

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date:	December 18, 2007	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
			<input type="checkbox"/> Public Hearing
Department:	Housing and Community Development		
Submitted By:	Housing and Community Development		

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I. EXECUTIVE BRIEF

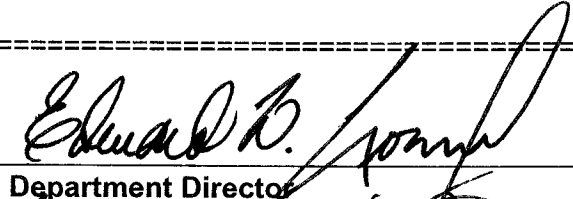

**Motion and Title:** Staff recommends motion to approve: Amendment No. 001 to an Agreement (R2007-1726) with Habitat for Humanity of Palm Beach County, Inc., to change the closing date from November 1, 2007, to November 26, 2007, for the conveyance of the property known as Kennedy Estates.

**Summary:** The Agreement with Habitat for Humanity of Palm Beach County, Inc., established that the closing for this conveyance would occur no later than November 1, 2007. Due to the time required by the parties for extensive document preparation before the closing, the closing date had to be changed. The closing occurred on November 26, 2007. This Amendment is intended to correct the record and reflect the actual date of the closing. These are Federal funds that require no local match. (District 1) (TKF)

**Background and Justification:** The County entered into an Agreement (R2007-1726) with the Habitat for Humanity of Palm Beach County, Inc., on October 2, 2007. The Agreement conveys a parcel of County property (known as Kennedy Estates) located in unincorporated Palm Beach County south of Indiantown Road and west of Central Boulevard in the Jupiter area. The County acquired this parcel, with Community Development Block Grant (CDBG) funding from the U.S. Department of Housing and Urban Development (HUD). Habitat, a Florida not-for-profit corporation, will develop this parcel for affordable housing by constructing twenty-seven (27) zero lot line single family dwellings and selling them to low income households (whose household incomes are within 80% of the area median income) in compliance with HUD requirements. The closing occurred on November 26, 2007, with a representative from the County Attorney's Office in attendance.

- Attachments:**
1. Amendment No. 001 to the Agreement with Habitat for Humanity of Palm Beach County, Inc.
  2. Agreement (R2007-1726) with Habitat for Humanity of Palm Beach County, Inc., w/11 Attachments.

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Recommended by:		12/12/07
	Department Director	Date
Approved By:		12/17/2007
	Assistant County Administrator	Date

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT					

# ADDITIONAL FTE POSITIONS (Cumulative)					
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Is Item Included In Current Budget? Yes \_\_\_\_ No \_\_\_\_  
Budget Account No.:

Fund \_\_\_\_ Unit \_\_\_\_ Org \_\_\_\_ Object \_\_\_\_ Program Code/Period BG \_\_\_\_ -GY \_\_\_\_

### B. Recommended Sources of Funds/Summary of Fiscal Impact: Source:

**No fiscal impact**

C. Departmental Fiscal Review: SA/M 12-11-07  
Shairette Major, Fiscal Manager I

## III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:  
The original agreement was for PBC to convey a parcel of land to Habitat of Humanity at no cost. Approval of this agenda item, only extends the closing date.

OFMB 12-13-07  
12/13/07 12/13/07  
CW 12/13/07

12/14/07  
Contract Development and Control  
12/14/07

B. Legal Sufficiency:

This item complies with current  
County policies.

12/17/07  
Assistant County Attorney

C. Other Department Review:

\_\_\_\_\_  
Department Director

This summary is not to be used as a basis for payment.

**AMENDMENT 001 TO THE AGREEMENT  
WITH  
HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**

Amendment 001 entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Palm Beach County and Habitat for Humanity of Palm Beach County, Inc.

**WITNESSETH:**

WHEREAS, Palm Beach County entered into an Agreement (R2007-1725) with Habitat for Humanity of Palm Beach County, Inc., on October 2, 2007, to convey and develop a certain parcel of land known as Kennedy Estates; and

WHEREAS, the parties wish to modify the Agreement by changing the date of the closing for such conveyance, and

WHEREAS, both parties mutually agree that the original Agreement entered into on October 2, 2007, is hereby amended as follows:

**Attachment 1 - Section 1.A:**

Substitute "November 26, 2007" for "November 1, 2007".

NOW THEREFORE, all items in the previous Agreement in conflict with this Amendment shall be and are hereby changed to conform to this Amendment.

All provisions not in conflict with this aforementioned Amendment are still in effect and shall be performed at the same level as specified in the Agreement.

(AGENCY SEAL BELOW)

**HABITAT FOR HUMANITY  
OF PALM BEACH COUNTY, INC.**

BY:   
Michael J. Sabatello, President

By:   
Derek Cooper, Secretary

BY: \_\_\_\_\_  
Attorney for Agency (Signature Optional)

(COUNTY SEAL BELOW)

**PALM BEACH COUNTY, FLORIDA, a  
Political Subdivision of the State of Florida**

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
ATTEST: Sharon R. Bock,  
Clerk & Comptroller

By: \_\_\_\_\_  
Addie L. Greene, Chairperson  
Board of County Commissioners

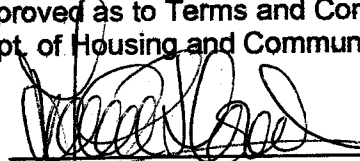
By: \_\_\_\_\_  
Deputy Clerk

Document No.: \_\_\_\_\_

Approved as to Form and  
Legal Sufficiency

Approved as to Terms and Conditions  
Dept. of Housing and Community Development

By: \_\_\_\_\_  
Tammy K. Fields  
Senior Assistant County Attorney

By:   
Amin Houry, Manager  
Housing and Capital Improvements

R2007 1726

**AGREEMENT BETWEEN PALM BEACH COUNTY**

**AND**

**HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**

**THIS AGREEMENT**, entered into this \_\_\_\_ day of OCT 02 2007, 20\_\_\_\_, by and between Palm Beach County, a political subdivision of the State of Florida, for the use and benefit of its Community Development Block Grant Program, and the Habitat for Humanity of Palm Beach County, Inc., a non-profit corporation duly organized and existing by virtue of the laws of the State of Florida, having its principal office at 1225 South Military Trail, West Palm Beach, FL 33415, and its Federal Tax Identification number as 59-3525576.

**WHEREAS**, Palm Beach County owns a certain parcel of land as described in Attachment 2, attached hereto and incorporated herein, which it acquired with funds from the United States Department of Housing and Urban Development under the Community Development Block Grant Program pursuant to Title I of the Housing and Community Development Act of 1974 (as amended); and

**WHEREAS**, Palm Beach County, wishes to convey said parcel of land at no cost to Habitat for Humanity of Palm Beach County, Inc.; and

**WHEREAS**, the Habitat for Humanity of Palm Beach County, Inc., wishes to receive said parcel of land from Palm Beach County, and thereafter, develop, and convey said parcel of land in accordance with the terms and conditions specified herein; and

**WHEREAS**, in exchange for the receipt of said parcel of land from Palm Beach County at no cost, the Habitat for Humanity of Palm Beach County, Inc., agrees to comply with the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein contained, it is agreed as follows:

**PART I**

**DEFINITION AND PURPOSE**

**1. DEFINITIONS**

- (1) "County" means Palm Beach County.
- (2) "CDBG" means the Community Development Block Grant Program of Palm Beach County.
- (3) "HCD" means Palm Beach County Housing and Community Development.
- (4) "Agency" means the Habitat for Humanity of Palm Beach County, Inc.
- (5) "HCD Approval" means the written approval of the HCD Director or his designee.
- (6) "U.S. HUD" means the Secretary of Housing and Urban Development or a person authorized to act on its behalf.
- (7) "County Approved Homeowners" means low income households whose household incomes are within 80% of the median income for the West Palm Beach - Boca Raton Metropolitan Statistical Area adjusted by family size, as determined by HCD in its sole discretion.



# HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.

## 2. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which the Agency will implement the Scope of Services set forth in Part II of this Agreement. All of the beneficiaries of a project resulting from this Agreement must be County Approved Homeowners.

## PART II

### SCOPE OF SERVICES

The Agency shall, in a satisfactory and proper manner as determined by the County in its sole discretion, perform the tasks necessary to conduct the Work Program outlined in Attachment 1, attached hereto and made a part hereof.

## PART III

### GENERAL CONDITIONS

#### 1. TIME OF PERFORMANCE

This agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners. The services of the Agency shall be undertaken and completed in light of the purposes of this Agreement, and shall be completed by the Agency prior to July 2, 2010.

#### 2. IMPLEMENTATION OF PROJECT ACCORDING TO REQUIRED PROCEDURES

The Agency shall implement this Agreement in accordance with applicable Federal, State, and County laws, ordinances and codes and with the procedures outlined in HCD Policies and Procedures memoranda. The Federal, State, and County laws, ordinances and codes are minimal regulations supplemented by more restrictive guidelines set forth by HCD.

#### 3. FINANCIAL ACCOUNTABILITY

The County may have a financial systems analysis and/or an audit of the Agency, or of any of its subcontractors, by an independent auditing firm employed by the County or by the County Internal Audit Department at any time the County deems necessary to determine if the project is being managed in accordance with Federal, State, and County requirements.

#### 4. CIVIL RIGHTS COMPLIANCE

The Agency agrees that no person shall on the ground of race, color, disability, national origin, religion, age, financial status, familial status, marital status, sexual orientation, or gender, be excluded from the benefits of, or be subjected to discrimination under any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the County shall have the right to terminate this Agreement.

#### 5. EVALUATION AND MONITORING

The Agency agrees that HCD will carry out periodic monitoring and evaluation activities as determined necessary by HCD or the County and that payment, reimbursement, or the continuation of this Agreement is dependent upon satisfactory evaluation conclusions based on the terms of this Agreement. The Agency agrees to furnish upon request to HCD, the County, or the County's designees copies of transcriptions of such records and information as is determined necessary by HCD or the County. The Agency shall submit status reports required under this Agreement on forms approved by HCD to enable HCD to evaluate progress. The Agency shall provide information as requested by HCD to enable HCD to complete reports required by the County or HUD. The Agency shall allow HCD, the County, or HUD to monitor the Agency on site. Such visits may be scheduled or unscheduled as determined by HCD or HUD.

#### 6. AUDITS AND INSPECTIONS

At any time during normal business hours and as often as HCD, the County, U.S. HUD, or the Comptroller General of the United States may deem necessary, there shall be made available by the Agency to HCD, the County, U.S. HUD, or the Comptroller General for examination all its records with respect to all matters covered by this Agreement.

## HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.

- (9) The Agency's incorporation Certificate and Articles of Incorporation;
- (10) The Agency's By-laws;
- (11) The Agency's Certificate of Insurance;
- (12) Current list of the Agency's officers and members of its Board of Directors; and
- (13) Proof of the Agency's 501(c)(3) certification from the Internal Revenue Service.
- (14) Proposed architectural drawings and models for the proposed dwelling units.

All of these documents will be maintained on file at HCD. The Agency shall keep an original of this Agreement, including its Attachments, and all amendments thereto, on file at its principal office.

### 14. DEFAULT/TERMINATION

#### (1) DEFAULTS BY THE AGENCY

In the event the Agency fails, neglects or refuses to perform any term, covenant, or condition of this Agreement for which a specific remedy is not set forth in this Agreement, the County shall have the right to (a) terminate this Agreement by written notice to the Agency, in which event the parties shall be released from all obligations hereunder other than those which specifically survive termination of this Agreement; (b) grant the Agency a reasonable period of time within which to cure such default during which time the Agency shall utilize the Agency's best efforts, including bringing suit, to remedy such default; or (c) seek specific performance of the terms of this Agreement. In the event the County elects option (b) set forth hereinabove and Agency fails or is unable to cure such default within the applicable time period, the County shall have the rights identified in option (a) and (c) set forth hereinabove. In the event the County elects option (c) and the County is unable to obtain specific performance of this Agreement for any reason, the County shall have the right to terminate this Agreement and pursue damages.

#### (2) DEFAULTS BY THE COUNTY

In the event the County fails or refuses to perform any term, covenant, or condition of this Agreement for which a specific remedy is not set forth in this Agreement, the Agency shall have the right to (a) terminate this Agreement at any time prior to the closing date (as stated in Attachment 1 hereto) by written notice to the County, in which event the parties shall be released from all obligations hereunder other than those which specifically survive termination of this Agreement; (b) grant the County a reasonable period of time within which to cure such default during which time the County shall utilize the County's best efforts, including bringing suit, to remedy such default; or (c) seek specific performance of the terms hereof. In the event the Agency elects option (b) set forth hereinabove and the County fails or is unable to cure such default within the applicable time period, the Agency shall have the rights identified in option (a) and (c) set forth hereinabove. In the event the Agency elects option (c) and the Agency is unable to obtain specific performance of this Agreement for any reason, the Agency shall have the right to terminate this Agreement and pursue damages.

### 15. SEVERABILITY OF PROVISIONS

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

### 16. AMENDMENTS

The County may, at its discretion, amend this Agreement to conform with changes required by Federal, State, County, or U.S. HUD guidelines, directives, and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement and shall be subject to approval of the Palm Beach County Board of County Commissioners. Except as otherwise provided herein, no amendment to this Agreement shall be binding on either party unless in writing, approved by the Board of County Commissioners and signed by both parties.

### 17. NOTICES

All notices and elections (collectively, "Notices") to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by the messenger, courier service, or national overnight delivery service, telecopied or faxed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or national overnight delivery service or on the date of transmission with confirmed answer back if by telecopier or fax if transmitted before 5 PM on a business day and on the next business day if transmitted after 5 PM on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be.

# HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.

The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

(1) COUNTY:

Palm Beach County Housing and Community Development  
160 Australian Avenue, Suite 500  
West Palm Beach, Florida 33406  
Fax: (561) 233-3651

With a copy to:

County Attorney's Office  
301 North Olive Avenue, Suite 601  
West Palm Beach, Florida 33401-4791  
Fax: (561) 355-4398

(2) AGENCY:

Habitat for Humanity of Palm Beach County, Inc.  
1225 South Military Trail  
West Palm Beach, FL 33415  
Fax: (561) 304-0223

Any party may from time to time change the address to which notice under this Agreement shall be given such party, upon three (3) days prior written notice to the other parties.

18. INDEPENDENT AGENT AND EMPLOYEES

The Agency agrees that, in all matters relating to this Agreement, it will be acting as an independent agent and that its employees are not Palm Beach County employees and are not subject to the County provisions of the law applicable to County employees relative to employment, hours of work, rates of compensation, leave, unemployment compensation and employee benefits.

19. NO FORFEITURE

The rights of the County under this Agreement shall be cumulative and failure on the part of the County to exercise promptly any rights given hereunder shall not operate to forfeit or waive any of the said rights.

20. PUBLIC ENTITY CRIMES

As provided in F.S. 287.133 by entering into this Agreement or performing any work in furtherance hereof, the Agency certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3)(a).

21. WAIVER

No waiver of any provision of this Agreement shall be effective against any party hereto unless it is in writing and signed by the party waiving such provision. A written waiver shall only be deemed a continuing or future waiver.

22. REAL ESTATE BROKER

Agency represents and warrants to County that it has not dealt with any broker salesmen, agent, or finder in connection with this transaction and agrees to indemnify, defend, and save County harmless from the claims and demands of any real estate broker claiming to have dealt with Agency. Such indemnity shall include, without limitation, the payment of all costs, expenses, and attorney's fees incurred or expended in defense of such claims or demands. The terms of this Section shall survive the closing or termination of this Agreement.

23. SURVIVAL

The parties' warranties, agreements, covenants and representations set forth in this Agreement shall not be merged and shall survive consummation of the transaction contemplated by this Agreement.

24. CONSTRUCTION

No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final Agreement.

HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.

Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based on who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the remaining shall remain in full force and effect.

25. COUNTERPARTS OF THE AGREEMENT

This Agreement, consisting of seven (7) enumerated pages, plus the Attachments referenced herein and listed below, shall be executed in three (3) counterparts, each of which shall be deemed to be an original, and such counterparts will constitute one and the same instrument. The Attachments referenced herein are as follows:

Attachment 1: Work Program Narrative, 4 pages.

Attachment 2: County Deed, 2 pages.

Attachment 3: As Is Acknowledgment, 2 pages.

Attachment 4: Plat of West Jupiter Housing, 2 pages.

Attachment 5: Declaration of Covenants for Kennedy Estates, 88 pages.

Attachment 6: Quit-Claim Deed, 1 page.

Attachment 7: Declaration of Restrictions, 2 pages.

Attachment 8: Subordination of Restrictions, 1 page.

Attachment 9: Release of Restrictions, 1 page.

Attachment 10: Mortgage and Restrictive Covenants, 3 pages.

Attachment 11: Monthly Narrative Report, 1 page.

26. ENTIRE UNDERSTANDING

This Agreement and its provisions merge any prior agreements, if any, between the parties hereto and constitutes the entire understanding. The parties hereby acknowledge that there have been and are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.


WITNESS our Hands and Seals on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(AGENCY SEAL BELOW)

HABITAT FOR HUMANITY  
OF PALM BEACH COUNTY, INC.

BY:   
Michael J. Sabatello, President


By:   
Derek Cooper, Secretary

BY:   
Attorney for Agency (Signature Optional)

(COUNTY SEAL BELOW)

PALM BEACH COUNTY, FLORIDA, a  
Political Subdivision of the State of Florida

BOARD OF COUNTY COMMISSIONERS

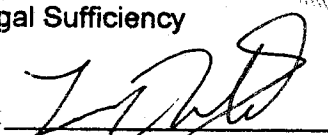
By:   
Addie L. Greene, Chairperson  
Board of County Commissioners

ATTEST: Sharon R. Bock,  
Clerk & Comptroller

By:   
Deputy Clerk

Document No.: R2007-1726

Approved as to Form and  
Legal Sufficiency

By:   
Tammy K. Fields  
Senior Assistant County Attorney

OCT 02 2007  
Approved as to Terms and Conditions  
Dept. of Housing and Community Development

By:   
Edward W. Lowery, Director  
Housing and Community Development

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ATTACHMENT 1

WORK PROGRAM NARRATIVE

4 PAGES

WORK PROGRAM NARRATIVE

I. THE AGENCY AGREES TO:

A. LAND CONVEYANCE/ACCEPTANCE, TRANSACTION COSTS, AND CONDITIONS:

The County shall convey the parcel of land (the "Land") described in Attachment 2 to the Agency using the County Deed also shown in Attachment 2 herein, and the Agency shall accept title to said Land, and any improvements, in an "as is" condition, without warranties and/or representations, and shall acknowledge the foregoing, at a closing which shall occur no later than November 1, 2007. The Agency shall, immediately after the closing, cause the County Deed to be recorded in the public records of Palm Beach County.

The Agency acknowledges and understands that the Land to which it is accepting title includes, but is not limited to, land for use as a roadway, land for landscaping, land for drainage purposes, land for pedestrian and other easements, and land for use as a public park.

For a period of fifteen (15) business days following the date of this Agreement (the "Inspection Period"), the Agency is hereby authorized to enter upon the Land for inspection purposes. Should the Agency's inspection of the Land during the Inspection Period reveal site conditions that are unsatisfactory to the Agency, then upon written notification from the Agency to the County of such unsatisfactory conditions, the County shall attempt to cure such unsatisfactory site conditions. If the County concludes that it is not feasible to cure any or all such unsatisfactory site conditions, the County, at its option, may rescind its commitment hereunder to convey the Land and shall be released from all obligations hereunder. In such instance, the Agency may, nevertheless, petition the County to convey the Land despite the presence of any unsatisfactory site conditions.

All (Agency's and County's) costs to be incurred in connection with the actual title transfer shall be paid by the Agency including, but not limited to, recording fees, documentary stamp tax, title costs, survey costs, and all costs associated with the plat mentioned below. In this regard, the Agency shall, at its sole cost and expense, conduct a title search of the Land (with the intent of obtaining owner's title insurance) during the Inspection Period in order to establish the presence of any cloud on title. The County shall cooperate with the Agency in curing such title defects in order to deliver marketable title to the Agency provided, however, that the Agency pay for the cost of curing such title defects. If the County concludes that it is not feasible to cure any or all such title defects, the County, at its option, may rescind its commitment hereunder to convey the Land and shall be released from all obligations hereunder. In such instance, the Agency may, nevertheless, petition the County to convey title to the Land despite the presence of any cloud on title.

At the closing, concurrent with title transfer, the Agency shall:

1. Deliver to the County a bond, in a form acceptable to the Palm Beach County Land Development Division, in the amount of \$222,600, to cover the Agency's future obligation to complete the approximately 5,500 square feet of sidewalks/driveway aprons, and 3300 square yards of the final top layer (lift) of asphalt on the roadway located on the Land. At least one week prior to closing, the Agency shall demonstrate to HCD that the form of the bond it intends to use is acceptable to the Palm Beach County Land Development Division.
2. Accept from the County, in writing, the transfer of the land development permit to the Land, and any other permits associated with the development of the land including but not limited to the following: SFWMD permit, Health Department permit, Jupiter Water permit, and ENCON Sewer permit.
3. Execute a document in a form acceptable to the State of Florida designating the Agency's address as the address of the Kennedy Estates Homeowners' Association, Inc., and designating a President, Treasurer, and Secretary, of the Agency's choice, for the Kennedy Estates Homeowners' Association, Inc., to take office as of the date of closing, and to replace the current officers of record with the State of Florida. In addition, the Agency shall execute a document in a form acceptable to the State of Florida designating a replacement registered agent of its choice for the Kennedy Estates Homeowners' Association, Inc. The Agency shall file all such documents with the State of Florida immediately after the closing and provide a copy to the County.
4. Execute and deliver to the County the As Is Acknowledgment provided in Attachment 3 attached hereto.

**HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**

5. Assume the status of owner for the electrical service that provides electrical power to the irrigation pump used for the landscaping on the Land (the service address for Florida Power and Light Company purposes is: 6725 Jupiter Gardens Boulevard).
6. Assume maintenance of the landscaping planted on the Land in order to assure that the warranty for the plantings continues in effect until November 7, 2007, when it expires.
7. Execute the plat for the Land (the "Plat"), to be known as the Plat of West Jupiter Housing, a reduced copy of which is included herein as Attachment 4. The Agency shall, immediately after closing, cause its closing agent to execute the title certification on the executed Plat and deliver said Plat to the County for recording in the public records of Palm Beach County. The Agency shall pay all recording costs of the Plat.
8. Execute the Declaration of Covenants for Kennedy Estates (the "Declaration of Covenants"), included herein as Attachment 5, which shall then be held by the closing agent. The Agency shall, immediately after the Plat has been recorded, cause its closing agent to insert the "Plat Book and Page" numbers in Exhibits C and D of the Declaration of Covenants, then to record the Declaration of Covenants in the public records of Palm Beach County. The Agency shall pay all recording costs of the Declaration of Covenants. The Declaration of Covenants shall be in the form and substance provided in Attachment 5, and if altered by the Agency, such alteration shall be approved by the County Attorney's Office prior to closing.
9. Execute the Quit Claim Deed (the "Quit Claim Deed"), included herein as Attachment 6, which shall then be held by the closing agent. The Agency shall, immediately after the Plat has been recorded, cause its closing agent to insert the "Plat Book and Page" numbers into the executed Quit Claim Deed, then to record said Quit Claim Deed in the public records of Palm Beach County. The Agency shall pay all recording costs of the Quit Claim Deed and provide the original recorded Quit Claim Deed to the County.
10. Execute a separate Declaration of Restrictions (the "Declaration of Restrictions"), included herein as Attachment 7, for each of the twenty-seven (27) lots delineated on the Plat, all of which shall then be held by the closing agent, and recognize that for the purposes of this Agreement a "Lot" means any one of these twenty-seven (27) individual lots consisting of vacant land to be developed, and does not refer to any improvements built upon such lots. The Agency shall, immediately after the Plat has been recorded, cause its closing agent to insert the "Plat Book and Page" numbers into each of the twenty-seven (27) executed Declarations of Restrictions, then to record all said Declarations of Restrictions in the public records of Palm Beach County. The Agency shall pay all recording costs of all Declarations of Restrictions and provide the original recorded Declarations of Restrictions to the County.
11. Provide any other document required by the County or the closing agent in order to complete the closing.

**B. POST-CLOSING ANNEXATION:**

After recording the County Deed, the Plat, the Declaration of Covenants, and the Quit Claim Deed as provided for herein, the Agency shall petition for annexation of the Land, less Tracts A and D of the Plat, to the Town of Jupiter, Florida. If the Agency's petition is approved by the Town of Jupiter, then the Agency shall complete all documentation associated with the annexation and take all necessary actions in order to ensure that the Land, less Tracts A and D of the Plat, has been annexed before the Agency applies to the Town of Jupiter for a building permit for the first dwelling unit to be constructed on the Land. The Agency shall pay all annexation costs. If the Agency's petition is not approved by the Town of Jupiter, then the Agency shall proceed to develop the Lots in accord with this Agreement as unincorporated property.

