

ORDINANCE NO. 7-2007

AN ORDINANCE OF THE CITY OF MULBERRY, FLORIDA; ESTABLISHING THE EAGLE RIDGE COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; PROVIDING A TITLE; PROVIDING FINDINGS; CREATING AND NAMING THE DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; DESCRIBING THE FUNCTIONS AND POWERS OF THE DISTRICT; CONSENTING TO THE USE OF SPECIAL POWERS BY THE DISTRICT; DESIGNATING FIVE PERSONS TO SERVE AS THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, LDC South Florida Ventures, LLC ("Petitioner"), as owner of or with consent of the owners of one hundred percent (100%) of the real property to be included in the District, has consented to the establishment of and petitioned the City Commission of the City of Mulberry (the "City") to adopt an ordinance establishing the Eagle Ridge Community Development District (the "District") pursuant to Chapter 190, Florida Statutes; and

WHEREAS, Petitioner is a Florida limited liability company authorized to conduct business in the State of Florida and whose principal place of business is 550 Biltmore Way, Suite 1110, Coral Gables, Florida 33134; and

WHEREAS, all interested persons and affected units of general-purpose local government were afforded an opportunity to present oral and written comments on the Petition at a duly noticed public hearing conducted by the City on April 5, 2007; and

WHEREAS, upon consideration of the record established at that hearing duly noticed, the City finds as follows:

- (1) The statements within the Petition were true and correct; and
- (2) Establishment of the District by this Ordinance is subject to and not inconsistent with the local Comprehensive Plan of the City and with the State Comprehensive Plan; and,
- (3) The area of land within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed as one functional, interrelated community; and

(4) The District is the best alternative available for delivering community development services and facilities to the area proposed to be serviced by the District; and

(5) The services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities; and

(6) The area to be served by the District is amenable to separate special district governance; and

WHEREAS, establishment of the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area described in the Petition; and,

WHEREAS, the Petitioner has requested the City for consent to exercise one or more of the special powers granted by charter in Section 190.012(2), Florida Statutes; and,

WHEREAS, the Petitioner and the City entered into the Eagle Ridge Preceding Development Agreement dated May 10, 2006 (the "PDA"), subsection 5.6 of which contemplates the creation of this community development district.

NOW THEREFORE, be it enacted by the City Commission of the City of Mulberry, Florida:

Section 1. Title. This Ordinance shall be known and may be cited as the "Eagle Ridge Community Development District Establishment Ordinance."

Section 2. Commission Findings. The Commission findings set forth in the recitals to this Ordinance are hereby incorporated in this Ordinance.

Section 3. Authority. This Ordinance is adopted in compliance with and pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes (2005).

Section 4. Creation of District; District Name. There is hereby created a community development district situated entirely within the incorporated boundaries of the City of Mulberry, Florida, which District shall be known as the "Eagle Ridge Community Development District."

Section 5. External Boundaries of the District. Encompassing approximately 701.9 acres, the external boundaries of the District are described in Exhibit "A" attached hereto.

Section 6. Functions and Powers. The District is limited to the performance of those powers and functions as described in Chapter 190, Florida Statutes. Consent is

also hereby given, as provided in Section 190.012(2), Florida Statutes (2006), to the District Board so long as it is in compliance with and subject to the City of Mulberry Comprehensive Plan and subject to the regulatory jurisdiction and permitting authority of all applicable other ordinances and regulations of the City, the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreational, cultural and educational uses, fire prevention and control, including related buildings and equipment, school buildings and related structures, security, including but not limited to personnel and equipment, mosquito and anthropods of public health importance control, and waste collection and disposal. In the exercise of its powers, the District shall comply with all applicable governmental laws, rules, regulations and policies including, but not limited to, all City ordinances and policies governing land planning and permitting of the development to be served by the District. The District shall not have any zoning or permitting powers governing land development or the use of land. No debt or obligation of the District shall constitute a burden on any local general purpose government. Nothing contained in this Ordinance is intended to affect the validity of the PDA, which is hereby ratified and confirmed. As a condition of the creation of the District, the District agrees and shall be bound by the terms of the PDA and shall execute an interlocal agreement with the City to that effect.

