

ORDINANCE NO. 2914

**AN ORDINANCE
To Be Entitled:**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, AMENDING THE HERITAGE PALMS COMMUNITY DEVELOPMENT DISTRICT; DESCRIBING THE EXPANDED EXTERNAL BOUNDARIES OF THE DISTRICT; NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; NAMING THE DISTRICT; CONFIRMING THE DISTRICT CHARTER SET FORTH IN FLORIDA STATUTES SECTIONS 190.006-190.041, PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS: U.S. Home Corporation has petitioned the City Council, City of Fort Myers, to expand the HERITAGE PALMS COMMUNITY DEVELOPMENT DISTRICT; and

WHEREAS: The City Council, after proper published notice, conducted a local public information-gathering hearing as required by law and finds as follows:

1. The Heritage Palms Community Development District was established by Ordinance No. 2873, as adopted on September 21, 1998.
2. On September 3, 1999, U.S. Home Corporation, with consent of the established District Board of Supervisors, petitioned the City to expand the boundaries of the district pursuant to Florida Statutes 190.046(1)(g).
3. The petition to expand is complete in that it meets the requirements of Florida Statutes Sections 190.005(1)(a) and 190.046(1)(g), and all statements contained within the petition are true and correct.
4. The City staff and City Attorney have reviewed and approved the petition for expansion of the Heritage Palms Community Development District.
5. The costs to the City and government agencies from expansion of the district are nominal. There is no adverse impact on

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SECTION 2: AUTHORITY FOR ORDINANCE. This Ordinance is adopted pursuant to Florida Statutes, Section 190.005, and other applicable provisions of law governing city ordinances.

SECTION 3: EXPANSION OF HERITAGE PALMS COMMUNITY DEVELOPMENT DISTRICT. The boundaries of Heritage Palms Community Development District, created by law, as previously established by Ordinance No. 2873, are hereby expanded to include the boundaries of the total real property serviced by the district as described in Exhibit 1 attached hereto and incorporated by reference.

SECTION 4: DESIGNATION OF INITIAL BOARD MEMBERS.
The following five (5) persons are herewith designated to be the initial members of the Board of Supervisors:

- a. Peter R. Comeau, Regional Vice President
US Home Inc.
10491 Six Mile Cypress Parkway
Suite 104
Fort Myers, FL 33912
Telephone No.: (941) 278-1177
Fax No.: (941) 279-1914
- b. Tim Martin, Vice President
US Home Inc.
5975 Cattlemen Lane
Sarasota, FL 34232
Telephone No.: (941) 379-4911
Fax No.: (941) 379-5521
- c. Brian Sabean, Vice President Controller
US Home Inc.
10491 Six Mile Cypress Parkway
Suite 104
Fort Myers, FL 33912
Telephone No.: (941) 278-1177
Fax No.: (941) 279-1914
- d. Jeff Ledward, CPA
6249 Presidential Court, Suite B
P.O. Box 06576
Fort Myers, FL 33906
Telephone No.: (941) 489-1011
- e. Steven Kushner, P.A.
1375 Jackson Street, Suite 202
Fort Myers, FL 33901
Telephone No.: (941) 337-0800
Fax No.: (941) 337-7909

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SECTION 5: STATUTORY PROVISIONS CONSTITUTING HERITAGE PALMS DISTRICT CHARTER. Heritage Palms Community Development District is a single and special purpose local government whose charter is in the general law, Florida Statutes Sections 190.006 - Section 190.041.

SECTION 6: INTERLOCAL AGREEMENT REGARDING DELIVERY OF WATER, SEWER, REUSE AND SOLID WASTE SYSTEMS. This Heritage Palms Community Development District is hereby expanded and remains subject to an Interlocal Agreement, dated December 21, 1998 between City of Fort Myers and the Heritage Palms Community Development District concerning the delivery of water, sewer, reuse and solid waste systems, facilities and services by the parties as said joint agreement may be amended from time to time as may be provided by that certain joint agreement.

SECTION 7: CONFLICT AND SEVERABILITY. In the event this Ordinance conflicts with any other ordinance of the City of Fort Myers or other applicable law, the more restrictive shall apply as long as not inconsistent with or prohibited by Florida Statutes, Section 190. If any phase or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION 8: EFFECTIVE DATE. This ordinance shall become effective immediately upon adoption.

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PASSED IN PUBLIC SESSION of the City Council of the City of Fort
Myers, Florida, this 18th day of October, A.D., 1999.

AYE Dr. W. Robert Anderson
Dr. W. Robert Anderson

AYE Veronica S. Shoemaker
Veronica S. Shoemaker

AYE Ann M. Knight
Ann M. Knight, Ed.D.

