

**Lee County Board of County Commissioners  
Agenda Item Summary**

**DATE CRITICAL  
Blue Sheet No. #20031168**

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Direct a non-emergency ordinance to amend Lee County Ordinance No. 02-13, to authorize The Verandah West Community Development District to exercise special powers for parks (recreation) and security, to public hearing on November 25, 2003 at 5:00 p.m.

**WHY ACTION IS NECESSARY:** The Verandah West Community Development District has petitioned the Board of County Commissioners for consent to exercise special powers for parks (recreation) and security under F.S. §190.012(2)(a) and (d).

**WHAT ACTION ACCOMPLISHES:** Allows the Board to consider the petitioned request of The Verandah West Community Development District and provides a forum to evaluate the appropriateness of the request.

**2. DEPARTMENTAL CATEGORY:  
COMMISSION DISTRICT #5**

**C12A**

**3. MEETING DATE:**

**10-14-2003**

**4. AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:  
(Specify)**

- STATUTE Chap.190, F.S.
- ORDINANCE
- ADMIN. CODE
- OTHER

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
- B. DEPARTMENT County Atty's Office
- C. DIVISION Land Use
- BY: John J. Fredyma  
John J. Fredyma, Asst. Cty Atty

**7. BACKGROUND:** The Verandah West Community Development District ("District") was established in accordance with F.S. Chapter 190 by adoption of Lee County Ordinance 02-13 on March 26, 2002. The District has petitioned the Lee County Board of County Commissioners to conduct a public hearing and adopt a non-emergency ordinance granting the District additional special powers for parks (recreation) and security as provided under Florida Statutes §190.012(2)(a) and (d), respectively.

Currently, the District is comprised of 778± acres and has the power to finance, build and operate systems and facilities for basic infrastructure such as water management, water supply and wastewater management, bridges and culverts, district roads and other projects within or outside the District boundary for which a development order is issued.

(Continued on second page)

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager	
	NA	NA	NA	<i>[Signature]</i>	APM 10/1/03	OA	PM	RISK	GC	<i>[Signature]</i> 10-2-03
						9/29/03	9/30/03	9/30/03	9/29/03	

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

CO. ATTY.  
FORWARDED  
TO CO. ADM.  
9/29/03 1PM

RECEIVED BY  
COUNTY ADMIN. *RK*  
9/29  
4:10 PM 567  
COUNTY ADMIN  
FORWARDED TO: *DS*  
10/2-300  
12-300

The District's request for additional special powers is consistent with the Lee County Comprehensive Plan (Lee Plan). All development activity within the District will be subject to the Lee Plan and all related land development regulations.

At the public hearing, inquiry will focus on whether or not a change has occurred since the creation of the District that would render authorization of additional powers inappropriate. Under F.S. §190.012(2)(a) and (d), the District's petition is requesting that the Board of County Commissioners grant the District, through its board of supervisors, the ability to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain additional systems and facilities for: parks and facilities for indoor and outdoor recreational, cultural and educational facilities; and, for security, including, but not limited to, guard houses, fences and gates, electronic-intrusion detection systems, and patrol cars. The statute specifically prohibits the District from exercising any police powers, but the District may contract with the appropriate governmental agency for an increased level of such services within the District boundary.

Staff has reviewed the factors set forth in F.S. §190.005(1)(e) and finds no new information relevant to those factors that is inconsistent with the consent to exercise additional special powers for parks (recreation) and security.

The proposed ordinance is scheduled for consideration by the Lee County Executive Regulatory Oversight Committee on October 8, 2003.

