

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	* _____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

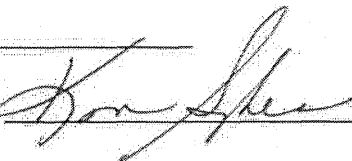
Is Item Included in Current Budget: Yes _____ No _____

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____ Program _____

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

* No Fiscal Impact

Fixed Assets Number N/A _____

C. Department Fiscal Review:  _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

OFMB

Contract Development Control

B. Legal Sufficiency

Assistant County Attorney

C. Other Department Review:

Department Director

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

Summary Continued: As a result of foreclosure of the mortgage, the property can be used as a general ACLF and is not required to provide memory care services. Since it acquired title in 2018, PJPF has sought to sell the foreclosed property for development consistent with the existing deed restrictions. PJPF entered into a contract to sell the property to Protea Senior Living Boca Raton, LLC which is willing to develop an ALF using essentially the same design as previously proposed, will provide memory care services and will perform improvements which will benefit the Foundation's remaining property, including new access drives, improved surface water management and connection to public sewer. Foundation and Protea will also enter into a unity of control which requires that the development be in accordance with the Site Plan approved by the Foundation. Protea is requesting the deed restrictions be further modified to i) remove the requirement that the Property remain owned by a not for profit entity' ii) approve the conveyance of the foreclosed property to Protea Senior Living Boca Raton, LLC; iii) clarify that assisted living services will be furnished at the facility together with memory care services; and iv) upon receipt of a Certificate of Occupancy for Protea's ALF, the County's approval rights for future conveyance or encumbrance of the foreclosed property shall terminate. The Foundation supports the requested modification of the restrictions. Development of Protea's project will provide assisted living units with memory care services consistent with the original restrictions and will provide Foundation with an opportunity to provide mental health services to residents within Protea's ALF, which was a goal of the previous transaction. In the event the Board does not approve the modification of restrictions, Protea will be unable to move forward with its project, and it is possible that PJPF could sell the property to a developer who would be less cooperative and not agree to provide memory care services. In any event, resolution of this issue would continue to drag out for years. **At the March 17, 2020, the Board requested further information regarding this transaction. Attached is a summary of the use restrictions and the various changes thereto. Also attached are letters from Piper Sandler, on behalf of PJPF, and from Vicki Katz, the CEO of the Foundation. (Property & Real Estate Management) District 5 (HJF)**

Background and Policy Issues: In 2014, at the Foundation's request the property's deed restrictions were modified in order to accommodate the financing and development upon the property of a senior living facility with assisted living units accommodating approximately 117 assisted living beds providing memory care services. The 2014 development effort was unsuccessful resulting in the project lender initiating foreclosure proceedings upon approximately 6.144 acres of the property, which foreclosure proceedings were completed in 2018 when the foreclosed property was acquired by PJPF. Since 2018, PJPF has sought to market and sell the foreclosed property for development consistent with provisions of the property's existing deed restriction. PJPF has advised Staff that certain terms of the existing deed restrictions, particularly provisions which require County approval of prospective conveyances and encumbrances of the property, negatively impact its ability to obtain offers for the foreclosed property. In May 2019, PJPF was successful in entering into a contract with Protea to acquire the foreclosed property. However, that contract is contingent upon PJPF obtaining approval of this agenda item.

Protea desires to develop the property with a facility which provides both assisted living and memory care services and, under Application No.: ZAR-2019-01693, has obtained County approval to modify the previously approved site plan for the former project for the purpose of, among other things, reorienting certain approved units and reducing the overall building square footage. The Foundation has consented to Protea's proposed development

