

February 17, 2021

VIA EMAIL

Collier County Planning Commission
 3299 Tamiami Trail East
 Naples, FL 34112

Re: Longwater & Bellmar Village SRA Applications

Dear Collier County Planning Commissioners,

This letter is sent on behalf of the Conservancy of Southwest Florida, Inc. (Conservancy) and relates to the pending applications by Collier Enterprises Management, Inc. (CEM) related to the Longwater and Bellmar Villages.

As you are aware, CEM applied to designate three areas of property in the Rural Lands Stewardship Area (RLSA) as Stewardship Receiving Area (SRA) Villages to be called Rivergrass Village, Longwater Village, and Bellmar Village. The Collier County Board of County Commissioners (BCC or the Board) approved the designation of the Rivergrass Village SRA and that approval is currently being challenged in litigation. The Longwater Village and Bellmar Village SRA designations will soon come under consideration by the Planning Commission and the BCC.

As set forth below and in other submissions by the Conservancy, the Planning Commission and the BCC should understand that approval of these SRA Villages will cost the citizens of Collier County tens of millions of dollars (if not more) and will further exacerbate the already dire traffic congestion throughout the County. There is no plan in place to resolve multiple massive adverse impacts the proposed CEM villages will have on the existing population of the County and, thus, approval would be illegal pursuant to the Collier County Growth Management Plan, among other applicable laws.

We submit below our preliminary analysis of some of the most glaring inconsistencies with applicable requirements. Based upon these deficiencies, we urge the Commission to require CEM to meet all legal obligations related to RLSA development or, in the alternative, to recommend rejection of the Longwater and Bellmar proposals.

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I. COUNTY LAW REQUIRES THAT “GROWTH PAY FOR GROWTH” AND THAT COLLIER COUNTY TAXPAYERS NOT BE FORCED TO SUBSIDIZE PRIVATE DEVELOPMENT IN RURAL COLLIER COUNTY

As you are aware, the RLSA is a protected area with more stringent development constraints than the rest of the County at large. For example, pursuant to the Growth Management Plan (GMP), a development in the RLSA cannot be approved unless the applicant can demonstrate that the proposed development “will be planned and designed to be fiscally neutral or positive to Collier County at the horizon year.” GMP Future Land Use Element (FLUE) RLSA Overlay (RLSAO) Policy 4.18. This requirement means that an applicant must show that the tax revenues and impact fees that will be generated by the development will be greater than, or equal to, the cost to the County created by the influx of people and need for services the development will create.

As another example, proposed developments in the RLSA “shall have adequate infrastructure available to serve the proposed development, or such infrastructure must be provided concurrently with the demand,” and “[t]he capacity of infrastructure necessary to serve the [proposed development] at buildout must be demonstrated during the...designation process.” FLUE RLSAO Policy 4.16. This concept—that adequate infrastructure must be available concurrent with demand, called “concurrency”—is not unique to the RLSA. What is unusual is that, in the RLSA, prospective concurrency must be demonstrated “*during the SRA designation process*,” not just at later stages in the permitting process. The timing of this requirement is important because it ensures that the County does not approve new growth unless and until the County has a plan to accommodate the additional strain on County infrastructure that will result from expanding development into these rural areas.

Of particular importance for the CEM developments is that this proactive demonstration of concurrency must be made with respect to transportation infrastructure. Specifically, “[n]o SRA shall be approved unless the capacity of County collector or arterial road(s) serving the SRA is demonstrated to be adequate in accordance with the Collier County Concurrency Management System in effect at the time of SRA designation.” FLUE RLSAO Policy 4.14.

Thus, the County is not permitted to approve new developments that would exacerbate already congested transportation infrastructure. Rather, the County is required to first correct any transportation infrastructure deficiencies before it can allow RLSA development that would make congestion even worse. This is an important protection that ensures the County can maintain functionality of its infrastructure for existing citizens, and

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not force them to subsidize a new development by having to experience longer commutes, reduced productivity, and a reduced overall quality of life.