**C. DEVELOPMENT OF THE LOTS BY THE AGENCY:**

The Agency shall, at its sole cost and expense, construct a zero lot line single family dwelling and ancillary improvements (as further defined below) on each of the twenty-seven (27) Lots mentioned above. For the purposes of this Agreement, each Lot and the zero lot line single family dwelling built on it, as well as all other improvements constructed on the Lot (such as a driveway, deck, screen enclosure, or fence), shall hereinafter be collectively referred to as the "Improved Lot".

All twenty-seven (27) zero lot line single family dwelling units mentioned above shall be constructed under building permits issued by the Town of Jupiter.

In constructing these twenty-seven (27) zero lot line single family dwellings, the Agency shall abide by the requirements of Developer Agreement #P541 between the Loxahatchee River Environmental Control District and Palm Beach County for sanitary service availability. The Agency understands that this Developer Agreement limits the number of toilets for this project to no more than thirty-nine (39) equivalent units.

## HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.

The Agency shall complete the construction of all improvements on the Lots and the sale of all said twenty-seven (27) Improved Lots, to County Approved Homeowners according to the deliverable schedule shown below.

1. Complete the construction of all improvements on three (3) Lots, obtain associated certificates of occupancy, and sell the resultant three (3) Improved Lots by July 2, 2008.
2. Complete the construction of all improvements on two (2) Lots, obtain associated certificates of occupancy, and sell the resultant two (2) Improved Lots by August 2, 2008.
3. Complete the construction of all improvements on three (3) Lots, obtain associated certificates of occupancy, and sell the resultant three (3) Improved Lots by November 2, 2008.
4. Complete the construction of all improvements on three (3) Lots, obtain associated certificates of occupancy, and sell the resultant three (3) Improved Lots by January 2, 2009.
5. Complete the construction of all improvements on four (4) Lots, obtain associated certificates of occupancy, and sell the resultant four (4) Improved Lots by August 2, 2009.
6. Complete the construction of all improvements on three (3) Lots, obtain associated certificates of occupancy, and sell the resultant three (3) Improved Lots by October 2, 2009.
7. Complete the construction of all improvements on two (2), obtain associated certificates of occupancy, and sell the resultant two (2) Improved Lots by December 2, 2009.
8. Complete the construction of all improvements on three (3) Lots, obtain associated certificates of occupancy, and sell the resultant three (3) Improved Lots by March 2, 2010.
9. Complete the construction of all improvements on four (4) Lots, obtain associated certificates of occupancy, and sell the resultant four (4) Improved Lots by July 2, 2010.

Furthermore, after completion of the construction of the improvements on the twenty-seven (27) Lots, and the issuance of certificates of occupancy by the building department of jurisdiction, the Agency shall complete approximately 5,500 square feet of sidewalks/driveway aprons, and 3300 square yards of the final top layer (lift) of asphalt on the roadway located on the Land for which it provided the above stated bond.

### D. SUBORDINATION OF RESTRICTIONS DURING THE DEVELOPMENT PHASE:

The parties hereto recognize that the Agency may seek funding for construction and related costs associated with this project, and that such funding is anticipated to be secured by mortgage instruments (Construction Mortgage(s)) to be held by independent institutional mortgage lender(s). During the term of this Agreement, should any such proposed independent institutional mortgage holder request that its Construction Mortgage on a Lot be held in a superior position to the County's interest in the land as established through the aforesaid Declaration of Restrictions on such Lot, the Agency shall request the County, in writing, to subordinate its interest in favor of such Construction Mortgagee. The County shall then determine whether the County's interest is sufficiently secured which shall be when, in the County's opinion, the value of the subject land and its proposed improvements is equal to, or greater than, the value of all secured debt superior to the County. For the purposes of this paragraph, the County may utilize the determination of the independent institutional first mortgage lender to determine the value of the subject land and its proposed improvements.

Upon determining that the County's interest is sufficiently secured, the County shall execute and deliver a Subordination of Restrictions, included herein as Attachment 8, thereby subordinating its interest in the Declaration of Restrictions on the subject land. The Subordination of Restrictions shall be in the form and substance provided in Attachment 8, and if altered to meet the form and substance as may be required by said proposed mortgagee, such alteration shall be approved by the County Attorney's Office. Furthermore, the execution and delivery of said Subordination of Restrictions is hereby delegated to the County Administrator, or his designee, and shall not require any further action by the Palm Beach County Board of County Commissioners.

### E. SALE TO COUNTY APPROVED HOMEOWNERS:

All twenty-seven (27) Improved Lots mentioned above shall only be conveyed to purchasers approved by the County as County Approved Homeowners, as herein defined. The Agency shall convey the land associated with each Improved Lot to the corresponding County Approved Homeowners at no cost to such homeowners. The County recognizes that there will be a cost associated with the improvements to the Lots.



## **HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**

At the time of conveyance of each such Improved Lot, the Agency shall cause the County Approved Homeowners to execute a Mortgage and Restrictive Covenants, included herein as Attachment 9. The County recognizes that the County Approved Homeowners for each Improved Lot may seek funding for the purchase of the Improved Lot, and that such funding is anticipated to be secured by mortgage instrument(s) to be held by the Agency and/or by independent institutional mortgage lender(s). During the term of this Agreement, should the Agency and/or any such proposed independent institutional mortgage holder request that its mortgage be held in a superior position to the County's interest in the Improved Lot as established through the aforesaid Declaration of Restrictions, the Agency shall request the County in writing on behalf of the County Approved Homeowners, to release its interest in such Declaration of Restrictions and to concurrently accept the aforesaid Mortgage and Restrictive Covenants in a subordinate position to that of the Agency and/or that of the independent institutional mortgage holder. The County shall then determine whether the County's interest is sufficiently secured which shall be when, in the County's opinion, the value of the improvements associated with the Improved Lot (not including the value of the Lot) is equal to, or greater than, the value of all secured debt superior to the County.

For the purposes of this paragraph, the County may utilize the determination of the Agency's independent Florida licensed property appraiser and/or that of the independent institutional first mortgage lender to determine the value of the subject land and its improvements. Upon determining that the County's interest is sufficiently secured, the County shall execute and deliver a Release of Restrictions, included herein as Attachment 10, thereby releasing its interest in the Declaration of Restrictions. Furthermore, the execution and delivery of said Release of Restrictions is hereby delegated to the County Administrator, or his designee, and shall not require any further action by the Palm Beach County Board of County Commissioners.

The Agency shall cause the recording of the Release of Restrictions and the Mortgage and Restrictive Covenants in the public records of Palm Beach County, and thereafter cause the original Mortgage and Restrictive Covenants to be provided to the County.

**The Agency recognizes and understands that by entering into this Agreement, the County wishes to further its provision of affordable housing to its County Approved Homeowners in a timely manner. As such, the Agency's performance as established under this Agreement is critical to the County's effort in providing affordable housing by the aforementioned dates, and therefore time is of the essence in regard to the Agency's performance in connection with each and every date stated herein.**

**The Agency further agrees that the County, in consultation with any parties it deems necessary, shall be the final arbiter on the Agency's compliance with the above.**

- F. REPORTS: The Agency shall submit to HCD detailed monthly progress reports in the form provided as Attachment 11 to this Agreement. Each report must account for the total activity for which the Agency is funded under this Agreement.

## **II. THE COUNTY AGREES TO:**

- A. Convey title to the land described above to the Agency.
- B. Confirm whether households proposed by the Agency meet the definition of County Approved Homeowners.
- C. Provide project administration and inspection to the Agency to ensure compliance with U.S. HUD, and applicable State, Federal and County laws and regulations.
- D. Monitor the Agency at any time during the term of this Agreement. Visits may be scheduled or unscheduled as determined by HCD in its sole discretion, be conducted by HCD staff or its contractor, and will serve to ensure compliance this Agreement and with U.S. Department of HUD regulations, that planned activities are conducted in a timely manner, and to verify the accuracy of reporting to HCD on program activities.
- E. Accept the Quit Claim Deed and the Declarations of Restrictions as provided for herein.
- F. Execute Subordinations of Restrictions and Releases of Restrictions as required and provided for herein in a timely manner.

**ATTACHMENT 2**

**COUNTY DEED**

2 PAGES

**HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**

RETURN TO:

Property Control Number: \_\_\_\_\_

**COUNTY DEED**

THIS DEED, made on \_\_\_\_\_, by **PALM BEACH COUNTY**, a political subdivision of the State of Florida, whose legal mailing address is 301 North Olive Avenue, West Palm Beach, Florida 33401-4791, party of the first part, and **HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**, a Florida Not For Profit Corporation, whose legal mailing address is 1225 South Military Trail, West Palm Beach, FL 33415, party of the second part.

**WITNESSETH:**

That the said party of the first part, for and in consideration of the sum of Ten and 00/100 (\$10.00) Dollars to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the party of the second part, its successors and assigns forever, the following described land lying and being in Palm Beach County, Florida:

A PARCEL OF LAND SITUATE IN SECTION 3, TOWNSHIP 41 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED IN QUIT-CLAIM DEED RECORDED IN OFFICIAL RECORD BOOK 10128, PAGES 830 THROUGH 832, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

COMMENCE AT THE WEST ONE-QUARTER CORNER OF SECTION 3, TOWNSHIP 41 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, THENCE SOUTH 89°24'50" EAST, ALONG THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3, A DISTANCE OF 1635.67 FEET TO A POINT ON THE WEST LINE OF THE EAST ONE-HALF OF THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3, SAID POINT BEING ON THE NORTHERLY EXTENSION OF THE WEST LINE OF JUPITER GARDENS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 43, PAGES 146 AND 147 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 01°25'22" WEST ALONG SAID WEST LINE, A DISTANCE OF 440.07 FEET TO A POINT ON A LINE PARALLEL WITH AND 400.00 FEET SOUTH OF, WHEN MEASURED AT RIGHT ANGLES TO, THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 706, SAID SOUTH RIGHT-OF-WAY LINE BEING 70.00 FEET SOUTH OF THE CENTERLINE OF STATE ROAD 706 AS SHOWN ON DEPARTMENT OF TRANSPORTATION DRAWING No. 9375-110, SHEET 2 OF 5 AND SAID POINT ALSO BEING THE POINT OF BEGINNING.

FROM THE SAID POINT OF BEGINNING; THENCE SOUTH 88°22'24" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 746.99 FEET TO A POINT ON A LINE PARALLEL WITH AND 420 FEET WEST OF, WHEN MEASURED AT RIGHT ANGLES TO THE WEST LINE OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3; THENCE SOUTH 01°15'40" WEST ALONG SAID PARALLEL LINE A DISTANCE OF 185.15 FEET TO A POINT ON A LINE PARALLEL WITH AND 15.00 FEET NORTH OF, WHEN MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3; THENCE SOUTH 89°17'20" EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 316.51 FEET; THENCE SOUTH 01°15'40" WEST, A DISTANCE OF 15.00 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3, THENCE SOUTH 89°17'20" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 103.50 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3; THENCE SOUTH 01°15'40" WEST, A DISTANCE OF 669.96 FEET TO THE SOUTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3; THENCE SOUTH 89°09'44" EAST, ALONG THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3, A DISTANCE OF 111.67 FEET; THENCE NORTH 01°20'31" EAST, A DISTANCE OF 25.00 FEET; THENCE SOUTH 89°09'44" EAST, A DISTANCE OF 25.00 FEET; THENCE SOUTH 01°20'31" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER OF THE

**HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**

SOUTHWEST ONE-QUARTER OF SAID SECTION 3; THENCE SOUTH 89°09'44" EAST, ALONG THE SOUTH LINE, A DISTANCE OF 25.06 FEET TO THE SOUTHEAST CORNER OF THE WEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3; THENCE NORTH 01°20'31" EAST, ALONG THE EAST LINE OF THE WEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3, A DISTANCE OF 516.09 FEET; THENCE SOUTH 89°24'50" EAST, ALONG A LINE PARALLEL WITH THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3, A DISTANCE OF 162.42 FEET TO A POINT ON THE WEST LINE OF SAID JUPITER GARDENS; THENCE NORTH 01°25'22" EAST, ALONG SAID WEST LINE A DISTANCE OF 384.51 FEET TO THE POINT OF BEGINNING.

Reserving, however, unto party of the first part, its successors and assigns an undivided three-fourths (3/4) interest in, and title in and to an undivided three-fourths (3/4) interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the said land and an undivided one-half (1/2) interest in all petroleum that is or may be in, on, or under said land. The aforementioned reservation of phosphate, mineral, metals and petroleum rights shall not include and party of the first part hereby expressly releases any and all rights of entry and rights of exploration relating to such phosphate, mineral, metals and petroleum rights.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairperson or Vice Chairperson of said Board, the day and year aforesaid.

ATTEST:  
SHARON R. BOCK  
CLERK & COMPTROLLER

PALM BEACH COUNTY,  
a political subdivision of the State of Florida

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Addie L. Greene, Chairperson

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

(OFFICIAL SEAL)

By: \_\_\_\_\_  
Assistant County Attorney

**ATTACHMENT 3**

**AS IS ACKNOWLEDGMENT**

**2 PAGES**

**AS IS ACKNOWLEDGMENT**

THIS ACKNOWLEDGMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by Habitat for Humanity of Palm Beach County, Inc., a Florida not for profit corporation (Agency) to PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida (County).

**WITNESSETH:**

WHEREAS, the Agency and the County have entered into that certain Agreement Between Palm Beach County and Habitat for Humanity of Palm Beach County, Inc., dated \_\_\_\_\_, 2007, (Resolution No. R2007-\_\_\_\_\_) (the Agreement) whereby the County agreed to convey, and the Agency agreed to accept and construct houses upon 6.64 acre(s) of land in unincorporated Palm Beach County, located in Section 3, Township 41 South, Range 42 East, Palm Beach County (Property), and more particularly described as follows:

A PARCEL OF LAND SITUATE IN SECTION 3, TOWNSHIP 41 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED IN QUIT-CLAIM DEED RECORDED IN OFFICIAL RECORD BOOK 10128, PAGES 830 THROUGH 832, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

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FROM THE SAID POINT OF BEGINNING; THENCE SOUTH 88°22'24" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 746.99 FEET TO A POINT ON A LINE PARALLEL WITH AND 420 FEET WEST OF, WHEN MEASURED AT RIGHT ANGLES TO THE WEST LINE OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3; THENCE SOUTH 01°15'40" WEST ALONG SAID PARALLEL LINE A DISTANCE OF 185.15 FEET TO A POINT ON A LINE PARALLEL WITH AND 15.00 FEET NORTH OF, WHEN MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3; THENCE SOUTH 89°17'20" EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 316.51 FEET; THENCE SOUTH 01°15'40" WEST, A DISTANCE OF 15.00 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3, THENCE SOUTH 89°17'20" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 103.50 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3; THENCE SOUTH 01°15'40" WEST, A DISTANCE OF 669.96 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3; THENCE SOUTH 89°09'44" EAST, ALONG THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3, A DISTANCE OF 111.67 FEET; THENCE NORTH 01°20'31" EAST, A DISTANCE OF 25.00 FEET; THENCE SOUTH 89°09'44" EAST, A DISTANCE OF 25.00 FEET; THENCE SOUTH 01°20'31" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3; THENCE SOUTH 89°09'44" EAST, ALONG THE SOUTH LINE, A DISTANCE OF 25.06 FEET TO THE SOUTHEAST CORNER OF THE WEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3; THENCE NORTH 01°20'31" EAST, ALONG THE EAST LINE OF THE WEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3, A DISTANCE OF 516.09 FEET; THENCE SOUTH 89°24'50" EAST, ALONG A LINE PARALLEL WITH THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3, A DISTANCE OF 162.42 FEET TO A POINT ON THE WEST LINE OF SAID JUPITER GARDENS; THENCE NORTH 01°25'22" EAST, ALONG SAID WEST LINE A DISTANCE OF 384.51 FEET TO THE POINT OF BEGINNING.

**HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**

WHEREAS, the Agreement states that the Agency shall accept the Property and any improvements in an AS IS CONDITION, without warranties and/or representations and shall acknowledge the foregoing at the closing of the transaction.

NOW THEREFORE, in consideration of the conveyance of the Property, the Agency hereby acknowledges to the County as follows:

1. The facts as set forth above are true and correct and incorporated herein.
2. The Agency acknowledges that it has inspected the Property and hereby accepts the Property in AS IS CONDITION. The Agency further acknowledges that the County has made no warranties or representations of any nature whatsoever regarding the Property including, without limitation, any relating to its value, the County's title to the Property, the environmental condition of the Property, the physical condition of the Property, its zoning, any improvements located thereon, or the suitability of the Property or any improvements for the Agency's intended use of the Property.
3. Without in any way limiting the generality of the preceding paragraph, the Agency specifically acknowledges and agrees that upon the County's conveyance of the Property to the Agency, the Agency waives, releases and discharges any claim it has, might have had or may have against the County with respect to this transaction or the Property.
4. This Acknowledgment will survive delivery and recording of the County Deed and possession of the Property by the Agency.

IN WITNESS WHEREOF, the Agency has caused this Acknowledgment to be executed on the day and year first aforesaid.

SIGNED, SEALED, AND DELIVERED IN  
THE PRESENCE OF:

Witness Name: Witness Signature:  X _____
Witness Name: Witness Signature:  X _____

**HABITAT FOR HUMANITY OF PALM  
BEACH COUNTY, INC.**

By: Michael J. Sabatello, President  
Signature:

X (DO NOT SIGN THIS ATTACHMENT)  
\_\_\_\_\_

(CORPORATE SEAL BELOW)

ATTACHMENT 4

PLAT OF WEST JUPITER HOUSING

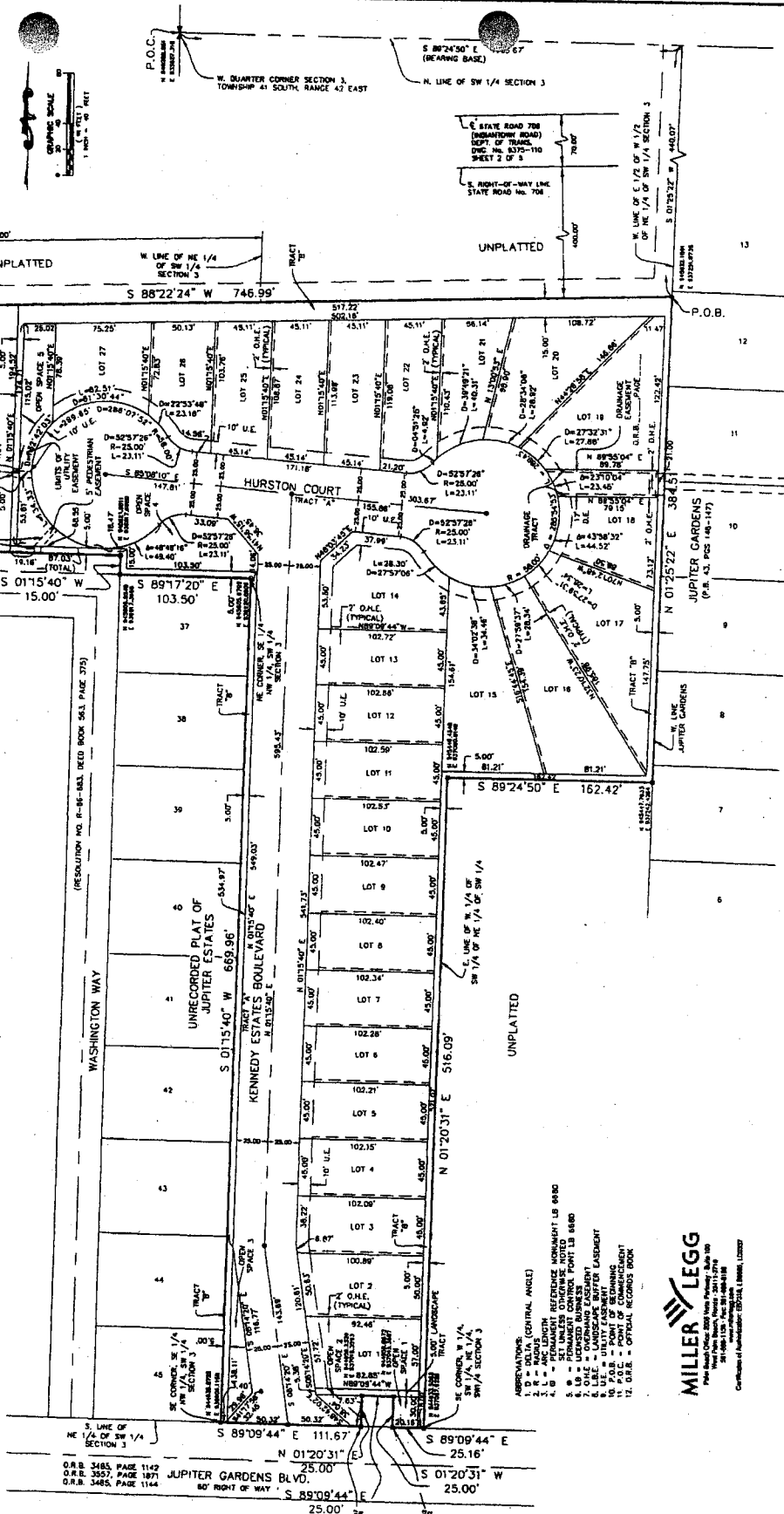
2 PAGES





# WEST JUPITER HOUSING

BEING A PLAT OF A PORTION OF SECTION 3,  
TOWNSHIP 41 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.  
JANUARY 2007  
SHEET 2 OF 2



- ABBREVIATIONS:
- 1. D = DILIA (CENTRAL ANGLE)
  - 2. R = RADIUS
  - 3. C = CHORD
  - 4. B = BEARING
  - 5. P = PERMANENT REFERENCE MONUMENT LB 6880
  - 6. U = UNDEVELOPED BURNED
  - 7. L = LANDSCAPE BUFFER
  - 8. L.B.E. = LANDSCAPE BUFFER EASEMENT
  - 9. L.B.E. = LANDSCAPE BUFFER EASEMENT
  - 10. P.O.B. = POINT OF BEGINNING
  - 11. P.O.C. = POINT OF COMMENCEMENT
  - 12. O.R.E. = OFFICIAL RECORDS BOOK

**MILLER LEGG**  
Palm Beach Office: 2000 West Palm Beach, Suite 100  
Palm Beach, FL 33411  
Tel: 561-833-1100 Fax: 561-833-1101  
www.millerlegg.com  
COURTESY OF LANDSCAPE DESIGN, L.L.C.

ATTACHMENT 5

DECLARATION OF COVENANTS FOR KENNEDY ESTATES

88 PAGES

**THIS INSTRUMENT WAS PREPARED BY/  
RETURN TO:**

**DECLARATION OF COVENANTS  
FOR  
KENNEDY ESTATES**

**DECLARATION OF COVENANTS  
FOR  
KENNEDY ESTATES**

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## **EXHIBITS**

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Exhibit "E" - SFWMD Permit

**DECLARATION OF COVENANTS  
FOR  
KENNEDY ESTATES**

**THIS DECLARATION** is made this \_\_\_\_ day of \_\_\_\_\_, 2007, by **HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**, a Florida not for profit corporation, which declares hereby that "The Properties" described in Article II of this Declaration are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

**ARTICLE I  
DEFINITIONS**

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to **KENNEDY ESTATES HOMEOWNERS' ASSOCIATION, INC.**, a Florida corporation not for profit. The Articles of Incorporation and By-Laws of the Association are attached hereto and made a part hereof as Exhibits "A" and "B", respectively.

(b) "Common Areas" shall mean and refer to the property (i) dedicated to the Association by the Plat of The Properties (whether as separate Tracts or as easements) or (ii) declared to be Common Areas herein, including per Exhibit "C" attached hereto and made a part hereof, as is the case with the Surface Water Management System (defined below) and the hereinafter described landscaping. The Common Areas are initially intended to include landscape buffers (both owned land and easements for such purpose over Lots), open space, a lighted entry sign for The Properties, a sidewalk, drainage easements in favor of the Association, the Surface Water Management System (as herein defined), landscaping within the Hurston Court and Kennedy Estates Boulevard rights of way and all irrigation systems and lighting serving the applicable portions of the foregoing.

(c) "Declarant" shall mean and refer to Habitat for Humanity of Palm Beach County, Inc., a Florida not for profit corporation, its successors and such of its assigns as to which the rights of Declarant hereunder are specifically assigned. Declarant may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with appropriate portions of The Properties. In the event of such a partial assignment, the assignee shall not be deemed the Declarant, but may exercise such rights of Declarant specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

(d) "Home" shall mean and refer to the individual residential structure, and any related improvements, constructed on a Lot for which a certificate of occupancy has been issued.

(e) "Lot" shall mean and refer to any Lot on any plat or site plan of all or a portion of The Properties, which is designated by Declarant hereby or by any other recorded instrument to be subject to these covenants and restrictions, any Lot shown upon

any resubdivision of any such plat, any site plan amendment and any other property hereafter declared as a Lot by the Declarant and thereby made subject to this Declaration.

