

RESOLUTION NO. 93- 67  
RESOLUTION OF THE BOARD OF COUNTY  
COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA  
AUTHORIZING COUNTY ADMINISTRATOR  
TO AMEND SETTLEMENT AGREEMENT

WHEREAS, Atlantic Gulf Communities Corporation, ("Owner"), and The Board of County Commissioners of St. Johns County ("County") have entered into a Settlement Agreement dated April 14, 1992, which was a part of the settlement of claims by the County in the case filed by General Development Corporation as Debtor and Debtor-in-Possession under Chapter 11 of the Bankruptcy Code and styled as In Re General Development Corporation; Case No. 90-12231 - BKC-AFC, United States Bankruptcy Court for the Southern District of Florida, Miami Division, ("Settlement Agreement"), whereby the Owner agreed to place certain funds in escrow to assure the completion of certain subdivision improvements;

WHEREAS, the County and Owner have determined to make certain changes to the Settlement Agreement to provide for the ability to increase the amounts held in escrow to include additional costs related to change orders for the subdivision improvements and to permit the Owner or the developer of lands subject to the Escrow Agreement executed under the Settlement Agreement to obtain building permits and certificates of occupancy, all on the terms and conditions more fully set forth in the First Amendment to Settlement Agreement attached hereto and made a part hereof as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

1. The Settlement Agreement shall be amended in form and substance in accordance with the terms and conditions of the First Amendment to Escrow Agreement attached hereto and made a part hereof as Exhibit A ("Amendment"), to provide for the issuance of building permits and certificates of occupancy on the terms and conditions set forth therein and to provide for the adjustment of the amounts held in escrow pursuant to such Amendment in the event of execution of change orders under the construction contract.

2. The County Administrator is hereby authorized to execute the Amendment on behalf of the County, upon receipt of the Amendment executed by Atlantic Gulf Communities Corporation.

ADOPTED by the Board of County Commissioners of St. Johns  
County, Florida, this 27th day of April, 1993.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

BY: *Jimena Balvanera*  
Its Chair

Attest:

Carl "Bud" Markel, County Clerk

By: *Gregor Caseth*  
Deputy Clerk

EXHIBIT A

**FIRST AMENDMENT TO  
SETTLEMENT AGREEMENT**

THIS FIRST AMENDMENT is made this \_\_\_ day of \_\_\_\_\_, 1993, by and between **THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA**, a political body of the State of Florida (the "County") and **ATLANTIC GULF COMMUNITIES CORPORATION**, as successor in interest to General Development Corporation, as Debtor and Debtor-in-Possession in the case filed under Chapter 11 of the Bankruptcy Code (the "Bankruptcy Case") styled as In re General Development Corporation; Case No.: 90-12231-BKC-AJC, United States Bankruptcy Court for the Southern District of Florida, Miami Division (the Bankruptcy Court)("Atlantic Gulf").

RECITALS:

A. The County and Atlantic Gulf entered into that certain Settlement Agreement dated April 14, 1992, ("Settlement Agreement") which set forth certain agreements between the parties with respect to the development of lands owned by Atlantic Gulf commonly referred to as "Julington Creek", which are located in St. Johns County, Florida.

B. After operating under the Settlement Agreement, the parties have determined that certain amendments or modifications to the Settlement Agreement should be made and pursuant to the terms of paragraph 25 of the Settlement Agreement, the parties desire to set forth such amendments to the Settlement Agreement in writing and signed by the parties.

NOW THEREFORE, the parties hereby agree and amend the Settlement Agreement as follows:

1. Paragraph 6 of the Settlement Agreement is hereby amended in its entirety to read as follows:

"6. **Financial Assurance.** After obtaining approval of the County and prior to commencing development and construction of a Plat or Plats or portions thereof, pursuant to paragraphs 4 and 5 above, a Developer shall provide to the County financial assurance for the completion of the related subdivision improvements (the "Improvements") by depositing into an escrow account, (the "Escrow Account") with a federally insured financial institution acceptable to the applicable Developer and the County, (the "Depository") an amount equal to 115% of the cost of construction of the applicable Improvements, as determined by the County. Atlantic Gulf agrees to provide to the County an estimate of such costs which is to be prepared, signed and sealed by a third party professional engineer selected by Atlantic Gulf, (the "Certifying Engineer"). Such estimate shall be approved

by the County and is hereinafter referred to as the "Cost of Construction."