As discussed below, Longwater and Bellmar will result in epic violations of both the fiscal neutrality and transportation requirements applicable to RLSA development approvals. For example:

- First, the County has agreed to build new water and wastewater plants to service these developments, but CEM has not agreed to pay its fair share of these new facilities. As set forth below, approval of Longwater and Bellmar will result in a deficit of over \$43 million to the Collier County Water Sewer District. When Rivergrass is included, the deficit increases to over \$72 million, a financial burden that will be unfairly borne by all District rate payers throughout Collier County.
- Second, there are critical traffic congestion problems in the eastern part of Collier County that these developments will significantly exacerbate. The County has no plan to fix these problems, and County staff has taken the position, inexplicably, that CEM should be allowed to exacerbate these significant traffic impacts with no constraints.
- Finally, CEM's analyses of all traffic impacts resulting from these developments are significantly understated. CEM's analysis of traffic from each of the three developments ignores that there will be additional traffic created by the other two CEM SRA developments. This approach masks the real magnitude of congestion created by these proposed projects.

II. COUNTY RESIDENTS WILL SUBSIDIZE TENS OF MILLIONS OF DOLLARS (OR MORE) IN UTILITY INFRASTRUCTURE NEEDED TO SUPPORT CEM'S DEVELOPMENTS

In order to understand the enormity of the impacts created by CEM's proposed projects (and the enormity of the responsibility the County has in getting this right), it is important to understand just how massive these developments will be. CEM's Economic Assessments for the three Villages forecasts that they will constitute nearly *\$2.5 billion* worth of property and consume almost 3,000 acres of currently undeveloped land (roughly one-third the size of the entire City of Naples). In order to support such massive growth, new infrastructure must be built from scratch to provide utility service to this area.

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For reasons that remain unclear, the County has agreed to finance the cost of a brand new potable water plant, a brand new wastewater treatment plant, and an interim wastewater treatment plant to service these developments. The total cost of the County investment in just the new plant facilities, not including the interim plant, is estimated at \$216.5 million. In return, the County has required no special compensation from CEM. Rather, CEM will only pay impact fees at *the exact same rates as any other development in the County*. The result is that the rest of the County—specifically, tens of thousands of taxpayers who reside in the Collier County Water Sewer District—are subsidizing the investment needed to service Rivergrass, Longwater, and Bellmar. This is not fiscal neutrality and is not legally permissible under the GMP.

A. *The Necessary Infrastructure Investment*

According to the Public Facilities Impact Assessments, Longwater will have a maximum 3-day demand of 0.80 million gallons per day (MGD) for wastewater and 1.05 MGD for potable water.¹ Bellmar will have a maximum 3-day demand of 0.85 MGD for wastewater and 1.11 MGD for potable water. Rivergrass will have a maximum 3-day demand of 0.98 MGD for wastewater and 1.19 MGD for potable water.² The combined peak demand for these developments, which must be available in order for the Board to approve, is 2.63 MGD for wastewater and 3.35 MGD for potable water.

This service could have been provided through a new CEM-financed facility similar to that the developer of Ave Maria built to satisfy the demand created there. Indeed, the Big Cypress Stewardship District, which encompasses Longwater, Bellmar, and Rivergrass, was specifically created in 2004 to allow issuance of bonds so developments therein could self-finance the necessary infrastructure. 2004 Fla. Laws Ch. 2004-423, HB 923. Instead, in 2018 (after CEM development applications were already pending), the County approved expansion of the Collier County Water Sewer District to encompass the Big Cypress Stewardship District and in 2019, authorized the building of new potable water and wastewater plants to support these developments. Memorandum of Understanding By and Among the Collier County Water-Sewer District, the Big Cypress Stewardship

¹ The appropriate metric for determining the required infrastructure is peak demand, not average demand. See GMP Wastewater Treatment Sub-Element Policy 2.2: “In order to ensure these [level of service] standards are maintained, methodologies for determining available capacity and demand shall incorporate appropriate peak demand coefficients for each facility and for the type of development proposed.”

² Since the Rivergrass demand was calculated, the County level of service for water and wastewater has decreased. See Collier Cnty., *Fiscal Year 2019 Water and Wastewater Impact Fee Study for Collier County Water-Sewer District* at 10 (Sept. 12, 2019) (recommending a downward adjustment in the level of service from 225 MGD to 200 MGD per equivalent residential unit for wastewater and from 325 MGD to 300 MGD per equivalent residential unit for potable water).