Section 7. Board of Supervisors. The five persons designated to serve as initial members of the District's Board of Supervisors are as follows:

- (1) Manuel M. Mato
Waterstone Group
550 Biltmore Way, Suite 1110
Coral Gables, FL 33134
- (2) E. Daniel Lopez
Waterstone Group
550 Biltmore Way, Suite 1110
Coral Gables, FL 33134
- (3) Peter Jeremy Barna
Landstar Development Group
550 Biltmore Way, Suite 1110
Coral Gables, FL 33134
- (4) Virginia Cepero
Landstar Development Group
550 Biltmore Way, Suite 1110
Coral Gables, FL 33134
- (5) Eduardo Stern
Landstar Development Group
550 Biltmore Way, Suite 1110

All of the above-listed persons are residents of the state of Florida and citizens of the United States of America.

Section 8. Severability. Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part declared to be invalid.

Section 9. Conflict. That all ordinances or parts of ordinances in conflict herewith are to the extent of said conflict, hereby repealed.

Section 10. Purpose. The provisions of this Ordinance shall be liberally construed to effect its purpose.

Section 11. Effective Date. This Ordinance shall be effective immediately upon receipt of acknowledgement that a copy of this Ordinance has been filed with the Secretary of State.

This Ordinance was read for the first time at the Regular Meeting of the City Commission on the 6th day of March, 2007, where it was voted on by members of the City Commission as follows:

Yeas 5 Nays 0 Absent 0

This Ordinance was authorized to be read for a second and final time at the Regular Meeting of the City Commission on the 5th day of April, 2007, where it was voted on by members of the City Commission as follows:

Yeas 5 Nays 0 Absent 0

(Seal)

ATTEST:

CITY OF MULBERRY, FLORIDA

By: *Vanessa Baker*
Vanessa Baker, City Clerk

By: *Mark Seigler*
Mark Seigler, Mayor

APPROVED AS TO FORM:

Gerald Buhr
Gerald Buhr, City Attorney

EXHIBIT "A"

**LEGAL DESCRIPTION OF LANDS ENCOMPASSED WITH THE
EAGLE RIDGE COMMUNITY DEVELOPMENT DISTRICT**

North74°53'54"West, 1658.42 feet, thence North52°33'28"West, 851.72 feet; thence North64°40'59"West, 81.50 feet; thence North00°22'34"West, 306.29 feet to the point of Beginning.

LESS AND EXCEPT: (The Martha Smith parcel)

A portion of that certain parcel of land as described and recorded in Official Record Book 3661, Page 874, Public Records of Polk County, Florida, said parcel identified under Section 9 in paragraph (ii) being a part of the Southwest quarter of the Northwest quarter of Section 9, Township 30 South, Range 23 East, Polk County, Florida, bounded on the East by those certain parcels described and recorded in said Official Record Book 3661, page 874, identified under Section 9 in paragraphs (f) and (j), bounded on the West by that certain parcel described and recorded in said Official Record Book 3661, page 874, identified under Section 9 in paragraph (h) and bounded on the North by that certain parcel of land as described and recorded in Official Record Book 4885, Page 610, Public Records of Polk County, Florida, being more particularly described as follows:

Commence at the Southeast corner of the Southwest quarter of the Northwest quarter of said Section 9; thence North00°27'07"West along the East line thereof a distance of 360.00 feet; thence South89°41'15"West a distance of 326.00 feet to the West line of aforesaid parcel identified under Section 9 in paragraph (f); thence North00°29'57"West along said West line a distance of 253.07 feet to the POINT OF BEGINNING; thence continue North00°29'57"West along said West line of parcel in paragraph (f) and continuing along the West line of aforesaid parcel identified under Section 9 paragraph (j) a distance of 94.50 feet to the boundary line of aforesaid parcel as described and recorded in Official Record Book 4885, Page 610; thence South79°27'49"West along said boundary line a distance of 77.42 feet to the East line of aforesaid parcel identified under Section 9 in paragraph (h); thence South10°48'45"East along said East line a distance of 93.56 feet; thence North78°59'22"East a distance of 60.50 feet to the POINT OF BEGINNING. Containing 0.15 acres MORE OR LESS.