(f) "Member" shall mean and refer to all those Owners who are Members of the Association as provided in Article III hereof.

(g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated within The Properties.

(h) "Plat" shall mean and refer to the Plat of The Properties, which Plat is specifically described in Exhibits "C" and "D" hereof.

(i) "Surface Water Management System" shall have the meaning given to it in Article XIII of this Declaration.

(j) "The Properties" shall mean and refer to all existing properties, and additions thereto, as are now or hereafter made subject to this Declaration, except those which are withdrawn from the provisions hereof in accordance with the procedures hereinafter set forth.

## **ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION**

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Palm Beach County, Florida, and is more particularly described in Exhibit "D" attached hereto, all of which real property (and all improvements thereto) is herein referred to collectively as "The Properties".

## **ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

### **Section 1.    Membership.**

Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot shall be a Member of the Association. Notwithstanding anything else to the contrary set forth in this Section I, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association.

### **Section 2.    Voting Rights.**

The Association shall have two (2) classes of voting membership:

Class A.    Class A Members shall be all those Owners as defined in Section I with the exception of the Declarant (as long as the Class B Membership shall exist, and thereafter, the Declarant shall be a Class A Member to the extent it would otherwise qualify). Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interests required for membership by Section I. When more than one person holds such interest or interests in any Lot, all such persons

shall be Members, but the single vote for such Lot shall be exercised as they among themselves determine but, subject only to the following subsection, in no event shall more than one (1) vote be cast with respect to any such Lot.

Class B. The Class B Member shall be the Declarant. The Class B member shall be entitled to one (1) vote, plus two (2) votes for each vote entitled to be cast in the aggregate at any time and from time to time by the Class A Members. The Class B membership shall cease and terminate upon the earlier of (i) March 4, 2009 or (ii) three (3) months after ninety percent (90%) of the Lots to ultimately be operated by the Association have been conveyed to Class A Members other than builders, contractors or others who purchase Lots for the purpose of constructing improvements thereon, or sooner at the election of the Declarant (whereupon the Class A Members shall be obligated to elect the Board and assume control of the Association).

Section 3. General Matters.

When reference is made herein, or in the Articles, By-Laws, Rules and Regulations, management contracts or otherwise, to a majority or specific percentage of Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of Members present at a duly constituted meeting thereof (i.e., one for which proper notice has been given and at which a quorum exists) and not of the Members themselves or of their Lots.

**ARTICLE IV  
COMMON AREAS; CERTAIN EASEMENTS**

Section 1. Members' Easements.

Except for Limited Common Areas as herein specified, each Member, and each Member's Permittee, shall have a non-exclusive permanent and perpetual easement over and upon the Common Areas for the intended use and enjoyment thereof in common with all other such Members and their tenants, agents and invitees, in such manner as may be regulated by the Association.

Without limiting the generality of the foregoing, such rights of use and enjoyment are hereby made subject to the following:

(a) The right and duty of the Association to levy assessments against each Lot for the purpose of maintaining the Common Areas and facilities in compliance with the provisions of this Declaration and with the restrictions on the plats of portions of The Properties from time to time recorded.

(b) The right of Declarant and the Association to have, grant and use general ("blanket") and specific easements over, under and through the Common Areas.

(c) The right of the Association, by a majority vote of the Board of Directors, to dedicate or convey portions of the Common Areas to any other association having similar functions, or any public or quasi-public agency, community development district or similar entity under such terms as the Association deems appropriate and to create or contract with the other association, community development and special taxing districts for lighting, roads, recreational or other services, security, or communications and other similar purposes deemed appropriate by the Association (to which such dedication or contract all Owners, by the acceptance of the deeds, to their Lots, shall be deemed to have consented, no consent of any other party, except the Declarant, being necessary).

Section 2. Limited Common Areas.

The initial Limited Common Areas hereunder shall be any portion of the Common Areas located between the boundary line of a Lot and the edge of the pavement of the road(s) on which such Lot is located, in a buffer area along the backs of Lots or otherwise in an adjacent public right of way but which is functionally part of the Lot, including driveway aprons, swales, landscaping, mailboxes and other improvements located in such areas shall be a Limited Common Area of the Lot. The side boundaries of such Limited Common Areas shall be the extensions of the side (or front, in the case of a corner Lot) boundaries of the Lot to the edge of such pavement.

Section 3. Easements and Rights Appurtenant.

The easements provided in Section 1 and Limited Common Area rights in Section 2 shall be appurtenant to and shall pass with the title to each Lot, but shall not be deemed to grant or convey any ownership interest in the Common Area subject thereto.

Section 4. Maintenance.

The Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Areas and other areas required to be maintained by the Association per the Plat and, to the extent not otherwise provided for, the paving, drainage structures, landscaping, improvements and other structures (except public utilities, to the extent same have not been made Common Areas) situated on the Common Areas, if any, all such work to be done as ordered by the Board of Directors of the Association. Without limiting the generality of the foregoing, the Association shall assume, and hereby assumes, all of Declarant's and its affiliates' responsibility, if any, to Palm Beach County, the State of Florida, the South Florida Water Management District and similar permitting/approval entities of any kind with respect to the Common Areas and conservation easements and any other permit requirements of an ongoing nature and shall indemnify and hold the Declarant and its affiliates harmless with respect thereto.

The Association shall also maintain the land, landscaping and improvements covered by any easement or maintenance agreement in favor of the Association or assigned to Association, or by which the Association is bound, which provides for such

maintenance within the adjacent right of way of Kennedy Estates Boulevard and Hurston Court.

The Association's maintenance responsibilities as stated above shall not extend to or include the Limited Common Areas for which Owners are responsible.

All work pursuant to this Section and all expenses incurred or allocated to the Association pursuant to this Declaration shall be paid for by the Association through assessments (either general or special) imposed in accordance herewith.

No Owner may waive or otherwise escape liability for assessments by non-use (whether voluntary or involuntary) of the Common Areas or abandonment of the right to use the Common Areas.

Section 5. Utility Easements.

Use of the Common Areas for utilities, as well as use of the other utility easements as shown on the relevant plat(s), shall be in accordance with the applicable provisions of said plat(s). The Declarant and its affiliates and its and their designees shall have a perpetual easement over, upon and under the Common Areas and the unimproved portions of the Lots for the installation, operation, maintenance, repair, replacement, alteration and expansion of utilities.

Section 6. Public Easements.

Fire, police, health and sanitation and other public service, public utility, postal and similar personnel and vehicles (but not the general public) shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas in the performance of their respective duties.

Section 7. Zero Lot Line Easement.

Each Lot shall be subject to a perpetual but non-exclusive easement in favor of an adjoining Lot which contains a Home which is located with a side thereof immediately on or adjacent to the boundary line between the two Lots (commonly referred to as a "zero lot line"). Such easement shall be in favor of the aforesaid adjoining Lot and shall be for the purpose of the Owner or occupant thereof having access to the Home for purposes of the maintenance and repair thereof. Further, such easement shall be for the additional purpose of permitting the roof, soffit or other portion of the Home on the adjoining Lot, as originally constructed, to encroach over the portion of the Lot subject to this easement. The easement created hereby shall be of such a width as to enable the Owner of the adjoining Lot to have and exercise the benefits herein granted. The Owner of the Lot subject to this easement shall not install fencing, landscaping or other improvements or items in the areas subject to the Easement which unreasonably interferes with the use thereof pursuant to this Section.

Section 8. Ownership.

The Common Areas (but not Limited Common Areas) are hereby dedicated non-exclusively to the joint and several use, in common, by the Declarant and the Owners of all Lots that may from time to time constitute part of The Properties and all Member's Permittees and the Declarant's tenants, guests and invitees, all as provided and regulated herein or otherwise by the Association. The portions of the Common Areas which are not solely in the nature of easements, no later than as of the date of the termination of the Class B Membership per Article III, Section 2 of this Declaration (or at any time and from time to time sooner at the sole election of the Declarant), be conveyed by quit claim deed to the Association, which shall be deemed to have automatically accepted such conveyance. Beginning from the date this Declaration is recorded, the Association shall be responsible for the maintenance, insurance and administration of such Common Areas (whether or not then conveyed or to be conveyed to the Association). It is intended that any and all real estate taxes assessed against that portion of the Common Areas owned or to be owned by the Association shall be (or have been, because the purchase prices of the Lots and Homes have already taken into account their proportionate shares of the values of the Common Area), proportionally assessed against and payable as part of the taxes of the applicable Lots within The Properties. However, in the event that, notwithstanding the foregoing, any such taxes are assessed directly against the Common Areas, the Association shall be responsible for the payment (subject to protest or appeal before or after payment) of the same, including taxes on any improvements and any personal property located thereon, which taxes accrue from and after the date these covenants are recorded, and such taxes shall be prorated between Declarant and the Association as of the date of such recordation.

Declarant and its affiliates shall have the right from time to time to enter upon the Common Areas and other portions of The Properties (including, without limitation, Lots) for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion and/or alteration of any improvements or facilities on the Common Areas or elsewhere on The Properties that Declarant and its affiliates or designee elect to effect, and to use, without charge, the Common Areas and other portions of The Properties for sales, displays and signs or for any other purpose during the period of construction and sale of any portion thereof or of other portions of adjacent or nearby communities. Without limiting the generality of the foregoing, the Declarant and its affiliates shall have the specific right to maintain upon any portion of The Properties sales, administrative, construction or other offices and appropriate exclusive and non-exclusive easements of access and use are expressly reserved unto the Declarant and its affiliates, and its and their successors, assigns, employees and contractors, for this purpose. Any obligation (which shall not be deemed to be created hereby) to complete portions of the Common Areas shall, at all times, be subject and subordinate to these rights and easements and to the above-referenced activities. Accordingly, the Declarant shall not be liable for delays in such completion to the extent resulting from the need to finish the above-referenced activities prior to such completion.

#### **ARTICLE V**

#### **COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation for Assessments; Assessment Rates.

Except as provided elsewhere herein, the Declarant (and each party joining in any supplemental declaration), for all Lots within The Properties, hereby covenants and agrees, and each Owner of any Lot by acceptance of a deed therefore or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association annual assessments and charges for the operation of, and for payment of expenses allocated or assessed to or through, the Association, the maintenance, management, operation and insurance of the Common Areas, the Surface Water Management System and any conservation areas as provided elsewhere herein, including such reasonable reserves as the Association may deem appropriate, capital improvement assessments, as provided in Section 4 hereof, special assessments as provided in Section 3 hereof and all other charges and assessments hereinafter referred to or lawfully imposed by or on the Association, all such assessments to be fixed, established and collected from time to time as herein provided. In addition, special assessments may be levied against particular Owners and Lots for fines, expenses incurred against particular Lots and/or Owners to the exclusion of others and other charges against specific Lots or Owners as contemplated in this Declaration. The annual, special and other assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment fell due and all subsequent Owners until paid, except as provided in Section 8 of this Article.

Section 2. Purpose and Rate of Assessments.

The regular assessments levied by the Association shall be used exclusively for the purposes expressed in Section 1 of this Article and shall be assessed against each Lot at an equal rate.

Section 3. Special Assessments.

In addition to the regular and capital improvement assessments which are or may be levied hereunder, the Association (through the Board of Directors) shall have the right to levy special assessments against an Owner(s) to the exclusion of other Owners for (i) the repair or replacement of damage to any portion of the Common Areas (including, without limitation, improvements and landscaping thereon caused by the misuse, negligence or other action or inaction of an Owner or his Member's Permittee(s), (ii) the costs of exterior maintenance work on attached Homes per Article VI of this Declaration or (iii) the costs of remedial work performed by the Association in accordance with Article VI (together with any surcharges collectible thereunder). Any such special assessment shall be subject to all of the applicable provisions of this Article including, without limitation, lien filing and foreclosure procedures and late charges and interest. Any special assessment levied



hereunder shall be due within the time specified by the Board of Directors in the action imposing such assessment.

Section 4. Capital Improvements.

Funds which, in the aggregate, exceed the lesser of \$10,000 or 10% of the total amount of the current operating budget of the Association in any one fiscal year which are necessary for the addition of capital improvements (as distinguished from repairs and maintenance) relating to the Common Areas under the jurisdiction of the Association and which have not previously been collected as reserves or are not otherwise available to the Association (other than by borrowing) shall be levied by the Association as assessments only upon approval of a majority of the Board of Directors of the Association and upon approval by two-thirds (2/3) favorable vote of the Members of the Association voting at a meeting or by ballot as may be provided in the By-Laws of the Association.

Section 5. Date of Commencement of Assessments; Due Dates.

The regular, annual assessments provided for in this Article shall commence on the first day of the month next following the recordation of these covenants and shall be applicable through December 31 of such year. Each subsequent annual assessment shall be imposed for the year beginning January 1 and ending December 31.

The annual assessments shall be payable in advance in monthly installments, or in annual, semi- or quarter-annual installments if so determined by the Board of Directors of the Association (absent which determination they shall be payable monthly).

The assessment amount (and applicable installments) may be changed at any time by said Board from that originally stipulated or from any other assessment that is in the future adopted. The original assessment for any year shall be levied for the calendar year (to be reconsidered and amended, if necessary, no more than twice each year), but the amount of any revised assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months (or other appropriate installments) remaining in such calendar year.

The due date of any special assessment or capital improvement assessment shall be fixed in the Board resolution authorizing such assessment.

Section 6. Duties of the Board of Directors.

The Board of Directors of the Association shall fix the amount of the annual assessment against the Lots subject to the Association's jurisdiction for each assessment period, to the extent practicable, at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association (or its manager) and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto twenty (20) days prior to payment of the first installment thereof, except as to special assessments. In the event no such notice of the assessments for a new assessment period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein.

The Association, through the action of its Board of Directors, shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more persons, firms or corporations (including affiliates of the Declarant) for management services including those described in this Section.

Section 7. Effect of Non-Payment of Assessment; the Personal Obligation; the Lien; Remedies of the Association.

If the assessments (or installments) provided for herein are not paid on the date(s) when due (being the date(s) specified herein or pursuant hereto), then such assessments (or installments) shall become delinquent and shall, together with late charges, interest and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot which shall bind such property in the hands of the then Owner, his heirs, personal representatives, successors and assigns such lien to be effective as of the date of the recording of this Declaration. Except as provided in Section 8 of this Article to the contrary, the personal obligation of the then Owner to pay such assessment shall pass to his successors in title and recourse may be had against either or both.

If any installment of an assessment is not paid within fifteen (15) days after the due date, at the option of the Association, a late charge in such maximum amounts as established in Chapter 720, Florida Statutes, as it may be amended from time to time, may be imposed (provided that only one late charge may be imposed on any one unpaid installment and if such installment is not paid thereafter, it and the late charge shall accrue interest as provided herein but shall not be subject to additional late charges; provided further, however, that each other installment thereafter coming due shall be subject to one late charge each as aforesaid) and or the next twelve (12) months' worth of installments may be accelerated and become immediately due and payable in full and all such sums shall bear interest from the dates when due until paid at the highest lawful rate (or, if there is no highest lawful rate, 18% per annum) and the Association may bring an action at law against the Owner(s) personally obligated to pay the same, may record a claim of lien (as evidence of its lien rights as hereinabove provided for) against the Lot on which the assessments and late charges are unpaid, may foreclose the lien against the Lot on which the assessments and late charges are unpaid, or may pursue one or more of such remedies at the same time or successively, and attorneys' fees and costs actually incurred in preparing and filing the claim of lien and the complaint, if any, and prosecuting same, in such action shall be added to the amount of such assessments, late charges and interest, and in the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys' fees actually incurred together with the costs of the action, through all applicable appellate levels. The Association may choose to accelerate the assessments as set forth herein at anytime after any late payment.



In the case of an acceleration of the next twelve (12) months' of installments, each installment so accelerated shall be deemed, initially, equal to the amount of the then most current delinquent installment, provided that if any such installment so accelerated would have been greater in amount by reason of a subsequent increase in the applicable budget, the Owner of the Lot whose installments were so accelerated shall continue to be liable for the balance due by reason of such increase and special assessments against such Lot shall be levied by the Association for such purpose.

In addition to the rights of collection of assessments stated in this Section, any and all persons acquiring title to or an interest in a Lot as to which the assessment is delinquent, including without limitation persons acquiring title by operation of law and by judicial sales, shall not be entitled to the occupancy of such Lot or the enjoyment of the Common Areas until such time as all unpaid and delinquent assessments due and owing from the selling Owner have been fully paid; provided, however, that the provisions of this sentence shall not be applicable to the mortgagees and purchasers contemplated by Section 8 of this Article.

All assessments, late charges, interest, penalties, fines, attorney's fees and other sums provided for herein shall accrue to the benefit of the Association.

Section 8.     Subordination of the Lien.

The lien of the assessments provided for in this Article shall be subordinate to real property tax liens and the lien of any first mortgage (recorded prior to recordation by the Association of a claim of lien) held by an institutional mortgage lender or otherwise held or insured by FNMA/FHLMC, FHA or VA and which is now or hereafter placed upon any property subject to assessment provided, however, that any such mortgage lender when in possession or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgage lender acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgage lender, shall hold title subject to the liability and lien of any assessment coming due after such foreclosure (or conveyance in lieu of foreclosure). Any unpaid assessment which cannot be collected as a lien against any Lot by reason of the provisions of this Section shall be deemed to be an assessment divided equally among, payable by and a lien against all Lots subject to assessment by the Association, including the Lots as to which the foreclosure (or conveyance in lieu of foreclosure) took place. No mortgagee shall be required to collect assessments.

Section 9.     Declarant's Assessments.

Notwithstanding anything herein to the contrary, Declarant shall have the option, in its sole discretion, to (i) pay assessments on the Lots owned by it, or (ii) not pay assessments on any Lots and in lieu thereof fund any resulting deficit in the Association's operating expenses not produced by assessments receivable from Owners other than Declarant and any other income receivable by the Association. The deficit to be paid under option (ii), above, shall be the difference between (a) actual operating expenses of the Association (exclusive of capital improvement costs and reserves) and (b) the sum of all

monies receivable by the Association (including, without limitation, assessments, interest, late charges, fines and incidental income) and any surplus carried forward from the preceding year(s). Declarant may from time to time change the option under which Declarant is making payments to the Association by written notice to such effect to the Association. When all Lots within The Properties are sold and conveyed to purchasers, neither the Declarant nor its affiliates shall have further liability of any kind to the Association for the payment of assessments, deficits or contributions.

Section 10. Association Funds.

The portion of all regular assessments collected by the Association for reserves for future expenses, and the entire amount of all special and capital assessments, shall be held by the Association and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks or savings and loan institutions, the deposits of which are insured by an agency of the United States.

**ARTICLE VI**  
**MAINTENANCE OF HOMES AND LOTS**

Section 1. Exteriors of Homes.

Each Owner shall maintain all structures and other improvements (including the Home) located on the Owner's Lot in a neat, orderly and attractive manner and consistent with the general appearance of The Properties. The minimum (though not sole) standard for the foregoing shall be consistency with the general appearance of The Properties (particularly, but not exclusively, any adjoining Homes) as initially constructed and otherwise improved by Declarant or by any other builders who build in accordance with plans approved by Declarant (taking into account, however, normal weathering and fading of exterior finishes, but not to the point of unsightliness, in the judgment of the Architectural Review Committee. Each Owner shall repaint or restain, as appropriate, the exterior portions of his Home (with the same colors as initially used on the Home) as often as is necessary to comply with the foregoing standards.

Section 2. Lots and Adjacent Areas.

Each Owner shall maintain the trees, shrubbery, grass and other landscaping on his Lot in a neat, orderly and attractive manner and consistent with the general appearance of The Properties as a whole. The minimum (though not sole) standard for the foregoing shall be the general appearance of The Properties as initially landscaped by Declarant or builders (such standard being subject to being raised by virtue of the natural and orderly growth and maturation of applicable landscaping, as properly trimmed and maintained).

Each Owner shall also maintain any portion of the right of way of Hurston Court or Kennedy Boulevard adjacent to the Owner's Lot which is not the actual paved road surface, curb or concrete sidewalk. Such area to be maintained by the Lot Owner shall have the following boundaries: (i) the inside face of the adjacent curb and (ii) the extensions of the side boundary lines of the Lot (or of the side and rear boundary lines of Lot 14 - being a

corner Lot) to the inside fare of the adjacent curb. The area shall be maintained in the same manner as the Lot, such maintenance to include trees (but with the Association to be responsible for the replacement of diseased, damaged or destroyed trees in such areas), grass, driveway aprons and mailboxes and their posts. However, if uniform mailboxes and posts are provided to all Lots, the Association shall be responsible for their maintenance, repair and replacement.

#### Section 4. Remedies for Noncompliance.

In the event of the failure of an Owner to maintain his Home, Lot or Limited Common Area in accordance with this Article, the Association shall have the right, upon five (5) days' prior written notice to the Owner at the address last appearing in the records of the Association, to enter upon the Owner's Lot or Limited Common Area and perform such work as is necessary to bring the Lot or Home, as applicable, into compliance with the standards set forth in this Article. Such work may include, but shall not necessarily be limited to, the cutting/trimming of grass, trees and shrubs; the removal (by spraying or otherwise) of weeds and other vegetation; the resodding or replanting of grass, trees or shrubs; the removal of trash, rubbish, debris or other items; the repainting or restaining of exterior surfaces of a Home; the repair of walls, fences, roofs, doors, windows and other portions of a Home or other structures on a Lot; and such other remedial work as is judged necessary by the applicable entity. The remedies provided for herein shall be cumulative with all other remedies available under this Declaration (including, without limitation, the imposition of fines or special assessments or the filing of legal or equitable actions).

#### Section 5. Costs of Remedial Work; Surcharges.

In the event that the Association performs any remedial work on a Home, Lot or Limited Common Area pursuant to this Article, the costs and expenses thereof shall be deemed a special assessment under Article V, Section 3 of this Declaration and may be immediately imposed by the Board of Directors. In order to discourage Owners from abandoning certain duties hereunder for the purpose of forcing one of the aforesaid entities to assume same, and, additionally, to reimburse same for administrative expenses incurred, the applicable entity may impose a surcharge of not more than thirty-five percent (35%) of the cost of the applicable remedial work, such surcharge to be a part of the aforesaid special assessment. No bids need be obtained for any of the work performed pursuant to this Article and the person(s) or company performing such work may be selected by the applicable entity in its sole discretion.

#### Section 6. Right of Entry.

There is hereby created an easement in favor of the Association and its applicable designees over each Lot for the purpose of entering onto such Lot in the performance of the work herein described, provided that the notice requirements of this Article are complied with and any such entry is during reasonable hours.

Section 7. Limited Exemption.

To the extent that a Home on a Lot is under construction by the Declarant or an independent builder, the provisions of this Article shall not apply to such Lot until such time as the construction of the Home is completed as evidenced by the issuance of a certificate of occupancy therefore.

**ARTICLE VII  
CERTAIN USE RESTRICTIONS**

Section 1. Applicability.

The provisions of this Article VII shall be applicable to all of The Properties but shall not be applicable to the Declarant or any of its designees or Lots or other property owned by the Declarant or its designees.

Section 2. Land Use and Building Type.

No Lot shall be used except for residential purposes. No building constructed on a Lot shall be used except for residential purposes, or as a related garage, if applicable. No building shall be erected, altered, placed or permitted to remain on any Lot other than one Home. Temporary uses by Declarant and its affiliates for model homes, sales displays, parking lots, sales offices and other offices, or any one or combination of such uses, shall be permitted until permanent cessation of such uses takes place. No changes may be made in buildings erected by the Declarant or its affiliates or independent homebuilders (except if such changes are made by the Declarant or such a homebuilder) without the consent of the Architectural Review Committee.

Section 3. Opening Blank Walls; Removing Fences.

Without limiting the generality of Section 11 of this Article, no Owner shall make or permit any opening to be made in any blank wall (except as such opening is initially installed) or masonry wall or fence. Further, no such building wall or masonry wall or fence shall be demolished or removed without the prior written consent of Declarant (so long as it owns any portion of The Properties) and the Architectural Review Committee.

Section 4. Easements.

Easements for installation and maintenance of utilities are reserved as shown on the recorded plat covering The Properties and as provided herein. The area of each Lot covered by an easement and all improvements in the area shall be maintained continuously by the Owner of the Lot, except for installations for which a public authority or utility company is responsible. The appropriate water and sewer authority, electric utility company, telephone company, the Association, and the Declarant and its affiliates, and their respective successors and assigns, shall have a perpetual easement for the installation and maintenance of water lines, sanitary sewers, storm drains, and electric,

telephone and telecommunications lines, cables and conduits, under and through the utility easements as shown on the plats.

Section 5. Nuisances.

Nothing shall be done or maintained on any Lot which may be or become an annoyance or nuisance to the neighborhood. Any activity on a Lot which interferes with television, cable or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board of Directors, which shall render a decision in writing, which decision shall be dispositive of such dispute or question.

Section 6. Temporary Structures; Gas Tanks; Other Outdoor Equipment.