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District, Collier Land Holdings, Ltd. and CDC Land Investments, LLC (2019); Collier Cnty., *2019 Annual Update & Inventory Report/Capital Improvement Element Schedule Update on Public Facilities* (Nov. 12, 2019) (“2019 AUIR”). As a result of this arrangement, CEM is no longer required to build (and finance) its own plants to support the developments.

B. *These Water and Wastewater Costs Far Outweigh Revenues to Be Generated From the Developments*

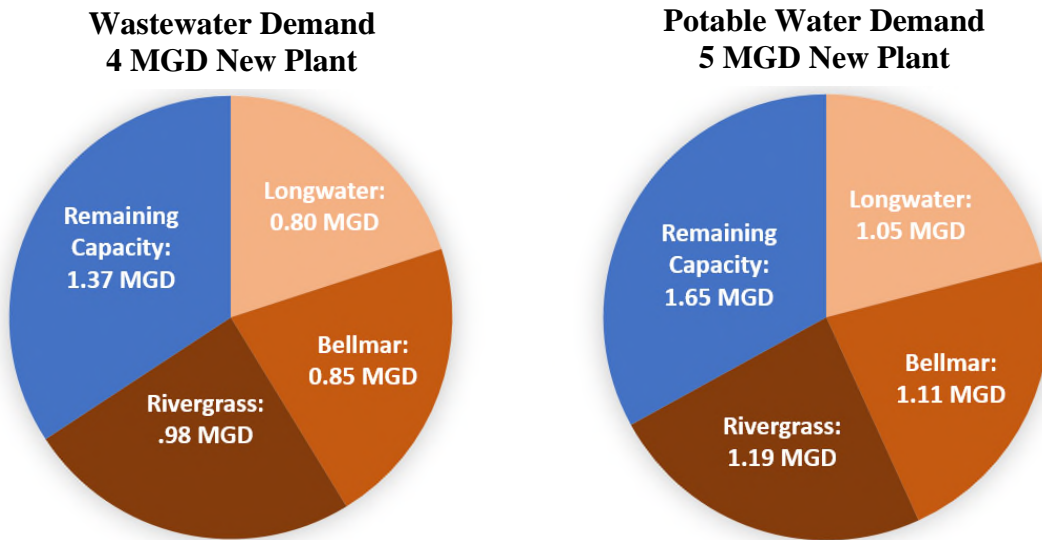
The cost of these new water and wastewater facilities are as follows:

- **Wastewater:** The new Northeast Water Reclamation Facility (NEWRF) will be “online” by 2026 and will provide a treatment capacity of 4 MGD. Collier Cnty., *Annual Update and Inventory Report on Public Facilities 2020: Category “A” Facilities* at 76 (“2020 AUIR”). The estimated cost of this facility is **\$106 million**. Longwater Consistency Review Memo at 11 (Aug. 20, 2020). These costs will be entirely debt financed with \$157 million in new wastewater project-related bonds anticipated to be issued by 2030. 2020 AUIR at 84–85. Notably, the wastewater treatment systems budget already shows that the County is paying between \$6 million and \$11 million a year to service pre-existing debt unrelated to the NEWRF. *Id.* This project will significantly increase the County’s debt obligations in this category. In addition, “to facilitate [earlier] development in the northeast region of the county,” the interim wastewater treatment plant was anticipated to be built between 2019 and 2021, will provide a treatment capacity of 1.5 MGD, and was estimated to cost **\$28 million**. *Id.* at 76.
- **Potable Water:** The new potable water plant, called the “Northeast Regional Water Treatment Plant” or “NERWTP” will be constructed between 2024 and 2027 and will provide a new treatment capacity of 5 MGD. 2019 AUIR at 66. The estimated cost of this facility is **\$82.5 million**. Longwater Consistency Review Memo at 11 (Aug. 20, 2020). It appears these costs will be or have been entirely debt financed. \$76 million in new bonds were issued in 2019 related to this project. Collier Cnty, Fla. Bd. of Cnty., *Fiscal Year 2020-21 Adopted Budget* at pdf p. 745. In addition, \$103 million in new water-related bonds are anticipated to be issued by 2030. 2020 AUIR at 60–61. Notably, the potable water systems budget already shows that the County is paying \$6 million to \$11 million a year to service pre-existing debt unrelated to the NERWTP. *Id.* This project

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has and/or will significantly increase the County’s debt obligations in this category.

