AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY

This Agreement for Purchase and Sale of Real Property (the "Contract") is made and entered into as of the "Effective Date" (as such term is hereafter defined), by and between Miromar Lakes, LLC, ("Seller") and Florida Gulf Coast University Financing Corporation ("Purchaser").

In consideration for the mutual agreements set forth in this Contract, the parties agree as follows:

1. Definitions. The following terms when used in this Contract shall have the following meanings:

   1.1 Acceptance Date. If this offer is not accepted by all Parties, excluding Escrow Agent, on or before the 6th day of December, 2010, this offer shall be deemed null and void.

   1.2 Business Day. Any day that national banks in Lee County, Florida are open for business, excluding Saturdays and Sundays.

   1.3 Cash to Close. The Purchase Price, plus all of Purchaser's closing costs and the adjustments set forth herein, less the Deposit. Cash to Close shall be in the form of a wire transfer or cashier's check.

   1.4 Closing. The delivery of the Deed to Purchaser concurrently with the delivery of the Purchase Price to Seller.

   1.5 Closing Date. The date of the Closing shall be on or before ninety-five (95) days from the Effective Date or upon not less than ten (10) days advance written notice from Purchaser to Seller, whichever shall first occur.

   1.6 Deposit. The Deposit shall be a sum of One Hundred Thousand Dollars ($100,000.00). The Deposit shall be refundable to the Purchaser if Purchaser cancels this Contract prior to the end of the Investigation Period. After the completion of the Investigation Period, the Deposit becomes non-refundable to the Purchaser except in accordance with the terms of this Contract.

   1.7 Effective Date. The date when the latter of Purchaser or Seller has signed this Contract.

   1.8 Escrow Agent. The Escrow Agent is Henderson, Franklin, Starnes & Holt, P.A.

   1.9 Investigation Period. The Investigation Period is that period of time beginning on the Effective Date and ending at 6:00 p.m. EST on the first business day that is at least ninety (90) calendar days after the Effective Date.

   1.10 Property. Real property consisting of approximately 12.7 acres located in Lee County, Florida, and described as follows:
All of Tract "F-4", Miromar Lakes - Unit One, according to the Plat thereof as recorded in Plat Book 67, at pages 60 through 73 of the Public Records of Lee County, Florida.

1.11 Property Records. Originals or copies of the following documents relating to the Property (if in existence and in the possession of Seller): real property tax bills (for the year of closing, if available and the year preceding closing); owner's title insurance policy, appraisals; licenses; permits; development orders; engineering plans or other plans; site plan; surveys, boundary sketches or related survey work; any environmental assessments, reports and studies, and soils analysis or inspections (collectively the "Due Diligence Documents").

1.12 Purchaser's Address.

Curtis D. Bullock, Executive Director
Florida Gulf Coast University Financing Corporation
10501 FGCU Boulevard South
Fort Myers, FL 33965-6565
Telephone # (_____)
Facsimile # (239) 590-1010

1.13 Purchaser's Attorney.

David K. Fowler, Esq.
Henderson, Franklin, Starnes & Holt, P.A.
P.O. Box 280
Fort Myers, FL 33902-0280
Telephone # (239) 344-1353
Facsimile # (239) 344-1595

AND

Vee Leonard, Esq., General Counsel
Florida Gulf Coast University
10501 FGCU Boulevard South
Fort Myers, Florida 33965-6565
Telephone # (239) 590-1101
Facsimile # (239) 590-7470

1.14 Purchase Price. The sum of Three Million Eight Hundred Thousand Dollars ($3,800,000.00).

1.15 Seller's Address.

Miromar Lakes, LLC
c/o Miromar Development Corporation
Attn: Jerry Schmoyer, Executive Vice President
10801 Corkscrew Road, Suite 305
Estero, Florida 33928
Telephone #: (239) 390-5100
1.16 **Seller's Representatives**

Mark W. Geschwendt  
Miromar Development Corporation  
10801 Corkscrew Road, Suite 305  
Estero, Florida 33928  
Telephone #: (239) 390-5150

1.17 **Title Commitment.** An ALTA Title Insurance Commitment issued by Henderson, Franklin, Starnes & Holt, PA. as agent for the Title Company agreeing to issue the Title Policy to Purchaser upon satisfactory of the Purchaser's obligations pursuant to this Contract and the Title Commitment.

1.18 **Title Company.** Old Republic National Title Insurance Company or other title underwriter reasonably satisfactory to Purchaser.

1.19 **Title Policy.** An ALTA Owner's Title Insurance Policy (10/17/92) in the amount of the Purchase Price, issued by the Title Company, insuring Purchaser's title to the Property.

2. **Purchase and Sale.** Seller agrees to sell and convey the Property to Purchaser and Purchaser agrees to purchase and acquire the Property from Seller on the terms and conditions hereinafter set forth.

3. **Purchase Price.** The Purchase Price shall be paid as follows:

   3.1 **Deposit.** Within ten (10) days after the Effective Date, the Purchaser shall deliver the Deposit to Escrow Agent.

   3.2 **Cash to Close.** Purchaser shall pay the Cash to Close and Escrow Agent shall disburse the Deposit in accordance with the closing procedure set forth in this Contract.

4. **Investigation Period.**

   4.1 **Purchaser's Inspection of the Property.** Seller shall deliver a copy of all Property Records to Purchaser within ten (10) days from the Effective Date. During the Investigation Period, Purchaser shall have the right to review and inspect all of the Property Records and to enter upon the Property to make all inspections and investigations of the condition of the Property which Purchaser may deem necessary, including, but not limited to, soil borings; percolation tests, engineering, environmental and topographical studies, and investigations of zoning and the availability of utilities, all of which inspections and investigations if undertaken shall be at Purchaser's sole cost and expense. After completing its inspection of the Property, Purchaser shall, at its sole cost and expense, repair any damage it has caused to the Property. All inspections of the Property shall be conducted in such a manner as to avoid any interference with the Property. Seller shall sign any permits or applications necessary for Purchaser to conduct its inspections, if any, provided, however, that Purchaser shall pay all costs attendant therewith and the party or parties conducting the inspection(s) shall provide
evidence of liability insurance coverage to Seller upon Seller's request. Subject to applicable law, Purchaser covenants and agrees that it shall keep the results of all such inspections and reports confidential, as permitted by law, and shall not disclose the results of any such inspection or report to any third party, other than to its attorneys, lenders, agents and representatives who need to know such information for purposes of evaluating the Property and this transaction and who agree to abide by the terms of this provision, without the written consent of Seller.

Before entering the Property for the purpose of conducting any such inspections, Purchaser and Purchaser's agents, consultants, and contractors shall deliver to Seller evidence of liability insurance covering their activities on the Property and naming Seller as an additional insured, in a combined single limit coverage of at least $1,000,000.00. Seller shall in no way be liable or responsible for any activities of Purchaser and Purchaser's agents, consultants, and contractors upon the Property.