Attachments:

1. Draft Ordinance
2. Staff Report
3. Petition by District

LEE COUNTY ORDINANCE NO. 03-\_\_\_\_\_

**AN ORDINANCE CONSENTING TO AND AUTHORIZING THE EXERCISE OF CERTAIN OPTIONAL (SPECIAL) POWERS BY THE VERANDAH WEST COMMUNITY DEVELOPMENT DISTRICT AS SET FORTH IN FLORIDA STATUTE §190.12(2)(a) AND (d) RELATING TO PARKS AND SECURITY; PROVIDING FOR ORDINANCE AUTHORITY; AUTHORIZATION FOR EXERCISE OF OPTIONAL (SPECIAL) POWERS; STATUTORY PROVISIONS GOVERNING THE DISTRICT; AND PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, The Verandah West Community Development District was established in accordance with Florida Statutes §190.005(2) pursuant to Lee County Ordinance No. 02-13, and adopted by the Lee County Board of County Commissioners on March 26, 2002; and

**WHEREAS**, The Verandah West Community Development District has requested the Lee County Board of County Commissioners for authorization to exercise the optional special powers identified in Florida Statutes §190.012(2)(a) and (d) relating to parks and security; and

**WHEREAS**, Florida Statutes §190.012(2)(a) and (d) provides that an established community development district can exercise a number of special powers desirable in the management of The Verandah West Community Development District only after the Lee County Board of County Commissioners consent to the exercise of these powers; and

**WHEREAS**, The Verandah West Community Development District specifically requests permission to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreational, cultural and educational uses, as well as security, including but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; and

**WHEREAS**, staff review of the operations and functions of The Verandah Community Development District and all related information indicates there is no rational basis to refuse authority for the exercise of additional powers set forth in the District's petition; and

**WHEREAS**, the Lee County Executive Regulatory Oversight Committee has reviewed and \_\_\_\_\_ the petition requesting special powers.

**WHEREAS**, the Lee County Board of County Commissioners has confirmed that the District government has the capability to provide the additional services represented by the special powers the District seeks to exercise; and

**WHEREAS**, the requested additional powers are not inconsistent and will always be subject to the Lee County Comprehensive Land Use Plan and all related land development regulations and are activities of the District.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:**

**SECTION ONE: ORDINANCE AUTHORITY**

This ordinance is adopted in accordance with Florida Statutes Chapter 190 and other applicable provisions of law governing County Ordinances.

**SECTION TWO: AUTHORIZATION FOR EXERCISE OF OPTIONAL (SPECIAL) POWERS**

The Lee County Board of County Commissioners consent to and authorize The Verandah West Community Development District to exercise the additional special powers set forth in Florida Statutes §190.012(2)(a) and (d).

Specifically, The Verandah West Community Development District is authorized to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for:

1. Parks and facilities for indoor and outdoor recreational, cultural and educational uses; and
2. Security, including but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies, except that the district may not exercise any police power, but may contract with the appropriate local general-purpose governmental agencies for an increased level of such services within the district boundaries.

**SECTION THREE: STATUTORY PROVISIONS GOVERNING THE DISTRICT**

The Verandah West Community Development District will continue to be governed by the provisions of Florida Statutes, Chapter 190.

**SECTION FOUR: CONFLICT AND SEVERABILITY**

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

**SECTION FIVE: EFFECTIVE DATE**

This Ordinance becomes effective upon filing with the Office of the Secretary of the Florida Department of State.

**THE FOREGOING ORDINANCE** was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and, being put to a vote, the vote was as follows:

ROBERT P. JANES \_\_\_\_\_  
DOUGLAS R. ST. CERNY \_\_\_\_\_  
RAY JUDAH \_\_\_\_\_  
ANDREW W. COY \_\_\_\_\_  
JOHN E. ALBION \_\_\_\_\_

**DULY PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF NOVEMBER, 2003.**

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Office of County Attorney

FILE



LEE COUNTY

SOUTHWEST FLORIDA

PLANNING DIVISION

M E M O R A N D U M

**to:** John Fredyma, Assistant County Attorney  
**from:** Paul O'Connor, <sup>POC</sup>AICP, Director of Planning  
**subject:** Petition to Establish Verandah West Community Development District  
**date:** May 21, 2003

RECEIVED BY  
COUNTY ATTORNEY  
MAY 21 AM 4:08

Planning staff has completed its review of the petition to exercise the special powers listed under F.S. Section 190.012(2)(a) and (d) made by the Verandah West Uniform Community Development District. Attached is the staff report being issued by the Lee County Division of Planning supporting the petition to exercise the special powers. In addition, eleven copies of the petition, supplied by the petitioner, are also being sent to your office for distribution.