Except as may be approved or used by the Declarant during construction and/or sales periods, no structure of a temporary character, or trailer, mobile home or recreational vehicle, shall be permitted on any Lots within The Properties at any time or used at any time as a residence, either temporarily or permanently. No gas tank, gas container or gas cylinder shall be permitted to be placed on or about the outside of any Home or on or about any ancillary building, except for one (1) gas cylinder (not to exceed 20 lbs. capacity) connected to a barbecue grill, any pool heater gas tank reasonably screened from off-lot view and such other tank designed and used for household purposes as shall be approved by the Architectural Review Committee described in Section 11, below. Any outdoor equipment such as, but not limited to, pool pumps and water softening devices shall be completely screened from the view of anyone not standing on the Lot by the use of landscaping or other means (in any event, as approved by the Architectural Review Committee); provided, however, that the use of such screening shall not obviate the requirement that the installation of any such equipment nevertheless be approved by the Architectural Review Committee.

Section 7. Signs.

No sign of any kind shall be displayed to the public view on any Lot except for the following:

(a) The exclusive sales agent for the Declarant may place one professional sign advertising the Home for sale.

(b) One sign of not more than one (1) square foot which may be used to indicate the name of the resident(s) of the Home.

(c) One (1) "for sale" or "for rent" sign may be displayed under the following conditions:

a. The sign may identify the property, the owner or agent and the address and telephone number of the owner or agent relative to the premises upon which the sign is located.



b. The face surface of such sign shall not be larger than twelve (12) inches in width and eight (8) inches in height, provided, however, that it shall be permissible to attach thereto one of the following additional signs not exceeding twelve (12) inches in width and two and one half (2 1/2) inches in height and containing the wording:

- A. BY APPOINTMENT ONLY
- B. OPEN
- C. POOL
- D. REALTOR/ASSOCIATE NAME
- E. RENTAL/FOR SALE

c. The sign shall be constructed of metal, plastic, wood or pressed wood and shall be fastened to a supporting member constructed of angle iron not exceeding one (1) inch by one (1) inch or a two (2) inch by two (2) inch wooden post, provided that said supporting member shall be all white or all black in color and have no letters or numbers upon it.

d. The supporting member shall be driven into the ground to provide that the top of the face of such sign shall not be more than four (4) feet above the finished grade of the ground.

e. All such signs shall be lettered professionally, but such signs shall not be required to be submitted to the Association for approval.

f. Such sign shall be so erected or placed that its center line is parallel or perpendicular to the front property line.

g. Such sign shall not be erected or placed closer than five (5) feet from the front of the property line (as opposed to the adjacent street, if different).

h. Nothing contained herein shall be construed as prohibiting the same wording from being on both the front and back of the sign.

i. Where such sign is suspended from an arm of the support, such arm shall not exceed a length of sixteen (16) inches.

j. All such signs shall be erected on a temporary basis.

k. Such sign shall be kept in good repair and shall not be illuminated or constructed of a reflective material and shall not contain any flags, streamers, movable items or like devices.

I. Any such sign shall be removed within five (5) days from the date a binding agreement is entered into for the sale, lease or rental of the property or immediately upon the removal of the property from the market, whichever occurs first.

Section 8. Oil and Mining Operation.

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in The Properties, nor on dedicated areas, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in The Properties. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the land subject to these restrictions.

Section 9. Pets, Livestock and Poultry.

No animals, reptiles, wildlife, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that one (1) or two (2) household pets of no more than thirty (30) pounds each, at maturity, may be kept, provided they are not kept, bred or maintained for any commercial purpose, and provided that they do not become a nuisance or annoyance to any neighbor by reason of barking or otherwise. No dogs or other pets shall be permitted to have excretions on any Common Areas, except areas designated by the Association, if any, and Owners shall be responsible to clean-up any such excretions. For purposes hereof, "household pets" shall mean dogs, cats and other animals, if any, which may be expressly permitted by the Association in writing. ALL PETS SHALL BE KEPT ON A LEASH WHEN NOT IN THE APPLICABLE UNIT OR A FENCED-IN YARD, IF ANY. Pets shall also be subject to all applicable rules and regulations. Nothing contained herein shall prohibit the keeping of fish or domestic (household-type) birds, as long as the latter are kept indoors and do not become a source of annoyance to neighbors.

Section 10. Visibility at Intersections.

No obstruction to visibility at street intersections shall be permitted; provided that the Association shall not be liable in any manner to any person or entity, including Owners and their family members, tenants, guests and invitees, for any damages, injuries or deaths arising from any violation of this Section.

Section 11. Architectural Control.

No building, wall, fence or other structure or improvement of any nature (including, but not limited to, pools, screen enclosures, patios (or patio extensions), hedges, other landscaping, exterior paint or finish, play structures, awnings, shutters, hurricane protection, basketball hoops, decorative plaques or accessories, birdhouses, other pet houses, swales, asphaltting, sidewalk/driveway surfaces or treatments or other improvements or changes of any kind, even if not permanently affixed to the land or to other improvements) shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure and landscaping or of the materials as may

be required by the Architectural Review Committee or "ARC" (which shall be a committee appointed by the Board of Directors of the Association, absent such appointment the Board to serve in such capacity) have been approved, if at all, in writing by the Architectural Review Committee and all necessary governmental permits are obtained. Each building, wall, fence or other structure, improvement or alteration of any nature, together with landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications and plot plan approved by the Architectural Review Committee and applicable governmental permits and requirements. Refusal of approval of plans, specifications and plot plans, or any of them, may be based on any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of said Architectural Review Committee seem sufficient. Any change in the exterior appearance of any building, wall, fence or other structure or improvements, and any change in the appearance of the landscaping, shall be deemed an alteration requiring approval. The Architectural Review Committee shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph. A majority of the ARC may take any action the ARC is empowered to take, may designate a representative to act for the ARC and may employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the ARC, the Board of Directors shall have full authority to designate a successor. The members of the ARC shall not be entitled to any compensation for services performed pursuant to this covenant, unless engaged by the Association in a professional capacity. The Architectural Review Committee shall act on submissions to it within forty-five (45) days after receipt of the same (and all further documentation required) or else the request shall be deemed approved.

The Architectural Review Committee, subject to the approval of the Board of Directors, may promulgate both procedural rules and architectural standards for The Properties. Further, the Architectural Review Committee may engage the services of an architect for the purpose of reviewing proposed plans for initial construction and alterations and may require the payment of a fee as compensation for such architect by the party submitting a request for approval of same.

In the event that any new improvement or landscaping is added to a Home/Lot, or any existing improvement on a Lot is altered, in violation of this Section, the Association shall have the right (and an easement and license) to enter upon the applicable Lot and remove or otherwise remedy the applicable violation after giving the Owner of the Lot at least ten (10) days prior written notice of, and opportunity to cure, the violation in question. The costs of such remedial work and a surcharge of a minimum of \$25.00 (but in no event more than thirty-five percent (35%) of the aforesaid costs) shall be a special assessment against the Lot, which assessment shall be payable upon demand and secured by the lien for assessments provided for in this Declaration.

The approval of any proposed improvements or alterations by the Architectural Review Committee shall not constitute a warranty or approval as to, and neither the Association nor any member or representative of the Architectural Review Committee or the Board of Directors shall be liable for, the safety, soundness, workmanship, materials or usefulness for any purpose of any such improvement or alteration nor as to its compliance with governmental or industry codes or standards. By submitting a request for the approval

of any improvement or alteration, the requesting Owner shall be deemed to have automatically agreed to hold harmless and indemnify the aforesaid members and representatives, and the Association generally, from and for any loss, claim or damages connected with the aforesaid aspects of the improvements or alterations.

Without limiting the generality of Sections 1 and 23 of this Article VII, the foregoing provisions shall not be applicable to the Declarant or its affiliates or to independent builders initially constructing Homes.

**Section 12. Commercial Vehicles, Trucks, Trailers, Campers and Boats.**

No trucks (other than those of a type, if any, expressly permitted by the Association) or commercial vehicles, or campers, mobile homes, motorhomes, house trailers or trailers of every other description, recreational vehicles, boats, boat trailers, horse trailers or vans, shall be permitted to be parked or to be stored at any place on The Properties, nor in dedicated areas, except in (i) enclosed garages and (ii) spaces for some or all of the above specifically designated by Declarant or the Association, if any. For purposes of this Section, "commercial vehicles" shall mean those which are not designed and used for customary, personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether it is a commercial vehicle. The prohibitions on parking contained in this Section shall not apply to temporary parking of trucks and commercial vehicles, such as for construction use or providing pick-up and delivery and other commercial services, nor to passenger-type vans with windows for personal use which are in acceptable condition in the sole opinion of the Board (which favorable opinion may be changed at any time), nor to any vehicles of the Declarant or its affiliates.

**All Owners and other occupants of Homes are advised to consult with the Association prior to purchasing, or bringing onto The Properties, any type of vehicle other than a passenger car inasmuch as such other type of vehicle may not be permitted to be kept within The Properties.**

Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein (including Section 13, below) or in the rules and regulations now or hereafter adopted may be towed by the Association at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of 24 hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. For purposes of this paragraph, "vehicle" shall also mean campers, mobile homes and trailers. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

**Section 13. Parking.**

No vehicles of any type shall be parked on any portion of the Common Areas, on any portions of a Lot other than its driveway and garage.

All Owners and other occupants of Homes shall use at least one (1) space in their respective garages for the parking of a vehicle. In the event that such a party keeps a boat on a trailer in the party's garage, the other space shall still be used for vehicular parking. Garage doors shall be kept closed at all times except when in actual use and during reasonably limited periods when the garage is being cleaned or other activities are being conducted therefrom which reasonably require the doors to be left open.

Section 14. Garbage and Trash Disposal.

No garbage, refuse, trash or rubbish (including materials for recycling) shall be deposited except as permitted by the Association. The accumulation of trash, rubbish, debris or other discarded material on a Lot shall entitle the Association to all rights and remedies for the enforcement of this Declaration, including the right of entry and correction set forth in Article VI, Section 4 of this Declaration. The requirements from time to time of the applicable governmental authority or other company or association for disposal or collection of waste shall be complied with. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Containers must be rigid plastic, no less than 20 gallons or more than 32 gallons in capacity, and well sealed. Such containers may not be placed out for collection sooner than 24 hours prior to scheduled collection and must be removed within 12 hours of collection. In the event the Association, in its sole discretion, provides depositories for recyclable materials, same shall be the only ones used on The Properties.

Section 15. Fences, Walls and Hedges.

No fence, wall or other structure shall be erected on any Lot, except as originally installed by Declarant or its affiliates or approved by the Architectural Review Committee. Further, no hedge shall be planted except any approved by the Architectural Review Committee. In considering any request for the approval of a hedge or other landscaping, the Architectural Review Committee shall give due consideration to the possibility of same obstructing the view from any adjoining Lot or Common Area and may condition its approval on the hedge or other landscaping being kept to a specific height by the Association.

Section 16. No Drying.

No clothing, laundry or wash shall be aired or dried on any portion of The Properties except on a portion of a Lot which is completely screened from the view of all persons other than those on the Lot itself.

Section 17. Home Air Conditioners and Reflective Materials.

No air conditioning units may be mounted through windows or walls. No building shall have any aluminum foil placed in any window or glass door or any reflective substance or other materials (except standard window treatments) placed on any glass, except such as may be approved by the Architectural Review Committee for energy conservation purposes.

Section 18. Exterior Antennas.

No exterior antennas, satellite dishes or similar equipment shall be permitted on any Lot or improvement thereon unless approved by the Architectural Review Committee, except that Declarant and its affiliates shall have the right to install and maintain community antenna, microwave antenna, dishes, satellite antenna and radio, television and security lines, subject to the approval of the Architectural Review Committee.

Notwithstanding the foregoing, a satellite receiving dish may be installed on a Lot if, but only if, the following conditions are met (i) the diameter shall be thirty-nine point thirty-seven inches (39.37") or less and a mounted height of not more than six feet (6'), (ii) it shall be reasonably screened from view from all adjoining properties (the determination of what constitutes reasonable screening to be made by the Architectural Review Committee).

Section 19. Renewable Resource Devices.

Nothing in this Declaration shall be deemed to prohibit the installation of energy devices based on renewable resources (e.g., solar collector panels); provided, however, that same shall be installed only in accordance with the reasonable standards adopted from time to time by the Architectural Review Committee. Such standards shall be reasonably calculated to maintain the aesthetic integrity of The Properties without making the cost of the aforesaid devices prohibitively expensive.

Section 20. Driveway and Sidewalk Surfaces.

No Owner shall install on a Lot, and the Architectural Review Committee shall not approve, any sidewalk or driveway which has a surface material and/or color which is different from the materials and colors originally used or approved by the Declarant. Further, no Owner shall change any existing sidewalk or driveway in a manner inconsistent with this Section.

Section 21. Artificial Vegetation.

No artificial grass, plants or other artificial vegetation, or rocks or other landscape devices, shall be placed or maintained upon the exterior portion of any Lot without the prior approval of the Architectural Review Committee.

Section 22. Variances.

The Board of Directors of the Association shall have the right and power to grant variances from the provisions of this Article VII for good cause shown, as determined in the

reasonable discretion of the Board. No variance granted as aforesaid shall alter, waive or impair the operation or effect of the provisions of this Article VII in any instance in which such variance is not granted.

Section 23. Independent Builders.

Any builder of a Home within The Properties shall be exempt from the provisions of this Article, as well as those of Article VI hereof, to the extent that the application of same would prevent or unreasonably interfere with the construction of a Home in a lawful manner.

Section 24. Additional Rules and Regulations.

Attached hereto as Schedule "A" are certain additional rules and regulations of the Association which are incorporated herein by this reference and which, as may the foregoing, may be modified, in whole or in part, at any time by the Board without the necessity of recording an amendment hereto or thereto in the public records.

**ARTICLE VIII**  
**RESALE, LEASE AND OCCUPANCY RESTRICTIONS**

Section 1. Estoppel Certificate.

No Owner may sell or convey his interest in a Lot unless all sums due the Association are paid in full and an estoppel certificate in recordable form to such effect shall have been received by the Owner. If all such sums shall have been paid, the Association shall deliver such certificate within ten (10) days of a written request therefore. The Owner requesting the certificate may be required by the Association to pay to the Association a reasonable sum to cover the costs of examining records and preparing the certificate.

Owners shall be obligated to deliver the documents originally received from the Declarant, containing this and other declarations and documents, to any grantee of such Owner.

Section 2. Leases.

No portion of a Lot and Home (other than an entire Lot and Home) may be rented. All leases shall be in writing and shall provide that the tenant shall comply with all of the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association and its applicable rules and regulations or other applicable provisions of any agreement, document or instrument governing The Properties or administered by the Association. Leasing of Lots and Homes shall also be subject to the prior written approval of the Association, which approval shall not be unreasonably withheld and which shall be deemed given if the Association does not deny approval within fifteen (15) days of its receipt of a request for approval together with a copy of the proposed lease and all supporting

information reasonably requested by the Association. No lease shall be approved for a term less than one (1) year.

### Section 3. Occupants of Homes.

No Lot or Home shall be occupied by any person other than the Owner(s) thereof or a permitted occupant hereunder and in no event other than as a residence. For purposes of this Declaration, a permitted occupant shall be the following persons and such persons' families, provided that the Owner or other permitted occupant must reside with his/her family: (i) an individual Owner(s), (ii) an officer, director, stockholder or employee of a corporate owner, (iii) a partner in or employee of a partnership owner, (iv) a fiduciary or beneficiary of an ownership in trust, or (v) occupants named or described in a lease or sublease, but only if approved in accordance with this Declaration. Under no circumstances may more than one family reside in a Home at one time. In no event shall occupancy (except for temporary occupancy by guests) exceed two (2) persons per bedroom and one (1) person per den (as defined by the Association for the purpose of excluding from such definition living rooms, dining rooms, family rooms, country kitchens and the like). The Board of Directors shall have the power to authorize occupancy of a Home by persons in addition to those set forth above. The provisions of this Section shall not be applicable to Homes used by the Declarant for model apartments, sales offices, management services or otherwise.

As used herein, "family" or words of similar import shall be deemed to include a spouse, children, parents, brothers, sisters, grandchildren and other persons permanently cohabiting the Home as or together with the Owner or permitted occupant thereof. As used herein, "guest" or words of similar import shall include only those persons who have a principal residence other than the Home. Unless otherwise determined by the Board of Directors of the Association, a person(s) occupying a Home for more than one (1) month shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of this Declaration (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of this Declaration which apply to leases and lessees. The purpose of this paragraph is to prohibit the circumvention of the provisions and intent of this Article and the Board of Directors of the Association shall enforce, and the Owners comply with, same with due regard for such purpose.

## ARTICLE IX ENFORCEMENT

### Section 1. Compliance by Owners.

Every Owner and Owner's Permittee shall comply with the restrictions and covenants set forth herein and any and all rules and regulations which from time to time may be adopted by the Board of Directors of the Association.



## Section 2. Enforcement.

Failure of an Owner or his/her Owner's Permittee to comply with such restrictions, covenants or rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. The Association shall have the right to suspend the rights of use of Common Areas (except for legal access) of defaulting Owners. The offending Owner shall be responsible for all costs of enforcement including attorneys' fees actually incurred and court costs.

## Section 3. Fines.

In addition to all other remedies, and to the maximum extent lawful, a fine or fines, or suspension of the right to use Common Areas facilities (if any), may be imposed upon an Owner for failure of an Owner or his/her Owner's Permittees to comply with any covenant, restriction, rule or regulation, provided the following procedures are adhered to:

- (a) Notice: The Association shall notify the Owner of the alleged infraction or infractions. Included in the notice shall be the date and time of a special meeting of the Fine Committee (described below) at which time the Owner shall present reasons why a fine(s) should not be imposed. At least fourteen (14) days' notice of such meeting shall be given.
- (b) Hearing: The alleged non-compliance shall be presented to the Fine Committee after which the Fine Committee shall hear reasons why a fine(s) should not be imposed. A written decision of the Fine Committee shall be submitted to the Owner by not later than twenty-one (21) days after the Fine Committee's meeting. The Owner shall have a right to be represented by counsel and to cross examine witnesses.
- (c) Amounts: The Fine Committee (if its findings are made against the Owner) may impose a special assessment (i.e., fine) against the Lot owned by the Owner in an amount up to One Hundred Dollars (\$100.00). Notwithstanding the foregoing, if the Fine Committee so elects, each day (or other time increment of more than a day) of a continuing violation may be treated as a separate violation with a cumulative fine of up to One Thousand Dollars (\$1,000.00), provided that the violating party is notified of such possibility prior to fines of more than \$100.00 being levied for the same violation.
- (d) Payment of Fines: Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties.
- (e) Application of Proceeds: All monies received from fines shall be allocated as directed by the Board of Directors.
- (f) Non-exclusive Remedy: These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the

Association may be otherwise legally entitled; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

(g) Fine Committee: The Fine Committee shall be composed of at least three (3) Owners appointed by the Board of Directors, which Owners shall not be officers, directors or employees of the Association or the spouse, parent, child, brother or sister of an officer, director or employee of the Association. If the Fine Committee does not, by majority vote, approve a proposed fine or suspension of Common Areas facility use rights (as provided elsewhere in this Declaration), then such fine or suspension shall not be imposed. The Fine Committee may adopt procedural rules and regulations for the conduct of its affairs including, without limitation, rules establishing when a violation of a continuing nature shall constitute a separate violation for each stated time period the violation continues.

## **ARTICLE X DAMAGE OR DESTRUCTION TO COMMON AREAS**

Damage to or destruction of all or any portion of the Common Areas shall be handled in the following manner, notwithstanding any provision in this Declaration to the contrary:

(a) In the event of damage to or destruction of the Common Areas, if the insurance proceeds are sufficient to effect total restoration, then the Association shall cause such portions of the Common Areas to be repaired and reconstructed substantially as it previously existed.

(b) If the insurance proceeds are within Fifty Thousand Dollars (\$50,000.00) or less of being sufficient to effect total restoration of the Common Areas, then the Association shall cause such portions of the Common Areas to be repaired and reconstructed substantially as it previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a capital improvement assessment against each of the Owners in equal shares in accordance with the provisions of Article V, of this Declaration.

(c) If the insurance proceeds are insufficient by more than Fifty Thousand Dollars (\$50,000.00) to effect total restoration of the Common Areas, then by written consent or vote of a majority of the Members, they shall determine, subject to Article XIII hereof, whether (1) to rebuild and restore the Common Areas in substantially the same manner as they existed prior to damage and to raise the necessary funds over the insurance proceeds by levying capital improvement assessments against all Members, (2) to rebuild and restore in a way which is less expensive than replacing the Common Areas in substantially the same manner as they existed prior to being damaged, or (3) subject to the approval of the Board, to not rebuild and to retain the available insurance proceeds. Anything to the contrary herein notwithstanding, no decision not to rebuild or to rebuild in a

manner which would result in a change in the Common Areas shall be effective without the written approval of the Board, which can require rebuilding as it deems appropriate.

(d) Each Member shall be liable to the Association for any damage to the Common Areas not fully covered by collected insurance which may be sustained by reason of the negligence or willful misconduct of any Member or his Member's Permittees. Notwithstanding the foregoing, the Association reserves the right to charge such Member an assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Member. In the case of joint ownership of a Home, the liability of such Member shall be joint and several. The cost of correcting such damage shall be an assessment against the Member and may be collected as provided herein for the collection of assessments.

## **ARTICLE XI INSURANCE**

### **Section 1. Common Areas.**

The Association shall keep all insurable improvements, facilities and fixtures located within the Common Areas insured against loss or damage by fire or other casualty for the full insurable replacement value thereof (with reasonable deductibles and normal exclusions for land, foundations, excavation costs and similar matters), and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property, whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance for and on behalf of itself and all Members. The insurance coverage with respect to the Common Areas shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses included in the assessments made by the Association.

To the extent obtainable at reasonable rates, the insurance policy(ies) maintained by the Association shall contain provisions, or be accompanied by endorsements, for: agreed amount and inflation guard, demolition costs, contingent liability from operation of building laws and increased costs of construction.

All insurance policies shall contain standard mortgagee clauses, if applicable.

### **Section 2. Replacement or Repair of Property.**

In the event of damage to or destruction of any portion of the Common Areas, the Association shall repair or replace the same from the insurance proceeds available, subject to the provisions of Article X of this Declaration.

Section 3. Waiver of Subrogation.

As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Members, Declarant and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

Section 4. Liability and Other Insurance.

The Association shall have the power to and shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, with coverage of at least \$2,000,000.00 (if available at reasonable rates and upon reasonable terms) for any single occurrence, insuring against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property under its jurisdiction, including, if obtainable, a cross liability endorsement insuring each Member against liability to each other Member and to the Association and vice versa and coverage for legal liability resulting from lawsuits related to employment contracts shall also be maintained. The Association may also obtain Worker's Compensation insurance and other liability insurance as it may deem desirable, insuring each Member and the Association and its Board of Directors and officers, from liability in connection with the Common Areas, the premiums for which shall be Common Expenses and included in the assessments made against the Members. The Association may also obtain such other insurance as the Board deems appropriate. All insurance policies shall be reviewed at least annually by the Board of Directors and the limits increased in its discretion.

The Board may also obtain such errors and omissions insurance, indemnity bonds, fidelity bonds and other insurance as it deems advisable, insuring the Board or any management company engaged by the Association against any liability for any act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board or any committee thereof. At a minimum, however, there shall be blanket fidelity bonding of anyone (compensated or not) who handles or is responsible for funds held or administered by the Association, with the Association to be an obligee thereunder. Such bonding shall cover the maximum funds to be in the hands of the Association or management company during the time the bond is in force. In addition, the fidelity bond coverage must at least equal the sum of three (3) months' of regular assessments, plus all reserve funds.

Section 5. County.

Upon the request of Palm Beach County, the Association shall cause the County to be made a named or additional insured or loss payee, as applicable, under the insurance coverage provided for above.

## ARTICLE XII MORTGAGEE PROTECTION

The following provisions are included herein (and to the extent these provisions conflict with any other provisions of the Declaration, these provisions shall control):

(a) The Association shall be required to make available to all Owners and mortgagees, and to insurers and guarantors of any first mortgage, for inspection, upon request, during normal business hours or under other reasonable circumstances, current copies of this Declaration (with all amendments) and the Articles, By-Laws and rules and regulations and the books and records of the Association. Furthermore, such persons shall be entitled, upon written request, to (i) receive a copy of the Association's financial statement for the immediately preceding fiscal year, (ii) receive notices of and attend the Association meetings, (iii) receive notice from the Association of an alleged default by an Owner in the performance of such Owner's obligations under this Declaration, the Articles of Incorporation or the By-Laws of the Association, which default is not cured within thirty (30) days after the Association learns of such default, and (iv) receive notice of any substantial damage or loss to the Common Areas.

(b) Any holder, insurer or guarantor of a mortgage on a Lot shall have, if first requested in writing, the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the Common Areas, (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Lot, (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, and (iv) any proposed action which requires the consent of a specified number of mortgage holders.