4.2 Termination of Contract Prior to End of Investigation Period. If Purchaser determines at any time that it is not satisfied with any results of its investigations of the Property, then Purchaser may elect to terminate this Contract at any time before the end of the Investigation Period by written notice to Seller. Upon the timely termination of this Contract during the Initial Investigation Period, Escrow Agent shall return to Purchaser the Deposit, and thereafter this Contract shall be terminated and except as specifically set forth herein, neither Purchaser nor Seller shall have any further rights or obligations hereunder.

5. Evidence of Title.

5.1 Marketable Title. Seller shall convey to Purchaser marketable title to the Property, subject only to the title exceptions as to which Purchaser has waived its right to object. Marketable title shall be determined according to the Uniform Title Standards adopted by The Florida Bar.

5.2 Delivery of Title Commitment. Within thirty (30) days following the Effective Date, the Title Company shall deliver to Purchaser or Purchaser's Attorney the Title Commitment, together with a copy of each instrument shown as an exception.

5.3 Purchaser to Notify Seller of Title Objections. If the Title Commitment reflects that title to the Property is subject to any exception that would render title to the Property to be unmarketable, or if at any time after delivery of the Title Commitment and prior to Closing, Purchaser receives notice of or otherwise discovers that title to the Property is subject to any additional title exceptions, Purchaser shall notify Seller in writing of the title exceptions to which Purchaser objects within twenty (20) days after Purchaser receives notice of such exceptions. If Purchaser fails to deliver timely notice to Seller of any objections, Purchaser shall be deemed to have waived its right to object to same, and Purchaser shall proceed to closing as hereinafter provided.

5.4 Title Exceptions. If Purchaser has timely notified Seller of any title exceptions to which Purchaser objects, Seller will have thirty (30) days from receipt of notice to remove the exceptions and shall notify Purchaser whether or not Seller has been able to remove the exceptions within said thirty (30) days. If Seller has not been able to remove the exceptions, Purchaser may either: (i) extend the time for a
reasonable period not to exceed sixty (60) days within which Seller shall use diligent effort to remove the exceptions; or (ii) request a refund of the Deposit which shall be promptly returned to Purchaser and the parties shall be relieved of all further obligations hereunder.

6. **Procurement of a Survey.** Purchaser, may procure a new survey of the Property prepared by a land surveyor or engineer registered and licensed in the State of Florida (the "Survey") and meeting the minimum technical standards as required by the Florida Administrative Code and certified to the Purchaser and the Title Company. If the Survey shows any matters which would affect the marketability of title to the Property, Purchaser shall notify Seller in writing of the specific defect within fourteen (14) days after receipt of the Survey (the "Survey Defects"). Survey Defects shall be treated in the same manner as title defects are treated under this Contract. Purchaser's failure to deliver timely notice of Survey Defects shall be deemed a waiver of Purchaser's right to object to survey matters as provided in this Section.

7. **Seller's Representations and Warranties.** To induce the Purchaser to enter into this Agreement and to purchase the Property, Seller makes the following representations and warranties to the best of Seller's current actual knowledge and without independent investigation as of the Effective Date and such representations and warranties shall be true as of the Closing:

7.1 There is no existing violation of any building code, building or use restriction, zoning ordinance, building permit or other authorization, governmental order, or statute, rule or regulation applicable to the Property.

7.2 There is no pending or threatened litigation, administrative action or claim relating to the Property, or to the ownership, use or operation thereof, that would adversely affect Seller's ability to perform its obligations under this Contract.

7.3 Except for the Miromar Lakes Community Development District annual operating and maintenance assessment and the MSTBU, there are no charges, assessments or liens presently outstanding or unpaid for local improvements or otherwise which have or may become a lien against the Property, nor are there any public improvements which have been ordered to be made and/or which have not heretofore been completed, assessed, and fully paid for.

7.4 All necessary action and any required consents have been taken and/or obtained to authorize the execution and delivery of this Contract and have been or, prior to Closing, will be taken and/or obtained to authorize the performance of its terms and conditions and those of the other documents, instruments and agreements provided for herein; and this Contract and all such other documents, instruments and agreements provided for herein shall be valid, legally binding obligations of Seller enforceable against Seller in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws or equitable principles affecting or limiting the right of contracting parties generally.

7.5 Seller is not (and neither the execution, delivery or performance of this Contract or of the documents, instruments and agreements provided for herein will result) in breach of or default under any document, instrument, order, or agreement to which the Seller is a party or by which the Seller or the Property is bound. Also, to the
best of Seller’s knowledge, there are no facts or events which, with notice or the passage of time or both, would constitute a default by Seller under any such document, instrument, order or agreement.

7.6 No condemnation or eminent domain proceeding affecting the Property has been commenced or threatened, or, to the best of Seller’s knowledge, is contemplated, nor does Seller have any knowledge of: (i) any intended public improvement which may involve a charge being levied against the Property; or (ii) any intended statute, ordinance, rule or regulation which would be specifically applicable to the Property and materially and adversely affect its use.

7.7 All amounts due and owing for the furnishing of labor, equipment and/or materials to or for Seller have been, or prior to Closing will be, fully paid. In the event that any claim is made by any party, before or after Closing, for payment of any amount due for the furnishing of labor, equipment and/or materials to or for the Seller prior to the Closing, or in the event that any lien is filed against the Property, before or after Closing, as a result of the furnishing of such labor, equipment and/or materials prior to the Closing, Seller, at its sole cost and expense, immediately shall either: (i) pay the said claim and discharge said lien; or (ii) post a sufficient bond to insure over such lien and thereafter diligently proceed to resolve such a lien.

7.8 With respect to the environmental condition of the Property, other than as disclosed in the Due Diligence Documents delivered by Seller to Purchaser: (i) during the period from Seller’s acquisition of the Property through the Closing Date; (A) no Hazardous Substances (as that term is hereinafter defined) have been placed, used, generated, stored, discharged, or released on, in or about the Property or Improvements; (B) Seller has not used or permitted the Property to be used as a landfill or dump, or for the use, generation, storage or discharge of Hazardous Substances; (C) no underground storage tanks of any type have been placed on or in the Property by Seller, any tenant or their contractors or agents; and (D) neither Seller nor any tenant has created or permitted any surface or subsurface conditions to exist which constitute, or with the passage of time may constitute, a public or private nuisance; and (ii) prior to the date of Seller’s acquisition of the Property, to the best of Seller’s current actual knowledge and without independent investigation; (X) no Hazardous Substances were placed, used, generated, stored, discharged, or released on, in or about the Property or the Improvements; (Y) the Property was not used as a landfill or dump, or for the storage or generation of any Hazardous Substances, and no underground tank of any type was placed on or in the Property; and (Z) there were no surface or subsurface conditions which constituted a public or private nuisance. The term hazardous substances, as used herein, means any hazardous or toxic substance, material or waste, including without limitation any substance, material or waste which is: (i) designated as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 6901, et seq.; (ii) asbestos or asbestos-containing building materials; (iii) petroleum or petroleum byproducts; or (iv) defined as a hazardous or toxic waste, substance, material or waste under any other applicable federal, state, county or local law, ordinance, rule or regulation.

