

BOUNDARY AGREEMENT

THIS AGREEMENT ("Boundary Agreement") dated as of this _____ day of November, 2003 ("Effective Date"), is by and between HERONS GLEN RECREATION DISTRICT, an independent special recreational district of Lee County, Florida, established by Lee County Ordinance No. 98-08 ("District") and COOLIDGE-FT. MYERS REALTY LIMITED PARTNERSHIP, a Florida limited partnership ("Developer").

WITNESSETH:

WHEREAS, District and Developer were parties to that certain Recreational Facilities Purchase and Sale Agreement by and between Developer and District dated February 22, 1999, ("Purchase and Sale Agreement"); and

WHEREAS, Developer is developing its property pursuant to its Plans (DRI, Lake Management Plan, Wetlands Management Plan, Red Cockaded Woodpecker Protection Plan and applicable water management permits) ("Project"), all as described in the Purchase and Sale Agreement; and

WHEREAS, District has issued its Special Assessment Bonds, Series 1999, for the purchase of the Recreation Facilities as described in the Purchase and Sale Agreement and District has obligated itself to comply with its approved assessment methodology in order to adequately provide for timely repayment of its Bonds; and

WHEREAS, District's repayment obligations are predicated upon the creation by Developer of 1300 residential Units within the District's jurisdictional boundaries; and

WHEREAS, the District and Developer agreed, as set forth in the Purchase and Sale Agreement, among other places, that Developer will create 1300 residential Units within the jurisdictional boundaries of the District; and

WHEREAS, such agreements contemplate that the boundaries of Phase I of the Developer's Project will be coterminous with the boundaries of the District; and

WHEREAS, that certain Restated Declaration of Covenants, Conditions and Restrictions for Herons Glen Country Club, dated June 1, 1999 and recorded at OR Book 3142, Page 3335 of the Public Records of Lee County, Florida, ("Declaration") is applicable to real property located within the District boundaries; and

WHEREAS, that certain Resolution Number Z-00-078 of the Board of County Commissioners of Lee County, dated February 27, 2001 ("Zoning Resolution"), describes Phases IA and IB, as well as Phase II, of the project and further provides in Section B, Paragraph 18 that all construction traffic for Phase II of the Project shall use an alternative access route other than Avenida del Vera; and

WHEREAS, the Developer has previously created the CFM Community Development District ("CFM CDD") the jurisdictional boundaries of which were intended to be coterminous with the boundaries of Phase II of the Project; and

WHEREAS, the Developer now wishes to construct a portion of its allotted 1300 Phase I residential Units in an area of the Project which is presently either wholly or partially outside of the jurisdictional boundaries of the District; and

WHEREAS, subject to the terms and conditions hereof, District and Developer desire to settle their dispute regarding the boundaries of the District, the CDD, the Declaration and the location of the Phase line established in the Zoning Resolution; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The above stated recitals are true and correct and are hereby incorporated herein by this reference. All capitalized terms not otherwise defined herein shall be given the meaning ascribed to such terms in the Purchase and Sale Agreement.

2. Boundary Line Revisions.

A. Within 30 days of the effective date of this Agreement Developer shall, with the assistance of District, initiate and thereafter diligently pursue, an official revision of the District's jurisdictional boundary lines such that the District's southern and eastern boundary shall be coterminous with the following: 1.) the northern and eastern boundaries of the CFM CDD; 2.) the Phase I/ Phase II development boundary line established in the Zoning Resolution; and 3.) the Land as described in the Declaration.

B. District shall consent to and support Developer's efforts to revise its jurisdictional boundaries consistent with this agreement. District and Developer further agree that it is their intent that the boundary lines described above shall be coterminous and they further agree to cooperate and to take all actions required or necessary to effectuate that intent.

C. Developer shall not create any lot which would be partially within in and partially outside of the District's jurisdictional boundaries. (This provision is not intended to limit Developer's right to create lots which are entirely outside of the District's jurisdictional limits.

D. Developer agrees to revise its Development Order to be consistent with this Agreement, showing 1300 Units in Phase I and showing its second (unbuilt) golf course and clubhouse as uses to be constructed in Phase II of the Project.

3. Construction Traffic. No construction traffic applicable to work in Phase II of the Project shall use Avenida del Vera. Once a second construction access via Phase II is available, Developer will use its best efforts to have all Phase IB construction traffic also use that alternate access.