(c) Unless at least 66-2/3% of first mortgagees (based upon one vote for each Lot subject to a mortgage owned by the mortgagee), and the Members holding at least two-thirds (2/3rds) of the votes entitled to be cast by them, have given their prior written approval, neither the Association nor the Owners shall:

(1) by act or omission seek to sell or transfer the Common Areas and any improvements thereon which are owned by the Association (the granting of easements for utilities or for other such purposes consistent with the intended use of such property by the Association or the Declarant or the transfer of the Common Areas to another similar association of the Owners in accordance with the Articles of Incorporation of the Association or dedication of such property to the public shall not be deemed a transfer within the meaning of this clause);

(2) change the basic methods of determining the obligations, assessments, dues or other charges which may be levied against a Lot, except as provided herein with respect to future Lots;

(3) by act or omission, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of The Properties;

(4) fail to maintain fire and extended insurance on insurable portions of the Common Areas as provided herein; or

(5) use hazard insurance proceeds for losses to any Common Areas for other than the repair, replacement or reconstruction of the improvements.

(d) As long as FHA or VA holds or insures a mortgage on any Lot or owns a Lot, then any addition to the Properties per Article II, any dedication of the Common Areas per Article IV and any amendment to this Declaration shall require the approval of whichever entity (or both) qualifies as aforesaid as long as the Class B Membership in the Association exists.

### **ARTICLE XIII SURFACE WATER MANAGEMENT SYSTEM**

#### **Section 1. Definitions.**

As used herein, the "Surface Water Management System" shall mean all grading, pipes, drains, swales, lakes, ponds and other features of The Properties designed and intended to be used for the control and disposition of surface water upon and within The Properties.

#### **Section 2. Maintenance Obligation.**

The Association shall at all times maintain and operate the Surface Water Management System in accordance with all permits and approvals for same. The cost of doing so shall be paid for through assessments levied by the Association in accordance with this Declaration.

#### **Section 3. Alteration.**

The Association shall not alter, modify, abandon or otherwise take any action which affects the Surface Water Management System in any manner other than that approved by the South Florida Water Management District and any other applicable permitting authority. Further, no amendment to this Declaration or the Articles of Incorporation or By-Laws of the

Association which would affect the Surface Water Management System without the approval of the South Florida Water Management District.

Section 4. Continuing Obligation.

The obligations of the Association under this Article shall be perpetual; provided, however, that if for any reason the Association is dissolved or otherwise ceases to function, the Surface Water Management System shall be conveyed to an appropriate agency of local government or dedicated to a not for profit corporation similar to that of the Association.

Section 5. Permit(s).

The permit(s) for the Surface Water Management System, and related matters is/are attached hereto and made a part hereof as Exhibit "E" and shall at all times be binding on the Properties. The Association's registered agent shall at all times maintain copies of any amendments to such permits, as well as all other permitting activities, for the benefit of the Association and its Members.

**ARTICLE XIV  
GENERAL PROVISIONS**

Section 1. Duration.

The covenants and restrictions of this Declaration shall run with and bind The Properties, and shall inure to the benefit of and be enforceable by the Association, the Architectural Review Committee, the Declarant (at all times) and the Owner of any Lot or other land subject to this Declaration, and their respective legal representatives, heirs, successors and assigns, for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of 100% of all the Lots subject hereto and of 100% of the mortgagees thereof has been recorded, agreeing to revoke said covenants and restrictions; provided, however, that no such agreement to revoke shall be effective unless made and recorded three (3) years in advance of the effective date of such revocation, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any signatures being obtained.

Section 2. Notice.

Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or

mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement.

Enforcement of these covenants and restrictions shall be accomplished by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Lots to enforce any lien created by these covenants; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability.

Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

Section 5. Amendment.

The covenants, restrictions, easements, charges and liens of this Declaration may be amended, changed, deleted or added to at any time and from time to time upon the execution and recordation of an instrument executed by the Declarant alone, for so long as it or its affiliates holds title to any Lot affected by this Declaration; or alternatively by approval at a meeting of Owners holding not less than 66 2/3% vote of the entire membership in the Association (as opposed to only those Members represented at a meeting of the Association), provided, that prior to the transfer of control of the Association to the non-Declarant Members, the Declarant's consent must be obtained if such amendment, in the sole opinion of the Declarant, affects its interest. Also, no amendment to this Declaration or its exhibits shall be valid if same conflicts with the Palm Beach County Unified Land Development Code. The foregoing sentence and the provisions of this Section reserving amendment powers in the Declarant may not be amended.

Section 6. Effective Date.

This Declaration shall become effective upon its recordation in the Palm Beach County Public Records.

Section 7. Conflict.

This Declaration shall take precedence over conflicting provisions in Schedule "A" hereto and in the Articles of Incorporation and By-Laws of the Association and said Articles shall take precedence over the By-Laws.

Section 8. Standards for Consent, Approval, Completion, Other Action and Interpretation.



Whenever this Declaration shall require the consent, approval, completion, substantial completion, or other action by the Declarant or its affiliates, the Association or the Architectural Review Committee, such consent, approval or action may be withheld in the sole and unfettered discretion of the party requested to give such consent or approval or take such action, and all matters required to be completed or substantially completed by the Declarant or its affiliates or the Association shall be deemed so completed or substantially completed when such matters have been completed or substantially completed in the reasonable opinion of the Declarant or Association, as appropriate. This Declaration shall be interpreted by the Board of Directors and an opinion of counsel to the Association or the counsel having drafted this Declaration rendered in good faith that a particular interpretation is not unreasonable shall conclusively establish the validity of such interpretation.

Section 9. Easements.

Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to have been so created shall nevertheless be considered as having been granted directly to the Association as agent for such intended grantees for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easement and the Owners designate hereby the Declarant and the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

Section 10. Covenants Running With The Land.

Anything to the contrary herein notwithstanding and without limiting the generality (and subject to the limitations) of Section 1 hereof, it is the intention of all parties affected hereby (and their respective heirs, personal representatives, successors and assigns) that these covenants and restrictions shall run with the land and with title to the properties. Without limiting the generality of Section 4 hereof, if any provision or application of this Declaration would prevent this Declaration from running with the land as aforesaid, such provision and/or application shall be judicially modified, if at all possible, to come as close as possible to the intent of such provision or application and then be enforced in a manner which will allow these covenants and restrictions to so run with the land; but if such provision and/or application cannot be so modified, such provision and/or application shall be unenforceable and considered null and void in order that the paramount goal of the parties (that these covenants and restrictions run with the land as aforesaid) be achieved.

Section 11. Dissolution.

Any Owner may petition the Circuit Court of the 15<sup>th</sup> Judicial Circuit of Palm Beach County for the appointment of a receiver to manage the affairs of the Association in the event of dissolution of the Association.

**ARTICLE XV  
DISCLAIMER OF LIABILITY OF ASSOCIATION**

NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BY-LAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTIES INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(a) IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE PROPERTIES HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTIES AND THE VALUE THEREOF;

(b) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, THE TOWN OF JUPITER, PALM BEACH COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

(c) ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS LOT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE PROPERTIES (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS ARTICLE AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING

FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS ARTICLE.

AS USED IN THIS ARTICLE, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS ARTICLE SHALL ALSO INURE TO THE BENEFIT OF THE DECLARANT AND ANY INDEPENDENT BUILDER AND ALL PARTIES RELATED THERETO, ALL OF WHICH SHALL BE FULLY PROTECTED HEREBY.

EXECUTED as of the date first above written.

Date of Execution by Declarant:

ATTEST:

\_\_\_\_\_, 200\_\_\_\_\_

By: \_\_\_\_\_

HABITAT FOR HUMANITY OF PALM  
BEACH COUNTY, INC., a Florida not for  
profit corporation

By: \_\_\_\_\_  
Michael J. Sabatello, President

(corporate seal)

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2007,  
by \_\_\_\_\_ as \_\_\_\_\_ of HABITAT FOR  
HUMANITY OF PALM BEACH COUNTY, INC., a Florida not for profit corporation, on  
behalf of the corporation. He is personally known to me or has produced  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Signature

\_\_\_\_\_  
Print Name of Notary

Commission Number: \_\_\_\_\_

Expiration: \_\_\_\_\_

**EXHIBIT "C"**

TRACTS "B" and "OPEN SPACE 1", "OPEN SPACE 2", "OPEN SPACE 3", "OPEN SPACE 4", "OPEN SPACE 5", Landscape Tract, and Drainage Tract of WEST JUPITER HOUSING, according to the Plat thereof recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_ of the Public Records of Palm Beach County, Florida.

**EXHIBIT "D"**

All of WEST JUPITER HOUSING, according to the Plat thereof recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_ of the Public Records of Palm Beach County, Florida, less and except Tract "A" and Tract "D".

**SCHEDULE "A" TO  
DECLARATION OF COVENANTS FOR KENNEDY ESTATES**

**RULES AND REGULATIONS**

1. The Common Areas and facilities, if any, shall not be obstructed nor used for any purpose other than the purposes intended therefor. No carts, bicycles, carriages, chairs, tables or any other objects shall be stored thereon.

2. Flags and flag poles shall be permitted as required by law but shall be subject to regulation and approval, also to the extent permitted by law.

3. Employees of the Association or its manager are not to be sent out by Owners for personal errands. The Board of Directors shall be solely responsible for directing and supervising employees of the Association.

4. No motor vehicle which cannot operate on its own power shall remain on The Properties for more than twenty-four (24) hours, and no repair of such vehicles shall be made thereon. No portion of the Common Areas may be used for parking purposes.

Vehicles which are in violation of these rules and regulations shall be subject to being towed by the Association as provided in the Declaration, subject to applicable laws and ordinances.

5. No Owner shall make or permit any disturbing noises in the Home or on the Lot by himself or his family, servants, employees, agents, visitors or licensees, nor permit any conduct by such persons that will interfere with the rights, comforts or conveniences of other Owners. No Owner shall play or permit to be played any musical instrument, nor operate or permit to be operated stereo equipment, television, radio or sound amplifier or any other sound equipment in his Home or on his Lot in such a manner as to disturb or annoy other residents (applying reasonable standards). No Owner shall conduct, nor permit to be conducted, vocal or instrumental instruction at any time which disturbs other residents.

6. No electronic equipment may be permitted in or on any Home or Lot which interferes with the television or radio reception of another Home.

7. No awning, canopy, shutter, enclosure or other projection shall be attached to or placed upon the outside walls or roof of the Home or on the Lot, except as approved by the Architectural Review Committee.

8. No Owner may alter in any way any portion of the Common Areas, including, but not limited to, landscaping, without obtaining the prior written consent of the Architectural Control Board.

9. No commercial use shall be permitted in the Development even if such use would be permitted under applicable zoning ordinances, if same (i) would be noticeable from the exterior of the Home, (ii) would generate automobile traffic and/or (iii) would cause any other violations of the Declaration or these Rules and Regulations.

10. No flammable, combustible or explosive fluids, chemicals or substances shall be kept in any Home, on a Lot or on the Common Areas, except as to gas cylinders permitted under the Declaration.

11. An Owner shall not cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, balconies or windows of his Home without the prior written approval of the Architectural Review Committee.

12. Children will be the direct responsibility of their parents or legal guardians, including full supervision of them while within The Properties and including full compliance by them with these Rules and Regulations and all other rules and regulations of the Association. Loud noises will not be tolerated. All children under twelve (12) years of age must be accompanied by a responsible adult when entering and/or utilizing recreation facilities (if any).

13. Pets and other animals shall neither be kept nor maintained in or about The Properties except in accordance the Declaration and with the following:

No pet shall be permitted outside of its Owner's Home unless attended by an adult or child of more than ten (10) years of age and on a leash of reasonable length. Said pets shall only be walked or taken upon those portions of the Common Areas designated by the Association from time to time for such purposes and shall be cleaned-up after at all times. In no event shall said pets ever be allowed to be walked or taken on or about any recreational facilities (if any) contained within the Common Areas.

14. Every Owner and occupant shall comply with these rules and regulations as set forth herein, any and all rules and regulations which from time to time may be adopted, and the provisions of the Declaration, By-Laws and Articles of Incorporation of the Association, as amended from time to time. Failure of an Owner or occupant to so comply shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. The Association shall have the right to suspend rights to use of recreation facilities, if any, in the event of failure to so comply. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, his tenants, family, guests, invitees or employees, to comply with any covenant, restriction, rule or regulation herein or in the Declaration, or Articles of Incorporation or By-Laws, as provided in the Declaration.

15. These rules and regulations shall not apply to the Declarant, nor its affiliates, agents or employees and contractors (except in such contractors' capacity as Owners), nor property while owned by either the Declarant or its affiliates. All of these rules and regulations shall apply, however, to all other Owners and occupants even if not specifically so stated in portions hereof. The Board of Directors shall be permitted (but not required) to grant relief to one or more Owners from specific rules and regulations upon written request therefor and good cause shown in the sole opinion of, and conditions on time limitations imposed by, the Board.



EXHIBIT "A"  
TO  
DECLARATION OF COVENANTS  
FOR KENNEDY ESTATES  
ARTICLES OF INCORPORATION

OF

KENNEDY ESTATES HOMEOWNERS' ASSOCIATION, INC.

The undersigned incorporator, desiring to form a corporation not for profit under Chapter 617, Florida Statutes, as amended, hereby adopts the following Articles of Incorporation:

ARTICLE I

NAME PRIMARY ADDRESS

The name of the corporation shall be the KENNEDY ESTATES HOMEOWNERS' ASSOCIATION, INC., which is hereinafter referred to as "the Association." The primary address of the Association shall be 3323 Belvedere Road, Building 501, West Palm Beach, Florida 33406.

ARTICLE II

PURPOSES AND POWERS

The objects and purposes of the Association are those objects and purposes as are authorized by the Declaration of Covenants for Kennedy Estates recorded (or to be recorded) in the Public Records of Palm Beach County, Florida, as hereafter amended and/or supplemented from time to time (the "Covenants"). The definitions set forth in the Covenants are incorporated herein by this reference.

The further objects and purposes of the Association are to preserve the values and amenities in The Properties and to maintain the Units, Lots and Common Areas for the benefit of the Members of the Association.

The Association is not organized for profit and no part of the net earnings, if any, shall inure to the benefit of any Member or individual person, firm or corporation.

The Association shall have the power to contract for the management of the Association and to delegate to the party with whom such contract has been entered into the powers and duties of the Association, except those which require specific approval of the Board of Directors or Members.

The Association shall have all of the common law and statutory powers of a corporation not for profit which are not in conflict with the terms of these Articles and the Covenants identified above. The Association shall also have all of the powers necessary to implement the purposes of the Association as set forth in the Covenants.

## ARTICLE III

MEMBERS

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot shall be a Member of the Association, provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all those Owners as defined in Section 1 with the exception of the Developer (as long as the Class B Membership shall exist, and thereafter, the Developer shall be a Class A Member to the extent it would otherwise qualify). Except as provided below, Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but, subject only as provided in the following sentence, in no event shall more than one vote be cast with respect to any such Lot.

Class B. The Class B Member shall be the Developer. The Class B Member shall be entitled to one (1) vote, plus two (2) votes for each vote which the Class A Members are entitled to cast in the aggregate. The Class B Membership shall cease and convert to a Class A Membership when ninety percent (90%) of the Lots within The Properties have been sold and conveyed by Developer (or its affiliates), or at any time prior thereto at the election of the Developer (whereupon the Class A Members shall be obligated to elect the Board and assume control of the Association).

Section 3. Meetings of Members. The By-Laws of the Association shall provide for an annual meeting of Members, and may make provisions for regular and special meetings of Members other than the annual meeting. A quorum for the transaction of business at any meeting of the Members shall exist if 30% of the total number of Members in good standing shall be present or represented by proxy at the meeting.

Section 4. General Matters. When reference is made herein, or in the Covenants, By-Laws, Rules and Regulations, management contracts or otherwise, to a majority or specific percentage of Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of Members and not of the Members themselves.

**ARTICLE IV**  
**CORPORATE EXISTENCE**

The Association shall have perpetual existence; provided that if it is ever dissolved, its assets shall be conveyed to another association or public agency having a similar purpose.

**ARTICLE V**

**BOARD OF DIRECTORS**

**Section 1. Management by Directors.** The property, business and affairs of the Association shall be managed by a Board of Directors, which shall consist of not less than three (3) persons, but as many persons as the Board of Directors shall from time to time determine. A majority of the directors in office shall constitute a quorum for the transaction of business. The By-Laws shall provide for meetings of directors, including an annual meeting.

**Section 2. Original Board of Directors.** The names and addresses of the first Board of Directors of the Association, who shall hold office until the first annual meeting of Members and thereafter until qualified successors are duly elected and have taken office, shall be as follows:

<u>Name</u>	<u>Address</u>
Remar M. Harvin	3323 Belvedere Road, Building 501 West Palm Beach, Florida 33406
Clement Clark	3323 Belvedere Road, Building 501 West Palm Beach, Florida 33406
Amin Houry	3323 Belvedere Road, Building 501 West Palm Beach, Florida 33406

**Section 3. Election of Members of Board of Directors.** Except as otherwise provided herein and for the first Board of Directors and their Developer-appointed replacements, directors shall be elected by a plurality vote of the Members of the Association at the annual meeting of the membership as provided by the By-Laws of the Association, and the By-Laws may provide for the method of voting in the election and for removal from office of directors. All directors shall be members of the Association residing in The Properties or shall be authorized representatives, officers, or employees of corporate members of the Association, or designees of the Developer. Notwithstanding the foregoing, until such time as the Class B Membership in the Association terminates, the Developer shall have the right to appoint the Directors of the Association by written notice to such effect or by an announcement reflected in the minutes of the annual meeting of the Association.

**Section 4. Duration of Office.** Members elected to the Board of Directors shall hold office until the next succeeding annual meeting of Members, and thereafter until qualified successors are duly elected and have taken office.

Section 5.      Vacancies. If a director elected by the general membership shall for any reason cease to be a director, the remaining directors so elected may elect a successor to fill the vacancy for the balance of the term.

## ARTICLE VI

### OFFICERS

Section 1.      Officers Provided For. The Association shall have a President, a Vice President, a Secretary and a Treasurer, and such other officers as the Board of Directors may from time to time elect.

Section 2.      Election and Appointment of Officers. The officers of the Association, in accordance with any applicable provision of the By-Laws, shall be elected by the Board of Directors for terms of one (1) year and thereafter until qualified successors are duly elected and have taken office. The By-Laws may provide for the method of voting in the election, for the removal from office of officers, for filling vacancies and for the duties of the officers. The President shall be a director; other officers may or may not be directors of the Association. If the office of President shall become vacant for any reason, or if the President shall be unable or unavailable to act, the Vice President shall automatically succeed to the office or perform its duties and exercise its powers. If any office shall become vacant for any reason, the Board of Directors may elect or appoint an individual to fill such vacancy.

Section 3.      First Officers. The names and addresses of the first officers of the Association, who shall hold office until the first annual meeting of directors and thereafter until successors are duly elected and have taken office, shall be as follows:

Name and Office

Address

President:

Remar M. Harvin

3323 Belvedere Road, Building 501  
West Palm Beach, Florida 33406

Secretary:

Clement Clark

3323 Belvedere Road, Building 501  
West Palm Beach, Florida 33406

Treasurer:

Amin Houry

3323 Belvedere Road, Building 501  
West Palm Beach, Florida 33406

## ARTICLE VII

### BY-LAWS

The Board of Directors shall adopt By-Laws consistent with these Articles of Incorporation. Such By-Laws may be altered, amended or repealed in the manner set forth in the By-Laws.

## ARTICLE VIII

### AMENDMENTS AND PRIORITIES

Section 1. Amendments to these Articles of Incorporation shall be proposed and approved by the Board of Directors and thereafter submitted to a meeting of the membership of the Association for adoption or rejection by affirmative vote of 66-2/3% of the Members, all in the manner provided in, and in accordance with the notice provisions of, Florida Statute. 617.017.

Section 2. In case of any conflict between these Articles of Incorporation and the By-Laws, these Articles shall control; and in case of any conflict between these Articles of Incorporation and the Covenants, the Covenants shall control.

## ARTICLE IX

### INCORPORATOR

The name and address of the incorporator of this Corporation is:

#### Address

Charles W. Edgar, III

Cherry & Edgar, P.A.  
8409 N. Military Trail, Suite 123  
Palm Beach Gardens, FL 33410

## ARTICLE X

INDEMNIFICATION

Section 1. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, employee, officer or agent of the Association, against all expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, unless (a) it is determined by a court of competent jurisdiction, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or that he acted in a manner he believed to be not in or opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (b) such court further determines specifically that indemnification should be denied. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith or did act in a manner which he believed to be not in or opposed to the best interest of the Association, and with respect to any criminal action or proceeding, that he had reasonable cause to believe that his conduct was unlawful.

Section 2. To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 above or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually incurred by him in connection therewith.

Section 3. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of Members or otherwise, both as to action in his official capacity while holding such office or otherwise, and shall continue as to a person who has ceased to be director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

Section 4. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise. Such insurance shall cover any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

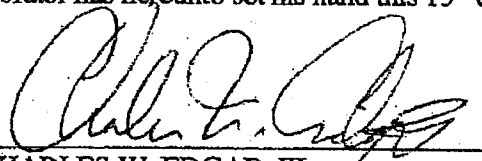
Section 5. The provisions of this Article X shall not be amended.

ARTICLE XI

REGISTERED AGENT

Until changed, Charles W. Edgar, III, shall be the registered agent of the Association and the registered office shall be at 8409 N. Military Trail, Suite 123, Palm Beach Gardens, Florida 33410.

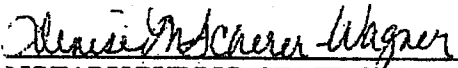
IN WITNESS WHEREOF, the aforesaid incorporator has hereunto set his hand this 15<sup>th</sup> day of November 2005.

  
CHARLES W. EDGAR, III


STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of November 2005, by Charles W. Edgar, III., who is personally known to me and who did not take an oath.

  
NOTARY PUBLIC, STATE OF FLORIDA

[Notary Seal]

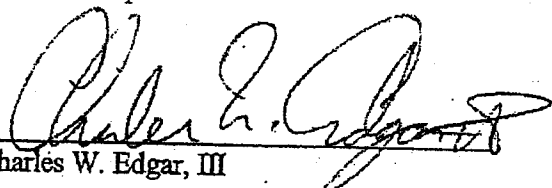
NOTARY PUBLIC-STATE OF FLORIDA  
 Denise M. Scherer-Wagner  
Commission # DD422023  
Expires: APR. 24, 2009  
Bonded Thru Atlantic Bonding Co., Inc.

**CERTIFICATE DESIGNATING PLACE OF BUSINESS OR  
DOMICILE FOR THE SERVICE OF PROCESS WITHIN THIS  
STATE, NAMING AGENT UPON WHOM PROCESS MAY BE SERVED**

In compliance with the laws of Florida, the following is submitted:

First -- That desiring to organize under the laws of the State of Florida with its principal office, as indicated in the foregoing articles of incorporation, at City of West Palm Beach, County of Palm Beach, State of Florida, the corporation named in said articles has named Charles W. Edgar, III located at 8409 N. Military Trail, Suite 123, Palm Beach Gardens, Florida 33410 - as its statutory registered agent.

Having been named the statutory agent of the above corporation at the place designated in this certificate, I hereby accept the same and agree to act in this capacity, and agree to comply with the provisions of Florida law relative to keeping the registered office open.

  
Charles W. Edgar, III

Dated this 15<sup>th</sup> day of November 2005.

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**EXHIBIT "B"**

**BY-LAWS OF**

**KENNEDY ESTATES HOMEOWNERS' ASSOCIATION, INC.**

A corporation not for profit organized  
under the laws of the State of Florida

1. **Identity.** These are the By-Laws of KENNEDY ESTATES HOMEOWNERS' ASSOCIATION, (the "Association"), a corporation not for profit incorporated under the laws of the State of Florida, and organized for the purpose of administering that certain DECLARATION OF COVENANTS, FOR KENNEDY ESTATES (the "Declaration") as well as the properties made subject thereto ("The Property").
  - 1.1 **Principal Office.** The principal office of the Association shall be as provided in its Articles of Incorporation, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at its principal office or in the office of any manager engaged by the Association.
  - 1.2 **Fiscal Year.** The fiscal year of the Association shall be the calendar year.
  - 1.3 **Seal.** The seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation Not for Profit", and the year of incorporation.
2. **Definitions.** For convenience, these By-Laws shall be referred to as the "By-Laws" and the Articles of Incorporation of the Association as the "Articles". The other terms used in these By-Laws shall have the same definitions and meanings as those set forth in the Declaration, unless herein provided to the contrary or unless the context otherwise requires.
3. **Members.**
  - 3.1 **Annual Meeting.** The annual Members' meeting shall be held on the date, at the place and at the time determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and, to the extent possible, no later than twelve (12) months after the last preceding annual meeting. The purpose of the meeting shall be, except as provided herein to the contrary, to elect Directors and to transact any other business authorized to be transacted by the Members, or as stated in the notice of the meeting sent to Members in advance thereof. Unless changed by the Board of Directors, the first annual meeting shall be held in the month of November following the year in which the Declaration is recorded.