7.9 To the best of the Seller’s knowledge, Seller owns the Property free and clear of any and all liens, claims, encumbrances, easements, leases, and other
exceptions to title, or as is otherwise shown on the Commitment furnished by Seller to Purchaser pursuant to this Agreement. To the best of Seller's knowledge, there are no obligations in connection with the Property which will be binding upon Purchaser after the Closing, except matters set forth in the Commitment.

7.10 Seller is in sole and undisputed possession of the Property, and to the best of Seller's knowledge, no other person or entity is entitled to possession of all or any portion of the Property, and there are no boundary disputes.

7.11 The Due Diligence Documents delivered to Purchaser by Seller pursuant to this Agreement are true, complete and correct copies and/or originals of such documents.

7.12 No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceeding are pending or threatened against Seller, nor are any of such proceedings contemplated by Seller.

The continued accuracy in all material respects of the representations and warranties set forth in Paragraph 7.1 shall be a condition precedent to the Purchaser's obligation to close, shall not merge into any instrument of conveyance delivered at the Closing, and shall survive the Closing for a period of one year.

8. **Purchaser's Representations and Warranties.** The execution and delivery of this Contract by Purchaser and the consummation by Purchaser of the transaction hereby contemplated are within Purchaser's capacity and all requisite action has been or will have been taken to make this Contract valid and binding on Purchaser in accordance with its terms.

9. **Closing.** Subject to all of the provisions of this Contract, Purchaser and Seller shall close this transaction on the Closing Date commencing at 10:00 a.m. or at such other time on the Closing Date as specified in Paragraph 1.5 or as mutually agreed by Seller and Purchaser. The Closing shall take place at the office of Purchaser's Attorney in Lee County, Florida or at a place mutually agreed to by Seller and Purchaser.

10. **Seller's Closing Documents.** At Closing, Seller shall execute and deliver certain documents (the "Seller's Closing Documents"), at Seller's expense, as follows:

10.1 A Special Warranty Deed in the form of **Exhibit A** attached hereto, conveying to Purchaser good and marketable title in fee simple to the Property free and clear of any and all liens, encumbrances, conditions, easements, assessments, restrictions, and other exceptions, except for: (i) general real estate taxes for the year of Closing and subsequent years not yet due and payable; and (ii) any other exceptions approved in writing by Purchaser.

10.2 An ALTA Owner's Policy of Title Insurance (or the Title Company's binder, in form and content satisfactory to Purchaser), in the amount of the Purchase Price, dated as of the Closing Date, with mechanic's lien and survey coverage, showing fee simple title to the Property vested in Purchaser subject only to: (i) the standard exclusions appearing in the printed portions of such a policy (except for any such exclusions for mechanic's liens and matters revealed by the surveys; (ii) general real estate taxes for the year of Closing and subsequent years not yet due and payable; and (iii) the other exceptions approved in writing by Purchaser.
10.3 An affidavit from Seller attesting that, to the best of Seller's knowledge; (i) no individual or entity has any claim against the Property under the applicable construction lien law; (ii) except for Seller, no individual or entity is either in possession of the Property or has a possessory interest or claim in the Property; and (iii) no improvements to the Property have been made by Seller for which payment has not been made within the immediately preceding ninety (90) days. The affidavit shall include language sufficient to enable the Title Company to insure the "gap", i.e., delete as an exception to the Title Commitment any matters appearing between the effective date of the Title Commitment and the effective date of the Title Policy. The affidavit shall also include the certification of non-foreign status required under Section 1445 of the Internal Revenue Code to avoid the withholding of income tax by the Purchaser.

10.4 A Closing Statement setting forth the Purchase Price, Deposit and all credits, adjustments and prorations between Purchaser and Seller, and the net Cash to Close due Seller.

10.5 Such federal income tax reports respecting the sale of the Property as are required by the Internal Revenue Code of 1986, as amended. It shall be the responsibility of the Seller's Attorney to file a Form 1099-B with the Internal Revenue Service if such filing is required by law.

10.6 Such documents as Purchaser or the Title Company may reasonably request evidencing Seller's power and authority of Seller to enter into and execute this Contract and to consummate the transaction herein contemplated, and to allow the Title Company to issue the Title Policy.

10.7 Any other documentation reasonably required by Purchaser or the Title Company to consummate the transaction described herein and to cause the Title Policy to be issued and delivered to the Purchaser.

11. Purchaser's Closing Documents. At Closing, Purchaser shall execute and deliver certain documents (the "Purchaser's Closing Documents"), at Purchaser's expense, as follows:

11.1 Closing Statement. A Closing Statement setting forth the Purchase Price, Deposit and all credits, adjustments and prorations between Purchaser and Seller, and the net Cash to Close due Seller.

11.2 Any other documentation reasonably required by the Title Company to consummate the transaction described herein and to cause the Title Policy to be issued and delivered to the Purchaser.

12. Closing Procedure. The Closing shall proceed in the following manner:

12.1 Pre-Closing Delivery of Documents. Purchaser's Attorney and Seller's Representatives shall each deliver to the other copies of the proposed Purchaser's Closing Documents and Seller's Closing Documents not less than three (3) days prior to the Closing Date.

12.2 Transfer of Funds. Purchaser shall pay the Cash to Close to the Escrow Agent by wire transfer to a depository designated by Escrow Agent.
12.3 **Delivery of Documents.** Purchaser shall deliver to the Escrow Agent the Purchaser's Closing Documents and Seller shall deliver to the Escrow Agent the Seller's Closing Documents.

12.4 **Disbursement of Funds and Documents.** Once the Title Company has "insured the gap," i.e., endorsed the Title Commitment to delete the exception for matters appearing between the effective date of the Title Commitment and the effective date of the Title Policy, then, and provided all other obligations to close have been performed, Escrow Agent shall deliver the Deposit, the Cash to Close and the Purchaser's Closing Documents to Seller and the Seller's Closing Documents to Purchaser.

13. **Prorations and Closing Costs.**

13.1 **Prorations.** Except as otherwise provided herein, certain items shall be prorated and adjusted between Seller and Purchaser as of the midnight preceding the Closing as set forth herein.

13.1.1 **Taxes.** Purchaser shall obtain a statement from the Lee County Tax Collector confirming the amount of real estate taxes owed on the Property through the day preceding closing and Seller shall be responsible for payment of the stated tax amount. In the event that Purchaser is unable to obtain a statement from the Lee County Tax Collector confirming the amount of real estate taxes owed on the Property through the day preceding closing, the taxes shall be prorated based on the tax bill for the current year. If the current year's tax bill is not available, real estate taxes shall be based on the amount for the preceding year, with no discount taken, and shall be readjusted based on the maximum discount when the tax bill is available for the year of the Closing.

13.1.2 **Certified or Pending Liens.** Certified, confirmed or ratified governmental liens as of the Closing shall be paid by Seller. Pending liens shall be assumed by Purchaser.

Purchaser acknowledges CDD and MSTBU imposed assessments are paid in advance, not arrears. Ad valorem taxes are paid in arrears. Any tax and assessment proration based upon an estimate may, at the request of either party to the transaction, be subsequently readjusted upon receipt of a tax bill. A statement to that effect shall be set forth in the closing statement. Purchaser shall assume existing CDD and MSTBU obligations as of the Closing Date.