Longwater and Belmar will consume more than 40% of the capacity of these new facilities, and the three CEM-proposed developments (Rivergrass, Longwater, and Bellmar) will consume approximately two-thirds:



If these developments had been planned to be fiscally neutral, as required in the GMP, then because they will consume 66% of the new capacity created, they would compensate for approximately 66% of the cost of building this new capacity. This means that the County should be collecting at least \$70 million from CEM to compensate for the wastewater demand created (this would cover just the cost of the new plant and does not include the cost of the interim plant or the cost of new transmission lines) and at least \$55 million from CEM to compensate for the potable water demand created (again, this does not include transmission costs). This is a total of more than \$125 million.

Yet, the County has required CEM to pay nothing more than the impact fees required of every development in unincorporated Collier County. Those impact fees are calculated at a standard rate, based on the number of “equivalent residential units” or

Attachment: Attachment H-Letters of Objection 2-22-21 (15115 : PL20190001836, Longwater Village SRA)

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“ERCs” in the development. Collier Cnty., *Water & Wastewater Impact Fee Rate Schedule* (Mar. 30, 2020).³

RESIDENTIAL - INDIVIDUALLY METERED					
Living Space (SQ.FT.)	ERC Factor	Basis of Fee	Water Impact Fee	Wastewater Impact Fee	Meter Size
0 TO 4,999 (AND NO MORE THAN 4 TOILETS)	1	Per ERC (fixed at 1 ERC)	\$3,382	\$3,314	3/4"
5,000 OR MORE (OR MORE THAN 4 TOILETS)	Varies (minimum value of 1)	Per ERC (based on ADF Formula)	ERC value x \$3,382 (minimum value \$3,382)	\$3,314	Varies (Reference Meter Size Note)
Meter Size Note	Meter size determined by the total fixture value connected to the meter and applying applicable provision in the current edition of the Florida Plumbing Code. Reference the Meter Sizing Form.				
ERC with ADF Formula	When ADF is in Gallons Per Minute (GPM) then use the formula $[(ADF-30)/30]+1$				

For these CEM developments, each housing unit is 1 ERC, and the impact fee calculations are as follows:

	Number of Units	Total Wastewater Impact Fee	Total Water Impact Fee	Total
Longwater	2,600	\$8,616,400	\$8,793,200	\$17,409,600
Bellmar	2,750	\$9,113,500	\$9,300,500	\$18,414,000
Rivergrass	2,500	\$8,285,000	\$8,455,000	\$16,737,000
Total	7,850	\$26,014,900	\$26,548,700	\$52,563,600

In sum, CEM will pay approximately \$26 million in wastewater impact fees, despite creating at least \$70 million in wastewater costs to the County. CEM will pay approximately \$26 million in water impact fees, despite creating at least \$55 million in water costs to the County. This is not fiscal neutrality. Rather, in these categories alone, **CEM’s three developments will create a fiscal deficit of more than \$72 million dollars.**

Moreover, the County’s own Water and Wastewater Impact Fee Study explicitly acknowledges that the cost of providing service to residents in the area serviced by the new plants is significantly higher than the cost of providing service to residents in the area

³ Available at <https://www.colliercountyfl.gov/home/showpublisheddocument?id=89644>.

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serviced by existing plants. The study calculated that for wastewater, the “Rate per ERCs Unit Associated with Existing Facilities” is \$1,868.73, and the “Rate per ERCs Units Associated with Additional Facilities” is \$6,834.98. Collier Cnty., *Fiscal Year 2019 Water and Wastewater Impact Fee Study for Collier County Water-Sewer District* at pdf p. 47 (Sept. 12, 2019).⁴ In other words, providing new wastewater service to CEM’s developments is **3.65 times more expensive** than providing new wastewater service to a development within the existing service area of the Collier County Water Sewer District. Despite this fact, the impact fee study, which forms the basis for the impact fee rates CEM will pay, takes a weighted *average* of these rates, adds a transmission cost, and arrives at the final wastewater impact fee value of \$3,314 per ERC unit. Thus, other developments in Collier County will be subsidizing the cost of infrastructure provided to support the CEM developments.