LESS AND EXCEPT: (Corrective Deed Parcel)

Begin 988 feet North and 328.86 feet West of the Southeast corner of the Southwest 1/4 of the Northwest 1/4 of Section 9, Township 30 South, Range 23 East, Polk County, Florida, run then North 105 feet, thence West 100 feet, thence South 105 feet, thence East 100 feet to the Point of Beginning.

LESS AND EXCEPT: (Corrective Deed Parcel)

Begin 440 feet North of the Southwest corner of the East 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 8, Township 30 South, Range 23 East, Polk county, Florida, for a Point of Beginning, run thence North 30 feet, thence East 105 feet, thence South 30 feet, thence West 105 feet to the Point of Beginning.

EAGLE RIDGE

Legal Description

PARCEL 3

That part of Sections 4, 5, 8 and 9, of Township 30 South, Range 23 East, Polk County, Florida, described as follows:

Begin at the Southwest corner of Section 5, Township 30 South, Range 23 East, and run North00°23'14"West, along the West boundary of Section 5 a distance of 3341.93 feet to a point on the South boundary of a Conservation Easement (recorded in Official Records, Book 2731, Page 840, of the Public Records of Polk County, Florida), said point being Point Number 4071 in said Official Records Book legal description; thence along said South boundary of said Conservation Easement the following 16 courses (1) North75°16'45"East, 2531.01 feet; thence (2) North41°55'10"East, 340.56 feet; thence (3) North62°29'02"East, 398.11 feet; thence (4) South60°45'04"East, 566.58 feet; thence (5) South34°14'00"East, 870.91 feet; thence (6) South28°00'04"East, 1281.25 feet; thence (7) South23°44'00"East, 1067.05 feet; thence (8) South33°59'34"East, 1749.05 feet; thence (9) North72°36'27"East, 355.88 feet; thence (10) South75°27'06"East, 331.51 feet; thence (11) South49°46'22"East, 782.22 feet; thence (12) South37°53'35"East, 996.94 feet; thence (13) North54°34'52"East, 296.55 feet; thence (14) South39°11'18"East, 138.79 feet; thence (15) South64°00'45"West, 73.69 feet, thence (16) South25°59'15"East, 60.00 feet to a point on the North Right-of-Way line of State Road No. 676; thence South60°08'55"West, along said North Right-of-Way, 1302.66 feet; thence South64°33'05"West, 254.93 feet; thence South25°18'13"East, 9.99 feet; thence along a curve having a Radius of 1322.21 feet, Delta of 05°19'36", a Chord Distance of 122.88 feet, a Chord Bearing of South67°21'30"West, an Arc length of 122.92 feet; thence leaving said North Right-of-Way, North11°42'47"West, 60.00 feet, thence North04°04'59"West, 21.84 feet; thence North 05°22'45"West, 73.77 feet; thence North01°51'10"West, 99.98 feet; thence North01°50'01"West, 99.98 feet; thence North02°22'16"West, 100.07 feet; thence North12°40'315"West, 22.33 feet; thence North03°35'33"West, 226.47 feet; thence South89°34'45"West, 346.70 feet; thence South00°31'54"East, 385.23 feet; thence South79°26'08"West, 288.83 feet; thence South11°34'40"East, 124.58 feet; thence South88°46'34"West, 287.81 feet; thence South89°21'36"West, 131.11 feet; thence North00°30'54"West, 121.58 feet; thence South89°17'13"West, 313.19 feet; thence South00°20'01"West, 229.66 feet; thence South89°53'50"West, 248.23 feet; thence North00°34'51"West, 209.97 feet; thence South89°59'39"West, 199.98 feet; thence South25°43'58"West, 10.34 feet; thence South01°21'43"West, 209.62 feet; thence South00°11'10"West, 285.29 feet to a point on the North Right-of-Way of Nichols Road (State Road No. 676); thence along said North Right-of-Way, North87°55'44"West, 84.84 feet; thence North89°10'07"West, 99.85 feet; thence North89°28'26"West, 100.10 feet; thence North88°58'38"West, 100.55 feet; thence leaving said North Right-of-Way, North42°53'42"West, 177.06 feet; thence South87°17'53"West, 312.71 feet; thence North52°07'43"West, 1688.23 feet; thence North49°47'11"West, 282.88 feet; thence South45°45'44"West, 170.03 feet; thence