13.2 **Seller's Closing Costs.** Seller shall pay for certain items prior to or at the time of Closing (the "Seller's Closing Costs") as follows:

- Documentary Stamps to be affixed to Deed
- Recording of any corrective title instruments
- Seller's Attorney's Fees and Costs

13.3 **Purchaser's Closing Costs.** Purchaser shall pay for certain items prior to or at the time of Closing (the "Purchaser's Closing Costs"), as follows:

- Recording of the Deed
All property inspections obtained by Purchaser
Purchaser’s Attorney’s Fees and Costs
Title search
Title Policy Premium based upon the minimum promulgated rate as determined by the Florida Department of Insurance

14. Possession. Purchaser shall be granted full possession of the Property at Closing.

15. Condemnation. If at any time prior to the Closing Date, any proceedings shall be commenced for the taking of all of the Property or any material portion thereof, for public or quasi-public use pursuant to the power of eminent domain, Seller shall furnish Purchaser with written notice of any proposed condemnation within five (5) days after Seller’s receipt of such notification, but in no event later than the Closing. In such event, Purchaser shall have the right to rescind this Agreement and receive a return of the Deposit by written notice to Seller within fifteen (15) days. Otherwise (i) the transaction as contemplated hereby and the Closing shall progress as herein provided without reduction of the Purchase Price unless the parties otherwise agree in writing; (ii) Purchaser shall have the right to participate in the negotiation of any condemnation awards or other compensation for taking; and (iii) Seller shall assign to Purchaser any and all awards and other compensation for such taking to which it would be otherwise entitled as owner of the Property and Seller shall convey the portion of the Property, if any, which remains after the taking.


16.1 Purchaser’s Default. In the event that this transaction fails to close due to a default on the part of Purchaser, the Deposit shall be paid to the Seller as agreed upon liquidated damages and thereafter, except as otherwise specifically set forth in this Contract, neither Purchaser nor Seller shall have any further rights or obligations under this Contract. Purchaser and Seller acknowledge that if Purchaser defaults, Seller will suffer damages in an amount which cannot be ascertained with reasonable certainty on the Effective Date, and that the Deposit to be paid to Seller most closely approximates the amount necessary to compensate Seller in the event of such default. Purchaser and Seller agree that this is a bona fide liquidated damages provision and not a penalty or forfeiture provision.

16.2 Seller’s Default. In the event that this transaction fails to close due to a default on the part of Seller, Purchaser shall have the right to either: (i) terminate the Contract and receive back the Deposit, without thereby waiving any action for damages for Seller’s breach; or (ii) seek specific performance of Seller’s obligations hereunder, with the Deposit remaining in escrow pending the outcome of such proceedings and such other remedies at law or in equity as may be available to Purchaser.

17. Brokerage Commission. Seller represents and warrants to Purchaser and Purchaser represents and warrants to Seller that no broker has been or will be engaged with respect to this transaction.

18. Notices. Any notice, request, demand, instruction or other communication to be given to either party hereunder, except where required to be delivered at the Closing, shall be in writing and shall either be: (i) hand-delivered; (ii) sent by Federal Express or a comparable overnight mail service; or (iii) sent by telephone facsimile transmission, provided that an
original copy of the transmission shall be mailed by regular mail; or (iv) sent by certified mail, return receipt requested, to Purchaser, Seller, Purchaser’s Attorney, Purchaser’s General Counsel and Seller’s Representatives, at their respective addresses set forth in Section 1 of this Contract. Notice shall be deemed to have been given upon receipt or refusal of delivery of said notice by either Purchaser or Purchaser’s Attorney on behalf of Purchaser and Seller or Seller’s Representatives on behalf of Seller. With respect to notice by fax, notice shall be deemed to have been given upon receipt, if prior to 5:00 p.m. recipient’s local time on a business day, and otherwise on the business day following receipt; provided, however, that the party claiming delivery of notice via facsimile shall have the burden of proving notice was in fact sent, which burden can be carried without further evidence if receipt of the fax by the receiving machine is confirmed by the transmitting machine. Receipt shall be deemed to have occurred if made by any authorized agent or employee of the addressee or of the addressee’s company. In the event notice is sent by fax, a hard copy must also be sent within one (1) business day following the day of the fax by regular mail, postage prepaid. The addressees and addresses for the purpose of this Section may be changed by giving notice. Unless and until such written notice is received, the last addressee and address stated herein shall be deemed to continue in effect for all purposes hereunder.

19. Escrow Agent.

19.1 Duties and Authorization. The payment of the Deposit, Cash to Close and all other funds provided hereunder to the Escrow Agent is for the accommodation of the parties to this Contract. The duties of the Escrow Agent shall be determined solely by the express provisions of this Contract. In the event Escrow Agent receives a written demand from either Seller or Purchaser for the Deposit (which demand shall include an explanation setting forth the factual basis for such party’s request for the Deposit), Escrow Agent shall give written notice to the other party of such demand and of Escrow Agent’s intention to remit the Deposit to the party making the demand on the stated date. If Escrow Agent does not receive a written objection within ten (10) days after such notice, Escrow Agent is hereby authorized to so remit the Deposit. If, however, Escrow Agent receives written objection from the other party within ten (10) days after such notice, Escrow Agent shall continue to hold the Deposit until otherwise directed by joint written instructions from Seller and Purchaser or until a final judgment of an appropriate court is issued. Purchaser and Seller authorize the Escrow Agent, without creating any obligation on the part of Escrow Agent, in the event this Contract or the Deposit becomes involved in litigation, to deposit the Deposit with the Clerk of the Court in which the litigation is pending and thereupon the Escrow Agent shall be fully relieved and discharged of any further responsibility under this Contract. Purchaser and Seller also authorize the Escrow Agent, if it is threatened with litigation, to interplead all interested parties in any court of competent jurisdiction and to deposit the Deposit with the Clerk of the Court and thereupon the Escrow Agent shall be fully relieved and discharged of any further responsibility hereunder.

19.2 Liability. The Escrow Agent shall not be liable for any mistake of fact or error of judgment or any acts or omissions of any kind unless caused by its own willful misconduct or gross negligence. The Escrow Agent shall be entitled to rely on any instrument or signature believed by it to be genuine and may assume that any person purporting to give any writing, notice or instruction in connection with this Contract is duly authorized to do so by the party on whose behalf such writing, notice or instruction is given.
19.3 **Hold Harmless.** Purchaser (to the extent allowable pursuant to Florida Statutes Section 788.28) and Seller will, and hereby agree to, jointly and severally, indemnify the Escrow Agent from and hold it harmless against any loss, liability or expense, including Attorneys’ fees incurred on the part of the Escrow Agent arising out of or in connection with the acceptance of, or the performance of, its duties under this Contract as Escrow Agent, as well as the costs and expenses of defending against any claim or liability arising under this Contract, as Escrow Agent. This provision shall survive the Closing or earlier termination of this Contract.