The parties agree that any Developer who desires to proceed with construction of any Plat or Plats, or portions thereof, will execute a separate Escrow Agreement substantially in the form attached to this First Amendment as Exhibit "A", (the "Escrow Agreement") relating specifically to the construction of the Improvements within that portion of the proposed development or provide alternative financial assurance as provided in paragraph 8 hereof. Further, the Developer agrees to deposit sufficient funds as required by this paragraph in the Escrow Account within ten (10) days of the execution of the Escrow Agreement and prior to beginning the construction of any Improvements.

In the event that during construction of the Improvements, (a) a draw request would reduce the funds on deposit in the Escrow Account to an amount which is less than an amount which equals or exceeds the cost of completing the balance of the applicable Improvements as determined above plus fifteen percent (15%) of the Cost of Construction or (b) Developer enters into a change order with the contractors making the Improvements, which increases the Cost of Construction, the County shall require the Developer to deposit additional funds into the Escrow Account in an amount sufficient to increase the funds on deposit in the Escrow Account to an amount which equals or exceeds the cost of completing the balance of the Improvements, plus fifteen percent (15%) prior to releasing any funds, as provided in paragraph 7, which funds shall be paid within ten (10) days from notice by the County or upon submission of the change order, as applicable. The Developer shall also deliver to the County evidence of the deposit of the additional funds for the change order."

2. The following provision is hereby added to the Settlement Agreement as paragraph 7A:

**"7A. Issuance of Building Permits and Certificates of Occupancy.** Provided that the Developer has deposited funds in an Escrow Account pursuant to the provisions of paragraph 7, the Developer or a builder may obtain a building permit prior to the completion of the Improvements as required St. Johns County Ordinance No. 86-4, as revised. After the curb and gutter have been installed and the lime rock has been laid for the Improvements and Atlantic Gulf has provided to the County a good faith estimate of the completion date for the Improvements (which date shall be prior to the scheduled completion date of the single family homes for which a building permit is requested), the Developer or a builder of single family homes owning a lot within such subdivision may obtain a building permit and upon completion of the single family home in accordance with the applicable building codes

may obtain a certificate of occupancy, irrespective of whether the County has finally accepted the Improvements pursuant to St. Johns County Ordinance No. 86-4, as revised. If the Developer or the builders purchasing lots from the Developer elect to obtain building permits and/or certificates of occupancy prior to completion of the Improvements and acceptance by the County, then the provisions of the attached Escrow Agreement relating to the County's right to obtain the remaining funds in the Escrow Account, as more fully set forth in the Escrow Agreement shall be in full force and effect.

At such time as Atlantic Gulf enters in to an Escrow Agreement, Atlantic Gulf shall deliver to the County an executed copy of the Authorization Letter attached to the Escrow Agreement as Exhibit B. The County is authorized to deliver the fully executed Authorization Letter to the Escrow Agent only in the event that the County has issued a certificate of occupancy for a single family dwelling served by the Improvements, three (3) months have passed since the date thereof and the Improvements have not been completed as required by St. Johns County Ordinance No. 86-4 as revised. Upon receipt of such remaining funds from the Escrow Account, the County is authorized to complete the Improvements."

3. Except as modified herein, all terms and conditions of the Settlement Agreement remain in full force and effect.

EXECUTED as of the date first above written in several counterparts, each of which shall be deemed an original, but all constituting one agreement.

Signed, sealed and delivered  
in the presence of:

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: \_\_\_\_\_  
Its County Administrator

Carl "Bud" Markel  
Clerk of the Circuit Court

Attest: \_\_\_\_\_  
As Deputy Clerk

ATLANTIC GULF COMMUNITIES  
CORPORATION

\_\_\_\_\_  
Print Name

BY: \_\_\_\_\_  
Print Name  
Its \_\_\_\_\_  
President  
(CORPORATE SEAL)

\_\_\_\_\_  
Print Name