

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	0	0	0	0	0

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

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

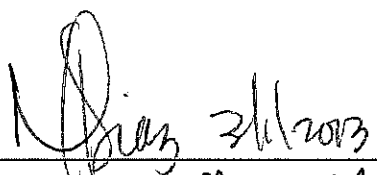
No Fiscal Impact

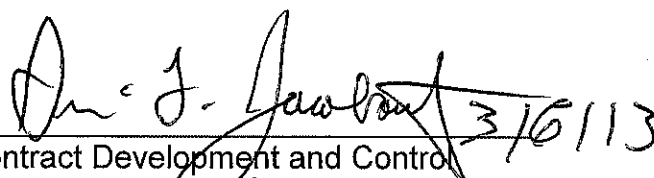
C. Departmental Fiscal Review:

N/A

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:


 OFMB *3/1/2013*
SP 2/20/13 *ADW 2/21*


 Contract Development and Control *3/6/13*
3-6-13 B. Wheeler

B. Legal Sufficiency:


 Assistant County Attorney *3/7/13*

C. Other Department Review:

 Department Director

Instrument Prepared By
and Return to:
Charles A. Lubitz, Esq.
Casey Ciklin Lubitz Martens & O'Connell
515 N. Flagler Drive, 20th Floor
West Palm Beach, FL 33401
Will Call #69

DECLARATION OF UNITY OF CONTROL

THIS DECLARATION of Unity of Control ("Declaration") is made this ____ day of _____, 2013, by THE LESTER FAMILY INVESTMENTS, LP, a Delaware Limited Partnership, RICHARD THALL, ROBERT THALL, PETER L. BRIGER, PAUL H. BRIGER, AND THE DAVID MINKIN FLORIDA REALTY TRUST and PALM BEACH COUNTY, a political subdivision of the State of Florida, and FLORIDA POWER & LIGHT COMPANY, a Florida corporation (the "Declarants").

RECITALS:

A. The Declarants are collectively the owners of property in the City of Palm Beach Gardens, Florida (the "City"), more particularly described by the legal description as contained on Exhibit A attached hereto (the "Property"), which Property is intended to be developed in accordance with following zoning approval: Development of Regional Impact Resolution No. 80, 2009 and with a PCD Master Plan as finally approved by the City (the "Master Plan").

B. The Declarants have agreed with the City that, for the proper development of the Property, the Declarants shall, in accordance with the Master Plan, provide for mutual and reciprocal rights-of-way for the purpose of ingress and egress, parking, drainage and utilities of whatsoever nature located within the Property, the enjoyment of which shall be shared by the respective parties owning any portion of the Property and their respective heirs, successors and assigns as well as the tenants, lessees, agents, employees, guests and invitees of any owner of the Property or any portion thereof and guests and invitees of tenants and lessees legally occupying the Property.

C. The City has a health, safety and welfare interest in safe and efficient traffic circulation on the road and driveway system and the establishment of common drainage and utilities through the establishment of this Unity of Control that covers the Property.

D. The City is a direct, third party beneficiary to this Declaration.

NOW, THEREFORE, in consideration of the grants and agreements herein made and in consideration of \$10.00 in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarants hereby subject the Property to the following restrictions:

1. Recitals. The foregoing recitals are incorporated herein by reference as though set forth in detail in this place.
2. Unified Control. All structures, uses and parking areas on the Property are and will be part of a single unified planned development, regardless of ownership. In furtherance of the foregoing, the Property shall be developed in accordance with the approved PCD Master Plan on file with the City of Palm Beach Gardens as it may be amended from time to time and shall meet the land development requirements of the City of Palm Beach Gardens.
3. Easements. The Declarants hereby dedicate, grant and establish for the benefit of the Property, and the owners of any portion thereof (as well as their employees, agents, guests, invitees, mortgagees, tenants, lessees, subtenants, licensees, heirs, successors and assigns) the following easements; provided, however, with respect to subdivisions "a" and "b" of this Section 3, the same shall be inapplicable to those portions, pods or parcels within the Property that are reserved for the exclusive use of the owners thereof and their respective tenants, lessees, agents, employees, guests and invitees as well as guests and invitees of tenants and lessees:
 - a. A non-exclusive easement for pedestrians and vehicular ingress and egress over, on and across the areas within the Property constituting driveways and roadways, as shown on the Master Plan.
 - b. A non-exclusive easement for the parking of vehicles over, on and across areas within the Property constituting parking areas, as shown on the Master Plan.
 - c. A non-exclusive easement for the installation, operation and maintenance of utilities necessary to serve all portions of the Property, including, but not limited to, the right to install, maintain, use, repair and replace underground pipes, ducts, conduits and cables as necessary to transmit and distribute electricity, gas, water, sewer, cable television, drainage, telephone, lighting and other utilities and common public services under such present and future areas of the Property constituting parking areas, driveways and roadways, as shown on the Master Plan, and through the other portions of the Property as shown on the Master Plan which specifically provide for and contain such utility lines.
 - d. A non-exclusive easement for surface water management and drainage necessary to serve all portions of the Property over, under and across such areas within the Property constituting parking areas, driveways and roadways, as shown on the Master Plan which specifically provide for and contain surface water management and drainage facilities and through the other portions of the Property as shown on the Master Plan which specifically provide for and contain such surface water management and drainage facilities.

