



## **CGLP SETTLEMENT AGREEMENT PROJECT DESCRIPTION**

The settlement agreement between Corkscrew Grove Limited Partnership (“CGLP”) and Lee County includes a plan to eliminate mining and designate the subject property for natural lands, restoration, and conservation uses, as well as the development of residential, commercial, and public facilities. The following planning narrative describes the site plan, the benefits of the conversion from active agriculture to conservation uses and land development, and the areas of deviation from the Lee County Comprehensive Plan (Lee Plan). A narrative on how the conditions of development ensure that the public interest is protected and maintained through this settlement agreement is also provided.

### Site Plan

The proposed **6,676-acre** site plan **eliminates the 4,202-acre limerock mining use previously requested on the subject property**. In place of mining operation and ancillary industrial uses, the site plan now shows **4,071 acres** in open space which includes **3,287 acres** of restoration and conservation to natural lands. The restoration component will convert more than **1,915 acres** of active citrus grove, sod, and row crops into indigenous areas, flowways, and other forms of open space. The site plan also includes enhancing, restoring, and improving more than **1,192 acres** of existing wetlands, and placing all those areas into easements to be maintained and protected in perpetuity. The construction of water management features will result in significant water quality enhancements. Landscape buffers and other green space shown on the site plan reflects a minimum of 61% of the property, equivalent **to 4,071 acres** of the site, which will be dedicated to open space. The remaining **2,602 acres** of the property will permit development that includes a mixed-use residential community with a gross density of 1.5 units per acre and 700,000 square feet of commercial floor area, 240 hotel units and on-site recreational amenities for residents.

The concept plan was designed to follow the general intent of the plan amendment/zoning approvals for properties in the Density Reduction Groundwater Resource (DR/GR) areas along State Road 82 combined with the intent of the Environmental Enhancement and Preservation Communities Overlay (EEPCO) for properties along Corkscrew Road. Historic flowways were analyzed and incorporated into the site plan and the conservation areas were identified that will both follow and re-establish historic flowway corridors, provide significant wildlife corridors, and provide connections to adjacent preserve areas surrounding the property. Several large wildlife corridors will be created to allow large mammals to move across the property going both north-south and east-west. The intent is to enhance the wetland areas by surrounding them with restoration, as described in the Southeast Lee County policies. Flowways will be designed to help manage discharges south into the Corkscrew Swamp Sanctuary and CREW Watershed conservation lands in Collier

County. This will significantly improve the on and off-site water quality and will properly control the quantity of water discharging from the site which will improve the hydroperiods and overall health of the wetland systems downstream.

The Master Concept Plan and proposed conditions of development will ensure that agricultural operations are phased out in a way that is compatible with development, consistent with EEPCO criteria in the Lee Plan and which protects the land until the modifications begin. The removal of agriculture will occur in each development area proportionate to the conservation area provided and density of development requested. **The public will receive very tangible positive environmental benefits with each phase of restoration and land development.** For every acre of development, one acre of restoration must be completed, at a minimum. Every development order will result in water quality and groundwater quantity benefits for the area being restored, the area being developed, and downstream lands. Aside from the water quality and quantity benefits detailed above, there will also be off site benefits to Wildcat Farms through improvements that will help alleviate some of the existing flooding problems. Condition 25 requires the installation of hydraulic connections to Wildcat Farms to provide enhanced drainage and improve flow during storm events.