Planning staff is requesting that notice of any scheduled hearings or meetings concerning this petition be forwarded to us.

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ANALYSIS OF THE VERANDAH  
WEST UNIFORM COMMUNITY  
DEVELOPMENT DISTRICT  
PETITION TO PROVIDE  
ADDITIONAL POWERS

*Prepared for*  
*BOARD OF COUNTY COMMISSIONERS*

*by*  
*LEE COUNTY DIVISION OF PLANNING*

*May 21, 2003*

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## *INTRODUCTION*

The Uniform Community Development District Act was originally adopted in 1980. The act sets forth the procedure for the establishment and amendment of such a district, the district's powers and duties for public improvements and community facilities, and additional special powers that the district may petition for. The Verandah West Community Development District was established by the Lee County Board of County Commissioners on March 26, 2002, with an effective date of April 2, 2002.

The Verandah West Community Development District has petitioned the Lee County Board of County Commissioners to adopt an ordinance consenting to the exercise of certain optional special powers.

## *BACKGROUND*

The Petitioner, the Verandah West Community Development District, was established pursuant to Chapter 190, Florida Statutes. The Verandah West Community Development District, hereafter called "District", has its district offices located at 210 North University Drive, Suite 702, Coral Springs, Florida, 33071. The Chairman of the Board of Supervisors is William Wier.

The property is located in Lee County, Florida, lying within Sections 25 and 36, Township 43 South, Range 25 East and Sections 29, 30, 31, and 32, Township 43 South, Range 26 East. The land area is bounded on the West by large tracts of undeveloped land, on the North by S.R. 80, on the East by large tracts of undeveloped property and on the South by the Orange River.

The subject property is a residential development that consists of approximately 1456 acres in its entirety. The existing Verandah West Community Development District and the current petition for special powers covers only the western portion of the entire development plan, approximately 778 acres of land. The current development plan for the entire community includes approximately 1,500 residential units, 160,000 square feet of retail, 25,000 square feet of office, and thirty six holes of golf, a clubhouse and other amenities. The project was rezoned from AG-2, CG, CC, C-1A, and PUD to Mixed Planned Development (MPD) by the Lee County Board of Commissioners on August 19, 2002. This zoning was approved through Zoning Resolution Z-01-057.

When approved, the District was granted the power to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for the following basic infrastructure: water management; water supply, sewer, and waste water management; bridges or culverts; district roads; and other projects within or without the district boundary for which a Development Order is issued.

A petition to grant additional powers was received by Lee County from the District on January 8, 2003. That petition has not been amended. Lee County Planning staff has reviewed the petition and finds it to be sufficient. The District is petitioning to be granted the special powers

listed under F.S. Section 190.012(2)(a) and (d). The petition is requesting that the Board of County Commissioners grant the District, through its board of supervisors, the ability to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for: parks and facilities for indoor and outdoor recreational, cultural, and educational facilities; and, for security, including, but not limited to, guard houses, fences and gates, electronic-intrusion detection systems, and patrol cars. The statutes specifically prohibit the district from exercising any police powers, but the district may contract with the appropriate governmental agency for an increased level of such services within the district boundary.

## ***STAFF ANALYSIS***

Planning staff has reviewed the petition and accompanying materials. Pursuant to Florida Statute Section 190.012 (2), a community development district may seek consent to exercise additional special powers granted by its general law charter.

