

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into this ____ day of March, 2007, by and between Monroe County, Florida, a political subdivision of the State of Florida, hereinafter ("County"), and the Eager Family Limited Partnership, LP, a Florida Limited Partnership, hereinafter ("Eager").

WITNESSETH:

A. WHEREAS, on or about February 6, 2006, Eager appealed the decision of the County's Planning Director and the County's Planning Staff determining that the Calusa Campground Condominium Association Property ("Calusa Property") needed to be platted; and

B. WHEREAS, the current Land Use Designation for the Calusa Property is "RV";
and

C. WHEREAS, on or about February 6, 2006, Eager appealed the decision of the County's Planning Department which alleged that certain Recreational Vehicle Site Condominium Units ("Units") within the Calusa Property are subject to the regulations in the Monroe County Code ("Code") which require that specific buffer areas be provided; and

D. WHEREAS, on or about February 6, 2006, Eager appealed the alleged violations ("Violations") of the Monroe County Code issued by the County to several owners of Units within the Calusa Property; and

E. WHEREAS, the above appeals filed by Eager are currently pending before the County's Planning Commission; and

F. WHEREAS, County and Eager mutually desire to effect a resolution for any and all land use and code enforcement matters regarding the Calusa Property, including, but not limited to, the appeal of the County's platting determination, the appeal of the County's buffer area violation allegations and the appeal of the purported violations issued by the County concerning existing building and Code Violations at the Calusa Property; and

G. WHEREAS, there is a dispute about the platting requirement for this RV Park, its sites and the buffer yard/space requirements;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Eager hereby agree as follows:

1. RECITALS. The foregoing recitals are true and correct and are incorporated herein by reference as if set out in full in the body of this instrument.

2. PLATTING. The recorded Site Plan of the Calusa Property dated May 4, 2001 and recorded in Official Records Book 2031, Pages 1921-28 of the County's Public Records is hereby approved and acknowledged as the Calusa Property Site Plan ("Plan") for all purposes going forward. The County hereby acknowledges and covenants that it will not request or

otherwise require that Eager, the owners of Units within the Calusa Property, or the duly formed association representing the owners, plat or replat the Calusa Property so long as the Calusa Property, or any portion thereof, is used according to its current land use designation. The County further acknowledges and agrees that the buffer yard/area requirements in the Monroe County Code are satisfied and met for all purposes for the current use.

2. RECOGNIZED UNITS. The County hereby acknowledges and agrees the Calusa Property contains Three Hundred Sixty-Seven (367) Condominium Units, all of which are shown on the Plan and all of which may be used for any purpose permitted under the Code in effect as of the date of this Agreement, which Code may be modified from time to time.

3. BUFFERING MATTERS.

- a. It is understood and agreed that Eager does not agree or admit in any way that buffer yards or areas are required for the subject Units or other areas in or about the condominium, its Units and common areas. This agreement is entered into by Eager solely as a settlement for convenience to resolve all of the issues relating to the condominium between Eager and Monroe County.
- b. Eager agrees to donate Nine and Thirty-Two Hundredths (9.32±) acres of unimproved property (“Buffer Property”) for conservation purposes, described more particularly on **Exhibit “A”** attached hereto and incorporated herein by reference, which is located east of the Calusa Property and which has a land use designation of Suburban Residential (SR) on the County’s land use map. In exchange for Eager’s donation of the Buffer Property to the County in fee simple title, the County agrees to immediately dismiss, abandon and forever terminate any and all enforcement efforts and proceedings regarding the required buffer areas for Units 114-126 and Units 481-490 at the Calusa Property as shown on the Plan, and further agrees in recognition of the fact that the Buffer Property will be held in perpetuity without development that Units 114-126 and Units 481-490 shall not be required to have a buffer yard. The County further acknowledges and agrees that Eager’s deed of the Buffer Property to the County is hereby considered complete mitigation, total satisfaction and final resolution of the pending buffer yard enforcement matters and all issues relating to the Plan and the development of the Calusa Property as a condominium so long as the Calusa Property, or any portion thereof, is used according to its current land use designation.
- c. The County further covenants that the Buffer Property will never be cleared or improved because, as consideration for entering into this Agreement, all Transferable Development Rights (“TDRs”)

currently existing on the Buffer Property will be provided to Eager. The County agrees to maintain the Buffer Property in its natural state or as a public park, in perpetuity, and also agrees to name the Property after GEORGE W. EAGER, SR. should a representative of the Eager Family so request. The Warranty Deed from Eager shall contain an express Deed Restriction providing that the Buffer Property cannot be cleared and that no residential or commercial buildings can be constructed upon it. The Deed Restriction shall be enforceable at law or in equity by Eager, Eager's assigns, designees or successors-in-interest. County must be satisfied that marketable title is provided to County by Eager. The transfer shall occur within 45 days after the date above.

4. TRANSFERABLE DEVELOPMENT RIGHTS. The County recognizes Four and Sixty-Six Hundredths (4.66) TDRs on the Buffer Property. Upon final approval of this Agreement, as provided herein, County will issue all appropriate documentation and take all action necessary to immediately provide Eager with access to the TDRs. Eager in its sole and absolute discretion may retain, transfer, sell, or dispose of the TDRs as Eager chooses, and the County hereby covenants and agrees not to object to or fail to consent (if consent is required under the Code) to Eager's use of the TDRs. Use of the TDRs shall be governed by the applicable law effective on the date of the use, that being the date of final development approval by County.

5. BUILDING PERMITS. The County agrees to issue Building Permits ("Permits") for utilities and in order to remedy life-safety and health issues prior to settlement of all Code Enforcement actions at Calusa Campground. If there are no violations on Units 1-20, Units 114-126, and Units 481-490, any otherwise legal permitting shall be allowed, on a unit by unit basis.