If the County cannot collect sufficient impact fees to cover the cost of the debt it is issuing to build the new plants, it will have to find another way to pay to service the debt—likely by increasing rates for all users, lowering (again) the existing level of service, and/or seeking a bail out from other Collier County government funds. According to the Collier County Public Utilities Department:

“Regular rate adjustments are necessary to ensure the rates generate the right amount of revenue and cash flow to provide reliable and sustainable services. Rates must keep up with the increasing cost of operations, including increases in the costs of electricity, raw materials like fuel and chemicals, insurance and labor, and changing regulatory requirements. Rates must also maintain bond covenants, including debt service coverage, and provide funds for emergencies.”

Collier Cnty. Pub. Utils. Dep’t, *Water/Wastewater Rates Effective October 1, 2020* (Oct. 2020) (emphasis added).⁵ For fiscal year 2021, rates in the Collier County Water Sewer District were increased by 2.9% for all users. Presumably, rates will need to be increased even more once the debt incurred to service CEM’s developments becomes due. *Id.* Rates are the same for all users within the Collier County Water Sewer District. *Id.* Thus, any necessary rate increases will be borne not just by Longwater, Bellmar, and Rivergrass, but by all users in the Collier County Water Sewer District.

⁴ Available at <https://www.colliercountyfl.gov/home/showpublisheddocument?id=91124>.

⁵ Available at <https://www.colliercountyfl.gov/home/showpublisheddocument?id=95171>.

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III. THE CEM DEVELOPMENTS WILL ILLEGALLY EXACERBATE TRANSPORTATION INADEQUACIES

Collier County has adopted transportation concurrency into its GMP. *See* FLUE RLSAO Policy 4.14; GMP Capital Improvement Element. Therefore, Collier County must ensure that its transportation facilities (i.e., roadways) continue to meet their adopted level of service standards with new development. For RLSA developments, the GMP takes this even a step further and explicitly ***requires*** that “[n]o SRA shall be approved unless the capacity of County collector or arterial roads(s) serving the SRA is demonstrated to be adequate in accordance with the Collier County Concurrency Management System.” FLUE RLSAO Policy 4.14; *see also* 4.16 (“The capacity of [transportation] infrastructure necessary to serve the SRA at buildout must be demonstrated during the SRA designation process.”).⁶ Therefore, an RLSA development application cannot be approved unless it is demonstrated that the Collier County transportation network will meet its adopted level of service standards at the project’s buildout year.

Despite this very clear rule, County staff appear to have entirely overlooked the fact that Longwater and Bellmar (and Rivergrass before them) are predicted to *significantly impact roadways that are already projected to be deficient*. The Longwater traffic impact statement (TIS) even admits that Longwater will add significant traffic to three road segments that will already be deficient (meaning there are more cars than the County level of service allows) by the buildout year:

- On Randall Boulevard from Everglades Boulevard to 8th Street NE, the roadway will have the capacity to accommodate 900 peak direction, peak hour trips. In 2030, even before any Longwater trips are added, the County predicts there will be 1,008 peak direction, peak hour trips on the roadway (108 more than its capacity allows). Longwater will add an additional 174 peak direction, peak hour trips (19.3% of the roadway’s total capacity). *See* Longwater TIS, Sec. 1 at 21 (Aug. 4, 2020).
- On Immokalee Road from Oil Well Road to Randall Boulevard, the roadway will have capacity to accommodate 3,300 peak direction, peak hour trips. In 2030, even before any Longwater trips are added, the County predicts there will

⁶ *See also* Land Development Code (LDC) 6.02.01(D)(12) (“*Transportation Concurrency Management System* means a ‘real time’ concurrency system that tracks and allocates the available roadway capacity on a continuous basis with quarterly status reports to the Board. Trips generated from proposed developments will be added to the trips approved to date and the existing background traffic counts ***to determine if there is available capacity for each new development to be approved***, in whole or part, as proposed development plans are submitted.”) (emphasis added).

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be 3,788 peak direction, peak hour trips on the roadway (488 more than its capacity allows). Longwater will add an additional 174 peak direction, peak hour trips (5.3% of the roadway's total capacity). *See id.* at 22.

- On Immokalee Road from Randall Boulevard to Wilson Boulevard, the roadway will have capacity to accommodate 3,300 peak direction, peak hour trips. In 2030, even before any Longwater trips are added, the County predicts there will be 3,788 peak direction, peak hour trips on the roadway (488 more than its capacity allows). Longwater will add an additional 285 peak direction, peak hour trips (8.6% of the roadway's total capacity). *See id.* at 22.