The phased removal of agriculture operations and restoration of **3,287 acres** of the property will lead to large overall reductions in water consumption on the property and improved water quality being discharged from the property, consistent with the Lee Plan and the intent of the DR/GR future land use category. **The overall irrigated area on the property in a post-restoration, post-development scenario will be reduced by 9.9 million gallons per day (MGD) equal to 78% on an average annual basis.** In other words, impacts to the County's water resources by **the proposed redevelopment of the subject property will be a reduction of over 3.8 million gallons per day (MGD) withdrawal from the water table aquifer and 6.1 million gallons per day (MGD) from the Sandstone aquifer. All existing withdrawals of groundwater from the sandstone aquifer within the property will be retired.** Similarly, the proposed settlement agreement will lead to significant benefits to water quality. **Post restoration and redevelopment, there will be a 49% reduction in total nitrogen and an 80% reduction in total phosphorus discharging from the property.** These nutrient reductions are significant for improvement to the impaired Imperial River watershed. The habitat benefits include the restoration to a consistent and proper hydroperiod for the wetlands onsite, the addition of new foraging habitat areas for wading birds, such as snail kite, wood storks, and many other species of birds along with a mix of vegetation types to create new habitat for a variety of other wildlife.

### **Contravened Lee Plan Goals, Objectives and Policies**

The proposed settlement agreement meets the intent of the EEPCO criteria through its success in restoration of historic flowways, reduction in water consumption and improvements to water quality discharging from the property. For this settlement agreement the EEPCO criteria have been adapted based on the unique location of the subject property, spanning the distance between Corkscrew Road and State Road 82 with direct frontage on both, and overall public benefit that can be provided through a settlement

agreement for a property at this location. **Nearly all of the requirements in the development conditions have been adapted from similarly approved developments in the DR/GR.** As such, the proposed Settlement Agreement is consistent with Policies 1.4.5 and 1.5.1, the DR/GR and Wetlands Future land use categories.

The proposed settlement agreement will continue to protect the public interest despite the following Lee Plan Goals, Objectives and Policies and Florida Statutes that are contravened as described below. The subject property is located in the Density Reduction/Groundwater Resource (DR/GR) Future Land Use category in the Lee Plan. The intent of the DR/GR is to protect the County's water supply and to preserve and restore areas of environmental significance. Therefore, those two overarching goals were central in crafting the proposed conservation and development plan.

## Maps

### Map 4A – Future Water Service Area

Only a small portion of the subject property is on Map 4A. However, in accordance with Standard 4.1.1.7:

*Lee County Utilities may provide potable water service to properties not located within the future water service area when such potable water service is found to benefit public health, safety, and welfare, including protection of Lee County's natural resources.*

Although the property is not on Map 4A it does not preclude Lee County from providing service. Providing potable water to the subject property clearly benefits public health, safety, and welfare, including protection of Lee County's natural resources through the prohibition of the use of potable water wells. In its current state, with **over 67 individual on-site wells for agricultural irrigation**, it is in the public interest to reduce existing groundwater withdrawals by approximately **9.9 million gallons per day (MGD)**, and to have the property connect to central water. As the property is developed and agriculture is terminated, the on-site farm irrigation wells that draw water from the Sandstone aquifer which provides the best future water supply for Lee County, a water source that is very limited, will be plugged and abandoned. **Connecting to central water will have a clear public benefit to the County** and the surrounding residential areas that rely on well water.

### Map 4B – Future Sewer Service Area

Only a small portion of the subject property is on Map 4B. In accordance with Standard 4.1.2.6:

*Lee County Utilities may provide sanitary sewer service to properties not located within the future sewer service area when such sanitary sewer service is found to benefit public health, safety, and welfare, including protection of Lee County's natural resources.*

Although the property is not on Map 4B it does not preclude Lee County from providing service. Providing sanitary sewer service to the subject property clearly benefits public health, safety, and welfare, including the protection of Lee County's natural resources through the prohibition of individual septic systems. Connecting to central sewer will protect the public interest by **allowing Lee County Utilities treat the nutrient rich sewage which will have a clear public benefit to the County.**