3.2 Special Meetings. Special Members' meetings shall be held at such places as provided herein for annual meetings, and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary upon receipt of a written request from a majority of the Members of the Association. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting.

3.3 Notice of Meeting; Waiver of Notice. Notice of a meeting of Members, stating the time and place and the purpose(s) for which the meeting is called, shall be given by the President or Secretary. The notice of the annual meeting shall be sent by mail or hand delivery to each Member, unless the Member waives in writing the right to receive notice of the annual meeting by mail. The delivery or mailing shall be to the address of the Member as it appears on the roster of Members. The posting and mailing of the notice shall be effected not less than fourteen (14) days, nor more than sixty (60) days, prior to the date of the meeting.

Notice of specific meetings may be waived before or after the meeting and the attendance of any Member (or person authorized to vote for such Member) shall constitute such Member's waiver of notice of such meeting, except when his (or his authorized representative's) attendance is for the express purpose of objecting, at the beginning of the meeting, to the transaction of business because the meeting is not lawfully called.

An officer of the Association shall provide an affidavit, to be included in the official records of the Association, affirming that notices of the Association meeting were mailed or hand delivered in accordance with this Section. No other proof of notice of a meeting shall be required.

3.4 Quorum. A quorum at Members' meetings shall be attained by the presence, either in person or by proxy, of persons entitled to cast in excess of 33 1/3% of the votes of Members in the Association.

3.5 Voting.

(a) Number of Votes. In any meeting of Members, the Members shall be entitled to cast one vote for each Lot owned. The vote of a Lot shall not be divisible.

(b) Majority Vote. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum shall have been attained shall be binding upon all Members for all purposes, except where otherwise provided by law, the Declaration, the Articles or these By-Laws. As used in these By-Laws, the Articles or the Declaration, the term "majority of the Members" shall mean a majority of the votes of Members and not a majority

of the Members themselves and shall further mean more than 50% of the then total authorized votes present in person or by proxy and voting at any meeting of the Members at which a quorum shall have been attained. Similarly, if some greater percentage of Members is required herein or in the Declaration or Articles, it shall mean such greater percentage of the votes of Members and not of the Members themselves.

- (c) Voting Member. If a Lot is owned by one person, his right to vote shall be established by the roster of Members. If a Lot is owned by more than one person, those persons (including husbands and wives) shall decide among themselves as to who shall cast the vote of the Lot. In the event that those persons cannot so decide, no vote shall be cast. A person casting a vote for a Lot shall be presumed to have the authority to do so unless the President or the Board of Directors is otherwise notified. If a Lot is owned by a corporation, partnership, trust or other entity, the person entitled to cast the vote for the Lot shall be designated by a certificate signed by a person entitled to execute a conveyance of the entity's property and filed with the Secretary of the Association. Such person need not be a Member. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Lot concerned. A certificate designating the person entitled to cast the vote for a Lot may be revoked by any record Member of an undivided interest in the Lot. If a certificate designating the person entitled to cast the vote for a Lot for which such certificate is required is not on file or has been revoked, the vote attributable to such Lot shall not be considered in determining whether a quorum is present, nor for any other purpose, and the total number of authorized votes in the Association shall be reduced accordingly until such certificate is filed.

- 3.6 Proxies. Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote, but shall only be valid for the specific meeting for which originally given and any lawful adjourned meetings thereof. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be in writing, signed by the person authorized to cast the vote for the Lot (as above described), name the person(s) voting by proxy and the person authorized to vote for such person(s) and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Each limited proxy shall set forth the matters on which the proxy holder may vote and the manner in which the vote is to be cast.

- 3.7 Adjourned Meetings. If any proposed meeting cannot be organized because a quorum has not been attained, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Except as required above, proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked

for reasons other than the new date of the meeting.

3.8 Order of Business. If a quorum has been attained, the order of business at annual Members' meetings, and, if applicable, at other Members' meetings, shall be:

- (a) Call to order by President;
- (b) Appointment by the President of a chairman of the meeting (who need not be a Member or a director);
- (c) Proof of notice of the meeting or waiver of notice;
- (d) Reading of minutes;
- (e) Reports of officers;
- (f) Reports of committees;
- (g) Appointment of inspectors of election;
- (h) Election of Directors;
- (i) Unfinished business;
- (j) New business;
- (k) Adjournment.

Such order may be waived in whole or in part by direction of the chairman.

3.9 Minutes of Meeting. The minutes of all meetings of Members shall be kept in a book available for inspection by Members or their authorized representatives and Board Members at any reasonable time.

3.10 Action Without A Meeting. Anything to the contrary herein notwithstanding, to the extent lawful, any action required to be taken at any annual or special meeting of Members, or any action which may be taken at any annual or special meeting of such Members, may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the Members (or persons authorized to cast the vote of any such Members as elsewhere herein set forth) having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of Members at which a

quorum of Members (or authorized persons) entitled to vote thereon were present and voted. Within ten (10) days after obtaining such authorization by written consent, notice must be given to Members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action.

4. Directors.

4.1 Membership. The affairs of the Association shall be governed by a Board of not less than three (3) but no more than seven (7) Directors, the exact number to be determined in the first instance in the Articles, and, thereafter, by the Board of Directors.

4.2 Vacancies and Removal.

- (a) Except as to vacancies resulting from removal of Directors by Members, vacancies in the Board of Directors occurring between annual meetings of Members shall be filled by the remaining Directors, provided that all vacancies in directorships to which Directors were appointed by the Decbrant shall be filled by the Decbrant without the necessity of any meeting.
- (b) Any Director elected by the Members other than the Decbrant may be removed by concurrence of a majority of the votes of the Members at a special meeting of Members called for that purpose or by written agreement signed by a majority of the Owners of all Lots. The vacancy in the Board of Directors so created shall be filled by the Members at the same meeting, or by the Board of Directors, in the case of removal by a written agreement unless said agreement also designates a new Director to take the place of the one removed.
- (c) Anything to the contrary herein notwithstanding, until a majority of the Directors are elected by the Members other than the Decbrant, neither the first Directors of the Association, nor any Directors replacing them, nor any Directors named by the Decbrant, shall be subject to removal by Members other than the Decbrant. The first Directors and Decbrant-appointed Directors replacing them may be removed and replaced by the Decbrant without the necessity of any meeting.
- (d) If a vacancy on the Board of Directors results in the inability to obtain a quorum of Directors in accordance with these By-Laws, any Member may apply to the Circuit Court for the jurisdiction in which The Property exist for the appointment of a receiver to manage the affairs of the Association. At least thirty (30) days prior to applying to the Circuit Court, the applying Member shall mail to the Association a notice describing the intended action and giving the Association an opportunity to fill the vacancy(ies) in

accordance with these By-Laws. If, during such time, the Association fails to fill the vacancy(ies), the Member may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs and attorneys' fees. The receiver shall have all powers and duties of a duly constituted Board of Directors, and shall serve until the Association fills the vacancy(ies) on the Board sufficient to constitute a quorum in accordance with these By-Laws.

- 4.3 Term. Except as provided herein to the contrary, the term of each Director's service shall extend until the next annual meeting of the Members and subsequently until his successor is duly elected and has taken office, or until he resigns or is removed in the manner elsewhere provided.
- 4.4 Organizational Meeting. The organizational meeting of newly-elected or appointed Directors shall be held within ten (10) days of their election or appointment at such place and time as shall be fixed by the Directors at the meeting at which they were elected or appointed, and no further notice to the Board of the organizational meeting shall be necessary.
- 4.5 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph, and shall be transmitted at least two (2) days prior to the meeting.
- 4.6 Special Meetings. Special meetings of the Directors may be called by the President, and must be called by the President or Secretary at the written request of one-third (1/3) of the Directors. Notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting, and shall be transmitted not less than two (2) days prior to the meeting.
- 4.7 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, except when his attendance is for the express purpose of objecting, at the beginning of the meeting, to the transaction of business because the meeting is not lawfully called.
- 4.8 Quorum. A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is specifically required by the Declaration, the Articles or these By-Laws.

- 4.9 Adjourned Meetings. If, at any proposed meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.
- 4.10 Joinder in Meeting by Approval of Minutes. The joinder of a Director in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the approval of that Director of the business conducted at the meeting, but such joinder shall not allow the applicable Director to be counted as being present for purposes of quorum.
- 4.11 Presiding Officer. The presiding officer at the Directors' meetings shall be the President (who may, however, designate any other person to preside).
- 4.12 Order of Business. If a quorum has been attained, the order of business at Directors' meetings shall be:
- (a) Proof of due notice of meeting;
  - (b) Reading and disposal of any unapproved minutes;
  - (c) Reports of officers and committees;
  - (d) Election of officers;
  - (e) Unfinished business;
  - (f) New business;
  - (g) Adjournment.

Such order may be waived in whole or in part by direction of the presiding officer.

- 4.13 Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Members, or their authorized representatives, and Board Members at any reasonable time.
- 4.14 Executive Committee; Other Committees. The Board of Directors may, by resolution duly adopted, appoint an Executive Committee to consist of three (3) or more Members of the Board of Directors. Such Executive Committee shall have and may exercise all of the powers of the Board of Directors in management of the business and affairs of the Association during the period between the meetings of the Board of Directors insofar as may be permitted by law, except that the Executive

Committee shall not have the power (a) to determine the level of assessments required for the affairs of the Association, (b) to adopt or amend any rules and regulations covering the details of the operation and use of The Property, or (c) to exercise any of the powers set forth in paragraphs (f) and (o) of Section 5 below.

The Board may by resolution also create other committees and appoint persons to such committees and invest in such committees such powers and responsibilities as the Board shall deem advisable.

5. **Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these By-Laws may not be delegated to the Board of Directors by the Members. Such powers and duties of the Board of Directors shall include, without limitation (except as limited elsewhere herein), the following:

- (a) Operating and maintaining the Common Areas.
- (b) Determining the expenses required for the operation of the Common Areas and the Association.
- (c) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Areas and the Association.
- (d) Adopting and amending rules and regulations concerning the details of the operation and use of The Property.
- (e) Maintaining bank accounts on behalf of the Association and designating the signatories required therefor.
- (f) Purchasing, leasing or otherwise acquiring Lots or other property in the name of the Association, or its designee.
- (g) Purchasing Lots at foreclosure or other judicial sales, in the name of the Association or its designee.
- (h) Selling, leasing, mortgaging or otherwise dealing with Lots acquired, and subleasing Lots leased, by the Association, or its designee.
- (i) Organizing corporations and appointing persons to act as designees of the Association in acquiring title to or leasing Lots or other property.
- (j) Obtaining and reviewing insurance for The Property and the Association.



- (k) Making repairs, additions and improvements to, or alterations of, The Property, and repairs to and restoration of The Property in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise.
- (l) Enforcing obligations of the Members, allocating profits and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of The Property and the Association.
- (m) Levying fines against appropriate Owners for violations of the Declaration or of the rules and regulations established by the Association to govern the conduct of such Owners and others.
- (n) Purchasing or leasing Lots for use by resident superintendents and other similar persons.
- (o) Borrowing money when required in connection with the operation, care, upkeep and maintenance of the Common Areas or the acquisition of property, and granting mortgages on and/or security interests in Association owned property; provided, however, that the consent of the Owners of at least two-thirds (2/3rds) of the Lots represented at a meeting at which a quorum has been attained in accordance with the provisions of these By-Laws shall be required for the borrowing of any sum which would cause the total outstanding indebtedness of the Association to exceed \$10,000.00. If any sum borrowed pursuant to the authority contained in this subparagraph (o) is not repaid by the Association, an Owner who pays to the creditor such portion thereof as his interest in his Common Areas bears to the interest of all the Unit Members in the Common Areas shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against, or which will affect, such Member's Lot; provided always, however, the Association shall take no action authorized in this paragraph without the prior written consent of the Decbrant as long as the Decbrant owns any Lot.
- (p) Contracting with a duly licensed manager for the management and maintenance of The Property and the Association and authorizing a management agent (who may be an affiliate of the Decbrant) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, preparation of records, enforcement of rules and maintenance, repair, and replacement of the Common Areas, Lots and Units with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Declaration, the Articles and these By-Laws including, but

not limited to, the making of assessments, promulgation of rules and execution of contracts on behalf of the Association.

- (q) At its discretion, authorizing Owners or other persons to use portions of the Common Areas for private parties and gatherings and imposing reasonable charges for such private use.
- (r) Exercising (i) all powers specifically set forth in the Declaration, the Articles and these By-Laws (ii) all powers incidental thereto, and (iii) all other powers of a Florida corporation not for profit.

6. Officers.

- 6.1 Executive Officers. The executive officers of the Association shall be a President, a Vice-President, a Treasurer and a Secretary (none of whom other than the President need be Directors), all of whom shall be elected by the Board of Directors and who may be peremptorily removed at any meeting by concurrence of a majority of all of the Directors. A person may hold more than one office, except that the President may not also be the Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association.
- 6.2 President. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of president of an association.
- 6.3 Vice-President. The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice president of an association and as may be required by the Directors or the President.
- 6.4 Secretary. The Secretary shall keep the minutes of all proceedings of the Directors and the Members. He shall attend to the giving of all notices to the Members and Directors and other notices required by law. He shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.
- 6.5 Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep books of

account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. He shall submit a treasurer's report to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer and as may be required by the Directors or the President. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board of Directors.

- 6.6 Manager. Any of the foregoing functions of the Secretary or Treasurer may also be performed by a duly licensed manager engaged by the Association, provided that (i) the Secretary or Treasurer, as appropriate, shall oversee the performance of such functions and (ii) no manager may execute any documents as, or in the name of, the Secretary or Treasurer.
7. Compensation. Neither Directors nor officers shall receive compensation for their services as such, but this provision shall not preclude the Board of Directors from employing a Director or officer as an employee of the Association, nor preclude contracting with a Director or officer for the management of The Property or for any other service to be supplied by such Director or officer. Directors and officers shall be compensated for all actual and proper out of pocket expenses relating to the proper discharge of their respective duties.
8. Resignations. Any Director or officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Lots owned by any Director or officer (other than appointees of the Decbrant or officers or directors who were not Owners) shall constitute a written resignation of such person.
9. Fiscal Management. The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:
- 9.1 Budget. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Association (which shall detail all accounts and items of expense the Board finds to be appropriate), determine the amount of assessments payable by the Owners to meet the expenses of the Association and allocate and assess such expenses among the Owners in accordance with the provisions of the Declaration. In addition to annual operating expenses, the budget may include reserve accounts for capital expenditures and deferred maintenance.
- 9.2 Assessments. Assessments against Lots for their share of the items of the budget shall be made for the applicable fiscal year annually at least twenty (20) days preceding the year for which the assessments are made. Such assessments shall be

due in equal installments, payable in advance on the first day of each month (or each quarter at the election of the Board) of the year for which the assessments are made. If annual assessments are not made as required, assessments shall be presumed to have been made in the amount of the last prior assessments, and monthly (or quarterly) installments on such assessments shall be due upon each installment payment date until changed by amended assessments. In the event the annual assessments prove to be insufficient, the budget and assessments may be amended at any time by the Board of Directors. Unpaid assessments for the remaining portion of the fiscal year for which amended assessments are made shall be payable in as many equal installments as there are full months (or quarters) of the fiscal year left as of the date of such amended assessments, each such monthly (or quarterly) installment to be paid on the first day of the month (or quarter), commencing the first day of the next ensuing month (or quarter). If only a partial month (or quarter) remains, the amended assessments shall be paid with the next regular installment in the following year, unless otherwise directed by the Board in its resolution.

- 9.3 Assessments for Emergencies. Assessments for expenses for emergencies that cannot be paid from the annual assessments shall be levied in accordance with the Declaration and shall be due only after ten (10) days' notice is given to the Members concerned, and shall be paid in such manner as the Board of Directors of the Association may require in the notice of such Assessments.
- 9.4 Depository. The depository of the Association shall be such bank or banks in the State of Florida as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons as are authorized by the Directors. All sums collected by the Association from assessments or otherwise may be commingled in a single fund or divided into more than one fund, as determined by a majority of the Board of Directors. In addition, a separate reserve account may be established for the Association in such a depository for monies specifically designated as reserves for capital expenditures and/or deferred maintenance.
- 9.5 Acceleration of Installments Upon Default. If a Member shall be in default in the payment of an installment of his assessments, the Board of Directors may accelerate the next twelve (12) months' of the assessments as provided in the Declaration.
- 9.6 Fidelity Bonds. Fidelity bonds may be obtained by the Association for all persons handling or responsible for Association funds in such amounts as shall be determined by a majority of the Board. The premiums on such bonds shall be paid by the Association as a common expense.
- 9.7 Accounting Records and Reports. The Association shall maintain accounting records in the State according to accounting practices normally used by similar associations. The records shall be open to inspection by Members or their

authorized representatives at reasonable times and written summaries of them shall be supplied at least annually.

- 9.8 Application of Payment. All payments made by a Member shall be applied as provided in these By-Laws and in the Declaration or as otherwise determined by the Board.
10. Roster of Members. Each Owner shall file with the Association a copy of the deed or other document showing his ownership. The Association shall maintain such information. The Association may rely upon the accuracy of such information for all purposes until notified in writing of changes therein as provided above. Only Members of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other Members shall produce adequate evidence, as provided above, of their interest and shall waive in writing notice of such meeting.
11. Parliamentary Rules. Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, the Articles or these By-Laws and subject to waiver in the discretion of the presiding officer if he determines that technical compliance with such Rules would interfere with the efficient conduct of a meeting or the will of its attendees.
12. Amendments. Except as in the Declaration provided otherwise, these By-Laws may be amended in the following manner:
- 12.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.
- 12.2 Adoption. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than one-third (1/3) of the Members of the Association. Directors and Members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. The approval must be by not less than a majority of the votes of all Members of the Association (as opposed to only those represented at a meeting at which a quorum has been attained) and by not less than 66-2/3% of the entire Board of Directors.
- 12.3 Proviso. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Decbrant or mortgagees of Lots without the consent of said Decbrant and mortgagees in each instance. No amendment shall be made that is in conflict with the Articles or Declaration. For so long as there is a Class B Membership, FHA or VA (as long as it/they holds or insures a mortgage on a Lot or owns a Lot) may veto any amendment to these By-Laws. No amendment to this Section shall be valid.

13. Rules and Regulations. Attached to the Declaration as Schedule "A" are rules and regulations concerning the use of portions of The Property. The Board of Directors may, from time to time, modify, amend or add to such rules and regulations, except that subsequent to the date control of the Board is turned over by the Decbrant to Members other than the Decbrant, Owners of a majority of the Lots may overrule the Board with respect to any such modifications, amendments or additions. Copies of such modified, amended or additional rules and regulations shall be furnished by the Board of Directors to each affected Member not less than thirty (30) days prior to the effective date thereof. At no time may any rule or regulation be adopted which would prejudice the rights reserved to the Decbrant.
14. Construction. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.
15. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these By-Laws or the intent of any provision hereof.

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**EXHIBIT "C"**

TRACTS "B" and "OPEN SPACE 1", "OPEN SPACE 2", "OPEN SPACE 3",  
"OPEN SPACE 4", "OPEN SPACE 5", Landscape Tract, and Drainage Tract of WEST  
JUPITER HOUSING, according to the Plat thereof recorded in Plat Book \_\_\_\_\_, Page  
\_\_\_\_\_ of the Public Records of Palm Beach County, Florida.

**EXHIBIT "D"**

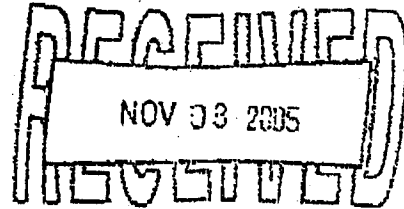
All of WEST JUPITER HOUSING, according to the Plat thereof recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_ of the Public Records of Palm Beach County, Florida, less and except Tract "A" and Tract "D".





SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
SURFACE WATER MANAGEMENT  
GENERAL PERMIT NO. 82-00158-S  
DATE ISSUED: November 7, 2005

Form #0942  
08/95



Miller Legg & Assoc., Inc.

PERMITTEE: PALM BEACH COUNTY, BOARD OF COUNTY  
COMMISSIONERS  
3200 BELVEDERE RD BLDG 1169  
WEST PALM BEACH, FL 33406

PROJECT DESCRIPTION: Construction and operation modification for 5.63 acres of mixed use within a 100  
acre project known as West Jupiter Improvement District.

PROJECT LOCATION: PALM BEACH COUNTY, SEC 3 TWP 41S RGE 42E

PERMIT DURATION: See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative  
Code.

This is to notify you of the District's agency action concerning Permit Application No. 050613-4, dated June 13, 2005. This action is taken  
pursuant to Rule 40E-1.806 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

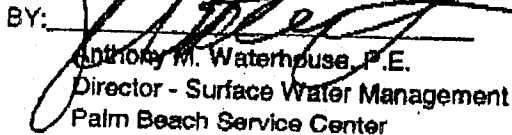
Based on the information provided, District rules have been adhered to and a Surface Water Management General Permit is in effect for this  
project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 Standard Limiting Conditions (See Pages : 2 - 3 of 4 ).
3. the attached 12 Special Conditions (See Pages : 4 - 4 of 4 ) and
4. the attached 3 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you  
desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this  
matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the  
attached distribution list) no later than 5:00 p.m. on this 7th day of November, 2005, in accordance with Section  
120.60(3), Florida Statutes.

BY:   
Anthony M. Waterhouse, P.E.  
Director - Surface Water Management  
Palm Beach Service Center

Certified mail number 7005 0390 0005 9817 2817

Page 1 of 4

EXHIBIT "E"  
to  
Declaration of Covenants  
for  
Kennedy Estates

### STANDARD LIMITING CONDITIONS

1. The permittee shall implement the work authorized in a manner so as to minimize any adverse impact of the works on fish, wildlife, natural environmental values, and water quality. The permittee shall institute necessary measures during the construction period, including full compaction of any fill material placed around newly installed structures, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters.
2. Water quality data for the water discharged from the permittee's property or into surface waters of the State will be submitted to the District as required by Section 5.9, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District". Parameters to be monitored may include those listed in Chapter 62-302, F.A.C.. If water quality data is required, the permittee shall provide data on volumes of water discharged, including total volume discharged during the days of sampling and total monthly discharges from the property or into surface waters of the State.
3. This permit shall not relieve the permittee of any obligation to obtain necessary federal, State, local or special district approvals.
4. The operation phase of this permit will not become effective until the District's acceptance of certification of the completed surface water management system. The permittee shall request transfer of the permit to the responsible operation entity accepted by the District, if different from the permittee. The transfer request can be submitted concurrently with the construction completion certification.
5. All road elevations shall be set in accordance with the criteria set forth in Section 6.5, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District".
6. All building floor elevations shall be set in accordance with the criteria set forth in Section 6.4, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District".
7. Off-site discharges during construction and development will be made only through the facilities authorized by this permit.
8. A permit transfer to the operation phase shall not occur until a responsible entity meeting the requirement in Section 9.0, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District" has been established to operate and maintain the system. The entity must be provided with sufficient ownership or legal interest so that it has control over all water management facilities authorized herein.
9. The permit does not convey to the permittee any property rights or privileges other than those specified in the permit and Chapter 40E-4, F.A.C..
10. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, operation, maintenance or use of any facility authorized by the permit.
11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
12. Within 30 days of issuance of this permit, the permittee or authorized agent shall notify the District (via the supplied construction commencement notice or equivalent) of the actual or anticipated construction start date and the expected completion date.
13. When the duration of construction exceeds one year, the permittee or authorized agent shall submit

### STANDARD LIMITING CONDITIONS

construction status reports on an annual basis (via the supplied annual status report or equivalent) beginning one year after the initial commencement of construction.

14. Within 30 days after completion of construction of the surface water management system, the permittee or authorized agent shall file a written statement of completion and certification by a Florida registered professional engineer. These statements must specify the actual date of construction completion and must certify that all facilities have been constructed in substantial conformance with the plans and specifications approved by the District (via the supplied construction completion/certification or equivalent). The construction completion certification must include, at a minimum, existing elevations, locations and dimensions of the components of the water management facilities. Additionally, if deviations from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted.
15. Within 30 days of any sale, conveyance or other transfer of any of the land which is proposed for development under the authorization of this permit, the permittee shall notify the District of such transfer in writing via either Form 0483, Request for Permit Transfer, or Form 0920, Request for Transfer of Surface Water Management Construction Phase to Operation Phase (to be completed and submitted by the operating entity), in accordance with Sections 40E-1.6105 AND 40E-4.351, F.A.C..
16. A prorated share of surface water management retention/detention areas, sufficient to provide the required flood protection and water quality treatment, must be provided prior to occupancy of any building or residence.
17. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
18. It is the responsibility of the permittee to insure that adverse off-site water resource related impacts do not occur during construction.
19. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(4), F.A.C..

### SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on November 7, 2010.
2. Operation of the surface water management system shall be the responsibility of the permittee.
3. Discharge Facilities: 42" and 48" dia. REINFORCED CONCRETE PIPE culvert.  
Receiving body : West Jupiter Improvement Area - Detention Lake  
Control elev : 9.2 feet NGVD (lake).
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
8. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
9. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
10. Minimum building floor elevation: 14.6' NGVD
11. Minimum road crown elevation: 12.45' NGVD
12. All special conditions and exhibits previously stipulated by permit number 82-00158-S remain in effect unless otherwise revised and shall apply to this modification.

40E-4.321

## Duration of Permits

- (1) Unless revoked or otherwise modified pursuant to Rules 40E-4.331 and 40E-4.441, F.A.C., the duration of a surface water management permit issued under this chapter is as follows:
- (a) Two years from the date of issuance for Conceptual Approval, unless within that period an application for a construction and operation permit is filed for any portion of the project. If an application for a construction and operation permit is filed, then the Conceptual Approval remains valid until final action is taken on the application. If the application is granted, then the Conceptual Approval is valid for an additional two years from the date of issuance of the construction and operation permit. Conceptual Approvals which have no applications for construction and operation filed for a period of two years will expire automatically.
- (b) Five years from the date of issuance for a construction permit.
- (c) Perpetual for an operation permit.
- (2) The Governing Board shall issue permit extensions provided that a permittee files a written request with the District showing good cause. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.
- (3) For a Conceptual Approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive amendment, the duration of the Conceptual Approval shall be two years from whichever one of the following occurs at the latest date:
- (a) the effective date of the local government's comprehensive plan amendment,
- (b) the effective date of the local government development order, or
- (c) the date on which the district issues the Conceptual Approval, or
- (d) the latest date of the resolution of any Chapter 120 or other legal appeals.
- (4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.
- (5) Modifications to construction permits issued pursuant to a formal permit application extend the duration of the permit for three years from the date of issuance of the modification. Construction permit modifications do not extend the duration of a Conceptual Approval.
- (6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.416(1) F.S. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-88, 4/20/94.

## NOTICE OF RIGHTS

Section 120.569(1), Fla. Stat. (1999), requires that "each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

### Petition for Administrative Proceedings

1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMD) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Code, (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109); as set forth below. Petitions are deemed filed upon receipt of the original documents by the SFWMD Clerk.

a. Formal Administrative Hearing: If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

b. Informal Administrative Hearing: If there are no issues of material fact in dispute, the affected person seeking an informal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

c. Administrative Complaint and Order: If a Respondent objects to a SFWMD Administrative Complaint and Order, pursuant to Section 373.119, Fla. Stat. (1997), the person named in the Administrative Complaint and Order may file a petition for a hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a. or b. above.

### d. State Lands Environmental Resource

Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(3), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.

### e. Emergency Authorization and Order:

A person whose substantial interests are affected by a SFWMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat., as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

f. Order for Emergency Action: A person whose substantial interests are affected by a SFWMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.611, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat., within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by

any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3. Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.

4. Pursuant to Rule 28-106.111(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

#### CIRCUIT COURT

5. Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.

6. Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD Clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15<sup>th</sup> Judicial Circuit in and for Palm Beach County or circuit court in the county where the cause of action allegedly occurred.

7. Pursuant to Section 373.433, Fla. Stat., a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Fla. Stat.

#### DISTRICT COURT OF APPEAL

8. Pursuant to Section 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

#### LAND AND WATER ADJUDICATORY COMMISSION

9. A party to a "proceeding below" may seek review by the Land and Water Adjudicatory Commission (FLAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114, Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with FLAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with FLAWAC within 30 days of rendition of the DEP's order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Rights.

#### PRIVATE PROPERTY RIGHTS PROTECTION ACT

10. A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

#### LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (6), Fla. Stat.

#### MEDIATION

12. A person whose substantial interests are, or may be, affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.111(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or

publication of notice that the SFWMD has or intends to take final agency action. Choosing mediation will not affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.402, Fla. Admin. Code, the contents of the petition for mediation shall contain the following information:

(1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;

(2) a statement of the preliminary agency action;

(3) an explanation of how the person's substantial interests will be affected by the agency determination; and

(4) a statement of relief sought.

As provided in Section 120.573, Fla. Stat. (1997), the timely agreement of all the parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in settlement of the dispute, the SFWMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a modified agency decision have a right to petition for hearing within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Fla. Stat., and SFWMD Rule 28-106.203(2), Fla. Admin. Code. If mediation terminates without settlement of the dispute, the SFWMD shall notify all parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Fla. Stat., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action.

#### VARIANCES AND WAIVERS

13. A person who is subject to regulation pursuant to a SFWMD rule and believes the application of that rule will create a substantial hardship or will violate principles of fairness (as those terms are defined in Subsection 120.542(2), Fla. Stat.) and can demonstrate that the purpose of the underlying statute will be or has been achieved by other means, may file a petition with the SFWMD Clerk requesting a variance from or waiver of the SFWMD rule. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFWMD's action. Pursuant to Rule 28-104.002(2), Fla. Admin. Code, the petition must include the following information:

(a) the caption shall read:

Petition for (Variance from) or (Waiver of) Rule (Citation)

(b) The name, address, telephone number and any facsimile number of the petitioner;

(c) The name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);

(d) the applicable rule or portion of the rule;

(e) the citation to the statute the rule is implementing;

(f) the type of action requested;

(g) the specific facts that demonstrate a substantial hardship or violation of principles of fairness that would justify a waiver or variance for the petitioner;

(h) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

(i) a statement of whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFWMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(5), Fla. Stat. pursuant to Rule 28-104.004(2), Fla. Admin. Code, the petition must also include:

a) the specific facts that make the situation an emergency; and

b) the specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFWMD more expeditiously than the applicable timeframes set forth in Section 120.542, Fla. Stat.

#### WAIVER OF RIGHTS

14. Failure to observe the relevant time frames prescribed above will constitute a waiver of such right.

#### 28-106.201

#### INITIATION OF PROCEEDINGS

(INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

(f) A demand for relief.



**28-106.301 INITIATION OF PROCEEDINGS**  
(NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

- (2) All petitions filed under these rules shall contain:
- (a) The name and address of each agency affected and each agency's file or identification number, if known;
  - (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
  - (c) A statement of when and how the petitioner received notice of the agency decision;
  - (d) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
  - (e) A demand for relief.

**28-107.004 SUSPENSION, REVOCATION, ANNULMENT, OR WITHDRAWAL**

- (3) Requests for hearing filed in accordance with this rule shall include:
- (a) The name and address of the party making the request, for purposes of service;
  - (b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and
  - (c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

**42-2.013 REQUEST FOR REVIEW PURSUANT TO SECTION 373.114 OR 373.217**

(1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.

(2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:

- (a) How the order or rule conflicts with the requirements, provisions and purposes of Chapter 373, F.S., or rules duly adopted thereunder;

(b) How the rule or order sought to be reviewed affects the interests of the party seeking review;

(c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;

(d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and

(e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

**28-107.005 EMERGENCY ACTION**

(1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.

(2) the 14-day notice requirement of Section 120.569(2)(b), F. S., does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.

(3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57, and 120.60, F.S.

**40E-1.611 EMERGENCY ACTION**

(1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.

(2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

Last Date For Agency Action: 19-NOV-2005

**GENERAL SURFACE WATER MANAGEMENT STAFF REPORT**

Project Name: West Jupiter Housing And Community Development  
Permit No.: 82-00158-S  
Application No.: 050613-4 Associated File: 50-07000-W  
Application Type: Surface Water Management (General Permit Modification)  
Location: Palm Beach County, S3/T41S/R42E  
Permittee: Palm Beach County, Board Of County Commissioners  
Operating Entity: Permittee  
Project Area: 5.63 acres  
Project Land Use: Residential  
Drainage Basin: C-18  
Receiving Body: Master System Class: N/A  
Special Drainage District: NA  
Conservation Easement To District: No  
Sovereign Submerged Lands: No

**PROJECT PURPOSE**

Construction and operation of a surface water management system serving 5.63 acres of residential development known as West Jupiter Housing and Community Development.

# PROJECT EVALUATION:

## PROJECT DESCRIPTION:

The project site is located in unincorporated Palm Beach County just south-east of the intersection of Indiantown Road with the C-18 canal. It lies to the south of the Comfort Inn (aka Fairfield Inn) and north of Jupiter Gardens Boulevard, west of Jupiter Gardens (Sapp Place).

In August of 1982 Permit Number GP 82-158 (82-00158-S) was issued for a project known as the West Jupiter Improvement Area. The project consisted of improvements to an existing residential area in the form of water distribution, sewage collection and storm drainage. The storm drainage system piping was directed to an approximately 5 acre wet detention area serving the improvements as well as the surface water from a 100 acre basin. This project is within West Jupiter Improvement Area basin.

The site is vacant. There is no water management facilities within the project area except for a cross drain traversing the site from east to west conveying discharge westerly from Jupiter Gardens area lying east of this project. The site contains disturbed uplands and stockpiled earth. There are no wetlands or other surface waters located within or affected by the proposed project.

## PROJECT PURPOSE:

The project is the development of 5.63 acres into a 27 lot single-family subdivision and associated infrastructure. The project is within the previously permitted West Jupiter Improvement Area which provides the wet detention water quality treatment and storm attenuation.

The project is graded to direct flows into valley gutter inlets within the proposed roadways having a grate elevation of 12.25' NGVD. The inlets are interconnected by culvert pipe and discharge westerly on Jupiter Gardens Boulevard to the existing stormwater treatment lake. The proposed homes are to have a floor elevation of 14.6' NGVD.

## DESIGN ASSUMPTIONS:

### Discharge Rate :

The proposed project is consistent with the design assumptions for the master surface water management system. Therefore, the surface water management system for this project has not been designed to limit discharge for the design event to a specified rate.

### Control Elevation :

Basin	Area (Acres)	Ctrl Elev ( ft, NGVD)	WSWT Ctrl Elev ( ft, NGVD)	Method Of Determination
Site	5.60	9.2	9.20	Previously Permitted

### Receiving Body :

Basin	Str.#	Receiving Body
Site	Outfall culv.	West Jupiter Imp. Area- master system

**Discharge Structures:** Note: The units for all the elevation values of structures are ( ft, NGVD)

### Culverts:

Basin	Str#	Count	Type	Width	Length	Dia.
-------	------	-------	------	-------	--------	------

**Discharge Structures:**

**Culverts:**

Site	Outfall culv.	1	Reinforced Concrete Pipe	107'	42"
Site	Outfall culv.	1	Reinforced Concrete Pipe	743'	48"

**WATER QUALITY:**

The master system (West Jupiter Improvement Area wet detention area) provides water quality treatment. No adverse water quality impacts are anticipated as a result of the proposed project.

**CONSTRUCTION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM:**

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4361(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.6107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

**RELATED CONCERNS:**

**Water Use Permit Status:**

The applicant has indicated that the project will utilize groundwater as a source for irrigation water for 1.17 acres of buffer landscaping for the project. Water Use application number 050613-6 has been submitted for this project. The applicant has indicated that dewatering is not required for construction of this project.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation, unless the work qualifies for a No-Notice Short-Term Dewatering permit pursuant to Chapter 40E-20.302(3) or is exempt pursuant to Section 40E-2.051, FAC.

**Historical/Archeological Resources:**

No information has been received that indicates the presence of archaeological or historical resources or that the proposed activities could cause adverse impacts to archaeological or historical resources.

**DCA/CZM Consistency Review:**

The District has not received a finding of inconsistency from the Florida Department of Environmental Protection or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.

**Enforcement:**

There has been no enforcement activity associated with this application.

**STAFF REVIEW:**

**DIVISION APPROVAL:**

**SURFACE WATER MANAGEMENT:**

  
Hugo A. Carter, P.E.

DATE: 1 Nov 05

**NATURAL RESOURCE MANAGEMENT:**

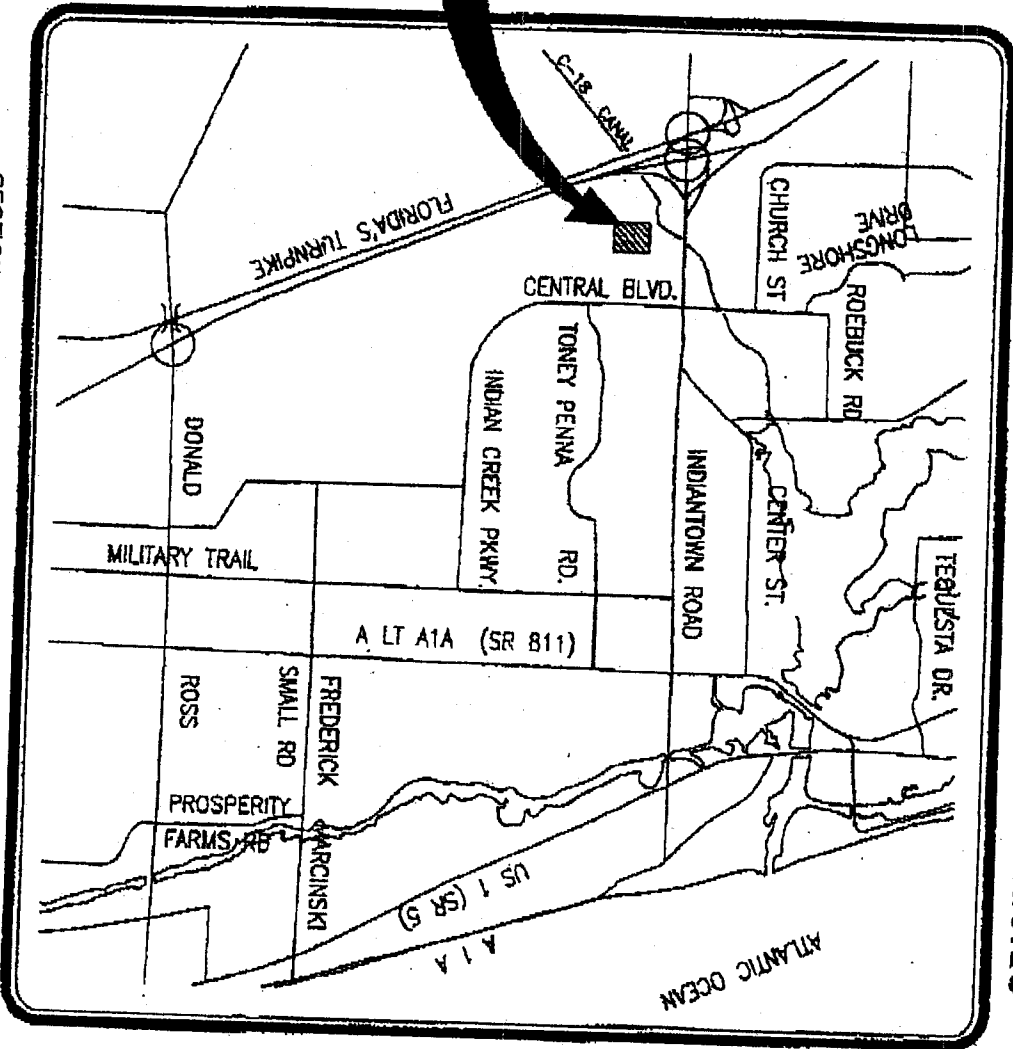
  
Donald L. Medellin

DATE: 2 Nov 05

I

Exhibit 1

SITE



ORIGINAL SUBMITTAL

40-348050.

JUN 13 2005

WPB

SECTION 3, TOWNSHIP 41S, RANGE 42E

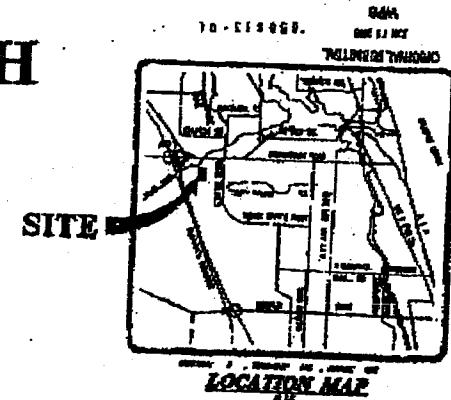
LOCATION MAP

NTS



PALM BEACH COUNTY  
FACILITIES, DEVELOPMENT & OPERATIONS  
**capital improvements division**  
west palm beach, florida (561) 233-0260

# COUNTY OF PALM BEACH STATE OF FLORIDA



## WEST JUPITER HOUSING AND COMMUNITY DEVELOPEMENT RESIDENTIAL SITE DEVELOPMENT

### INDEX OF DRAWINGS

#### CIVIL ENGINEERING

- C1 COVER SHEET
- C2 GENERAL NOTES
- C3 EROSION CONTROL PLAN
- C4 PAVING, GRADING & DRAINAGE PLAN
- C5 OFF-SITE DRAINAGE PLAN
- C6 PAVING, GRADING & DRAINAGE DETAILS
- C7 CROSS SECTIONS
- C8 WATER & SANITARY SEWER PLAN
- C9-C10 WATER DETAILS
- C11 SANITARY SEWER DETAILS
- C12 SANITARY SEWER PROFILES

#### SURVEY

- S51 BOUNDARY SURVEY & TREE SURVEY

#### LANDSCAPE & IRRIGATION

- L1 TREE REMOVAL PLAN
- L2 TREE REMOVAL NOTES AND DETAILS
- L3 LANDSCAPE PLAN
- L4 LANDSCAPE DETAILS & NOTES
- L5 IRRIGATION PLAN
- L6 IRRIGATION DETAILS & NOTES

### PALM BEACH COUNTY PROJECT NO. 01216 BOARD OF COUNTY COMMISSIONERS

Karen T. Marcus	District 1
Jeff Keons	District 2
Warren H. Newell	District 3
Mary McCarty	District 4
Burt Aaronson	District 5
Tony Masfionti	District 6
Addie L. Greene	District 7

#### ENGINEER'S CERTIFICATION

I HEREBY CERTIFY THAT THE ABOVE PLANS AND SPECIFICATIONS FOR THE PROJECT NO. 01216, WEST JUPITER HOUSING AND COMMUNITY DEVELOPEMENT RESIDENTIAL SITE DEVELOPMENT, HAVE BEEN PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF FLORIDA.

DATE

JUN 14 1988

Miller E. Legg, P.E.

**PERMIT SET**

**MILLER LEGG**

PALM BEACH COUNTY  
PLANNING, DEVELOPMENT & OPERATIONS  
Capital Improvements Division  
West Palm Beach, Florida (561) 833-0200

WEST JUPITER H.C.D.  
JUPITER, FLORIDA

Revisions

DATE  
BY  
REASON

Sheet

C1

of 12

Project No.

01216

Exhibit 2A

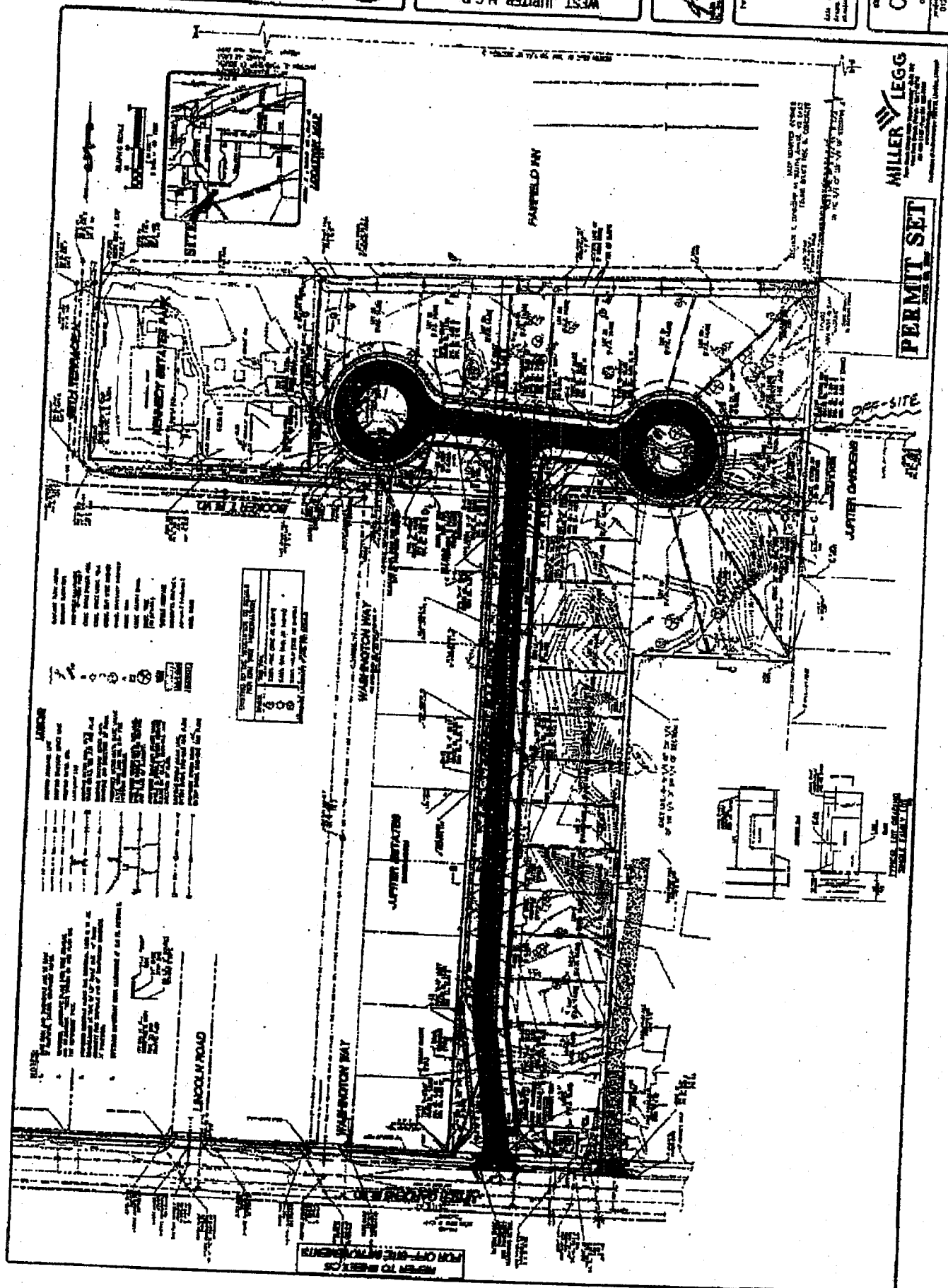
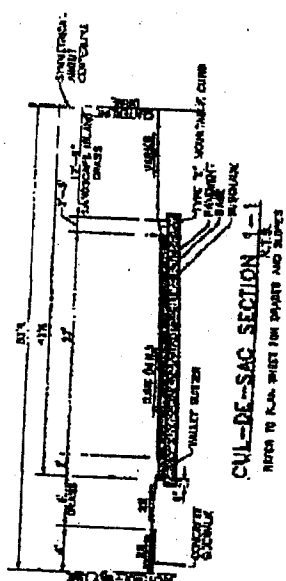


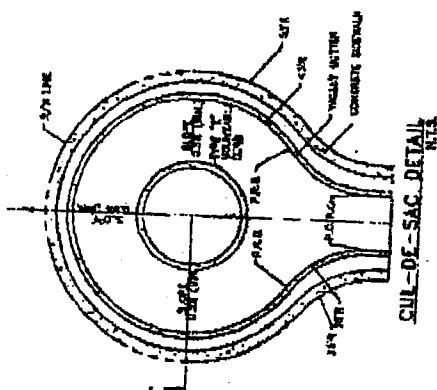
Exhibit 21



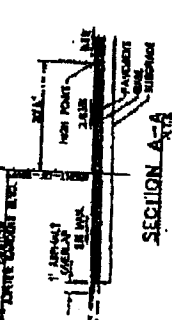




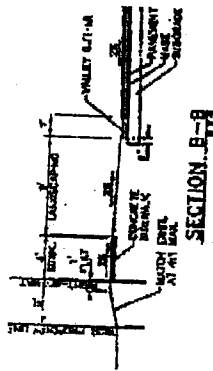
**CUL-DE-SAC SECTION**  
RETURN TO K&A WITHIN 100 DAYS AND  
ONLY



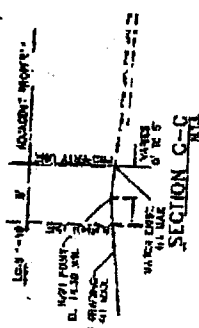
CUL-DE-SAC DETAIL



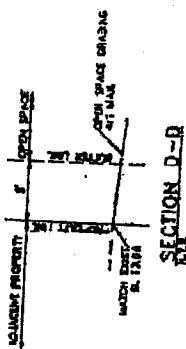
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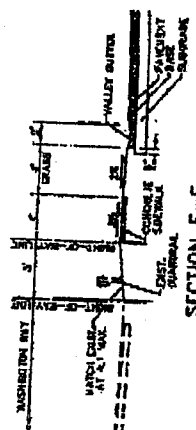
## SECTION 8-8