19.4 **Purchaser's Attorney.** Seller acknowledges that the Escrow Agent is also Purchaser's Attorney in this transaction, and Seller hereby consents to the Escrow Agent's representation of Purchaser and Escrow Agent in any litigation which may arise out of or is otherwise related to this Contract.

20. **Assignment.** Purchaser shall be entitled to assign Purchaser's rights under this Agreement to any corporation, partnership, limited liability company, or other entity controlled by or affiliated with Purchaser upon the following conditions: (i) the assignee shall assume all of the obligations of Purchaser under this Agreement, (ii) Purchaser shall remain primarily liable for the performance of Purchaser's obligations, and (iii) a copy of the fully executed written assignment and assumption agreement shall be promptly delivered to Seller.

21. **Miromar Lakes Development of Regional Impact.** Within 30 days of Closing, Seller shall file a Notice of Proposed Change with Lee County and diligently pursue to completion the process for removal of the Property from the Miromar Lakes DRI (State DRI #11-9798-142).

22. **Restrictive Covenant.** A restrictive covenant shall be recorded at closing providing as follows:

A. Building Restrictions. Due to the close proximity to Seller’s residential community, commonly known as Miromar Lakes Golf and Beach Club (“Miromar Lakes”), Purchaser and Seller agree that it is important to maintain certain standards of architectural quality and to provide for certain restrictions on the development and use of the Property. Therefore, Purchaser, its successors and assigns agrees that they will not construct upon or use the Property for any of the following uses or purposes:

- Parking garages (unless the parking garage is an integral part of the design and located on the south side of the principle building or structure)
- Buildings of any kind exceeding 45 feet in height (unless approved by Miromar for special academic uses such as a Performing Arts Center)
- Student housing or any other multifamily housing
- Sports facilities such as arenas, stadiums or similar buildings
- Water towers
- Satellite or other towers or transmitting devices
- Ball fields, playfields or similar fields with or without outdoor lighting
- Storage facilities
- Restaurants, hotels or motels, gas stations, drugstores, convenience stores or similar uses.

B. Design Review Procedure. All plans for initial improvements to the property which encompass the exterior of buildings and landscaping shall be submitted to Seller
for review and approval. The Seller and Purchaser agree that the exterior of any buildings constructed on the Property shall be similar in architectural style and character to a campus building to be mutually selected by the parties during the inspection period ("Base Building"). Within 20 days receipt of such plans, the Seller shall provide comments and/or approval of the plans. Approval of Purchaser's plans shall be based upon the exterior architecture being consistent with the Base Building and on that basis such approval shall not be unreasonably withheld. If Seller fails to respond within 20 days, Purchaser's plans shall be deemed approved.

These Covenants shall run with the land and are binding on the Purchaser, its successors and assigns. The above covenants shall terminate upon the turnover, insolvency or bankruptcy of the Miromar Lakes Master Association.

23. **Confidentiality.** Prior to the execution of this Contract, neither party shall make any public announcement or disclosure of any information related to this Contract to outside brokers or third parties, other than to its attorneys, lenders, agents and representatives who need to know such information for purposes of evaluating the Property and this transaction and who agree to abide by the terms of this provision. Once this Contract has been executed by all parties, Seller acknowledges that the terms of the Contract will be subject to disclosure in accordance with applicable law.

24. **Condition Precedent to Closing.** Following the execution of this Contract, Seller acknowledges that Purchaser must obtain the approval of the Board of Trustees of Florida Gulf Coast University and the Florida Board of Governors of the State University System in order to complete the Closing. In the event that Purchaser has been unable to obtain the approval of the Board of Trustees of Florida Gulf Coast University and the Florida Board of Governors within ninety-five (95) days of the Effective Date, unless extended by mutual agreement, this Contract shall be automatically terminated and the Deposit shall be returned to Purchaser.

25. **Waiver of Liability.** Seller shall bear no liability whatsoever resulting from or arising out of Purchaser's examination, inspection, ownership, development of, construction upon the Property except for a breach by Seller of the Seller's representations and warranties as set forth in Paragraph 7. We need to be released, indemnified and held harmless against any claims made against Seller by Purchaser and its agents against any claims arising out of their examination and inspection of the Property. Purchaser needs to provide adequate insurance against liability claims arising out of such inspections or examinations of the Property.

26. Each Party represents and warrants as follows:

(i) **Power and Authority.** That it (a) is formed and validly existing under the laws of the state of its organization and is in good standing under the laws of the State of Florida, (b) has full power and authority to execute, deliver and perform its obligations under this Agreement, and (c) has taken all necessary action to authorize the execution, delivery and performance of this Contract.

(ii) **Conflicts.** The execution, delivery and performance of this Contract does not violate, conflict or create a default under any agreement or order which is binding upon it or any of its assets.
(iii) **Enforceability.** This Agreement has been executed and delivered by it, and is the legal, valid and binding obligation of it and is enforceable in accordance with its terms, except to the extent that such enforceability may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the rights of contracting parties generally.

27. **Miscellaneous.**

27.1 **Amendment.** No modification or amendment of this Contract shall be of any force or effect unless in writing executed by both Seller and Purchaser.

27.2 **Attorneys' Fees.** Each of the parties hereto shall bear its own costs and Attorneys' fees in connection with the execution of this Contract and the consummation of the transaction contemplated hereby. In the event of any dispute hereunder, the prevailing party shall be entitled to recover all costs and expenses incurred by it in connection with the enforcement of this Contract, including all Attorneys' fees and costs in connection therewith.

27.3 **Computation of Time.** Any reference herein to time periods of less than six (6) days shall exclude Saturdays, Sundays and legal holidays in the computation thereof. Any time period provided for in this Contract which ends on a Saturday, Sunday or legal holiday shall extend to 4:00 p.m. Eastern time on the next full Business Day.

27.4 **Construction of Agreement.** Should any provision of this Contract require interpretation in any judicial, administrative or other proceeding or circumstance, it is agreed that the court, administrative body or other entity interpreting or construing the same shall not apply a presumption that the terms thereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who prepared the same, it being further agreed that both parties hereto have fully participated in the preparation of this Contract.

27.5 **Counterparts.** This Contract may be executed in any number of facsimile counterparts, any one and all of which shall constitute the contract of the parties and each of which shall be deemed an original.

27.6 **Entire Agreement.** This Contract sets forth the entire agreement between Seller and Purchaser relating to the Property, all subject matter herein and supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the parties and there are no agreements, understandings, warranties or representations among the parties except as otherwise indicated herein.

27.7 **Gender.** As used in this Contract, the masculine shall include the feminine and neuter, the singular shall include the plural and the plural shall include the singular as the context may require.

27.8 **Governing Law.** This Contract shall be interpreted in accordance with the internal laws of the State of Florida and will be deemed for such purposes to have been made, executed and performed in the State of Florida; provided, however, Seller and Purchaser do not waive any defenses, rights, remedies, privileges or other matters available to it under federal law or otherwise.
27.9 **Section and Paragraph Headings.** The section and paragraph headings herein contained are for the purposes of identification only and shall not be considered in construing this Contract.

