cover the infrastructure improvements.
6. All sureties must be accompanied by an affidavit, power of attorney or similar document that provides sufficient evidence to demonstrate the individual signing the surety has sufficient authority to execute the surety.

M. Preliminary Plat Review

1. The following items must be submitted, in a single submittal, in order to be accepted by the County for preliminary plat review.
 - a. One full size (24"x36") digital copy of the proposed plat.
 - b. Title certification meeting the requirements of Section H.
 - c. A list of lot and tract sizes in square feet, if not shown on the plat.
 - d. Easement/tract location table meeting the requirements of Section I.
 - e. One full size copy of the boundary survey meeting the requirements of Section H.
 - f. One copy of the complete set of Property Owner association documents meeting the requirements of Section G.3. Previously approved and recorded documents covering the proposed platted area together with the approval letter issued by the County for these documents may be submitted in lieu of draft documents. An approval letter issued by the County, without the underlying documents, will not be sufficient.
 - g. Road name approval letters.
 - h. Letters of review from all applicable utility service providers.
 - i. Draft or executed consent and joinder documents, unless consent is on the face of the plat.

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BOARD OF COUNTY COMMISSIONERS**

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- j. Proof as to payment of all taxes due and owing.
 - k. A map identifying all STRAP numbers included within the proposed boundary.
 - l. Review fees in accordance with External Fees and Charges Manual.
2. The following documents must be provided and found sufficient prior to preliminary plat approval.
- a. A copy of the approved Development Order associated with the plat along with any stipulations and a valid Certificate of Concurrence.
 - b. Approved infrastructure surety document(s). In the alternative, a copy of the Certificate of Compliance for the infrastructure improvements necessary to support preliminary plat approval together with surveyors affidavit(s) indicating all PCP's and Lot Corners have been set.
3. After completion of County review, County Staff will issue a Preliminary Plat Review Memo identifying any submittal items that are not in compliance with this Code and Chapter 177, Florida Statutes. Upon Applicant's addressing and resolving of all insufficiency comments in the Preliminary Plat Review Memo, County Staff will issue a Preliminary Plat Approval Memo. Upon issuance of the Preliminary Plat Approval Memo, building permits for buildings on the property within the plat boundaries may be issued, subject to compliance with the Florida Building Code and County regulations governing building permits.
- N. Final Plat Review**
- 1. Final plat approval is issued by the County after all items submitted to obtain plat review are found to be in compliance with County regulations and the Florida Statutes.
 - 2. The following documents must be provided and found sufficient prior to final plat approval
 - a. An updated Title Certification or Gap Affidavit meeting the requirements of Section H. The updated Title Certification or Gap Affidavit cannot be older than 21 days from the date of submittal for final plat review.
 - b. Prior to Final Plat Approval, execution and recording, the applicant is responsible for submission of at least one set of appropriately executed mylars, Property Owner Association documents (if applicable), CDD Resolutions (if applicable), Mortgagee Consents (if applicable), and the required recording fees. Checks used for payment of the costs associated with recording the plat and corresponding documents must be made payable to Lee County Clerk of Courts (not the Board of County Commissioners). If final plat is not recorded within 30 days from final plat approval, the County may request an updated Title Certification at the time of submittal of the mylars.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

**CATEGORY:
DEVELOPMENT/PLANNING/ZONING**

CODE NUMBER: AC-13-19

c. All signatures must be signed with black permanent waterproof ink. Impression seals must be raised and clearly readable. Ink print seals must be permanent black waterproof ink and clearly readable. All seals for surveyors, notaries, banks, corporations, etc., must be placed within the sheet margins established for the plat. Seals must appear on the same page as the signature to which it relates.

3. Final Plat Approval is issued by the County after all required submittal items have been found sufficient. Upon such approval, County Staff will issue a Final Plat Approval Memo, process County signatures, and provide the Plat to the Lee County Clerk of Courts for recording. Once the Plat is recorded in the Public Records, building permits for buildings on the property within the plat boundaries may be issued Certificates of Occupancy or Compliance, subject to compliance with the Florida Building Code and County regulations governing building permits.