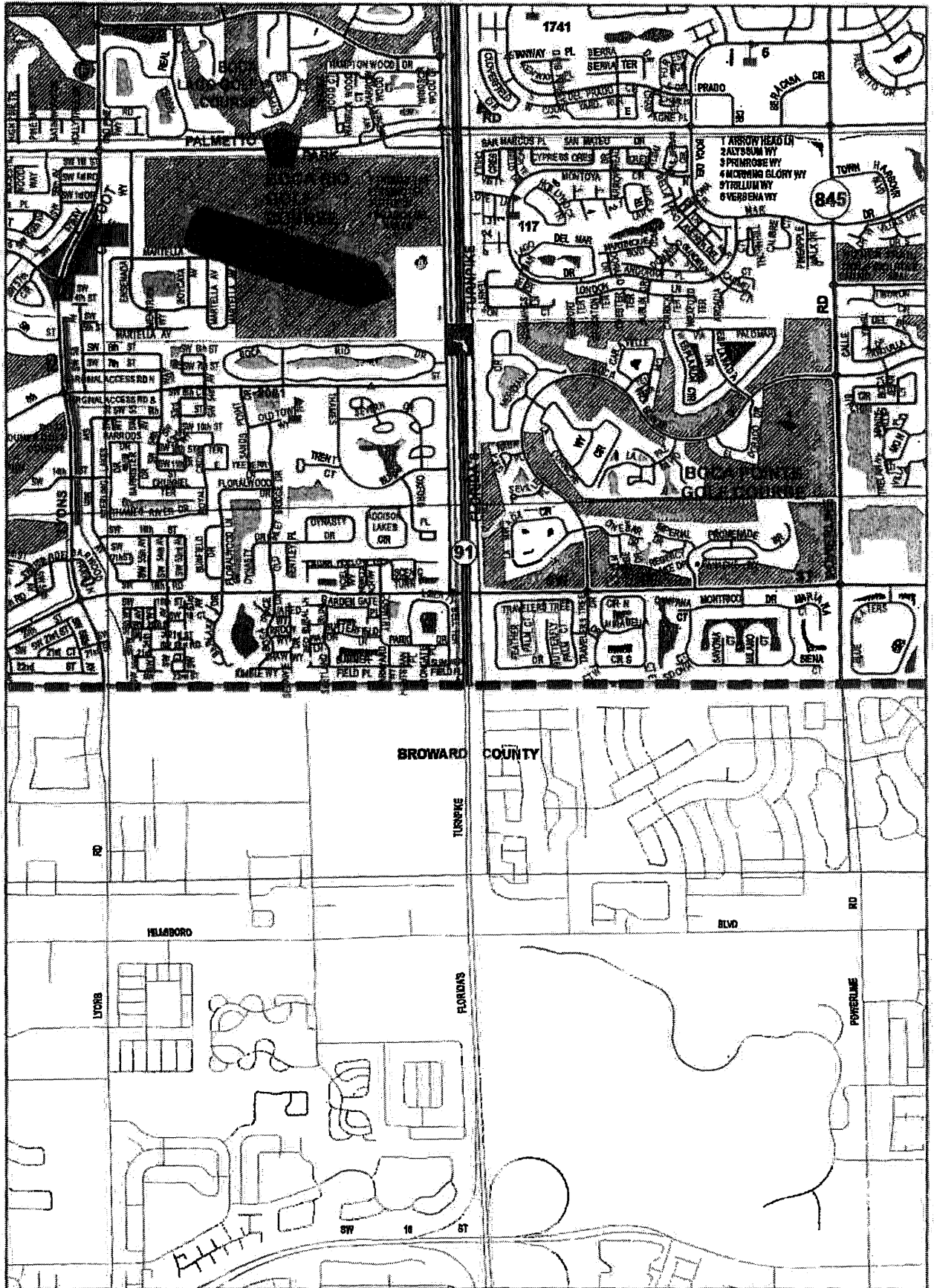
Background and Policy Issues continued: of the foreclosed property and, in connection therewith, has agreed to modify certain restrictions and easements which burden the foreclosed property and run in the Foundation's favor pursuant to a certain Declaration of Unity of Control recorded in the public records. A fully executed copy of an Amendment to Declaration of Unity of Control evidencing the Foundation's consent to the revised site plan approved by the County pursuant to the foregoing ZAR approval is included as Attachment 3. Protea has entered into an Agreement with Foundation obligating Protea, as part of its development of the foreclosed property, to perform certain improvements to the Foundation's property as depicted on the amended site plan.

Because PJPF acquired the subject property via foreclosure, the existing deed restrictions permit the foreclosed property to be used as a general purpose assisted care living facility without obligation to provide Alzheimer's/memory care services. However, as noted above, PJPF and Protea are agreeable to requiring that memory care services be provided together with assisted living services in any project developed upon the foreclosed property. In exchange, Protea is asking that the County approve the transfer of the foreclosed property to Protea Senior Living Boca Raton, LLC; release County's right to approve future conveyance or encumbrance of the foreclosed property once construction of the facility is completed and has received a CO; and remove the requirement that the property be owned by a not for profit entity.

TWP 47

TWP 47

TWP 47



43

44

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RNG 42

No pg

RNG 42

Page 129

LOCATION MAP

ZZ

ATTACHMENT 2
Summary of Restrictions
1 page

SUMMARY OF RESTRICTIONS

1979 Deed conveying 10 acres to Foundation

– use restricted to habilitative purposes for the mentally ill.

