

FOURTH AMENDMENT TO COMPREHENSIVE SERVICE AGREEMENT

THIS FOURTH AMENDMENT TO COMPREHENSIVE SERVICE AGREEMENT (this "Fourth Amendment") is made and entered into this 10th of July, 2008, by and between **LELY COMMUNITY DEVELOPMENT DISTRICT**, a community development district established and existing pursuant to Chapter 190, Florida Statutes (the "District") and **LELY RESORT MASTER PROPERTY OWNERS ASSOCIATION, INC.**, a Florida not-for-profit corporation (the "Master Association").

WITNESSETH THAT:

WHEREAS, the District is a local unit of special purpose government organized and existing in accordance with the Uniform Community Development District Act, Chapter 190, Florida Statutes, as amended, and established pursuant to a rule, adopted under Chapter 120, Florida Statutes, by the Florida Land and Water Adjudicatory Commission; and

WHEREAS, the District was established for purposes that include, without limitation, the delivery of certain community services within its jurisdiction; and

WHEREAS, the Master Association is a homeowners' association formed and existing pursuant to Chapters 617 and 720, Florida Statutes; and

WHEREAS, the Master Association is homeowners' association in control and governing all of Lely Resort pursuant Declaration of General Covenants, Conditions and Restrictions for Lely Resort dated March 13, 1990 and recorded March 16, 1990 in Official Records Book 1513, Page 835 of the Public Records of Collier County, Florida, as amended, together with the Articles of Incorporation and By-laws of the Master Association; and

WHEREAS, the Master Association and District previously entered into that certain Comprehensive Service Agreement dated December 28, 2005 as amended by that certain Amendment to Comprehensive Service Agreement, that certain Second Amendment to Comprehensive Service Agreement dated as of June 20, 2007 ("Second Amendment"), and that certain Third Amendment to Comprehensive Service Agreement dated as of July 10, 2008 ("Third Amendment") (collectively, the "Agreement") through which the District, for compensation, would provide to properties within Lely Resort but situated outside the boundaries of the District, certain services that the District currently provides to the properties situated within the District; and

WHEREAS, the District has the authority under Chapter 190, Florida Statutes to provide the services described in the Agreement; and

WHEREAS, the Master Association and the District desire to amend the Agreement with respect to the specific real property described herein.

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby declare and agree as follows:

1. **Recitals.** The above recitals are true and correct and incorporated herein by this reference.

2. **Modification to Section 2(e).** Section 2(e) of the Agreement is hereby amended and restated as follows (with the ~~strikeout~~ indicating deleted language and underlining indicating added language):

(e) Annual Operation and Maintenance Fee. The Master Association shall pay to the District a per unit, annual operation and maintenance fee ("Annual O&M Fee") for the provision of Public Services to the Master Association within the Classics. The Annual O&M Fee shall ~~only~~ apply to each unit in the Classics upon which a principal structure has been constructed (and received a certificate of occupancy) and sold to an end-user (a "Sold Unit") and to certain special project units which have received a certificate of occupancy as described in the Second and Third Amendment (a "Special Unit"). The Master Association will only pay for those Sold Units and Special Units within its jurisdiction. On or before September 1, 2008, the District and the Master Association shall meet and agree upon the number of Sold Units and Special Units for purposes of calculating the Annual O&M Fee herein for the following District fiscal year. The date on which the District and the Master Association agree on the number of Sold Units and Special Units shall be referred to herein as the "Unit Date". The Annual O&M Fee to be paid by the Master Association for each Sold Unit shall be determined each fiscal year by determining the quotient of the District's costs for each individual Public Service ~~those services~~ actually provided to the Master Association (as described below) divided by sum of the following: (i) the then-existing number of dwelling units within the jurisdictional boundaries of the District; plus (ii) the number of Sold Units; plus (ii) (if applicable for the specific Public Service) the number of Special Units in the Classics. For those projects described in the Second Amendment and Third Amendment, the calculations of the Annual O&M Fee for the Special Units in each project shall be computed independently as per the applicable amendment. For purposes of this subsection, the District's costs shall include those costs directly related to and arising from those Public Services actually provided to the Master Association and shall specifically include the following costs related to the provision of irrigation water: electricity for the District's overall irrigation system (including each System, as said term is defined in Section 3); repair and maintenance of the District's overall irrigation system (including each System as said term is defined in Section 3); meter reading; purchasing effluent water; salt monitoring; and the salary and benefits of employees whose services are directly related to the irrigation distribution system within and without the jurisdictional boundaries of the District. Notwithstanding anything to the contrary herein, in no event shall the Master Association be charged for any expenses related to the preparation and collection of District assessments on the Collier County tax roll, including, without limitation, assessment roll preparation fees, Collier County Property Appraiser fees and charges, Collier County Tax Collector fees and charges, and assessment write-ups to accommodate for early tax payment discounts.

3. **Modification to Section 2(f).** Section 2(f) of the Agreement is hereby amended and restated as follows (with the ~~strikeout~~ indicating deleted language and underlining indicating added language):

(f) Initial Annual O&M Fee/Time for Payment of Annual O&M Fee. On or before October 1 of each year, the District shall notify the Master Association of the Annual O&M Fee for each of the Sold Units and Special Units for the upcoming District fiscal year. The Master Association shall remit payment for the Annual O&M Fee for each Sold Unit and Special Unit as described herein. The total amount due from the Master Association for the Sold Units and Special Units shall be referred to herein as the "Total Annual Payment".