In addition to these significant impacts to already deficient road segments, Longwater is predicted to cause Randall Boulevard from DeSoto Boulevard to Everglades Boulevard to become deficient. Because Longwater is causing this projected deficiency, the County required CEM to provide some mitigation of traffic impacts on Randall Boulevard from DeSoto Boulevard to Everglades Boulevard. ***But the County is entirely ignoring the Longwater impacts to the already deficient roadways listed above.*** The County has articulated no plan to correct the predicted deficiencies, and CEM is not paying any mitigation for its impact to these road segments, despite significantly exacerbating the existing inadequacies. This is not what is intended by traffic concurrency and is prohibited by the GMP provisions applicable within the RLSA.

The same is true of Bellmar—while the County is requiring CEM to mitigate where the development is causing a roadway to become deficient, there are multiple roadway segments that are predicted to be deficient in 2034 (Bellmar's buildout year) where Bellmar will add significant additional traffic to the road segment, further exacerbating the problem. Again, the County has seemingly ignored these impacts.

The County appears to believe that the Florida Concurrency Statute prohibits it from enforcing traffic concurrency in this scenario—that is, where there is a background deficiency. But that is a misreading of the statute and contrary to applicable case law on the topic. An existing deficiency does not excuse a developer from paying fully for the demand it will place on public facilities. Pursuant to the statute, “[w]hen an applicant contributes or constructs its proportionate share pursuant to this paragraph, a local government may not require payment or construction of transportation facilities whose costs would be greater than a development's proportionate share of the improvements necessary to mitigate the development's impacts.” §163.3180(5)(h)(2), Fla. Stat. This has apparently been read by Collier County to mean that it should ignore any exacerbation of existing deficiencies caused by new developments. But this strained reading ignores that, as a precondition to the prohibition on charging developers to correct background

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deficiencies, the developer must first contribute its “proportionate share of the improvements necessary to mitigate the development’s impacts.” In other words, the County *can* require a developer to mitigate the new trips it is adding to the deficient road segment; it just cannot require the developer to mitigate trips for which its development is not responsible.

Furthermore, nothing in the Florida Concurrency Statute prohibits the County from denying a development application (like those for Longwater and Bellmar) that would impact deficient roadways. *See, e.g., D.R. Horton, Inc. v. Peyton*, No. 16-2005-CA-001569, 2005 WL 6320241 (Fla. Cir. Ct. Oct. 25, 2005) (affirming mayor’s veto of development order because it failed to comply with the transportation concurrency requirement that the transportation facilities be adequate to serve the proposed development); *Mann v. Bd. of Cnty. Comm’rs*, 830 So. 2d 144 (Fla. 5th DCA 2002), *review denied*, 844 So. 2d 646 (Fla. 2003) (finding that county had statutory authority to deny development requests based on the timing/adequate facility requirements of its Comprehensive Plan). Thus, the GMP’s requirement that an SRA development cannot be approved unless there is adequate transportation infrastructure to support the development is fully enforceable and, in this case, requires a denial of the development applications.

IV. CEM’S ANALYSIS OF TRAFFIC IMPACTS SIGNIFICANTLY UNDERSTATES THE PROBLEM

Finally, the CEM traffic impact statements for these developments materially understate the traffic impacts resulting from these developments. The traffic impacts from all three CEM developments (Rivergrass, Longwater, and Bellmar) should be analyzed collectively because they will be accessing many of the same roadways, and their cumulative impacts may be greater than the combination of each individual development’s impacts.⁷

At the very least, because Rivergrass has already been approved by the Board (in violation of Collier County law), the Longwater and Bellmar traffic impact statements must include Rivergrass traffic in the background traffic assumptions.⁸ They fail to meet this

⁷ County Staff did request that CEM perform a cumulative analysis of traffic impacts. However, CEM has only committed to mitigate traffic impacts identified in the individual traffic impact statements.