27.10 **Severability.** If any clause or provision of this Contract is determined to be illegal, invalid or unenforceable under any present or future law by final judgment of a court of competent jurisdiction, the remainder of this Contract will not be affected thereby. It is the intention of the parties that if any such provision is held to be illegal, invalid or unenforceable, there will be added in lieu thereof, a provision that is as similar in terms to such provision as is possible to be legal, valid and enforceable.

27.11 **Successors and Assigns.** This Contract shall inure to the benefit of and be binding upon the permitted successors and assigns of the parties hereto.

27.12 **Survival.** Except as otherwise expressly set forth in this Contract, all representations and warranties of Seller and obligations of Seller hereunder set forth in this Contract shall survive the Closing. Seller and Purchaser agree that any and all provisions, terms and conditions of this Agreement which require or provide for the performance or liability of either party following Closing shall survive Closing and delivery of the Deed, unless otherwise stated specifically in this Agreement.

27.13 **Time of the Essence.** Time is of the essence in the performance of all obligations by Purchaser and Seller under this Contract.

WHEREFORE, Seller and Purchaser have executed this Contract as of the date below indicated.

**PURCHASER:**
Florida Gulf Coast University Financing Corporation

By: Curtis Bullock
Its: Executive Director

Date: 12-2-10

**SELLER:**
Miromar Lakes, LLC
By: Miromar Development Corporation
Its: Managing Member

By: [Signature]
Its: Vice-President

Date: 12-3-10

**ESCROW AGENT:**
Henderson, Franklin, Starnes & Holt, P.A.

By: [Signature]
Its: [Title]

Date: 12-8-10
Rec'd Fee $______________
State Stamps $______________
Doc. Stamps $______________
Total $______________

This instrument was prepared by
and to be returned to:
Mark W. Geschwendt, Esq.
Miromar Development Corporation
10801 Corkscrew Road, Suite 305
Estero, Florida, 33928

Parcel ID No.: ___________________________  Above space reserved for Clerk's office

Exhibit "A"

SPECIAL WARRANTY DEED

This SPECIAL WARRANTY DEED made this ___ day of ____________,
2010, by MIROMAR LAKES, LLC, a Florida limited liability company, whose
mailing address is c/o Miromar Development Corporation, 10801 Corkscrew
Road, Suite 305, Estero, Florida 33928, as Grantor, to FLORIDA GULF COAST
UNIVERSITY FINANCING CORPORATION, a Florida not-for-profit
 corporation, whose post office address is 10501 FGCU Boulevard South, Fort
Myers, Florida 33965-6565, as Grantee;

The Grantor, for the sum of TEN and NO/100 DOLLARS ($10.00), and
other good and valuable consideration, the receipt of which is acknowledged,
grants, bargains, sells, and conveys to the Grantee and its successors and
assigns all of that certain parcel of land situated in the County of Lee, State of
Florida, which is more particularly described as follows:

See Exhibit "A" attached and incorporated by reference
("Property").

The Property is subject to taxes for the year 2010 and subsequent years.

The Property is also subject to all covenants, restrictions, rights of way,
easements, zoning and other governmental restrictions and other matters of
public record.

The Property is conveyed by Grantor to Grantee with all tenements,
hereditaments and appurtenances, with every privilege, right, title, interest and
estate, remainder and easements belonging or in anywise appertaining to it.
The Grantor covenants to the Grantee that at the time of delivering this Special Warranty Deed it is lawfully seized of the premises, that it has good right and lawful authority to sell and convey it; and the Grantor fully warrants the title to the land, and will defend it against lawful claims of all persons whomsoever claiming by, through or under the Grantor but against no others.

The Grantor has executed this Special Warranty Deed as of the day and year first written above.

Signed, and delivered in the presence of:

MIROMAR LAKES, LLC, a Florida limited liability company

By: Miromar Development Corporation,
a Florida corporation, as its
Managing Member

By: __________________________________________

Jerry H. Schmoyer, Vice President

Address:
10801 Corkscrew Road, Suite 305
Estero, Florida 33928

STATE OF FLORIDA     }
COUNTY OF LEE         }

The foregoing instrument was acknowledged before me this ___ day of ______, 2010, by Jerry H. Schmoyer, as Vice President of Miromar Development Corporation, a Florida corporation, on behalf of the corporation as the Managing Member of MIROMAR LAKES, LLC, a Florida limited liability company, on behalf of the company. He [  ] is personally known to me or [  ] has produced _________________________________ as identification.

(Seal)

Notary Public, State of Florida
Expiration Date:
Exhibit “A”

LEGAL DESCRIPTION:

Tract F-4, Miromar Lakes – Unit One, according to the Plat thereof as recorded in Plat Book 67, at pages 60 through 73 of the Public records of Lee County, Florida.
LETTER REPORT
FOR
MIROMAR PARCEL

SE QUADRANT OF FGCU LAKE PARKWAY and
BENN HILL GRIFFIN PARKWAY INTERSECTION

Prepared for:

FLORIDA GULF COAST UNIVERSITY

Prepared by:

JOHNSON
ENGINEERING

2122 Johnson Street
P.O. Box 1550
Fort Myers, Florida 33901

DECEMBER 16, 2010
1. GENERAL DESCRIPTION

The subject property is located at the southeast quadrant of the FGCU Lake Parkway and Ben Hill Griffin Parkway intersection. The subject property is comprised of a future development tract within the Miromar Lakes project area and is owned by Miromar Lakes, LLC. The strap number of the subject parcel is 14-46-25-01-000F4.0000 and the parcel does not have an address assigned as of the date of this report.

2. PLAT STATUS

Currently the subject property is part of a Master Planned Development (MPD) and a Development of Regional Impact (DRI). In particular, this is a future development tract platted in the Miromar Lakes Unit One plat recorded in the Lee County records in Plat Book 67, Pages 60-73, Tract F-4. The subject property is approximately 12.33 acres and a boundary survey of the parcel will be forwarded upon completion.

3. LEE COUNTY DEVELOPMENT ORDER REVIEW

There are no Lee County Development Orders submitted or previously approved for the subject parcel.

4. STORMWATER ASSESSMENT

This section of the due diligence report outlines the SFWMD engineering constraints of the subject property identified in the legal description as Miromar Lakes Unit One, Tract F-4 and specifically by Lee County as STRAP # 14-46-25-01-000F4.0000. The property is approximately 12.33 acres in size based upon Lee County Property Appraiser information. SFWMD permit number 36-03568-P was reviewed in support of the engineering assessment.

SFWMD - Based upon SFWMD Permit 36-03568-P for Miromar Lakes Phase I, the subject property has been permitted conceptually for development of a multi-family residential area known as tract #27 and commercial development known as tract #26. The total acreage for the permit is 9.93 acres of multi-family, and 2.69 acres of commercial. This is slightly more than the total parcel area, which could have been caused due to a shift in the road during construction.