At this time, the District has petitioned the Board of County Commissioners to conduct a hearing for the purpose of adopting an ordinance amending Ordinance 02-13 that will consent to the exercise by the District of the additional powers specifically granted in and set forth in Section 190.012 (2)(a) and (d), Florida Statutes. These powers give the District the ability to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for: parks and facilities for indoor and outdoor recreational, cultural, and educational uses; and, for security, including, but not limited to, guard houses, fences and gates, electronic-intrusion detection systems, and patrol cars.

The District's request for consent by the County to exercise additional powers granted by statutory charter is not inconsistent with, and shall always be subject to, the Lee County Comprehensive Plan and all of the County's related land development regulations.

At the subject hearing the focus of the inquiry will not be the appropriateness of the district established and effective on April 2, 2002 by County ordinance No. 02-13 that is now functioning. Rather, the focus will be on whether any matter has changed since the district was created and established which would render the consent to the exercise of additional powers inappropriate. Staff has reviewed the six factors set forth in 190.005 (1) (e) Florida Statutes in connection with the operation of the District since April 2, 2002 and can find no change in circumstance or condition relevant to those factors which would be inconsistent with consenting to the exercise of these granted powers. In addition staff finds that granting these powers will afford benefits to the people owning property within the district.

It should be noted that the petition is not requesting, nor will the County be granting, the special powers for fire prevention and control, school buildings and related structures, control and elimination of mosquitos, or waste collection and disposal allowed by 190.012(2)(b), (c), (e) and (f) F.S. respectively.

## ***RECOMMENDATION***

Planning staff recommends that the Lee County Board of County Commissioners adopt an ordinance amending Ordinance 02-13 which grants the Verandah West Community Development District the ability to exercise the optional special powers as listed under F.S. Section 190.012(2)(a) and (d).

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA

RE: PROPOSED COUNTY CONSENT,  
(BY, RESOLUTION ORDINANCE  
PURSUANT TO SECTION 190.012(2),  
FLORIDA STATUTES, TO THE  
EXERCISE BY THE VERANDAH WEST  
COMMUNITY DEVELOPMENT DISTRICT  
OF CERTAIN SPECIAL POWERS GRANTED  
IN THE STATE-CREATED CHARTER

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**PETITION FOR CONSENT TO EXERCISE  
CERTAIN SPECIAL STATE-GRANTED CHARTER POWERS**

The VERANDAH WEST COMMUNITY DEVELOPMENT DISTRICT (“Petitioner” or “District”), by and through its undersigned attorney, petitions the BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA (“County”) to adopt an ordinance or resolution consenting to the exercise of certain special powers granted to the District by the District’s charter (and as expressed in the Uniform Community Development District Act of Florida, chapter 190, Florida Statutes (2001) and hereafter). In support thereof, Petitioner submits:

1. Petitioner has its District offices located at 210 North University Drive, Suite 702, Coral Springs, Florida 33071, and its Chairman of the Board of Supervisors is William W. Wier and its Manager is Severn Trent Environmental Services.

2. The land area within which the special powers the consent to exercise for which is petitioned for however, are to be exercised is within the boundaries and jurisdiction of the County as provided in County Ordinance No. 02-13 establishing the state created District, as adopted by the County on the 26<sup>th</sup> day of March, 2002, effective 2 April 2002, and attached hereto as Exhibit “1.”

3. The Petition for Establishment, attachments, “white papers” and information, as well as county staff and county commission review, addressed the potential exercise by the District of all special powers granted in 190.012(2), Florida Statutes as of the date the District was established, as evidenced at paragraph nine of Exhibit “1.”

4. Attached as Exhibit “2” is that certain portion of the minutes of the District Board of Supervisor’s meeting on the 8<sup>th</sup> of April, 2002 wherein the Board approved the exercise by the District of those special powers herein petitioned for pursuant to section 190.012(2), Florida Statutes.