AYE Michael Flanders
Michael Flanders

AYE Brenda S. Brewer
Brenda S. Brewer
Council Members

APPROVED this 18th day of October A.D., 1999, at 7:02 o'clock
p.m.

Bruce T. Grady
Bruce T. Grady, Mayor

FILED in the Office of the City Clerk this 18th day of October, A.D.,
1999.

Marie Adams
Marie Adams, City Clerk

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**EXHIBIT 1
DESCRIPTION
OF
A PARCEL OF LAND
LYING IN
SECTIONS 4, 5, 7 & 8, TOWNSHIP 45 SOUTH, RANGE 25 EAST,
AND
SECTIONS 32 & 33, TOWNSHIP 44 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA
(OVERALL C.D.D.)**

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, CITY OF FORT MYERS, LYING IN SECTIONS 4, 5, 7 & 8, TOWNSHIP 45 SOUTH, RANGE 25 EAST AND SECTIONS 32 & 33, TOWNSHIP 44 SOUTH, RANGE 25 EAST, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 6" X 6" CONCRETE MONUMENT MARKING THE SOUTHWEST CORNER OF SECTION 5, TOWNSHIP 45 SOUTH, RANGE 25 EAST; THENCE N.01°05'26"W. ALONG THE WEST LINE OF THE SOUTH QUARTER (S 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 5 FOR 661.09 FEET TO THE NORTH LINE OF SAID FRACTION, PASSING THROUGH A 4" X 4" CONCRETE MONUMENT ("STARNES NO. 2456") AT 631.08 FEET; THENCE N.88°24'52"E. ALONG THE NORTH LINE OF SAID FRACTION FOR 2583.90 FEET TO A 4" X 4" CONCRETE MONUMENT AND THE NORTHEAST CORNER OF SAID FRACTION, PASSING THROUGH A 4" X 4" CONCRETE MONUMENT AT 675.98 FEET; THENCE N.00°14'53"W. ALONG THE WEST LINE OF THE WEST HALF (W 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF SAID SECTION 5 FOR 1317.99 FEET TO A 4" X 4" CONCRETE MONUMENT MARKING THE SOUTHEAST CORNER OF TRACT 18, DEER RUN FARMS, UNRECORDED; THENCE S.88°30'22"W. ALONG THE SOUTH LINE OF SAID TRACT 18 FOR 650.81 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 18, PASSING THROUGH A 4" X 4" CONCRETE MONUMENT AT 620.81 FEET, THENCE N.00°27'33"W. ALONG THE WEST LINE OF SAID TRACT 18 AND THE WEST LINE OF THE EAST QUARTER (E 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 5 FOR 329.82 FEET TO THE NORTHWEST CORNER OF SAID TRACT 18; THENCE N.88°31'44"E. ALONG THE NORTH LINE OF SAID TRACT 18 FOR 652.02 FEET THROUGH A 4" X 4" CONCRETE MONUMENT MARKING THE NORTHEAST CORNER OF SAID TRACT 18, PASSING THROUGH A 4" X 4" CONCRETE MONUMENT AT 30.00 FEET; THENCE N.00°14'53"W. ALONG SAID WEST LINE OF THE WEST HALF (W 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) AND THE WEST LINE OF THE WEST HALF (W 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 5 FOR 479.93 FEET TO AN INTERSECTION WITH A LINE PARALLEL WITH AND 150.00 FEET NORTH OF (AS MEASURED ON A PERPENDICULAR) THE SOUTH LINE OF SAID WEST HALF (W 1/2) OF THE NORTHEAST QUARTER (NE 1/4); THENCE N.88°33'05"E. ALONG SAID PARALLEL LINE FOR 1209.68 FEET TO AN INTERSECTION WITH A LINE PARALLEL WITH AND 100.00 FEET WEST OF (AS MEASURED ON A PERPENDICULAR) THE EAST LINE OF SAID FRACTION; THENCE N.00°01'17"E. ALONG SAID PARALLEL LINE FOR 2485.02 FEET TO AN INTERSECTION WITH THE NORTH LINE OF SAID FRACTION; THENCE N.88°47'24"E. ALONG SAID NORTH LINE FOR 100.02 FEET TO THE NORTHEAST CORNER OF SAID WEST HALF (W 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 5; THENCE N.00°57'41"W. ALONG THE WEST LINE OF THE EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 32, TOWNSHIP 44 SOUTH, RANGE 25 EAST FOR 75.00 FEET TO AN INTERSECTION WITH A