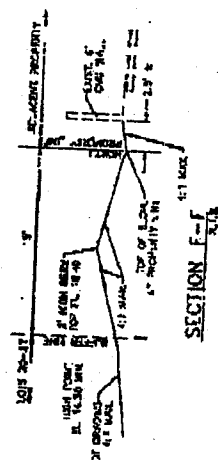
SECTION C-C



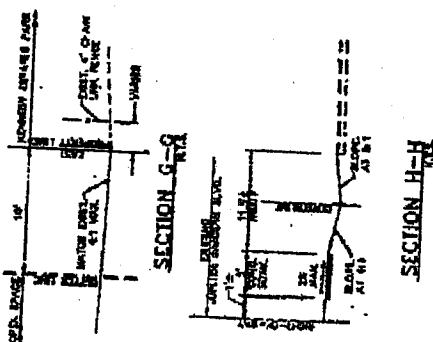
**SECTION D-D**



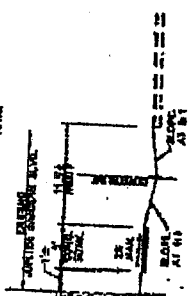
**SECTION E-5**



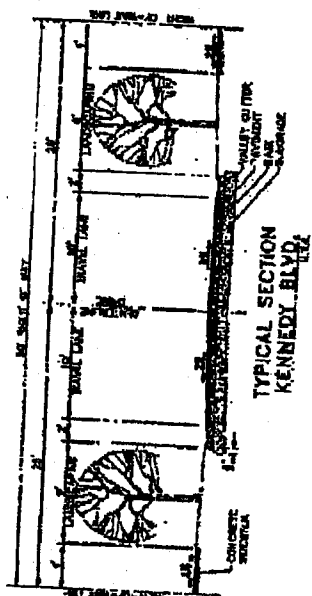
SECTION F-5



**6-5 NOTICES**

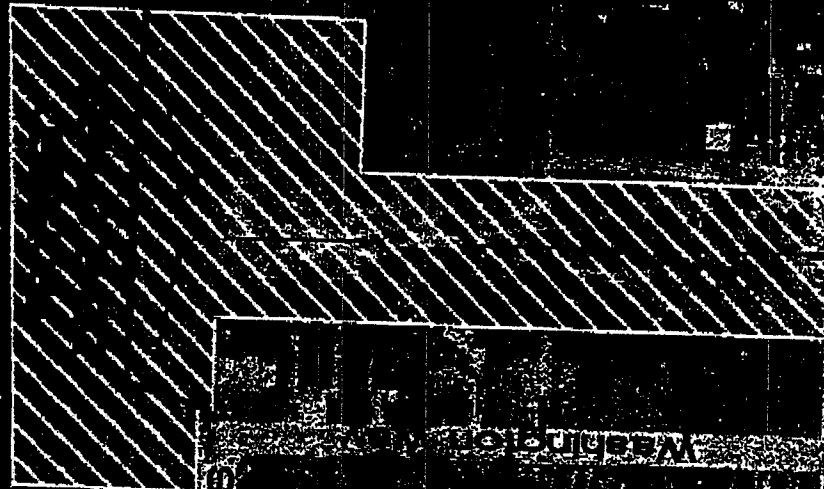


## FOR H-H NOHJ35



TYPICAL SECTION  
KENNEDY BLVD.  
114

INDIAN TOWN ROAD



WATER TOWER PROPERTY  
6 ACRE LAKE PROPERTY

## STAFF REPORT DISTRIBUTION LIST

### WEST JUPITER HOUSING AND COMMUNITY DEVELOPMENT

Application No: 050613-4

Permit No: 82-00158-S

### INTERNAL DISTRIBUTION

- X Barbara Conmy - 4250
- X P.E. "Rett" Thompson, P.E. - 4220
- ~~X Donald L. Modellin - 4250~~
- X Hugo A. Carter, P.E. - 4220
- X ERC Engineering - 4230
- X ERC Environmental - 4230
- X H. Azizi - 4230
- X H. Bittaker, PBCSC - 4350
- X Permit File

### EXTERNAL DISTRIBUTION

- X Permittee - Palm Beach County, Board Of County Commissioners
- ~~X~~ Engr. Consultant - Miller Legg & Associates Inc

### GOVERNMENT AGENCIES

- X Div of Recreation and Park - District 7 - FDEP
- X Florida Fish & Wildlife Conservation Commission - Imperiled Species Mgmt Section
- X Palm Beach County - Building Div
- X Palm Beach County - Environmental Res Mgmt
- X Palm Beach County - Health Dept
- X Palm Beach County - Land Development Div
- X Palm Beach County - School Board Growth Mgmt
- X Palm Beach County Engineer

### OTHER INTERESTED PARTIES

- X Rosa Durando
- X Water Catchment Area Advisory Committee - Ed Dailey
- X Water Management Institute - Michael N. Vanatta

**ATTACHMENT 6**

**QUIT-CLAIM DEED**

1 PAGE

**HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**

Prepared by and return To:  
Betsy Barr  
Palm Beach County  
Property & Real Estate Management  
2633 Vista Parkway  
West Palm Beach, FL 33411-5605

Property Control Number: a portion of \_\_\_\_\_

**QUIT-CLAIM DEED**

THIS QUIT-CLAIM DEED is executed this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by **HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**, a Florida not for profit corporation, whose post office address is 1225 South Military Trail, West Palm Beach, FL 33415 ("Grantor") to **PALM BEACH COUNTY**, a political subdivision of the State of Florida, whose post office address is 301 North Olive Avenue, West Palm Beach, Florida 33401-4791 ("Grantee").

**WITNESSETH**

That the said Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, in hand paid by the said Grantee, the receipt and sufficiency of which are hereby acknowledged, does hereby remise, release and quit-claim unto the Grantee forever, the rights, title, interest, claim and demand which the said Grantor has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Palm Beach, State of Florida, to-wit:

Tracts "A" and "D" of the plat of West Jupiter Housing, according to the plat thereof as recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of Palm Beach County, Florida (the "Property").

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said Grantor, either in law or equity, to the only proper use, benefit and behoof of the said Grantee forever.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

SIGNED, SEALED, AND DELIVERED IN  
THE PRESENCE OF:

Witness Name:  
Witness Signature:

X

Witness Name:  
Witness Signature:

X

**HABITAT FOR HUMANITY OF PALM BEACH  
COUNTY, INC.**

By: Michael J. Sabatello, President  
Signature:

**X (DO NOT SIGN THIS ATTACHMENT)**

(CORPORATE SEAL BELOW)

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The forgoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Michael J. Sabatello, who is personally known to me or has produced \_\_\_\_\_ as identification and who did (did not) take an oath.

Signature: \_\_\_\_\_

(NOTARY SEAL ABOVE)

Notary Name: \_\_\_\_\_  
Notary Public - State of Florida

ATTACHMENT 7

DECLARATION OF RESTRICTIONS

2 PAGES

**HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**

**Return to:**

Palm Beach County  
Housing & Community Development  
160 Australian Avenue, Suite 500  
West Palm Beach, Florida 33406  
Prepared by: Tammy K. Fields,  
Senior Assistant County Attorney  
Attention: Amin Houry

**DECLARATION OF RESTRICTIONS**

The undersigned, **HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**, a not for profit corporation duly organized and existing under the laws of the State of Florida, having its principal office at **1225 South Military Trail, West Palm Beach, FL 33415**, (hereinafter referred to as "Habitat", which term as used in every instance herein shall include Habitat's successors and assigns), for the property described below, in consideration of the receipt of title to the property described below from the Palm Beach County Board of County Commissioners (herein after referred to as "County"), does hereby grant to the County the following restrictions against the subject property described as:

**Lot \_\_\_\_\_ of the plat of West Jupiter Housing, according to the plat thereof as recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of Palm Beach County, Florida (hereinafter referred to as the "Lot").**

1. These restrictions shall be deemed a covenant running with the land and are binding upon the undersigned, their heirs, executors, successors, and assigns. These restrictions can only be terminated or released by the Palm Beach County Board of County Commissioners, and/or those persons to whom such authority is formally delegated, and executed with the same formalities as this document.
2. In consideration of receipt of title to the Lot from the County, as provided through an Agreement with the County dated October 2, 2007, Habitat hereby covenants and agrees to construct a single family detached dwelling, and ancillary improvements, on the Lot, sell such dwelling and ancillary improvements only to applicants approved by the County, and convey the Lot at no cost to such applicants approved by the County, during a period ending no later than July 2, 2010, all according to the terms contained in said Agreement.
3. Should Habitat not complete the construction of a single family detached dwelling on the Lot, sell such dwelling and ancillary improvements to applicants approved by the County, and convey the Lot at no cost to such applicants approved by the County by July 2, 2010, then the Habitat shall convey the Lot back to the County or pay the County an amount equal to the current appraised value within 30 days of written demand by the County.
4. Habitat shall pay, or cause to be paid, all taxes due while the Lot is in its possession, and Habitat shall not voluntarily create, or permit or suffer to be created or to exist, on or against the Lot, or any part of thereof, any lien superior to the lien of this Declaration of Restrictions, (hereinafter "Declaration") except with the County's prior written consent as provided for in the above stated Agreement. Habitat shall keep and maintain the Lot free from the claims of all parties supplying labor or materials unto the same. Habitat agrees to notify the County of any liens, judgements or pending foreclosure on the Lot within five (5) working days of the receipt of said notice by Habitat.
5. Habitat acknowledges and covenants that the provisions specified below constitute a default under this Declaration for which there may be a forfeiture of Habitat's title to the Lot:
  - A. Failure of Habitat to perform any covenant, agreement, term, or condition contained herein or in the Agreement referenced in Section 2 above.

Notwithstanding the foregoing, and at the sole discretion of the County, upon providing notice to Habitat of its determination that Habitat is in default of the terms of this Declaration, the County may, from time to time, at its sole discretion, cure each default under any covenant so curable in this Declaration, or in any instrument creating a lien upon the Lot, or any part thereof, to such extent that the County, at its sole discretion, determines, and each amount paid, if any, by the County to cure any such default shall be paid by Habitat to the County in addition to the legal rate of interest from the time of expenditure and shall constitute a lien against the Lot which may be foreclosed if not discharged and satisfied within three (3) months of expenditure of such funds by the County. The County shall also become subrogated to whatever rights the holders of a prior lien might have under such instrument.



HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.

6. If Habitat fails, neglects or refuses to perform any of the provisions, terms and conditions set forth herein, for any breach of this Declaration, the County shall have the right to file in court of competent jurisdiction an action for:

- A. Forfeiture of all Habitat's right, title, and interest in the Lot for a breach of the restrictive covenants contained in this Declaration;
- B. Due and unpaid real estate taxes, assessments, charges and penalties for which Habitat is obligated to pay.

In addition to any remedy set forth herein the County shall have such other remedies as are available at law or equity. The exercise or attempted exercise by the County of any right or remedy available under this Declaration shall not preclude the County from exercising any other right or remedy so available, nor shall any such exercise or attempted exercise constitute or be construed as an election of remedies. Habitat shall pay any reasonable expenses, including reasonable attorney's fees and costs incurred by the County, under this Declaration and the preparation and delivery of notices required hereunder. The failure or omission by the County to enforce any of its rights or remedies upon breach of any of the covenants, terms or conditions of this Declaration shall not bar or breach any of the County's rights or remedies on any subsequent default. Before the County shall pursue any of its rights or remedies under this Declaration, the County shall first give Habitat written notice of the default complained of which such notice shall be given to the Habitat at their address shown above. Habitat shall then have ten (10) working days from the date such notice is given to cure or correct any default.

7. Habitat shall cause this Declaration to be recorded in the Public Records of Palm Beach County, Florida.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

SIGNED, SEALED, AND DELIVERED IN THE PRESENCE OF:

Witness Name: Witness Signature:  X _____
Witness Name: Witness Signature:  X _____

HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.

By: Michael J. Sabatello, President Signature:  X (DO NOT SIGN THIS ATTACHMENT) _____
---

(CORPORATE SEAL BELOW)

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The forgoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Michael J. Sabatello, who is personally known to me or has produced \_\_\_\_\_ as identification and who did (did not) take an oath.

Signature: \_\_\_\_\_

Notary Name: \_\_\_\_\_

(NOTARY SEAL ABOVE)

Notary Public - State of Florida

**ATTACHMENT 8**

**SUBORDINATION OF RESTRICTIONS**

1 PAGE

HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.

Return to:

SUBORDINATION OF RESTRICTIONS

Palm Beach County, a political subdivision of the State of Florida, the owner and holder of a certain Declaration of Restrictions executed by the **HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**, a not for profit corporation duly organized and existing under the laws of the State of Florida, having its principal office at 1225 South Military Trail, West Palm Beach, FL 33415, to Palm Beach County, bearing the date of \_\_\_\_\_, recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_, of the Office of the Clerk and Comptroller of Palm Beach County, Florida, encumbering the real property situate, lying and being in Palm Beach County, Florida, described as follows:

**Lot \_\_\_\_\_ of the plat of West Jupiter Housing, according to the plat thereof as recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of Palm Beach County, Florida (hereinafter referred to as the "Lot").**

For good and valuable consideration, to wit: Palm Beach County, has and by these presents does waive the priority of the lien of the above described Declaration of Restrictions insofar as the following described Mortgage is concerned, but not otherwise:

That certain Mortgage dated \_\_\_\_\_, and recorded on \_\_\_\_\_, in Official Record Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of Palm Beach County, Florida, from **HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**, Mortgagor, to \_\_\_\_\_, as Mortgagee, securing payment of a Note in the original principal amount which shall not exceed \$ \_\_\_\_\_, plus all future advances and payments made for taxes, insurance and to cure borrower's default.

The undersigned Palm Beach County hereby consenting that the lien of the Declaration of Restrictions first above described be taken as \_\_\_\_\_ and inferior to the Mortgage last above described, which shall be a \_\_\_\_\_ mortgage.

Signed, sealed and delivered  
in the presence of:

**WITNESS** my hand and seal this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Witness Name: Witness Signature:  X _____
Witness Name: Witness Signature:  X _____

By: Edward W. Lowery, Director Housing and Community Development  X _____
---

**STATE OF FLORIDA  
COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Edward W. Lowery, who is personally known to me or who has produced N/A as identification and who did not take an oath.

Signature: \_\_\_\_\_

(NOTARY SEAL ABOVE)

Notary Name: \_\_\_\_\_  
Notary Public - State of Florida

ATTACHMENT 9

MORTGAGE AND RESTRICTIVE COVENANTS

3 PAGES

**HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**

**Return to:**

Palm Beach County  
Housing & Community Development  
160 Australian Avenue, Suite 500  
West Palm Beach, Florida 33406  
Prepared by: Tammy K. Fields,  
Senior Assistant County Attorney  
Attention: Amin Houry

**MORTGAGE AND RESTRICTIVE COVENANTS**

THIS MORTGAGE and Restrictive Covenants (hereinafter referred to as "Mortgage") is made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by \_\_\_\_\_, his/her/their successors and heirs, hereinafter "Participant".

WHEREAS, the Participant has been approved by Palm Beach County to acquire title to the below-described real property, located, situate, and being in Palm Beach County, Florida:

LEGAL DESCRIPTION HERE

WHEREAS, Palm Beach County transferred title to the land at the above described real property to Habitat for Humanity of Palm Beach County, Inc., at no cost to said Habitat for Humanity of Palm Beach County, Inc., and

WHEREAS, Habitat for Humanity of Palm Beach County, Inc., in compliance with its obligations to Palm Beach County, and in exchange for the receipt of such title to the land, has conveyed the same to the Participant, at no cost to the Participant, and

WHEREAS, in exchange for the receipt of title to above described land, the Participant hereby agrees to accept such title subject to certain restrictive covenants hereinafter set forth in favor of:

**PALM BEACH COUNTY, a political subdivision of the State of Florida,  
acting by and through its Board of County Commissioners (the "County").**

NOW THEREFORE, in accord and with the foregoing exchange of covenants and consideration, the Participant declares that the above land and any improvements made thereupon, shall be held, transferred, sold, conveyed, and occupied subject to the restrictions, covenants, servitudes, impositions, charges and liens hereinafter set forth.

1. The Participant shall occupy the dwelling on the land described above without undue delay, and reside in such dwelling as the Participant's principal place of residence for a continuous period of thirty (30) years from the date first above written, except as otherwise approved in writing by the County on a case by case basis when conditions make compliance with these covenants infeasible as determined by the County in its sole discretion.
2. The Participant shall permit reasonable inspections of the land and improvements (hereinafter referred to as "Property") at reasonable times by the County or its agents, when deemed necessary by the County, for the purpose of determining compliance with the terms of this Mortgage.
3. The Property, or any part thereof, or interest therein, may not be rented leased, or occupied by persons other than the Participant and family as described in the application submitted by the applicant to the County, except as an extension of such original household unit and not as a separate household unit.
4. Title to the Property may be voluntarily transferred by the Participant to another Participant only if such other Participant has been approved by the County in its sole discretion in writing as being a low/moderate income household or the then equivalent as defined by the U. S. Department of Housing and Urban Development. In addition, such title transfer shall be deemed acceptable to the County only if the Participant conveys the above described land to the other participant at no cost to the other

## HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.

Participant. Such other approved Participant shall then abide by these covenants for the remainder of the thirty (30) year term.

5. In the event the Property is leased, rented, or otherwise not occupied by the Participant, or in the event title to the Property is otherwise voluntarily or involuntarily transferred or conveyed to a person or persons not approved in writing by the County as another Participant, at any time during the aforesaid thirty (30) year term, then the Participant hereby agrees to pay the County the value of the land, at the time of occurrence of any such event, and as determined by an independent real estate appraiser deemed acceptable to the County. All costs for such appraisal shall be borne by the Participant.

6. The term of these restrictive covenants shall expire upon the completion of the thirty (30) year occupancy requirement as set forth above. Upon compliance by the Participant of all the terms and conditions as set forth in this Mortgage, the County shall, upon request by the Participant, and at the County's expense, prepare and record a Certificate of Compliance releasing the Participant and Property from the obligations set forth in this Mortgage.

7. The Participant acknowledges and covenants that the provisions specified below constitute a default under this Mortgage for which there may be a forfeiture of the Participant's title to the Property:

- A. Non-performance by the Participant of any covenant contained herein;
- B. Failure of the Participant to perform any covenant, agreement, term or condition in any instrument including a lien upon the Property or part thereof; and
- C. The County's discovery of Participant's failure, in the application submitted to the County by the Participant, to disclose any fact deemed by the County to be a material fact on the basis of which the Participant was qualified under said program, or the County's discovery of any misrepresentation by, or on behalf of, or for the benefit of the Participant.

Notwithstanding the foregoing, and at the sole discretion of the County, upon providing notice to the Participant of its determination that the Participant is in default of the terms of this Mortgage, the County may, from time to time, at its sole discretion, cure each default under any covenant so curable in this Mortgage, or in any instrument creating a lien upon the Property, or any part thereof, to such extent that the County, at its sole discretion, determines, and each amount paid, if any, by the County to cure any such default shall be paid by the Participant to the County in addition to the legal rate of interest from the time of expenditure and shall constitute a lien against the property which may be foreclosed if not discharged and satisfied within six (6) months of expenditure of such funds by the County. The County shall also become subrogated to whatever rights the holders of a prior lien might have under such instrument.

8. If the Participant fails, neglects or refuses to perform any of the material provisions, terms and conditions set forth herein, for any material breach of this Mortgage, the County shall have the right to file in court of competent jurisdiction an action for:

- A. Forfeiture of all Participant's right, title, and interest in the Property for a breach of the restrictive covenants contained in this Mortgage.
- B. Due and unpaid real estate taxes, assessments, charges and penalties for which the Participant is obligated to pay.

In addition to an remedy set forth herein, the County shall have such other remedies as are available at law or equity. The exercise or attempted exercise by the County of any right of remedy available under this Mortgage shall not preclude the County from exercising any other right or remedy so available, nor shall any such exercise or attempted exercise constitute or be construed as an election of remedies. Participant shall pay any reasonable expenses, including reasonable attorney's fees and cost incurred by the County, in connection with the exercise of any right or remedy by the County, under this Mortgage and the preparation and delivery of notices required hereunder.

The failure or omission by the County to enforce any of its rights or remedies upon breach of any of the covenants, terms or conditions of this Mortgage shall not bar or breach any of the County's rights or remedies on any subsequent default. Before the County shall pursue any of its rights or remedies under this Mortgage, the County shall first give Participant written notice of the default complained of which such notice shall be given to the Participant at the address of the Property. Participant shall then have ten (10) working days from the date such notice is given to cure or correct any default.

9. The Participant shall cause this Mortgage to be recorded in the Public Records of Palm Beach County, Florida.

HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.

10. All notices and elections (collectively, "Notices") to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by the messenger, courier service, or national overnight delivery service, telecopied or faxed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or national overnight delivery service or on the date of transmission with confirmed answer back if by telecopier or fax if transmitted before 5 PM on a business day and on the next business day if transmitted after 5 PM or a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

A. County:  
Palm Beach County Housing and Community Development  
160 Australian Avenue, Suite 500  
West Palm Beach, Florida 33406

B. Participant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNED, SEALED, AND DELIVERED IN  
THE PRESENCE OF:

Witness Name: Witness Signature:  X _____
Witness Name: Witness Signature:  X _____

Participant Name: Participant Signature:  X _____
Participant Name: Participant Signature:  X _____

STATE OF FLORIDA  
PALM BEACH COUNTY

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification and who did/did not take an oath.

\_\_\_\_\_  
(Print or type name)  
Notary Public State of Florida at Large

\_\_\_\_\_  
(Signature)

My Commission Expires:

(NOTARY SEAL)

ATTACHMENT 10

RELEASE OF RESTRICTIONS

1 PAGE



HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.

Return to:

Palm Beach County  
Housing & Community Development  
160 Australian Avenue, Suite 500  
West Palm Beach, Florida 33406  
Prepared by: Tammy K. Fields,  
Senior Assistant County Attorney  
Attention: Amin Houry

**RELEASE OF RESTRICTIONS**

Palm Beach County, a political subdivision of the State of Florida, the owner and holder of a certain \_\_\_\_\_ executed by the **HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.**, a not for profit corporation duly organized and existing under the laws of the State of Florida, having its principal office at 1225 South Military Trail, West Palm Beach, FL 33415, ("Grantor"), to Palm Beach County, bearing the date of \_\_\_\_\_, recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_, of the Office of the Clerk and Comptroller of Palm Beach County, Florida, and containing certain conditions restrictions, promises, and obligations made by the Grantor of said \_\_\_\_\_ in connection with the property situate in said county and state, and described as follows, to wit:

**Lot \_\_\_\_ of the plat of West Jupiter Housing, according to the plat thereof as recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of Palm Beach County, Florida (hereinafter referred to as the "Lot").**

hereby releases its interest in the above stated \_\_\_\_\_.

Signed, sealed and delivered  
in the presence of:

**WITNESS** my hand and seal this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Witness Name: Witness Signature:  X _____
Witness Name: Witness Signature:  X _____

By: Edward W. Lowery, Director Housing and Community Development  X _____
---

**STATE OF FLORIDA  
COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Edward W. Lowery, who is personally known to me or who has produced N/A as identification and who did not take an oath.

Signature: \_\_\_\_\_

(NOTARY SEAL ABOVE)

Notary Name: \_\_\_\_\_  
Notary Public - State of Florida

ATTACHMENT 11

MONTHLY NARRATIVE REPORT

1 PAGE

HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.

PALM BEACH COUNTY

HOUSING & COMMUNITY DEVELOPMENT

MONTHLY NARRATIVE REPORT

Report For:	Month: _____ Year: _____
Subrecipient Name:	HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.
Project Name:	Kennedy Estates Development
Report Prepared By:	<div>Name _____ Signature _____ Date _____</div>

**LAND PLANNING ACTIVITIES (PLATTING/SUBDIVIDING/DESIGN)**

Describe your accomplishments during the reporting period: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe any problems encountered during this reporting period: \_\_\_\_\_  
\_\_\_\_\_

Other comments: \_\_\_\_\_  
\_\_\_\_\_

**FINANCING ACTIVITIES**

Describe your accomplishments during the reporting period: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe any problems encountered during this reporting period: \_\_\_\_\_  
\_\_\_\_\_

Other comments: \_\_\_\_\_  
\_\_\_\_\_

**CONSTRUCTION ACTIVITIES**

Describe your accomplishments during the reporting period: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe any problems encountered during this reporting period: \_\_\_\_\_  
\_\_\_\_\_

Other comments: \_\_\_\_\_  
\_\_\_\_\_

**SALES ACTIVITIES**

Describe your accomplishments during the reporting period: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe any problems encountered during this reporting period: \_\_\_\_\_  
\_\_\_\_\_

Other comments: \_\_\_\_\_  
\_\_\_\_\_

Send report to: Amin Houry  
Department for Housing and Community Development  
160 Australian Avenue, Suite 500, West Palm Beach, FL 33406

S:\Cap\mprv\COUNTY\KennedyEstates\Habitat\_Disposition\AgmtAgency\_final.wpd