5. There have been no substantive changes since the passage of County Ordinance No. 02-13 in facts, circumstances, or conditions that would affect the determination of the County regarding the District exercising certain special powers. Attached as Exhibit “3” are affidavits by the District; Manager, Planner, Engineer, and Financial Consultants, attesting to the fact that no substantive changes have occurred since the establishment of the District and that the consent to the exercise of certain powers granted by the state in section 190.012 (2), Florida Statutes, is applicable and appropriate.

**WHEREFORE**, Petitioner respectfully requests the County to:

A. Direct its staff to do the things necessary to provide statutory notice with respect to the adoption of an ordinance or resolution by the County to consent for the District to exercise its certain special powers granted by the District’s state law charter contained at sections 190.006 - 190.041, Florida Statutes, said special powers specifically being, to plan, establish, acquire, operate, and maintain additional systems and facilities for:

**Parks and facilities for indoor and outdoor recreational, cultural, and educational uses.**

**Security, including but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by property governmental agencies; except that the district may not exercise any police power, but may contract with the appropriate local general purpose government agencies for an increased level of such services within the district boundaries.**

as according to subsections (a & d) of section 190.012(2), Florida Statutes.

B. Thereafter, to grant this Petition and adopt an ordinance or resolution consenting to the exercise of the certain special powers as petitioned by the District.

**RESPECTFULLY SUBMITTED** to County this the 13<sup>th</sup> day of December, 2002.



\_\_\_\_\_  
KEN VAN ASSENDERP, ESQ.

Florida Bar I.D. No.: 158829

Attorney for Petitioner:

Young, van Assenderp, Varnadoe & Anderson, P.A.

225 South Adams Street

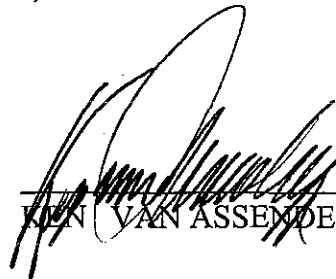
Suite 200

Tallahassee, Florida 32302-1833

(850) 222-7206

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that one original and twelve (12) true and correct copies of the foregoing Petition for Consent to Exercise Certain Special State-Granted Charter Powers were served by express courier service this 13th day of December, 2002, for delivery the following day to: John Fredyma, Lee County Attorney, with a copy to Dawn Perry-Lehnert, Lee County Attorney Offices located at 2115 Second Street, Sixth Floor, Fort Myers, Florida 33901, and a copy to Paul O'Connor, Lee County Planning Department, 2455 Dr. Martin Luther King, Jr., Boulevard, Ft. Myers, FL 33901.



\_\_\_\_\_  
KEN VAN ASSENDERP, ESQUIRE

# AFFIDAVIT OF ALICE J. CARLSON AS TO THE CURRENT STATUS OF THE VERANDAH WEST COMMUNITY DEVELOPMENT DISTRICT

1. My name is Alice J. Carlson. I am the Financial Advisor for the Verandah West Community Development District ("District").
2. I was involved in the establishment of the District.
3. I reviewed the potential exercise by the District of all of its charter powers, including the special powers in section 190.012 (2), Florida Statutes (2001), during the District establishment process.
4. I have seen the property within the jurisdiction and have reviewed the activities of the District to date in my capacity as preparer of the Statement of Estimated Regulatory Costs, and have noted no change in fact, circumstances or conditions that would change my conclusions in light of the six factors in section 190.005 (1)(e) 1-6, Florida Statutes. Therefore, I am of the opinion that consent to the exercise of these charter powers is appropriate.
5. FURTHER AFFIANT SAYETH NOT.

*Alice J. Carlson*

Alice J. Carlson, District Financial Advisor and  
Preparer of Statement of Estimated Regulatory Costs

SWORN TO AND SUBSCRIBED before me this 19 day of November, 2002.

*Janet Marie Sciog*  
NOTARY PUBLIC


My Commission Expires:



Janet Marie Sciog  
MY COMMISSION # CC938926 EXPIRES  
May 21, 2004  
BONDED THRU TROY PAIN INSURANCE, INC.