4. Avenida del Vera Re-paving. Developer will, at its sole cost and expense (i.e. not using HOA funds):

A. Re-pave to Lee County road standards the Avenida del Vera from the eastern side of the western access to the Clubhouse to and including the Palo Duro intersection, which paving shall also include the walkway/cart path along this section of Avenida del Vera. Developer agrees to complete such work prior to October 31, 2004.

B. Re-pave to Lee County road standards the Avenida del Vera from U.S. 41 to the eastern side of the western access to the Clubhouse. Developer agrees to complete such work prior to October 31, 2005.

5. Alternative Full Access. Developer shall:

A. on or before May 31, 2006, permit and fully construct in compliance with Lee County road standards, a second full entrance/exit for the Project which access shall serve as an alternative means of ingress and egress for property owners in both Phases I and II of the Project;

B. alternatively, if Developer fails to meet the above-stated schedule, Developer will, prior to December 31, 2006, re-pave, to Lee County road standards, all roads and streets located in Phase IA of the Project, except those portions of Avenida del Vera previously re-paved pursuant to Paragraph 4, above.

6. Entrance, Guardhouse and U.S. 41 Landscaping. At its sole cost and expense, excepting only insurance roof damage proceeds, Developer shall, consistent with its representations to the District, improve the Avenida del Vera entranceway and Guardhouse and provide enhanced landscaping along the Project boundary with U.S. 41.

7. Costs and Expenses. Developer agrees to pay all costs and expenses required or necessary to accomplish the actions and agreements set forth herein.

8. Enforcement.

(a) Binding Effect. The provisions of this Boundary Agreement shall be binding upon and inure to the benefit of both parties and their respective transferees, successors,
and assigns

(b) Governing Law. This Boundary Agreement shall be construed in accordance with and governed by the laws of the State of Florida, without regard to conflicts of laws principles.

(c) Amendment. This Boundary Agreement may be amended by the parties only by a writing signed by the party as to whom enforcement of any such amendment, supplement, waiver or modification is sought and making specific reference to this Boundary Agreement.

(d) Severability. If any part of this Boundary Agreement is contrary to, prohibited by or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder hereof shall not be invalidated thereby and shall be given full force and effect so far as possible.

(e) Specific Performance and Injunction. Each Party acknowledges and agrees that its compliance with this Boundary Agreement, and its performance of its duties hereunder are extraordinary and unique and vital to the success of the other Party and that any breach or threatened breach of this Boundary Agreement by one Party, will cause irreparable harm to the other Party. Therefore, in the event of a breach or a threatened breach of any provision of this Boundary Agreement, a Party shall be entitled to injunctions or specific performance of this Boundary Agreement. Further, each Party recognizes and hereby acknowledges that the other Party shall be entitled to an injunction from any court of competent jurisdiction enjoining and restraining any breach or threatened breach of this Boundary Agreement, without being required to show any actual damage or post any bond or other security and that such right to injunction shall be cumulative and in addition to whatever other remedies the moving Party may possess.

(f) Attorney's Fees. If either Party fails to comply with the conditions, agreements or covenants of this Agreement and court action is required to resolve any dispute, the prevailing party shall be entitled to costs and attorney's fees of that action, including any appellate proceeding.

9. Bondholder Approval. District's obligations hereunder are contingent upon its receipt of no objection to the District boundary changes from its Series 1999 Bond holders.

IN WITNESS WHEREOF the parties hereof have executed this Boundary Agreement as of the date first above written.

DEVELOPER:
COOLIDGE-FT. MYERS REALTY LIMITED
PARTNERSHIP, a Florida limited partnership

By: Coolidge-Valencia Realty Corp., a Delaware corporation, its general partner

David A. Hyatt
Print Name: David A. Hyatt

By: [Signature]
Title: Vice President

Douglas T. Cordello
Print Name: Douglas T. Cordello

DISTRICT:
HERONS GLEN RECREATIONAL DISTRICT, an independent special recreational district of Lee County, Florida, established by Lee County Ordinance No. 98-08

Thomas B. Hart
Print Name: THOMAS B. HART

By: [Signature]
Name: EDWARD L. HARE
Title: CHAIRMAN

Shirley D. Barlow
Print Name: SHIRLEY D. BARLOW

RECEIVED
Knott, Consoer, Florida
Hart & Swett, Inc.

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