

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20030898

1. REQUESTED MOTION:

ACTION REQUESTED: Accept donation of an 11 acre parcel from Grosse Pointe Associates, Ltd. offered to comply with the conditions of approval for the River's Edge Yacht and Country Club DRI.

WHY ACTION IS NECESSARY: The donation is necessary to satisfy DRI Condition II.G.5.d.(1)(a)(iii).

WHAT ACTION ACCOMPLISHES: It provides mitigation for the approval to trim mangroves located within the Preserve Area along the Caloosahatchee River and within the River's Edge DRI boundary.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT # C12B

3. MEETING DATE: 08-19-2003

4. AGENDA:

CONSENT
 ADMINISTRATIVE
 APPEALS
 PUBLIC
 WALK ON
 TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

STATUTE
 ORDINANCE
 ADMIN. CODE
 OTHER DRI Condition

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER
B. DEPARTMENT County Attorney
C. DIVISION 12
BY: Dawn E. Perry-Lehnert
Assistant County Attorney

7. BACKGROUND:

The Board approved the Fourth Amendment of the River's Edge Yacht and Country Club DRI (aka Gulf Harbour) on October 7, 2002. This amendment allows the construction of a boardwalk and trimming of mangroves within the designated Mangrove Preserve Area. As a condition for approval, the property owner agreed to donate an 11 acre mitigation parcel.

This 11 acre mitigation parcel is located in Section 27, Township 45, Range 23 along the Caloosahatchee River and is accessible only by boat. The parcel remains in its natural state. Environmental Sciences staff has determined that acceptance of this parcel provides appropriate mitigation for intrusion into the mainland preserve area within the DRI boundary.

County staff recommends acceptance of the donation.

Attachments: Deed
 Closing affidavit
 Title commitment

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

| A Department Director | B Purchasing or Contracts | C Human Resources | D Other | E County Attorney | F Budget Services | | | | G County Manager |
|-----------------------------|------------------------------------|-------------------------|------------|--------------------------|----------------------|---------------------|-------------------------|----------------------|-----------------------|
| | | | | <i>Timothy Pover</i> | OA <i>RK 8/1</i> | OM <i>8/5/03</i> | RISK <i>08/15/03</i> | GC <i>8/15/03</i> | <i>002 8-6-03</i> |

10. COMMISSION ACTION:

APPROVED
 DENIED
 DEFERRED
 OTHER

CO. ATTY.
FORWARDED TO:
Co Admin
8-1-03 2:40

RECEIVED BY
COUNTY ADMIN
8/19/03
COUNTY ADMIN
FORWARDED TO:
8/19/03
760

Prepared by and return to:
Steven I. Winer, Esq.
Roetzel & Address, L.P.A.
2320 First Street, Suite 1000
Fort Myers, FL 33901-2904
239-337-3850
File Number: 105178.0003
Will Call No.: 8

Parcel Identification No. 27-45-23-00-00005.0000

[Space Above This Line For Recording Data]

Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this 13rd day of July, 2003 between **Grosse Pointe Associates, Ltd., a Florida limited partnership** whose post office address is **15065 McGregor Boulevard, Suite 108, Fort Myers, FL 33908** of the County of Lee, State of Florida, grantor*, and **Lee County, a political subdivision of the State of Florida** whose post office address is **P.O. Box 398, Fort Myers, FL 33902** of the County of Lee, State of Florida, grantee*,

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Lee County, Florida**, to-wit:

Government Lot 2, Section 27, Township 45 South, Range 23 East, Lee County, Florida.