### Lee Plan Goals, Objectives and Policies

1. Policy 33.1.7: Impacts of proposed land disturbances on surface and groundwater resources  
*This policy requires the use of an integrated groundwater and surface water model to assist in designing the site to ensure that there **will not be any adverse impacts on the area's water resources and natural systems.** The Master Concept Plan is general enough so that the settlement agreement is not approving a specific design that may be incompatible with surface water and groundwater. **The public's interest is being protected through Condition 18,** which requires that at the time of, or prior to the first local development order, when a detailed design is proposed, an integrated surface and groundwater model will be utilized to ensure protection of Lee County's natural resources.*
2. Policy 33.2.4 and Policy 33.2.4.1: Environmental Enhancement and Preservation Communities Overlay  
*The subject property is not designated on Map 2-D and not located within the area of the EEPCO. The portions of the subject property along Corkscrew Road have many of the same characteristics as properties in the overlay, while the portions along State Road 82 have characteristics more similar to properties that have recently been removed from the DR/GR and permitted for urban densities. Regardless, based upon the support documentation and prior Lee County studies, the property **has the ability to provide significant regional hydrological and wildlife connections and has the potential to improve, preserve and restore regional surface and groundwater resources, and indigenous wildlife habitats, as directed by Policy 33.2.4.1.** The fact that the property is not within the overlay does not negate the benefits that **3,287 acres of restoration will provide.** In the same way the EEPCO is in the public interest, requiring the **subject property to be developed under the standards of the EEPCO is also in the public interest.** By doing this, the county is able to acquire more land for preservation, reduce water withdrawal from both the Sandstone and water table aquifers, and improve water quality, without pursuing a land acquisition process and at no cost to the county.*
3. Policy 33.2.4.2: Rezoning to a Planned Development  
*The subject property is not being rezoned to a planned development; however, the settlement agreement requires the property to be treated as a Mixed-use Planned Development (MPD) under the Land Development Code similar to other EEPCO communities. From a process/public hearing standpoint there is not a substantive*

*difference. The settlement agreement will go through a hearing before the Hearing Examiner and two hearings before the Board of County Commissioners. From the standpoint of end product and the potential for public involvement, there is virtually no difference.*

*The public interest is being protected through the adoption of a master concept plan with a layout that will meet the restoration intent of EEPCO communities, **including 4,071 acres or approximately 61% open space**, which exceeds the requirements for rezoning under Policy 33.2.4.2.a. The settlement agreement also contains development conditions, a schedule of uses, and property development regulations very similar to the prior Planned Developments that have been approved under the EEPCO.*

*Below are the submittal and review criteria for EEPCOs with a description of how each is being addressed outside of the Planned Development process.*

- *Policy 33.2.4.2 - Condition 5 requires a minimum of 61% Open Space which is equivalent to 4,071 acres. This exceeds the 60% open space requirement for EEPCOs in Policy 33.2.4.2.*
- *Policy 33.2.4.2a - The Master Concept Plan that is included as Exhibit C has been designed to incorporate all of the restoration goals, including restoration of existing historic flowways, wetlands, indigenous vegetation, and groundwater levels, as well as providing for wildlife corridors.*
- *Policy 33.2.4.2b - Requires an Enhanced Lake Management Plan (ELMP). The ELMP has been submitted and is attached as Exhibit N. Condition 14 requires an update to this plan during the multiple phased development order process.*
- *Policy 33.2.4.2c - Requires submittal of an ecologic and hydrologic restoration plan. A conceptual hydrologic restoration plan has been submitted and is included as Attachment 7 and Exhibit O, and a conceptual Indigenous Preservation and Restoration Plan has also been submitted and is included as Exhibit L. Conditions 8 and 18 require that this plan provide more specificity and be updated at the time of each development order.*
- *Policy 33.2.4.2d - Requires that preserve areas must be platted and maintained in perpetuity by a CDD, Homeowners Association, or Independent Special District (ISD). This is implemented in Condition 6.*
- *Policy 33.2.4.2f - Requires a Human Wildlife Coexistence Plan, which has been included as Exhibit J. Condition 4 requires this plan to be updated at the time of development order.*
- *Policy 33.2.4.2g - Requires the use of Florida friendly landscaping in common area of the development. Condition 10 reflects this by conditioning **100% native landscaping** for required plantings in common areas.*
- *Policy 33.2.4.2h - Requires surface water discharges to meet State and Federal water quality standards. Condition 14 implements this policy through requiring water quality monitoring.*
- *Policy 33.2.4.2j - Relates to the County's wellfields which are not in the vicinity of the subject property.*