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LINE PARALLEL WITH AND 75.00 FEET NORTH OF (AS MEASURED ON A PERPENDICULAR) THE SOUTH LINE OF SAID FRACTION; THENCE N.88°47'24"E. ALONG SAID PARALLEL LINE FOR 1321.10 FEET; THENCE N.88°59'02"E. ALONG A LINE PARALLEL WITH 75.00 FEET NORTH OF (AS MEASURED ON A PERPENDICULAR) THE SOUTH LINE OF SAID SECTION 33, TOWNSHIP 44 RANGE 25 EAST FOR 455.35 FEET; THENCE S.00°57'13"E. FOR 75.00 FEET TO THE NORTH LINE OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 4, TOWNSHIP 45 SOUTH, RANGE 25 EAST; THENCE N.88°59'02"E. ALONG SAID NORTH LINE OF THE NORTHWEST QUARTER (NW 1/4) FOR 1345.78 FEET TO AN INTERSECTION WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF WINKLER AVENUE EXTENSION AS SHOWN IN OFFICIAL RECORDS BOOK 2364 AT PAGE 3521 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.09°05'44"E. ALONG SAID RIGHT-OF-WAY LINE FOR 4.79 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1507.40 FEET; THENCE SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 45°15'08" FOR 1190.54 FEET; THENCE S.54°20'52"E. ALONG SAID RIGHT-OF-WAY LINE FOR 193.17 FEET; THENCE S.35°39'24"W FOR 300.00 FEET; THENCE S.54°20'52"E. FOR 727.00 FEET TO AN INTERSECTION WITH THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SIX MILE CYPRESS PARKWAY SHOWN IN OFFICIAL RECORDS BOOK 1194 AT PAGE 944 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.35°39'24"W. ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF SIX MILE CYPRESS PARKWAY FOR 4345.84 FEET TO THE INTERSECTION OF SAID RIGHT-OF-WAY LINE AND THE SOUTH LINE OF SAID SECTION 4; THENCE S.88°55'10"W. ALONG SAID SECTION LINE FOR 425.46 FEET TO A 6" X 6" CONCRETE MONUMENT MARKING THE CORNER COMMON TO SECTIONS 4 AND 5, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SECTION 8, TOWNSHIP 45 SOUTH, RANGE 25 EAST; THENCE S.01°36'52"E. ALONG THE EAST LINE OF SAID SECTION 8 FOR 462.41 FEET ; THENCE S.32°51'06"W. FOR 197.41 FEET; THENCE S.57°28'15"E. FOR 60.08 FEET TO AN INTERSECTION WITH SAID WESTERLY RIGHT-OF-WAY LINE OF SIX MILE CYPRESS PARKWAY AND AN INTERSECTION WITH A CURVE TO THE LEFT HAVING A RADIUS OF 5854.58 FEET AND TO WHICH POINT A RADIAL LINE BEARS N.57°28'15"W.; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°50'29" FOR A DISTANCE OF 1209.97 FEET; THENCE S.88°41'23"W. FOR 2004.31 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE NORTHWEST QUARTER (NW1/4) SAID SECTION 8; THENCE S.01°51'47"E. ALONG SAID EAST LINE FOR 924.42 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER (NW1/4); THENCE S.88°41'23"W. ALONG SAID SOUTH LINE FOR 651.08 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF (W1/2) OF THE EAST HALF (E1/2) OF THE SOUTHWEST QUARTER (SW1/4) SAID SECTION 8; THENCE S.01°42'03"E. ALONG SAID EAST LINE FOR 1920.77 FEET TO AN INTERSECTION WITH THE NORTH LINE OF PENZANCE BOULEVARD AS SHOWN IN DEED BOOK 243 AT PAGE 480; THENCE S.88°45'35"W. ALONG SAID NORTH LINE FOR 656.53 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF (W1/2) OF THE SOUTHWEST QUARTER (SW1/4) SAID SECTION 8; THENCE N.01°32'19"W. ALONG SAID EAST LINE FOR 1919.94 FEET TO AN INTERSECTION WITH SAID SOUTH LINE OF THE NORTHWEST QUARTER (NW1/4) SECTION 8; THENCE S.88°41'23"W. ALONG SAID SOUTH LINE FOR 1302.15 FEET TO AN INTERSECTION WITH THE WEST LINE OF SAID NORTHWEST QUARTER (NW1/4) SECTION 8; THENCE N.01°12'47"W. ALONG SAID WEST LINE FOR 1323.19 FEET; THENCE S.88°52'43"W. FOR 627.42 FEET ; THENCE N.01°13'02"W. FOR 330.00 FEET ; THENCE N.88°52'43"E. FOR

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627.44 FEET TO AN INTERSECTION WITH SAID WEST LINE OF THE NORTHWEST QUARTER (NW1/4) SECTION 8; THENCE N.01°12'47"W. ALONG SAID WEST LINE FOR 990.00 FEET TO THE **POINT OF BEGINNING.**

PARCEL CONTAINS 813.9 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE NORTH LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 4 AS BEARING N.89°08'38"E.

DESCRIPTION PREPARED AUGUST 18, 1999.