Exhibits:

- A. County Checklist for Property Owners Association Documents
- B. Performance Assurance Bond Form
- C. Letter of Credit Form
- D. Escrow Agreement Form
- E. Title Certification

**EXHIBIT A
Required
COUNTY CHECKLIST
for review of**

Infrastructure Maintenance / Property Owner Association Documents

Plat Name:

Plat No. PLT_____

Development Order No.: DOS_____

Checklist Prepared by:

Business Phone No.: _____ Date Prepared: _____

DIRECTIONS:

From the County perspective, the purpose of the Property Owners Association Documents is to provide for the maintenance of all infrastructure necessary to the proper functioning of the development approved for construction under County regulations. For purposes of this review, infrastructure includes, but is not limited to, drainage easements, roads, landscaping, utility easements, open space, development signs, conservation areas/easements, preservation areas/easements, common areas, lighting, recreational areas, golf course areas, lakes, and the surface water management system.

A final plat will not be approved by the County unless the developer establishes that all elements of the infrastructure will be maintained in accordance with applicable regulations, permits and approvals. Maintenance can be accomplished through the coordinated efforts of more than one entity. However, the entity responsible must be specifically identified and have the required power and authority to carry out the maintenance over the life of the development. In general, the entity that will be responsible for the maintenance of the infrastructure will be a Property Owners Association, duly incorporated under Florida Law, or, a Community Development District created in accordance with Florida Statutes Chapter 190. Please note, the developer and individual property owners are NOT proper entities for purposes of providing infrastructure maintenance.

If ownership or maintenance responsibilities are shared between entities (e.g., a master association and a neighborhood or community association, or CDD) the entity primarily responsible for the maintenance must be identified in the checklist. If more than one entity receives a dedicated interest in the same property (e.g., a drainage easement), then the respective maintenance responsibility must be clearly delineated in the documents providing the power and authority to maintain the subject infrastructure component.

This checklist is designed to expedite approval of your client's plat by precisely locating the pertinent provisions in the respective documents. A properly completed checklist must accompany the documents submitted for review and approval. A complete set of property owners' documents includes: The Declaration, the Articles of Incorporation, and the Bylaws. Review will be delayed if a full set is not provided for review.

Please Note:

Developments within CDD's are encouraged to contact the County Attorney's Office for further direction prior to submission of this checklist as, generally, a legally sufficient resolution from the CDD's Board of Supervisors will be required.

Full Name of Responsible Entity

Association Name (required):

Master Association Name (if applicable):

CDD Name (if applicable):

Please identify the document and location of the provision that specifically addresses each item outlined below.

Note: A full set of property owners documents must accompany the checklist. These include: Declaration, Articles of Incorporation and Bylaws.

	Document	Page	Article/Section
1. Establishes that the entity will exist in perpetuity.			
2. Indicates that membership in the entity is comprised of <u>all</u> homeowners, lot owners, property owners and unit owners.			
3. For plats encompassing a golf course or golf course tracts, the provision establishing the owner/operator of a golf course as a member of the entity. If elements of the infrastructure, for example surface water management or roads are included in the golf course, then the golf course property must be either included as part of the property subject to the Declaration establishing maintenance responsibility or of the association documents applicable to the golf course property maintenance must be reviewed and approved prior to final plat approval.			
4. Provides that in the event the entity is dissolved, the dedicated property and corresponding infrastructure will be conveyed or dedicated to a similar non-profit organization or entity to assure continued maintenance and operation.			
5. Establishes that the entity receiving the dedicated interest in the tract or easement has the power, authority and responsibility for maintenance and operation of:			
a. The surface/storm water management system, including dedicated lake tracts, lake maintenance or drainage easements, and corresponding infrastructure.			
b. Rights-of-way, roads, street or access easements.			
c. Utility easements/tracts or facilities.			
d. Conservation or preservation easements/areas.			
e. Common landscape areas.			