These parcels obtained a phase one construct and operate permit that included clearing and filling, but no construction has been completed to date and that permit has since expired. The site is designed to include 1.06 acres of dry pre-treatment for stormwater on the property, however, the remaining treatment is to be provided on other parcels located within the current Miromar Lakes Basin 6.
The following are the approved design parameters for Basin 6 of the Miromar Lakes permit:

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<th>Water Quality</th>
<th>Elevations in NGVD</th>
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<td>Control Elevation (ft)</td>
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<tr>
<td>Water Quality Elevation (ft)</td>
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</table>

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<td>Minimum Road/Parking Crown Elev.(ft)</td>
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</table>

<table>
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</thead>
<tbody>
<tr>
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<td>13.0</td>
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<tr>
<td>Peak Stage, w/ discharge (ft)</td>
<td>20.7</td>
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<tr>
<td>Minimum Building Finished Floor (ft)</td>
<td>22.0</td>
</tr>
</tbody>
</table>

Currently, Basin 6 is permitted to receive discharge from Florida Gulf Coast University North Entrance Road in addition to other developed areas within this basin. In order for this piece of property to become part of the FGCU permit, a permit modification would need to be obtained for both the Miromar Lakes and the FGCU permits. It appears that no additional agreements would be necessary for treatment given that the 1.06 acres of dry pretreatment are provided onsite.

5. JURISDICTIONAL WETLANDS / MITIGATION

SFWMD - Based upon SFWMD Permit 36-03568-P for Miromar Lakes Phase I, the subject parcel is characterized primarily by fair/poor quality forested wetlands, except for an upland pocket situated at the southeast corner of the FGCU north entrance road and Ben Hill Griffin Parkway. The wetland habitats, identified in the permit as a portion of wetland 10B, are described as containing cypress, slash pine, cabbage palm, and significant amounts of melaleuca (>50%). The “x” hatching that has been shaded in yellow on Exhibit 5 from the staff report of SFWMD Permit 36-03568-P (Application number 991101-14) depicts the wetlands on the subject parcel that were identified and permitted for impact under the permit. Although the wetlands on the subject property have not been impacted to date, the referenced application for Phase I construction included a request to authorize all proposed wetland impacts in the Miromar Lakes project area in order to simplify future requests for construction. While all wetland impacts were not expected to occur during Phase I construction, they were authorized for impact under the Phase I construction permit. Review of this permit indicates the entirety of the subject parcel was slated for development and the mitigation for the associated wetland impacts has already been completed by the current permit holder.
Review of the SFWMD’s online records reveal the required monitoring of the onsite mitigation area at Miromar Lakes associated with the permitted wetland impacts on the subject parcel has been completed. The District’s release of the bond for Phase I mitigation (enclosed for reference) in April 2008 states the request for a 100% reduction in the bond for Phase I mitigation will be granted due to the successful completion of the initial mitigation work and the submittal of the environmental monitoring reports.

U.S. Army Corps of Engineers (USACOE) – A copy of the USACOE individual permit for Miromar Lakes was not available for review at the time of this assessment. Reference to USACOE Permit No. 199507483(IP-MN) was found in monitoring reports submitted to the SFWMD for review, but a copy of the actual permit was not located on the SFWMD website. The USACOE does not readily have permits available for review. A request for the permit would have to be made through the Freedom of Information Act, which would not allow for the permit to be received in a timely manner for this assessment. The majority of correspondence available on the SFWMD website indicates the USACOE was copied on the mitigation monitoring reports and bond reduction request. As there are no recorded conservation easements on the subject parcel and the DRI/Lee County zoning, as well as the SFWMD permit, slated the subject parcel for development, it is assumed the USACOE permit does the same. Should the University want this assumption confirmed prior to purchase of the subject parcel, it will be necessary to contact the USACOE and inquire about the referenced permit number. If the local office happens to have a copy of the permit available, the inquiry may not take that long. However, if a formal request has to be made through the Freedom of Information Act, obtaining a copy of the permit may take several months.

Listed Species /Mitigation

Listed plant and wildlife species surveys were conducted on the entire Miromar Lakes property as part of the original permitting process. However, it will be necessary to conduct an updated listed species survey on the subject parcel as part of any permit modifications. Copies of the original survey reports were not available for review on the District website. However, the SFWMD staff report for the previously referenced District permit indicates listed species were documented and/or known to inhabit the Miromar Lakes property. The staff report indicates the Florida Fish and Wildlife Conservation Commission (FWC) determined Miromar Lakes is documented habitat for the Florida panther (Felis concolor coryi), Florida black bear (Ursus americanus floridanus), wood stork (Mycteria americana), snail kite (Rostrhamus sociabilis), eastern indigo snake (Drymarchon corais couperi), Big Cypress fox squirrel (Sciurus niger avicennia), listed wading birds, and gopher tortoise (Gopherus polyphemus). Through the original permitting process, mitigation and/or management plans were required to address the potential impacts to these species as a result of the development. Following is an overview of those requirements:
- Florida panther and Florida black bear - the original applicant was required to preserve and maintain acreage of Priority 1 Panther Habitat Lands to mitigate for potential impacts to far ranging species, which included the Florida panther and black bear. Special Condition 26 of the referenced SFWMD permit details the requirements and implementation of this mitigation. The aforementioned Lee County zoning documents also make reference to the requirement for panther mitigation and indicate the applicant was going through Section 7 Consultation with the U.S. Fish and Wildlife Service (USFWS) through the USACOE permit process. Final documentation of compliance with this requirement was not located on the SFWMD permit database. However, based upon the approved release of the mitigation bond previously referenced, it is assumed the requirement for Florida panther and bear mitigation for the entire Miromar Lakes property has been fulfilled.

- Wood stork and listed wading birds – the wetlands on the subject parcel were permitted for impact, as previously referenced. The loss of these wetlands represents a loss of forage base for the wood stork and listed wading birds. However, mitigation for the wetland loss and associated loss of wood stork and listed wading bird habitat was addressed in the original permitting for Miromar Lakes. The analysis for determining wood stork mitigation has changed since original permit issuance. However, as the permit is still active and the subject parcel was previously reviewed for wetland impacts and mitigation, it should be grandfathered under the existing permit. No additional review is anticipated for the wood stork and listed wading birds under a future modification.

- Snail Kite – the Lee County zoning resolutions required implementation of a snail kite management plan prior to local development orders that address how cattails will be managed in more open waters within the borrow lakes to provide snail kite foraging areas. This requirement is not applicable to the subject parcel as no borrow lakes are present on it. The subject parcel has been permitted for full development and was never intended to provide snail kite foraging.

- Eastern indigo snake - Miromar Lakes was required to have a management plan for the eastern indigo snake under the SFWMD (and most certainly the USACOE permit) and Lee County zoning. As with the plan required by FGCU permits, the eastern indigo snake management plan for Miromar Lakes requires educational materials be provided to field survey and construction crews prior to commencement of site work. The language in the Lee County zoning resolution additionally states, “a qualified biologist must be present during the construction clearing phases of the project for the first week, with at least two (2) spot checks per week thereafter, to survey ahead of clearing activities and to verify that appropriate steps are being followed to protect the snakes”. This varies a bit from the plan associated with the FGCU USACOE permit that requires a biologist be onsite during all clearing activities. The USACOE permit for Miromar Lakes may contain the same language regarding the eastern indigo snake as the FGCU
permit does; however, that cannot be verified without a copy of the subject USACOE permit. For planning purposes, it is recommended FGCU follow the protocol for eastern indigo snakes set out in their permit for any future construction on the subject parcel.