4. Covenants Run with the Land. All of the covenants, easements and restrictions herein will be perpetual and will constitute covenants running with the land, will be binding upon any and all persons and entities, their respective successors in interest, assigns, heirs and personal representatives having or hereafter acquiring any right, title or interest in and to all or any portion of the Property, and all benefits deriving therefrom will accrue to the benefit of all persons and entities, their respective successors in interest, tenants, licensees, assigns, heirs and personal representatives having or hereafter acquiring any right, title or interest in all or any portion of the Property.
5. Modification and Termination. This Declaration may not be terminated or modified in any way except by means of an instrument executed by the Declarants after the prior written consent of the City Zoning Director.
6. Owners' Restrictions. No owner of any portion of the Property shall take or fail to take any action or do or fail to do anything which would, or have the effect of, impeding, obstructing or preventing any other person or entity having rights under this Declaration from their full and complete use and enjoyment of the easements herein granted. Without limiting the generality of the foregoing, free and full access to, from and across all portions of the Property which constitute parking areas, driveways and roadways on the Master Plan shall not be blocked, obstructed or impeded.
7. Miscellaneous.
 - a. Each covenant in this Declaration is an independent and separate covenant. If any term or provision of the Declaration or the application thereof to any person or circumstance should to any extent be invalid or unenforceable, the remainder of the Declaration and application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable will not be affected thereby, and each term and provision of this Declaration will be valid and enforceable to the fullest extent permitted by law.
 - b. This Declaration shall be recorded in the Public Records of Palm Beach County Florida.
 - c. Failure of any party to insist upon or enforce its rights under this Declaration will not constitute a waiver of such rights.
 - d. This Declaration and the rights created hereby, including, but not limited to, the cross easements shall be paramount and superior to all leases, conveyances, transfers, liens, assignments, contracts, mortgages, deeds of trust and other encumbrances affecting the Property, from and after the date of recording of this Declaration. Any person acquiring possession to, title of, or interest in the Property or any portion thereof shall do so subject to this Declaration. Any transferee of any interest in any portion of the Property by any means whatsoever shall be deemed, by acceptance of such interest, to have agreed to be bound by all of the provisions of this Declaration.

- e. As a direct third party beneficiary of this Declaration the City has the irrevocable right, but not the obligation to enforce this Declaration through legal, equitable or administrative proceedings.
- f. The venue for any legal action regarding this covenant shall be in Palm Beach County Florida.
- g. It is the specific intent of the Declarants that any future amendment to or revocation of these Declarations will not be valid without the express written consent of the City of Palm Beach Gardens, Florida.

IN WITNESS WHEREOF, this instrument is executed on the day and year first above written.

DECLARANT:

Signed, sealed, executed and acknowledged on this 14th day of November, 2012.

OWNER

THE LESTER FAMILY INVESTMENTS
L.P., a Delaware limited partnership,
By PHL Financial Consulting Co., Inc.,
as General Partner

By: [Signature]
(Signature)

Prescott Lester
(Print Signatory's Name)

Its: President

[Signature]
(Witness Signature)

Sharon DeCuro
(Print Witness Name)

[Signature]
(Witness Signature)

Clare m mcdernott
(Print Witness Name)

(Acknowledgement continued on next page)

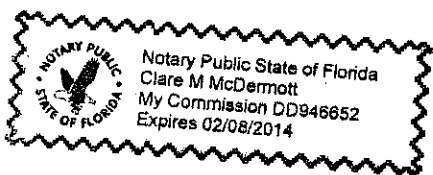
STATE OF Florida)
)SS.
COUNTY OF Palm Beach)

The foregoing instrument was acknowledged before me this 14th day of NOVEMBER, 2012, by Prescott Lester, as President of Lester Family Investments on behalf of the partnership, () who is personally known to me; or () who produced _____, as identification.