- Policy 33.2.4.2k. – Requires the mitigation of traffic impacts. #8 in the Settlement Agreement and Condition 12b. require the payment of a proportionate share **contribution of approximately \$20,000,000** which is based on a requirement of \$2,000 per residential unit in addition to road impact fees for road improvements.
  - Policy 33.2.4.2l. – Requires the connection to public water and sewer. #6 B and C of the settlement agreement and Condition 16 require connection to central water and sewer facilities.
  - Policy 33.2.4.2m. – Requires the submittal of letters of availability at the time of rezoning. Condition 23 requires that these letters of availability be provided instead at the time of local development order. The public interest is protected through Condition 23 which has the same requirement at the time of development order, still prior to any development permits being issued.
  - Policy 33.2.4.2n. – Requires a demonstration that there will no significant detrimental impact on present or future water sources. The analysis done as part of this application shows an **extremely large overall reduction in water consumption of approximately 9.9 million gallons per day (MGD)** as a result of converting the existing agricultural use to restoration/development. The retirement of such large groundwater withdrawal quantities will result in a **rebound/lift of water levels in the area.**
4. Policy 33.2.4.2e. – Requires the recording of a conservation easement for 55% of the property. Development Condition 1c. in the settlement agreement requires that 50%, approximately **3,287 acres**, of the private property be recorded in a conservation easement. **The public interest is being protected** because the subject property is able to restore regionally significant wildlife corridors, flowways and create a hydrologic restoration benefit to off-site properties over and above the on-site restoration. As stated above, the restoration will not only improve on-site flowways and wildlife habitat but will manage the timing of flows into the Corkscrew Swamp Sanctuary and CREW lands improving the ecology for off-site land south of the subject property. **While the total on-site preserve equates to 3,287 acres of created, restored, enhanced, natural areas, additional benefit is provided for off-site lands adjacent to or near the subject property, producing a significant public benefit and protecting the public interest.**
5. Policy 33.2.4.2i. – Requires the elimination of farm irrigation and use of fertilizers at the time of first development order approval for row crops and no later than 5 years from first development order approval for citrus groves. This policy allows for a phased approach for termination of citrus groves. The subject property consists of mostly citrus grove, with some sod farming and row crops. On a property of this scale, elimination of all agricultural operations at the time of first development order could lead to negative unintended consequences such as lack of management, the spread of exotic plants and animals, erosion, etc.



*Condition 1c describes how the phasing of development and restoration will occur such that development area and units will only be permitted proportionate to the preservation/restoration area provided. The public interest is being maintained through an orderly phase out of agricultural operations and significant public benefits to water quality and water supply for each phase of development/restoration, as shown in Exhibits N & O, and Attachment 7.*

6. Policy 33.2.4.3: Density

*The subject property is not within a designated Tier 1 or Tier 2 area, but is within a designated Tier 3, Tier 5 and Tier 6. The settlement agreement allows for a density of approximately 1.5 dwelling units per acre.*

*It should be noted that all of the Tier 1 and Tier 2 properties have either been acquired by Lee County or are being restored and developed as part of the Environmental Enhancement and Preservation Overlay. In accordance with Policy 33.1.2 "...Lee County may consider amendments to this Overlay based on changes in public ownership, land use, new scientific data, and/or demands on natural resources..." Based on this, the subject property, which consists of Tiers 3, 5 and 6 would logically move up in acquisition priority.*