⁸ *See, e.g., Collier County TIS Guidelines* at 10 (“The TIS will consider all vested development on the significantly impacted links and intersections.”), <https://www.colliercountyfl.gov/home/showpublisheddocument?id=93575>; Fla. Dep’t of Cmty. Affs., *Transportation Concurrency Best Practices Guide* at 62 (Sept. 2007) (“For concurrency purposes, the existing volume typically means the peak hour volume during peak season. ***The background traffic volume includes previously approved development trips*** and any additional growth in traffic volume typically

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bare minimum requirement. They fail to reflect the reality of what will happen to the affected roads if they are approved.

For example, the capacity on Golden Gate Boulevard from Collier Boulevard to Wilson Boulevard is 2,300 peak direction, peak hour trips. The Rivergrass TIS predicts that Rivergrass traffic will result in 2,275 peak hour, peak direction trips (106 Rivergrass trips + 2,169 background trips). Rivergrass TIS, Sec. 1 at 21 (Aug. 9, 2019). The Longwater TIS predicts Longwater will contribute an additional 111 peak hour, peak direction trips to this roadway. Longwater TIS, Sec. 1 at 22 (Aug. 4, 2020). Thus, if the Rivergrass trips had been included in background for purposes of the Longwater TIS, it would have resulted in a conclusion that the 111 Longwater trips on this segment result in the roadway becoming deficient ($2,275 + 111 = 2,386 > 2,300$). Instead, because the Longwater TIS improperly ignored Rivergrass traffic, it concluded Longwater does not result in a deficiency on Golden Gate Boulevard from Collier Boulevard to Wilson Boulevard and thus, no mitigation was proposed for this road segment.

So what will happen on Golden Gate Boulevard from Collier Boulevard to Wilson Boulevard if these developments are approved as is? The roadway will become deficient. Because CEM will not be paying to correct the deficiency, and the Florida Concurrency Statute prevents the County from charging new developments with the cost of correcting background deficiencies (deficiencies caused by prior developments), the County itself will have to finance improvements to increase capacity and correct the deficiency on this roadway.

Furthermore, if the County continues to incorrectly read the law as discussed above, new developments will be allowed to exacerbate the deficiency on the roadway without consequence. This is not traffic concurrency and is not fiscal neutrality.

experienced in the area beyond the approved trips.”) (emphasis added), https://www.researchgate.net/profile/Pei_Sung_Lin/publication/282652008_Transportation_Concurrency_Best_Practices_Guide/links/5615f2bd08ae4ce3cc65749d/Transportation-Concurrency-Best-Practices-Guide.pdf?origin=publication_detail. See also, LDC 6.02.02(A)(1) (“If the County Manager or designee determines that a site development plan or plat application when reviewed cumulatively with projects submitted within the last 6 months from the same master project or development does not meet the transportation concurrency requirements or is contrary to the purpose and intent of this section, as stated above, he may withhold approval of said development order application until adequate capacity is available or require the application submittals to be reviewed cumulatively and subsequent impacts to be distributed and accounted for within the same impact boundary of the master project or development.”).

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V. CONCLUSION

The County should require CEM to fully comply with Collier County law related to its proposed developments. As stated by the United States Supreme Court in an important Florida case, *Koontz v. St. Johns River Management District*, 570 U.S. 595, 605 (2013), “[i]nsisting that landowners internalize the negative externalities of their conduct is a hallmark of responsible land-use policy.”

In light of the extraordinary failures identified above, the Planning Commission should require the County planning staff to explain—with precision and objectivity—how Longwater and Bellmar meet the legal obligations for RLSA development, including fiscal neutrality and traffic mitigation. If necessary, the County should retain additional third-party experts to further audit the project proponent’s representations.

Second, the Planning Commission should require CEM to resubmit their development proposals in a legally-compliant manner. At bottom, the task is not that complicated. CEM simply needs to ensure that the costs of their proposed **\$2.5 billion** dollar project will not be borne by the taxpayers of Collier County. CEM should be required to pay for the necessary infrastructure associated with its developments (including water, wastewater, road maintenance, traffic mitigation and other public services), and their refusal to do so should not be acceptable to the Planning Commission or the County.

Finally, if neither the County staff nor the property owner are willing to comply with County law, the Planning Commission should (a) recommend denial of Longwater and Bellmar as SRA Villages, and (b) create a clear record of its rationale for purposes of informing the citizens of Collier County as well as any future legal proceedings.

Sincerely,



Brian D. Israel
Lauren Daniel

cc: Jeffrey A. Klatzkow, County Attorney