Clare M McDermott
Signature of Notary

Clare m mcdermott
Printed Notary Name

My commission expires: 2/8/2014



DECLARANT:

Signed, sealed, executed and acknowledged on this 27 day of October, 2012.

Witnesseth:

Marilyn S. Hollingsworth

Owner

Richard Thall

Printed Name: MARILYN S. Hollingsworth

BY: RICHARD THALL

Paula L. Ellman

Printed Name: PAULA L. Ellman

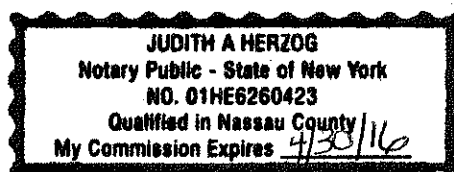
STATE OF New York)
)SS.
COUNTY OF Nassau)

The foregoing instrument was acknowledged before me this 27 day of October, 2012, by Judith A. Herzog, as Richard Thall on behalf of the partnership, () who is personally known to me; or () who produced _____, as identification.

Judith A. Herzog
Signature of Notary

Judith A. Herzog
Printed Notary Name

My commission expires: 4/30/16



DECLARANT:

Signed, sealed, executed and acknowledged on this 20th day of NOVEMBER, 2012.

Witnesseth:

Owner

Moises Salome

Robert Thall

Printed Name: Moises Salome

BY: ROBERT THALL

Kathleen A. Evans

Printed Name: Kathleen A. Evans

STATE OF New York)
)SS.
COUNTY OF Ulster)

The foregoing instrument was acknowledged before me this 20th day of NOVEMBER, 2012, by ROBERT THALL, as OWNER on behalf of the partnership, () who is personally known to me; or () who produced _____, as identification.

Helen Monette
Signature of Notary

HELEN MONETTE
Notary Public - State of New York
No. 01MO5059531
Qualified in Otsego County
My Commission Expires Apr. 29, 2014

HELEN MONETTE
Printed Notary Name

My commission expires: April 29, 2014

DECLARANT:

Signed, sealed, executed and acknowledged on this 31 day of October, 2012.

Witnesseth:

Owner

[Signature]
Printed Name: Leroy McWebb

[Signature]

BY: PAUL H. BRIGER

Printed Name: Eunhee Bang

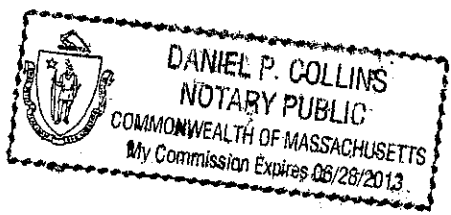
STATE OF Massachusetts)
)SS.
COUNTY OF Suffolk)

The foregoing instrument was acknowledged before me this 31 day of October, 2012, by Paul H. Briger, as Tenant in common on behalf of the partnership, () who is personally known to me; or () who produced US PASSPORT, as identification.

[Signature]
Signature of Notary

Daniel P. Collins
Printed Notary Name

My commission expires: 06/28/2013



DECLARANT:

Signed, sealed, executed and acknowledged on this 14th day of November, 2012.

Witnesseth:

Owner

Sharon De Caro

THE DAVID MINKIN FLORIDA REALTY TRUST

Printed Name: Sharon De Caro

BY: _____

Howard Lester

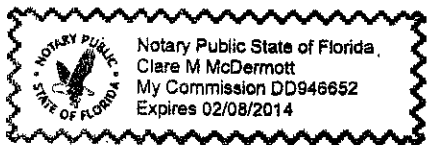
Print Name

Clare M McDermott

Printed Name: Clare M McDermott

STATE OF Florida)
)SS.
COUNTY OF Palm Beach)

The foregoing instrument was acknowledged before me this 14th day of November 2012, by Howard Lester, as president David Minkin Florida Realty Trust on behalf of the partnership, () who is personally known to me; or () who produced _____, as identification.



Clare M McDermott
Signature of Notary

Clare M McDermott
Printed Notary Name

My commission expires: 2-8-2014

DECLARANT:

Signed, sealed, executed and acknowledged on this _____ day of _____, 2013.