*More importantly however, is the ecological data that was used to justify the creation of the Tiers. The Ecological Memorandum of June 2008 that supported the creation of the Priority Acquisition Areas designated the subject property as almost entirely within both the Priority 1 and Priority 2 restoration areas, similar to The Place and FFD, which were then designated as Tier 1 and 2 priority acquisition areas respectively. There is only a small portion of the subject property within a Priority 3 restoration area, presumably because of its proximity to active mining and uncertainty at the time of how that could impact hydrologic restoration of the property (See Figures 6, 7, 8 and 9 and Page 18 of the Ecological Memorandum). Most important for the County's restoration goals, there is little to no difference in restoration priority of the subject property from other properties that had been designated as Tier 1 or 2 on Map 1D. This is well documented on Pages 12-17 in the Ecological Memorandum.*

*This analysis is consistent with Policy 33.1.3, which states that "...Tier 3 lands and the southern two miles of Tiers 5, 6, and 7 can provide an important wildlife connection to conservation lands in Collier County and an anticipated regional habitat link to the Okaloacoochee Slough State Forest. Tiers 1, 2, 3, and the southern two miles of Tiers 5, 6, and 7 may qualify for unique development incentives outlined in Objectives 33.2 and 33.3 due to the property's potential for natural resource benefits and/or wildlife connections."*

*In this case, **the public interest is being protected** by incentivizing the restoration of 1,915 acres of citrus grove, sod farm and row crops that are predominantly Priority 1 and 2 restoration areas based on the County's information, in addition to enhancing and restoring more than **1,192 acres** of existing wetlands. In doing so these areas will be placed into easements to be maintained and protected in perpetuity and provide for the*

*opportunity for a massive reduction of water consumption, and a significant improvement to water quality. **These benefits are in the public interest and with these commitments made in the settlement agreement, the public interest is protected.***

7. Policy 33.2.4.4: Commercial Development

*The settlement agreement allows for up to 700,000 square feet of commercial floor area and up to 240 hotel units. The commercial uses were generally established using the C-2A zoning category consistent with the Mixed-Use Community (Policy 33.2.2) which is designated on the northern portion of the subject property. The Lee Plan designation of C-2A uses in this area has already been deemed consistent with protection of the health, safety and general welfare. Commercial uses that are more consistent with the Mixed-Use Community are therefore located along State Road 82 which is not located in the EEPCO and commercial areas along the project's spine road and Corkscrew Road are more consistent with EEPCO's. **These areas have been permitted consistent with and meet all of the criteria in Policy 33.2.4.4, except for Policy 33.2.4.4d., which requires consistency with Policy 33.2.5 below.***

8. Policy 33.2.5: Commercial Uses

*Limits commercial development in the Southeast Lee County Planning Community to 300,000 square feet. This limit was put in place based on the amount of approved residential development at the time. With the addition of residential units that are part of this agreement, along with nearby existing residential development on the north side of the property in Lehigh Acres, which has a commercial deficit, the additional commercial area is needed to meet the needs of the immediate neighborhood, providing for additional internal capture of trips, and reducing trip lengths originating from the property and surrounding areas. **The public interest is protected** by creating a mixed-use form of development so that trip lengths are minimized and can be captured internally within this future development area.*

### **Deviations from the Land Development Code**

Eight "deviations" from the Land Development Code ("LDC") have been identified in the Conditions for development and submitted as part of the settlement agreement. The protection of the public interest served by these eight deviations is discussed separately below for each deviation. Deviations are anticipated in the land development code for planned developments and therefore consistent with the code. The standard of review for deviations is simply do they enhance the planned development and are otherwise not detrimental to the health, safety and general welfare of the public. The following deviations have been approved in other planned developments in Lee County.