Subject to taxes for 2003 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

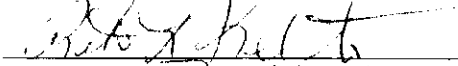
and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

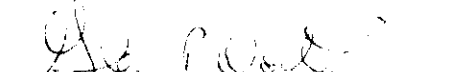
* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

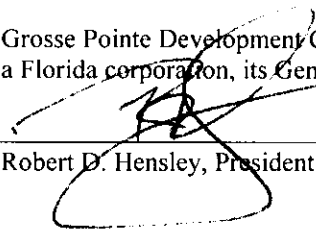
Grosse Pointe Associates, Ltd.,
a Florida limited partnership

Signed, sealed and delivered
in our presence:


Print Name: RITA KERTNER


Print Name: Steven P. Winer

By: Grosse Pointe Development Company, Inc.,
a Florida corporation, its General Partner

By: 
Robert D. Hensley, President

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 23rd day of July, 2003 by Robert D. Hensley, President of Grosse Pointe Development Company, Inc., General Partner of Grosse Pointe Associates, Ltd., a Florida limited partnership on behalf of the corporation and the partnership. He [X] is personally known to me or [] has produced a driver's license as identification.

[Notary Seal]



Rita L. Keltner
Commission # DD 023346
Expires May 7, 2005
Bonded Thru
Atlantic Bonding Co., Inc.

Rita L. Keltner
Notary Public

Printed Name: RITA L. KELTNER

My Commission Expires: May 7, 2005

Warranty Deed (Statutory Form)

By: _____
Assistant County Attorney

Closing Affidavit

(Seller)

Before me, the undersigned authority, personally appeared **the undersigned** ("Affiant"), who being by me first duly sworn, on oath, depose(s) and say(s) that:

1. **Grosse Pointe Associates, Ltd., a Florida limited partnership** ("Seller"), is the owner of and is selling the following described property to **Lee County, a political subdivision of the State of Florida** ("Buyer"), to wit:

Government Lot 2, Section 27, Township 45 South, Range 23 East, Lee County, Florida.

2. The above described property is free and clear of all liens, taxes, encumbrances and claims of every kind, nature and description of record whatsoever, except for real estate taxes for the year **2003**, which are not yet due and payable.
3. There have been no improvements, alterations, or repairs since acquisition by the Seller to the above described property for which the costs thereof remain unpaid, that there are no claims for labor or material furnished for repairing or improving the same, which remain unpaid since the acquisition by Seller, and that there are no mechanic's, materialmen's, or laborer's liens since acquisition by Seller against the above described property.
4. There have been no documents recorded in the Public Records of **Lee County, Florida** subsequent to **June 23, 2003**, which affect title to the Property and Seller has not entered into any contracts for the sale, disposition or leasing of the Property since said date except as may have been disclosed to **Roetzel & Andress, L.P.A.** in writing, and Seller has no knowledge of any matter affecting title to the Property.
5. The Seller knows of no violations of Municipal or County Ordinances pertaining to the above described property. No judgment or decree has been entered in any court in this State or the United States against said Seller which remains unsatisfied. There are no persons other than Seller in possession of the above described property.
6. There are no matters pending against the Seller that could give rise to a lien that would attach to the property between the effective date of commitment and the recording of the interest to be insured. Seller has not and will not execute any instruments that would adversely affect the interest to be insured.
7. Seller's title to, and possession and enjoyment of, the property have been open, notorious, peaceable and undisturbed, and have never been disputed nor questioned.
8. There are no disputes concerning the boundary lines of the property, and the operation of any buildings on said property has been in compliance with the applicable building codes, ordinances and statutes.
9. Affiant has received no notice of any public hearing regarding assessment for improvements or changes in applicable zoning laws concerning said property within the past ninety (90) days.
10. There are no actions or proceedings now pending in any State or Federal Court to which the Seller is a party, including but not limited to, proceedings in bankruptcy, receivership or insolvency, nor are there any judgments, bankruptcies, liens or executions of any nature which constitute or could constitute a charge or lien upon said property.
11. There are no unrecorded easements, claims of easement or rights-of-way affecting all or any portion of the property.
12. Seller understands that Section 1445 of the Internal Revenue Code provides that a Buyer of a United States real property interest must withhold tax if the Seller is a foreign person. To inform the Buyer that withholding of tax is not required upon purchase of the above described property, Seller certifies the following:
 - a. Seller is not a nonresident alien individual, foreign corporation, foreign partnership, foreign trust or foreign estate for purposes of United States federal income taxation.
 - b. Seller's U.S. Taxpayer Identification Number is **59-3458479**.
 - c. Seller's address is: **15065 McGregor Boulevard, Suite 108, Fort Myers, FL 33908**.

d. No other persons or entities have an ownership interest in the above described property.