	Document	Page	Article/Section
f. Recreational areas.			
g. Common areas.			
6. Requires any amendment to the Declaration that will affect the water management portions of common areas must receive prior approval from South Florida Water Management District.			
7. Provides a method of assessing and collecting assessments for maintenance and operation of dedicated property and corresponding infrastructure.			

EXHIBIT B

THIS IS A SAMPLE FORM.
IT MUST BE RETYPED AND PRINTED ON ISSUING SURETY'S OFFICIAL BOND STATIONERY IN ORDER TO BE ACCEPTED BY LEE COUNTY. THE BOND MUST BE EXECUTED BY THE DEVELOPER WITH THE APPROPRIATE SURETY ENDORSEMENT. AN AFFIDAVIT OF AUTHORITY OR ORIGINAL POWER OF ATTORNEY AND APPROVED PROJECT ENGINEER'S CERTIFIED COST ESTIMATE MUST ALSO BE ATTACHED TO THE BOND.

PERFORMANCE ASSURANCE BOND

NO: _____

Beneficiary: Lee County, a Political Subdivision of the State of Florida

D.O. **[DOS20XX-XXXXX]**

Project Name:

Developer/Applicant:

U.S. Funds **[\$[XX,XXX.XX]**

KNOW ALL MEN BY THESE PRESENTS that we, [Name and Address of Developer/Applicant], ("Developer") and [Name of surety company] a corporation certified to do business in the State of Florida as a surety insurer and duly organized under the laws of the State of [State name], with its home office located at [mailing address of home office] ("Surety") are held and firmly bound unto Lee County, a political subdivision of the State of Florida in the amount of \$ _____ USD.

NOW, THEREFORE, the Developer has agreed to complete certain improvements identified in the Project Engineer's Certified Cost Estimate attached as Exhibit A, and required as a condition of approval for the local development order identified above. If the Developer promptly completes the improvements required by the Development Order on or before the Estimated Date of Completion set forth in attached Exhibit A, then this obligation will be null and void; otherwise, it will remain in full force and effect, subject only to the following conditions:

1. If the improvements are not completed by the Estimated Date of Completion set forth in Exhibit A, demand for payment under the Bond may occur at the discretion of the County.
2. If the improvements are not completed by the Estimated Date of Completion and the County does not make a demand for payment under the Bond, the amount of the Bond will automatically increase by 10 percent compounded annually, for each year the Bond remains in effect.
3. Partial releases of the aggregate face value of this Bond will only be permitted when accompanied by written approval from the County verifying completion of a portion of the improvements. The effect of partial releases will be to reduce the face value of this Bond. No other terms will be affected or altered.

4. If the Developer fails to complete the required improvements in accordance with the Development Order, applicable regulations and this agreement, the Surety must, upon written demand by the County, promptly pay over to the County the unreleased portion of the Bond so that the County, or its agent, can complete the unfinished improvements in accordance with the terms and conditions of the Development Order.
5. The County may make a demand for payment by the Surety at the following Florida address: [Name entity, physical address in Florida and valid contact telephone number] .
6. Action in response to Lee County's request for payment must be completed within ten business days after the demand for payment is made at the location identified above.
7. No right of action will accrue on this Bond to or for the use of any person or entity other than Lee County.
8. The Surety waives prior notice of any alteration or extension of time for completion of the improvements that may be permitted or made by Lee County.
9. The venue for any action under this Bond is Lee County, Florida. Florida law will control any action taken under the terms of this Bond.
10. **OPTIONAL PROVISIONS FOR WORK WITHIN A COUNTY-MAINTAINED RIGHT OF WAY:** The bond amount in the Engineer's Opinion of Probable Cost allocated for specific site-related improvements located within the limits of County-maintained right of way which are subject to a Lee County Department of Transportation Right-of-Way permit will remain in full force and effect for a period not to exceed 12 months subsequent to the date upon which a Certificate of Compliance for those improvements is issued by the Lee County Division of Development Services.

The County will retain that portion of the bond to ensure the specified improvements located within the limits of County-maintained right-of-way remain free from deficiencies and is warranted for the specified period against such defects resulting from substandard workmanship; construction practices or materials.