**AFFIDAVIT OF PATRICIA NEWTON AS TO THE  
CURRENT STATUS OF THE VERANDAH WEST  
COMMUNITY DEVELOPMENT DISTRICT**

1. My name is Patricia Newton. I am the Planner for the Verandah West Community Development District ("District").
2. I was involved in the establishment of the District.
3. I reviewed the potential exercise by the District of all of its charter powers, including the special powers in section 190.012 (2), Florida Statutes (2001), during the District establishment process.
4. I have seen the property within the jurisdiction and have reviewed the activities of the District to date in my capacity as Planner, and have noted no change in fact, circumstances or conditions that would change my conclusions in light of the six factors in section 190.005 (1)(e) 1-6, Florida Statutes. Therefore, I am of the opinion that consent to the exercise of these charter powers is appropriate.
5. FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Patricia Newton, District Planner

SWORN TO AND SUBSCRIBED before me this 11<sup>th</sup> day of December, 2002.

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

2/11/05

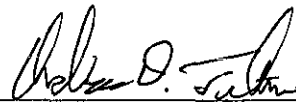


JaneAnn Gifford  
Commission # DD 000596  
Expires Feb. 11, 2005  
Bonded Thru  
Atlantic Bonding Co., Inc.



**AFFIDAVIT OF ANDREW D. TILTON AS TO THE CURRENT  
STATUS OF THE VERANDAH WEST  
COMMUNITY DEVELOPMENT DISTRICT**

1. My name is Andrew D. Tilton. I am the Engineer for the Verandah West Community Development District ("District").
2. I was involved in the establishment of the District.
3. I reviewed the potential exercise by the District of all of its charter powers, including the special powers in section 190.012(2), Florida Statutes (2001), during the District's establishment process.
4. I have seen the property within the jurisdiction and have reviewed the activities of the District to date in my capacity as Engineer, and have noted no change in fact, circumstances or conditions that would change my conclusions in the light of the six factors in section 190.005(1)(e) 1-6, Florida Statutes. Therefore, I am of the opinion that consent of the exercise of these charter powers is appropriate.
5. FURTHER AFFIANT SAYETH NOT.



\_\_\_\_\_  
Andrew D. Tilton, District Engineer

The above-signed individual is personally known to me.

SWORN TO AND SUBSCRIBED before me this 21<sup>st</sup> day of November, 2002

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: 10-19-2005



**M. Susan Dragonette**  
Commission # DD 057725  
Expires Oct. 19, 2005  
Bonded Thru  
Atlantic Bonding Co., Inc.

**AFFIDAVIT OF JAMES WARD AS TO THE  
CURRENT STATUS OF THE VERANDAH WEST  
COMMUNITY DEVELOPMENT DISTRICT**

1. My name is James Ward. I am the District Manager for the Verandah West Community Development District ("District").
2. I was involved in the establishment of the District.
3. I reviewed the potential exercise by the District of all of its charter powers, including the special powers in section 190.012 (2), Florida Statutes (2001), during the District establishment process.
4. I have seen the property within the jurisdiction and have reviewed the activities of the District to date in my capacity as District Manager, and have noted no change in fact, circumstances or conditions that would change my conclusions in light of the six factors in section 190.005 (1)(e) 1-6, Florida Statutes. Therefore, I am of the opinion that consent to the exercise of these charter powers is appropriate.
5. FURTHER AFFIANT SAYETH NOT.

James P. Ward  
James Ward, District Manager

SWORN TO AND SUBSCRIBED before me this 18<sup>th</sup> day of November, 2002.

Katherine V. Selchan  
NOTARY PUBLIC

My Commission Expires: December 22, 2002



Katherine V. Selchan  
Commission # CC 789318  
Expires DEC. 22, 2002  
BONDED THRU  
ATLANTIC BONDING CO., INC.