6. VIOLATIONS. Upon execution of this Agreement, the County agrees to dismiss, cancel, void and close out all existing (if any) Violations issued against the owners of record for Units 1-20, Units 114-126 and Units 481-490 with respect to platting, lot size, and/or buffer yards. Further, the County agrees that, upon execution of this Agreement, the above Violations will be deemed paid, remedied and completely satisfied now and forever so long as the Calusa Property, or any portion thereof, is used according to its current land use designation. Notwithstanding any contrary provisions contained herein, this Agreement will not preclude the County from exercising its enforcement powers to prosecute other current or future code violations of owners of Units in the Calusa Property unrelated to this Agreement.

7. TRANSFERABLE ROGO EXEMPTIONS.

- a. The County recognizes the existence of Twenty-Eight (28) Transferable ROGO Exemptions (TREs) belonging to Eager, for which the County will issue all appropriate documentation and take all appropriate action to provide to Eager upon final approval of this Agreement as provided herein. The TREs may be used by

- Eager, its transferees, heirs and assigns as determined by the regulations in effect at the time of transfer except as otherwise provided for herein.
- b. The 28 TREs are transient and currently may be used for transfer of ROGO exemption/ allocation to Affordable Housing uses 9.5-120.4(b)b and also can be transferred to hotel and/or motel uses.
 - c. The TREs may be used notwithstanding and during any moratorium or other restriction on the transfer of recreational vehicle sites such as that imposed by Monroe County Section 9.5-120.5 and 9.5-120.6.
 - d. The TREs meet the criteria for redevelopment off site, to any planning area in Monroe County. The receiver site must meet the criteria in the Monroe County Code for development/redevelopment except for that requiring a ROGO score equal to or greater than the score of the sender site.
 - e. TREs may not be used on Tier 1 property if the Tier system is implemented as designated by Monroe County at the time of the transfer.
 - f. In the event the TREs are governed by less restrictive provisions for uses in the future, the more liberal shall apply. In no event shall the uses be diminished by future changes in applicable ordinances or land use regulations.

8. GLOBAL SETTLEMENT. This Agreement is entered into relative to and in consideration of the above-referenced appeals brought by Eager and is intended to resolve all issues addressed in those appeals with prejudice, and is further intended to resolve and settle only the platting and buffer yard matters addressed herein between the parties, and the referenced Unit owners, as to the Calusa Property. It is the intent of the County and Eager that all Violations with respect to platting, lot size, and/or buffer yards, be cancelled, satisfied, and closed out as to Eager, the development of the condominium and the above-referenced Units as of the date of this Agreement.

9. APPROVAL BY BOARD OF COUNTY COMMISSIONERS. Notwithstanding any contrary provision above, the County's acceptance of this Agreement is subject to the approval of the Monroe County Board of County Commissioners ("BOCC"). Should, for any reason, the BOCC fail to approve the terms of this Agreement, it shall be of no force or effect. If the Agreement is approved by the BOCC, it shall be fully binding on the parties as of the above date.

10. ATTORNEY'S FEES. Each party will be responsible for its own attorney's fees incurred as part of this Agreement.

11. INTERPRETATION. The singular shall include the plural, the plural the singular and use of any gender shall include all genders. The headings contained herein are for convenience and reference only, and in no way define or limit the scope and content of this Agreement or in any way affect its provisions.

12. SEVERABILITY. If any provision of this Agreement is judged to be unenforceable, such provision shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof. If any provision of this Agreement is capable of two (2) constructions, one (1) of which would render the provision void and the other of which would render the provision valid, it is the intent of the parties that such provision have the meaning which renders it valid.

13. RECORDATION. A fully executed copy of this Agreement signed by all parties hereto, shall be recorded in the Public Records of Monroe County, Florida at Eager's expense which shall be recorded so as to be found in the chain of title.

14. AMENDMENT TERMINATION. This Agreement may not be amended, modified or terminated except by written instrument signed by the parties hereto and recorded in the Public Records of Monroe County, Florida.

IN WITNESS WHEREOF, the parties appear and have set their hands and seals on the date first above written.

WITNESSES:
(1) _____

EAGER FAMILY LIMITED PARTNERSHIP, LP,
a Florida Limited Partnership

Print Name

By: _____

(2) _____

GEORGE W. EAGER, JR., as President of
Eager Investments, Inc., a Florida corporation
General Partner of Eager Family Limited
Partnership, L.P.

Print Name

STATE OF FLORIDA)

)SS:

COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2007, by George W. Eager in his capacity as President of Eager Investments, the General Partner of the Eager Family Limited Partnership, LP, a Florida Limited Partnership, who is authorized to bind the Partnership. He is personally known to me or () produced _____ as identification.

(NOTARY SEAL)

Notary Public, State of Florida
Print Name: _____
Commission No.: _____
My Commission Expires: _____

Approved by:


GUS CROWELL, ESQ.
Attorney for Eager Family Limited Partnership, LP,
a Florida Limited Partnership

ATTEST:
DANNY L. KOLHAGE, CLERK

Deputy Clerk

MONROE COUNTY, FLORIDA

Mayor Mario DiGennaro

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

SUSAN M. GRIMSLEY
ASSISTANT COUNTY ATTORNEY
Date 3-14-07

**Exhibit A
to
Settlement Agreement
between
Monroe County and the Eager Family Limited Partnership**

Legal Description

On the Island of Key Largo and being all that part of Lot 1, Section 28, Township 61 South, Range 39 East, lying North of a 20 foot road and lying North of the former right of way of the Florida East Coast Railway according to a survey made by PD Jenkins, C.E. and according to the Plat thereof, as recorded in Plat Book 1, at Page 68, of the Public Records of Monroe County, Florida.