At the conclusion of the 12 month period, if no deficiencies exist, the bond will be released in full upon receipt of written notice from the Lee County Department of Transportation that the constructed improvements remain free of construction defects, with the exception of normal wear and tear not associated with this project.

EXHIBIT C

THIS PAGE COMPLETED BY LEE COUNTY OFFICIALS

COUNTY MANAGER ON BEHALF OF THE
BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
County Manager

The foregoing Agreement is approved and accepted by, for and on behalf of Lee County, Florida, this
_____ day of _____, 20__.

ATTEST:
KEVIN C. KARNES, COURT CLERK

By: _____
Deputy Clerk Signature

AFFIX
CLERK'S SEAL
HERE

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

By: _____
County Attorney's Office

THIS IS A SAMPLE FORM.

IT MUST BE RETYPED AND PRINTED ON ISSUING BANK'S OFFICIAL BOND STATIONERY IN ORDER TO BE ACCEPTED BY LEE COUNTY. THE LETTER OF CREDIT MUST BE EXECUTED BY THE BANK PRESIDENT, VICE PRESIDENT OR THE BANK'S CEO AND EITHER SEALED WITH THE BANK'S CORPORATE SEAL OR SIGNED WITH TWO SUBSCRIBING WITNESSES. EVIDENCE OF AUTHORITY AND APPROVED ENGINEER'S CERTIFIED COST ESTIMATE MUST ALSO BE ATTACHED TO THE LETTER OF CREDIT.

**IRREVOCABLE
STANDBY LETTER OF CREDIT
NO: _____**

Beneficiary: Lee County, a Political Subdivision of the State of Florida

D.O. #[XX-XX-XXX.XXX] Expiration Date: [MM DD YY]

Project Name:

Developer/Applicant: U.S. Funds \$[XX,XXX/XX]

1. We hereby open Irrevocable Standby Letter of Credit # _____ in favor of Lee County in the aggregate amount not to exceed \$ _____ USD. This amount represents 110% of the estimated costs necessary to complete/construct improvements approved under Lee County Development Order # _____ for [project name] as reflected in the attached "Project Engineer's Certified Cost Estimate of Improvements".

2. The funds are payable to Lee County at sight when accompanied by the following:

a. The original letter of credit and any amendments approved by Lee County.

b. A document, executed by an authorized representative of the Board of County Commissioners of Lee County, Florida, stating:

The Developer/Applicant has failed to construct the improvements identified in the attached Cost Estimate in accordance with the terms and conditions of Lee County Development Order # _____. As a result of this default, Lee County requests a draw under Letter of Credit # _____ in the amount of \$ _____ USD.

3. All sight drafts drawn under this Letter must bear upon their face the words: "DRAWN UNDER [Name of Bank] _____ IRREVOCABLE STANDBY LETTER OF CREDIT # _____ ISSUED TO LEE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA." Any partial amounts drawn under this Letter will be endorsed on its reverse side by the negotiating, issuing, confirming or honoring bank.

4. Presentation and payment under this Letter of Credit is restricted to the following location in Florida: [name entity, physical address and valid contact telephone number]. [If the location is outside of Lee County, the letter must also provide that presentation of demand may be made by mail.]

5. Action, whether payment or dishonor, in response to Lee County's request for a sight draft must be completed within three business days after the Letter is presented at the location identified above.

6. It is a condition of this Letter that the reasons for dishonor will be clearly explained in writing by the dishonoring party within three business days after the Letter is presented at the location identified above.

7. This Letter will expire on [MM DD YY], which is at least 30 days after the Estimated Completion Date stated in the Project Engineer's Certified Cost Estimate unless extended as provided herein.