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

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

By: _____
Deputy Clerk

By: _____
_____, Mayor

Signed and delivered
in the presence of:

Witness Signature

Print Witness Name

Witness Signature

Print Witness Name

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
Assistant County Attorney

By: 
Assistant County Administrator

DECLARANT:

Signed, sealed, executed and acknowledged on this 11th day of February, 2013.

Witnesseth:

Samantha J. Saucier

Printed Name: Samantha J. Saucier

FLORIDA POWER &
LIGHT COMPANY

BY: [Signature]

Michelle M. Kahmann

Printed Name: Michelle M. Kahmann

TITLE: Director, Corporate Real Estate

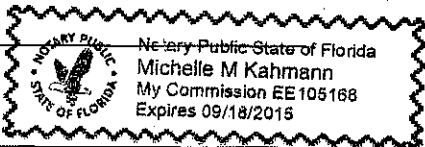
STATE OF FL)
COUNTY OF Palm Beach) SS.

The foregoing instrument was acknowledged before me this 11th day of Feb., 2013 by Dean J. Girard, as Director, Corporate Real Estate on behalf of the partnership, () who is personally known to me; or () who produced _____, as identification.

Michelle M. Kahmann
Signature of Notary

Printed Notary Name

My commission expires:



Legal Description

EXHIBIT "A"

PARCEL 1

All of Section 26, less the West $\frac{1}{4}$ of the South $\frac{1}{8}$ of the Southwest $\frac{1}{4}$ and the South $\frac{3}{4}$ of the East $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, all in Township 41 South, Range 42 East, subject to the right-of-way for road purposes as contained in Deed Book 1036, Page 478, covering the North 75 feet of Section 26, Township 41 South, Range 42 East, and subject to and less that parcel of real property vested in the State of Florida Department of Transportation pursuant to Order of Taking recorded in Official Records Book 4296, Page 1151, Public Records of Palm Beach County, Florida. Together with:

PARCEL 2

The South $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, and the South $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, of Section 26, Township 41 South, Range 42 East, less that parcel of real property vested in the State of Florida Department of Transportation pursuant to Order of Taking recorded in Official Records Book 4296, Page 1151, Public Records of Palm Beach County, Florida. Together with:

PARCEL 3

The South $\frac{3}{4}$ of the East $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 26, Township 41 South, Range 42 East, less that parcel of real property vested in the State of Florida Department of Transportation pursuant to Order of Taking recorded in Official Records Book 4296, Page 1151, Public Records of Palm Beach County, Florida. Together with:

PARCEL 4

The East 40 feet of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$; the East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; the West $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$; less the East 40 feet thereof; and the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$, of Section 35, Township 41 South, Range 42 East; less that parcel of real property vested in the State of Florida Department of Transportation pursuant to Order of Taking recorded in Official Records Book 4296, Page 1151 and also less the right-of-way of Hood Road as described in Deed Book 1146, Page 639, Public Records of Palm Beach County, Florida. Together with:

PARCEL 5

The Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 35, Township 41 South, Range 42 East, less the right-of-way for Hood Road as described in Deed Book 1142, Page 334 and also less the right-of-way for the Florida Turnpike. Together with the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 35, Township 41 South, Range 42 East.

LESS AND EXCEPT the following described Parcel:

That portion of Section 26, Township 41 South, Range 42 East, Palm Beach County, Florida, described as follows: Commencing at the Northeast corner of said Section 26; Thence South 89°55'48" West along the North line of the Northeast quarter of said Section 26, a distance of 2371.01 feet; Thence South 00°04'12" East, a distance of 75.00 feet to the point of beginning; Thence continue South 00°04'12" East, a distance of 65.00 feet; Thence North 45°04'12" West, a distance of 56.57 feet; Thence South 89°55'47" West, a distance of 702.18 feet to the South right-of-way line of Donald Ross Road as described in Official Records Book 4296, Page 1151 of the Public Records of Palm Beach County, Florida; Thence North 82°48'17" East along said South right-of-way line, a distance of 201.56 feet to the South right-of-way line of Donald Ross Road as described in Deed Book 1036, Page 478 of the Public Records of Palm Beach County, Florida; Thence North 89°55'47" East along said South right-of-way line, a distance of 242.59 feet; Thence North 89°55'48" East along the aforementioned South right-of-way line, a distance of 299.59 feet to the point of beginning. (said Parcel containing 16,854 square feet or 0.39 acres, more or less.)