- Big Cypress fox squirrel – The Miromar Lakes DRI and SFWMD permit contain an approved Big Cypress fox squirrel management plan that covers the entire development. Much of the management plan pertains to managing the onsite conservation areas for enhanced Big Cypress fox squirrel habitat. There are no conservation areas within the subject parcel. However, the plan also includes protection and management activities prior to and during construction of development parcels that will need to be adhered to during development of the subject parcel. Activities include educational pamphlets and posters to be provided to contractors, pre-construction surveys by a qualified biologist to determine if the site is being utilized by fox squirrels, undisturbed buffers being left in place if an active fox squirrel nest is observed, and coordination between the contractors and the project biologist if a fox squirrel is seen in an area being cleared.

- Gopher tortoise - based upon the permitting files with the SFWMD and the Lee County zoning, a small number of gopher tortoise were identified within the Miromar Lakes boundary during original permitting. It appears from the permitting history that the project had to obtain either an onsite relocation permit or incidental take permit for gopher tortoises. There is limited upland habitat on the subject parcel to provide significant gopher tortoise habitat. However, it will be necessary to conduct a thorough survey for gopher tortoise on the subject parcel’s upland habitat prior to development. Should gopher tortoise be discovered, it will be necessary to obtain the appropriate relocation permit from the FWC and move the tortoise to an approved upland preserve.

Permitting
From an environmental standpoint, an ERP modification to both the Miromar Lakes and FGCU permits will be required for development of the subject parcel by FGCU. The subject parcel was permitted for development under the Miromar Lakes permit, but SFWMD will evaluate the plan for continued compliance with specific development requirements called out in the Miromar Lakes permit. For example, the subject parcel is located adjacent to conservation lands which will require specific best management practices during development to ensure no adverse secondary impacts to the adjacent preserve. Development of the subject parcel also requires a berm between the development and adjacent preserve, if it has not already been installed. A modification to the USACOE permits for Miromar Lakes and FGCU may also be required to accurately portray the boundaries of the respective developments. The USACOE will review the project for continued consistency with the originally issued permits and will likely conduct a full review to determine both of the developments are in compliance with the conditions of their respective permits prior to issuing the modifications. With regard to
environmental conditions outlined in the Miromar Lakes DRI and Lee County zoning, they do not appear to significantly differ from the requirements of the SFWMD and USACOE permits. The subject parcel is identified for development in both the DRI and Lee County zoning and does not appear to contain any areas identified as Lee County indigenous preserve that may complicate the transfer of land from one permit to another.
April 30, 2008

JERRY SCHMOYER
MIROMAR DEVELOPMENT CORP
10801 CORKSCREW ROAD SUITE 305
ESTERO, FL 33928

Dear Mr. Schmoyer:

Subject: PARTIAL BOND REDUCTION REQUEST (BOND 3–S980810–00)
MIROMAR LAKES PHASE 1
Permit No. 36–03568–P, Application No. 991101–14

District staff has reviewed the letter submitted on October 11, 2006 (copy attached) from Parke Lewis of W. Dexter Bender & Associates requesting a 100 percent reduction in the bond for Phase I mitigation and a 35 percent reduction in the bond for Phase II mitigation. This request is for a total reduction in the bond (Number 3–S980810–00) from $1,207,800 to $392,143.

The request will be granted due to the successful completion of the initial mitigation work and the submittal of the environmental monitoring reports. Please provide this office with an original bond in the revised amount of $392,143. The previous bond of $1,207,800 will be released after the revised bond has been received by this office.

Should you have any questions or require further assistance, please contact me at (239) 338–2929.

Sincerely,

Kenneth W. Keilum, P.E., Engineer Supervisor
Environmental Resource Compliance
Lower West Coast Service Center
South Florida Water Management District

Attachments

c: Cynthia Ovdenk/USACOE/Ft. Myers
Parke Lewis/W. Dexter Bender & Assoc.
October 11, 2006

Ms. Bonnie McLaughlin
South Florida Water Management District
2301 McGregor Boulevard
Fort Myers, FL 33901

RE: Miromar Lakes Wetland Mitigation Monitoring Reports
Phase I Fifth Annual and Phase II Second Annual Monitoring Reports
SFWMD Permit #199507483 (1P-MN)

Dear Bonnie:

Please find attached copies of the Phase I and Phase II Wetland Mitigation Monitoring Reports for Miromar Lakes. As discussed during our site inspections of both mitigation areas earlier this month, the Phase I mitigation areas (M1 and M2) have met wetland mitigation permit criteria having been successfully kept free of exotic and nuisance vegetation with wetland mitigation plantings installed and well established. The Phase II mitigation areas (M3 and M4) have also been kept free of exotic and nuisance vegetation with wetland mitigation plantings as well as the natural recruitment of desirable wetland vegetation becoming well established. As such, the permittee is requesting a return of the entire bond posted for the Phase I mitigation project and a return of the posted bond for the Phase II mitigation project commiserate with meeting the mitigation goals to date as outlined in the second annual mitigation monitoring report for Phase II.

If you have any questions or need any additional information, please me a call at your earliest convenience.

Sincerely,

Parke Lewis
Biologist

Enclosures

cc: Ms. Teresa Frame, USACOE, Jacksonville
    Mr. Charlie Krebs, Hole Montes
    Mr. Chuck Adams

W-MRO-20-1080-20 WMD Cover LIST 092406
## Property Data for Parcel 14-46-25-01-000F4.0000

### Owner Of Record
MIROMAR LAKES LLC  
10801 CORKSCREW RD STE 305  
ESTERO FL 33928

### Site Address
MIROMAR LAKES TRACT F4  
MIROMAR LAKES FL 33913

### Legal Description
MIROMAR LAKES UNIT ONE  
DESC IN PB 67 PGS 60-73  
TRACT F-4

### Classification / DOR Code
VACANT COMMERCIAL / 10

### Property Values (2010 Tax Roll)

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<th>Property Type</th>
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</table>

### Exemptions

- **Homestead**: 0
- **Additional Homestead**: 0
- **Widow**: 0
- **Widower**: 0
- **Disability**: 0
- **Wholly**: 0
- **Senior**: 0
- **Agriculture**: 0

### Attributes

- **Land Units of Measure**: AC
- **Total Number of Land Units**: 12.33
- **Frontage**: 0
- **Depth**: 0
- **Total Number of Buildings**: 0
- **Total Bedrooms**: 0
- **Total Bathrooms**: 0
- **Total Buildings Sq Ft**: 0
- **1st Year Building on Tax Roll**: 0
- **Historic District**: No

### Taxing Authorities

### Adjustments to the Roll (E & I)

### Sales / Transactions

### Parcel Numbering History

### Solid Waste (Garbage) Roll Data

### Elevation Information

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12/16/2010