8. The term of this Letter will be automatically extended without amendment for successive one year periods; and, the aggregate amount of the face value of this Letter is to be automatically increased, without amendment, in the amount of 10% compounded for each annual renewal unless, not less than 60 days prior to the then-relevant expiration date, we notify you by Registered Mail at the address and in the manner set forth below, that we elect not to extend this Letter for any additional period or in any additional amount:

Lee County
c/o Development Services Division
P.O. Box 398
Fort Myers, Florida 33902-0398
Notice: Expiration of Letter of Credit

9. Partial releases of the aggregate face value of the Letter will only be permitted when accompanied by written approval from the Office of County Administrator verifying completion of a portion of the improvements. The effect of partial releases will be to reduce the face value of this Letter. No other terms will be affected or altered.

10. This Letter of Credit is subject to the "Uniform Customs and Practice for Documentary Credits," International Chamber of Commerce Publication No. 600 (2007) revision, and to the provisions of Florida law. If a conflict between the Uniform Customs and Practice for Documentary Credits and Florida law should arise, then Florida law will prevail. If a conflict between the law of another State or country and Florida law should arise, then Florida law will prevail.

11. Florida law will control any action taken under this Letter.

12. The venue for any action under this Letter of Credit is Lee County, Florida.

13. This Letter sets forth in full the terms of our undertaking, and may not be modified.

THIS PAGE COMPLETED BY LEE COUNTY OFFICIALS

COUNTY MANAGER ON BEHALF OF THE
BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
County Manager

The foregoing Agreement is approved and accepted by, for and on behalf of Lee County, Florida, this _____ day of _____, 20____.

ATTEST:
KEVIN C. KARNES, COURT CLERK

By: _____
Deputy Clerk Signature

AFFIX
CLERK'S SEAL
HERE

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

By: _____
County Attorney's Office

EXHIBIT D

THIS IS A SAMPLE FORM.
IT MUST BE RETYPED AND PRINTED ON ESCROW AGENT'S OFFICIAL BOND STATIONERY IN ORDER TO BE ACCEPTED BY LEE COUNTY. THE ESCROW AGREEMENT MUST BE EXECUTED BY THE DEVELOPER. THE AGENT MUST EXECUTE AND ENDORSE THE AGREEMENT. THE APPROVED PROJECT ENGINEER'S CERTIFIED COST ESTIMATE MUST ALSO BE ATTACHED TO THE ESCROW AGREEMENT.

ESCROW AGREEMENT

D.O. [DOS20XX-XXXXX]

Date Created: [MM DD YY]

Project Name:

Developer/Company Name:

Developer Mailing Address:

Escrow Agent Name:

Escrow Agent Mailing Address:

Amount of Initial Escrow Fund Deposit (U.S. Funds): \$[XX,XXX.XX]

Account Number and Name:

Estimated Completion Date of Improvements: [MM DD YY]

WHEREAS, _____ [Developer/Company Name], ("Developer,") has made application to Lee County, a political subdivision of the State of Florida, ("County,") for approval of a proposed development located in Lee County, Florida, under the above-referenced Development Order; and

WHEREAS, the Developer, as a condition precedent to initiating construction of the development must provide Assurance for Completion of certain required development improvements described in the Project Engineer's Certified Cost Estimate of Improvements (Improvements) attached as Exhibit "A"; and

WHEREAS, the Land Development Code requires that 110% of the Project Engineer's Certified Cost Estimate of Improvements be placed into and held in escrow, and that on or before each anniversary of this agreement, the total amount of funds deposited into escrow will be increased by ten percent (10%) compounded annually; and that in the event that the required improvements have not been certified complete by the County prior to the Estimated Date of Completion or any extension therefrom, the escrowed funds may be paid to the County for use in completing the required improvements.

NOW, THEREFORE, in consideration of these recitals the undersigned parties agree that the Escrow Agent holds the Developer's escrow funds, for the benefit of the County, as assurance for the completion of the required improvements.