(i) The Master Association intends to collect the Annual O&M Fee from the applicable unit owners through its normal assessment process. Provided the Master Association requires its membership to pay regular assessments on a quarterly basis, the Master Association shall remit payment of the Total Annual Payment to the District in four equal installment payments, which equal installment payments shall be due and payable to the District on January 20, April 20, July 20, and October 20. In the event the Master Association requires its membership to pay regular assessments on a basis that is less frequently than quarterly, the Master Association shall remit payment of the Total Annual Payment to the District in two equal installment payments, which equal installment payments shall be due and payable to the District on January 20 and July 20.

(ii) It is recognized that there may become additional Sold Units or Special Units after the Unit Date. As to Sold Units, the District and the Master Association intend that an initial Annual O&M Fee (~~pro-rated based as of the date a unit becomes a Sold Unit~~) shall be paid to the Master Association at Closing of the sale of any such ~~the~~ unit to an end-user. As to Special Units, the District the Master Association intend that an initial Annual O&M Fee shall be paid to the Master Association at the time such a unit receives a certificate of occupancy. The initial Annual O&M Fee shall be pro-rated based upon the date a unit becomes a Sold Unit or Special Unit, as applicable. As such, if a unit becomes a Sold Unit or Special Unit after the Unit Date but on or before October 1 of the fiscal year for which the Annual O&M Fee applies, the entire Annual O&M Fee shall be payable for said unit. If, however, a unit becomes a Sold Unit or Special Unit after October 1, the Annual O&M fee for said unit shall be prorated on the basis of the District's fiscal year. The Master Association shall notify the District of each new Sold Unit or Special Unit and remit payment of the applicable prorated portion of initial O&M Assessment to the District within thirty (30) days after the Master Association's collection of the initial O&M Fee. ~~Thereafter, the District will bill the Master Association for the Annual O&M Fee for all Sold Units within the Master Association not later than February 15th of each year.~~

4. **Modification to Section 2(g).** Section 2(g) of the Agreement is hereby amended and restated as follows (with the ~~strikeout~~ indicating deleted language and underlining indicating added language):

(g) Non-payment. In the event payment of any Annual O&M Fee is not received by the District within thirty (30) days from its due date as provided herein, then (a) interest shall accrue on the outstanding Annual O&M Fees from the date said fees are past due at the rate of eight percent per annum (8.0%) and (b) the District shall have the right to bring suit against the Master Association to collect the same. If a suit is initiated, the prevailing party shall be entitled to reimbursement for all reasonable attorneys' fees and costs incurred including, but not limited to, those incurred instant to any appeal. As referenced below in Section 2(i), the parties recognize that the Master Association may assess fees and costs hereunder through the various neighborhood associations. The Master Association has experienced one or more neighborhoods that have become delinquent from time to time on remitting their assessments to the Master Association. In the event any neighborhood association shall become delinquent in remitting its assessments covering the fees and costs hereunder to the Master Association, the Master Association shall notify the District of the same. In addition to all of the rights and remedies set forth above or elsewhere in this Agreement, the District shall have the right to discontinue services hereunder (including, without limitation, the provision of irrigation water) to any such delinquent neighborhood and the residents therein until such neighborhood association becomes current on its payments.

5. **Conflict/Amendment.** The terms of this Fourth Amendment form a part of the Agreement and shall control and take precedence over any and all terms, provisions and conditions of the Agreement which might vary, contradict or otherwise be inconsistent with the terms and conditions hereof. All of the other terms, provisions and conditions of the Agreement, except as expressly amended and modified by this Fourth Amendment, shall remain unchanged and are hereby ratified and confirmed and shall remain in full force and effect.

6. **Counterparts/Facsimile.** This Fourth Amendment may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures by facsimile transmission of this Fourth Amendment shall be acceptable and binding upon both parties.

(Remainder of Page Intentionally Left Blank. Signatures Appear on Next Page)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.


DISTRICT:

LELY COMMUNITY DEVELOPMENT DISTRICT

ATTEST:



Neil Porcill, Secretary

By: 

Ronald Moore, Chairman

Approved as to form and legal sufficiency:

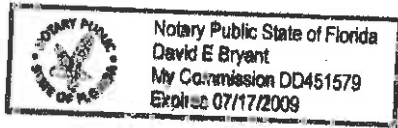


David Bryant
District Counsel

STATE OF FLORIDA)
) ss.
COUNTY OF COLLIER)

The foregoing instrument was acknowledged before me, this 10th of July, 2008, by Ronald Moore Chairman, of the Lely Community Development District, on behalf of the district, who is () personally known to me or () has produced _____ as evidence of identification.

(SEAL)



NOTARY PUBLIC
Name: _____
(Type or Print)
My Commission Expires: _____

THE MASTER ASSOCIATION:

LELY RESORT MASTER PROPERTY OWNERS ASSOCIATION, INC.,
a Florida not-for-profit corporation

Signed, sealed and delivered
in our presence:

Michael DeSmidt
Signature
Printed Name: Michael DeSmidt

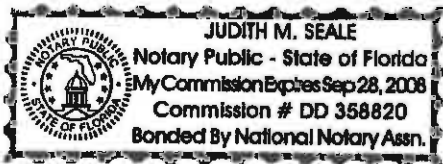
Keith Felder
Signature
Printed Name: Keith Felder

By: Sandy Holdsworth
Name: SANDY HOLDSWORTH
Title: VICE PRESIDENT

STATE OF FLORIDA)
) ss.
COUNTY OF COLLIER)

The foregoing instrument was acknowledged before me this 10th of July, 2008,
by Sandy Holdsworth Vice President of Lely Resort Property Owners
Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation, who is () personally
known to me or () has produced _____ as evidence of identification.

(SEAL)



Judith M Seale
NOTARY PUBLIC
Name: Judith M SEALE
(Type or Print)
My Commission Expires: 9/28/2008