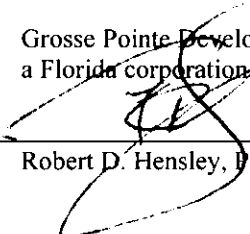
Seller understands the Buyer of the described property intends to rely on the foregoing representations in connection with the United States Foreign Investment in Real Property Tax Act. (FIRPTA). Seller understands this certification may be disclosed to the Internal Revenue Service by the Buyer and that any false statements contained in this certification may be punished by fine, imprisonment or both. Seller has the authority to sign this affidavit as either individual Seller or on behalf of an entity Seller. Under penalties of perjury, Seller states that this declaration was carefully read and is true and correct.

13. This affidavit is given for the purpose of clearing any possible question or objection to the title to the above referenced property and, for the purpose of inducing **Roetzel & Andress, L.P.A.** and **Attorneys' Title Insurance Fund, Inc.** to issue title insurance on the subject property, with the knowledge that said title companies are relying upon the statements set forth herein. Seller hereby holds **Roetzel & Andress, L.P.A.** and **Attorneys' Title Insurance Fund, Inc.** harmless and fully indemnifies same (including but not limited to attorneys' fees, whether suit be brought or not, and at trial and all appellate levels, and court costs and other litigation expenses) with respect to the matters set forth herein. "Affiant", "Seller" and "Buyer" include singular or plural as context so requires or admits. Seller further states that he/she is familiar with the nature of an oath and with the penalties as provided by the laws of the United States and the State of Florida for falsely swearing to statements made in an instrument of this nature. Seller further certifies that he/she has read, or heard read, the full facts of this Affidavit and understands its context.

Under penalties of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.

Grosse Pointe Associates, Ltd., a Florida limited partnership

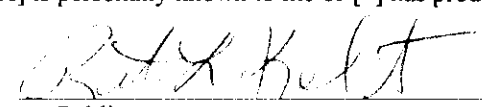
By: Grosse Pointe Development Company, Inc., a Florida corporation, its General Partner

By: 
Robert D. Hensley, President

State of Florida
County of Lee

The foregoing instrument was sworn to and subscribed before me this 23rd day of July, 2003 by Robert D. Hensley, President of Grosse Pointe Development Company, Inc., General Partner of Grosse Pointe Associates, Ltd., a Florida limited partnership on behalf of the corporation and the partnership. He [X] is personally known to me or [] has produced a driver's license as identification.

[Notary Seal]


Notary Public

Printed Name: RUTH L. KORTNER

My Commission Expires: May 7, 2005

**ENDORSEMENT NO. 1
ATTORNEYS' TITLE INSURANCE FUND, INC.**

Attached to Title Insurance Commitment CF-871304

Agent File No. 105178.0003

Name of Original Insured: Lee County, a political subdivision of the State of Florida

Original Effective Date: January 6, 2003 at 11:00 p.m.

Original Amount of Insurance: \$11,000.00

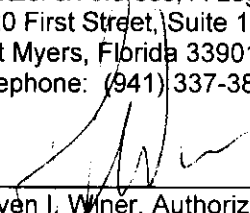
The title insurance commitment is hereby amended as follows:

The title search has been continued down through June 23, 2003 at 11:00 p.m. No matters affecting title were found since the issuance of the title insurance commitment.

End of Endorsement

This endorsement shall not be valid or binding until countersigned by an authorized signatory.

Issuing Agent:
Roetzel & Andress, A Legal Professional Association
2320 First Street, Suite 1000
Fort Myers, Florida 33901
Telephone: (941) 337-3850



Steven I. Winer, Authorized Signatory