The parties agree that if the Developer: (1) complies with the terms and conditions of the Development Order; (2) completes the improvements in the Project Engineer's Certified Cost Estimate; and, (3) indemnifies, saves and holds the County harmless against or from all claims, costs, expenses,

damages, injury or loss, including engineering, legal and contingent costs that the County may sustain on account of the Developer's failure to carry out all of the provisions of the Land Development Code and Development Order, then the County will authorize the release of the escrow funds to the Developer. Otherwise, this Escrow Agreement remains in effect. If the Developer fails to complete the improvements as required by the development order and in accordance with this agreement, the Escrow Agent will, upon written demand, release the escrowed funds to the County for the construction of the required improvements. The County may make its demand upon the escrow agent at the following Florida address:

The parties agree that the Escrow Agent will hold the escrowed amount for the benefit of the County. The Escrow Agent may only release and disburse all or a portion of the escrowed funds to the Developer after issuance of a Certificate of Compliance and upon written approval of the release from the County.

The parties agree that the: (1) initial escrowed amount is one hundred and ten percent (110%) of the Project Engineer's Certified Cost Estimate of Improvements; (2) developer will deposit funds sufficient to increase the escrowed amount by 10% annually, for each year the improvements remain incomplete beginning from the date of this agreement; (3) Escrow Agent will notify the Developer and the County, in writing, at least sixty (60) days prior to each anniversary of this Agreement, that the additional escrowed amounts are due to be deposited and, upon Developer's deposit of the required funds, provide written confirmation of deposit to the County.

The parties agree that the Escrow Agent will not be liable to the Developer for disbursement of escrow funds to the County upon an improper demand by the County, so long as the Escrow Agent acts in good faith. The sole obligation of the Escrow Agent is to honor the terms and conditions of this Escrow Agreement.

The Escrow Agent waives notice of any changes or extensions of time, requested by Developer or granted by the County, except as set forth above. The responsibility of the Escrow Agent will be discharged when it disburses all of the escrowed funds following demand by the County or upon receipt of the County's written approval and release.

THIS PAGE COMPLETED BY LEE COUNTY OFFICIALS

COUNTY MANAGER ON BEHALF OF THE
BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
County Manager

The foregoing Agreement is approved and accepted by, for and on behalf of Lee County, Florida, this
_____ day of _____, 20____.

ATTEST:
KEVIN C. KARNES, COURT CLERK

By: _____
Deputy Clerk Signature

AFFIX
CLERK'S SEAL
HERE

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

By: _____
County Attorney's Office

Exhibit "E"

Required Opinion of Title or Title Certification (2017)

OPINION OF TITLE

THE FORM MUST BE PRINTED ON OFFICIAL LETTERHEAD OF THE ISSUING ATTORNEY.

[Name of Issuing Attorney]

Plat Number (if known)

Development Order Number (if known)

Effective Date of Opinion of Title [must be less than 90 days old at the time it is initially submitted to the County]

Certified To: Lee County Board of County Commissioners

I am an attorney licensed and eligible to practice law in the State of Florida and I have searched the Public Records of Lee County, Florida and have examined the title to the real property more particularly described in the metes and bounds description attached hereto as Exhibit "A." I have made a careful examination of the Public Records of Lee County, Florida, with respect to the real property described in attached Exhibit "A." This Opinion of Title is provided to satisfy the requirements of Florida Statutes Section 177.041 and Lee County Land Administrative Code AC-13-19. Based on the foregoing, I am of the opinion that:

Title to the property, as of the Effective Date of the Opinion of Title set forth above, is vested in:

Identify the owner(s)

The following are all of those persons or entities holding a mortgage secured by the property:

Identify the Mortgage Holder(s) (include recording information)

The following are all easements and rights of way affecting the property to be platted, whether recorded or unrecorded:

Type of Easement

Recording Information

Signature of the attorney providing the opinion.

All Recording references are to the public records of Lee County, Florida.

Note, this is not a certification of ownership of any oil, gas, and mineral rights or interests.

This certification is provided pursuant to the requirements of § 177.041, Florida Statute, for the uses and purposes specifically stated therein and is not to be used as the basis for the issuance of a title insurance commitment or policy. The Company's liability hereunder shall not exceed the maximum of \$1,000.00 pursuant to § 627.7843, Florida Statute.

By: _____
Signature of authorized agent.