LDC Section 10-296(e)(3): requires roadway segments in Lee Plan future non-urban areas to be designed to non-urban design standards. While the development remains in a "non-urban" area based on **the expansive restoration and preservation requirements**, the streets within **the tightly clustered development areas** will be designed similar to a



suburban neighborhood. **This is consistent with EEPCO communities and has been found in those cases to enhance the site plan without having any negative impact on the health, safety or the general welfare of the public.**

LDC Section 10-329(d)(3)a: requires lakes to be limited to a 20ft depth to allow for a maximum lake excavation depth of 35ft. Lake excavation cannot penetrate any clay layers or continuous rock layers. **The Enhanced Lake Management Plan lists criteria for deep lake management in order protect the health, safety and welfare of the general public.** The deep lake management plan will be reviewed at the time of development order to ensure that the criteria of the land development code are implemented pursuant to Condition 26.

LDC Section 10-329(d)(3)a.2: requires deep lake trees to be installed for all lakes deeper than 12ft, to allow for the quantity of littoral plantings to be increased by 20% (Pursuant to Condition 27) in lieu of deep lake trees. This deviation maintains the same benefit for water quality but helps to ensure survivability of the vegetation. Lakes are typically excavated prior to the installation of irrigation and without irrigation the deep lake trees have low survivability rates. Utilizing additional littoral planting to replace the water quality function of deep lake trees thereby protects the public health, safety and general welfare. Builders are required to install trees in the rear of the yards, so at buildout there will be sufficient, but not overwhelming number of trees nearby the lake edge.

LDC Section 10-416(a): requires general tree plantings. The general tree requirement for the Project are met through the use of existing onsite indigenous vegetation and flowway restoration plants. The flowway plants will not be subject to required minimum plant heights per LDC 10-420(c) and (d). Landscaping for parking areas and vehicle use areas will still be provided as required in the LDC. **The public interest is protected because the same result will be achieved.**

LDC Section 10-291(3): requires that residential development of more than five acres and commercial development of more than ten acres provide more than one means of ingress and egress. This deviation is only needed for the initial construction of a residential or commercial Pod. The development of any Pod that connects to the spine road will require the spine road to connect to either Corkscrew Road or State Route 82. The build out of the property has multiple points of access to State Road 82, Corkscrew Road and the spine road, which will be public, ensuring that the public interest is protected. **This is consistent with EEPCO communities** and has been found in those cases to enhance the site plan without having any negative impact on the health, safety or the general welfare of the public.

LDC Section 10-416(d)(1): requires a landscape buffer adjacent to the Property boundaries where abutting a different use. This deviation achieves the same result as a buffer, but rather than a planned landscape/irrigated area, the restored natural preserve will act as the "buffer" providing the same or better benefit, protecting the public interest. **This is consistent with EEPCO communities** and has been found in those cases to enhance the site plan without having any negative impact on the health, safety or the general welfare of the public.

LDC Section 10-384(c)(1): requires water mains for one- and two-story residential buildings be constructed in an external loop no greater than 1,500 feet. The settlement agreement will allow 3,700 feet provided required fire flows are met. **This is consistent with EEPCO communities** and has been found in those cases to enhance the site plan without having any negative impact on the health, safety or the general welfare of the public.

LDC 10-285: requires an access separation of 660 feet along principal arterials in Future Non-Urban areas to allow a connection separation distance of 460', as depicted on the MCP. **This is consistent with EEPCO communities** and has been found in those cases to enhance the site plan without having any negative impact on the health, safety or the general welfare of the public.

### **Contravened Florida Statutes**

Given the above contravened policies from the Lee Plan, the settlement agreement would contravene Sections 163.3184 and 163.3194 without plan amendments adopted pursuant to Section 163.3184. However, as detailed above, the settlement agreement remains in the public interest based on the application of the development criteria of the EEPCO and the enforcement of similar condition to those required of other approved EEPCO communities.

Accordingly, from a substantive standpoint, the relief granted through **the settlement agreement serves and protects the public interest protected by these statutes. From a procedural standpoint, the public interest in requiring public hearings as part of the plan amendment process is being preserved by the procedural requirements of the settlement agreement that mandate one public hearing before the Lee County Hearing Examiner, two public hearings before the Board of County Commissioners, and a final public hearing before the circuit court - all of which will permit the consideration of public testimony.**