Property reverts if:

- Foundation ceases to be a non-profit corporation
- Ceases to use the property for said purposes
- Conveys or encumbers the property without County's consent

2014 Modification of Deed Restrictions on 6 acres.

Use of the 6 acres restricted to following purposes:

- Mental health counseling
- Development use and operation of a senior living facility on the 6 acres, with assisted living units accommodating 117 assisted living beds providing memory care services
- Any proposed change in use shall require the prior written approval of County, **which shall not be unreasonably withheld.**

Foundation shall have the right to convey the 6 acres to Faulk Senior Services (FSS).

FSS shall have the right to mortgage the Senior Living Facility to secure a loan to finance the construction of the Senior Living Facility. In the event of foreclosure of said mortgage, title to the 6 acres may be transferred as provided in said mortgage subject to the use restrictions, and the 6 acres may be used as a congregate living facility (as such term is used in the ULDC).

Any further or subsequent conveyance or encumbrance shall require approval by County, **which approval shall not be unreasonably withheld.**

Current requested Second Modification of Restrictions on 6 acres:

Approves the proposed transfer of the 6 acres to Protea Senior Living Boca Raton, LLC

Releases the requirement that the 6 acres remain owned by a not-for-profit entity

Restricts use of Property to development, use and operation of a senior living facility, with assisted living units accommodating approximately 117 beds providing assisted living and memory care services. **Any proposed change in use shall require approval of County, which approval shall be in County's sole discretion.**

The restriction requiring County approval of any further transfer or encumbrance shall terminate upon issuance of a Certificate of Occupancy for the Senior Living Facility. Any conveyance or encumbrance shall be subject to the Declaration of Unity of Control.

	1979 Deed Conveying 10 Acres to Foundation	2014 Modification of Deed on 6 Acres Only	Proposed Second Modification of Restriction on 6 Acres Only	Change or No Change From 2014
Use	<p>Habilitative purposes for the mentally ill. Property reverts if</p> <ul style="list-style-type: none"> • Ceases to use the property for said purposes; • Conveys or encumbers without County consent; and • Foundation ceases to be a not for profit. 	<ul style="list-style-type: none"> • Mental health counselling • Senior living facility with 117 assisted living beds providing memory care services • Any proposed change in use shall require the prior written approval of the County, which approval shall not be unreasonably withheld. 	<ul style="list-style-type: none"> • Senior living facility with 117 assisted living beds providing memory care services. • Any proposed change in use shall require approval of County, which approval shall be in County's sole discretion. 	No change to allowed use. Future change subject to County's sole discretion.
Right To Convey/Encumber	Requires consent	<ul style="list-style-type: none"> • Requires consent which shall not be unreasonably withheld. 	<ul style="list-style-type: none"> • Restriction on transfer shall terminate upon issuance of certificate of occupancy for the senior living facility. 	Change
Type of Entity	Non profit	<ul style="list-style-type: none"> • Non profit 	<ul style="list-style-type: none"> • Private entity 	Change

ATTACHMENT 3
Letter from Piper Sandler
4 pages

March 23, 2020

Via Electronic Mail

Mayor Dave Kerner (DKerner@pbcgov.org)
Vice Mayor Robert S. Weinroth (RWeinroth@pbcgov.org)
Commissioner Hal R. Valeche (HValeche@pbcgov.org)
Commissioner Gregg K. Weiss (gweiss@pbcgov.org)
Commissioner Mary Lou Berger (MBerger@pbcgov.org)
Commissioner Melissa McKinlay (MMcKinlay@pbcgov.org)
Commissioner Mack Bernard (MBernard@pbcgov.org)
301 North Olive Ave. Suite 1201
West Palm Beach, Florida 33401

RE: Second Modification and Restatement of Deed Restrictions on approximately 6.144 acres of property previously donated by the County to the Elizabeth H. Faulk Foundation, Inc. (the "Modification")

Dear Mayor Kerner, Vice-Mayor Weinroth, Commissioner Valeche, Commissioner Weiss, Commissioner Berger, Commissioner McKinlay, and Commissioner Bernard:

On behalf of PJPF Holdings LLC ("PJPF"), the owner of the property located at 22501 Boca Rio Road, Boca Raton, Florida (the "Property"), I write to you to provide additional information and background regarding the process by which PJPF acquired the Property and its efforts to facilitate development of the Property as was requested by you to staff at your March 17, 2020 meeting. PJPF appreciates the opportunity to provide additional information regarding the Property to assist you in the consideration of the Modification.

A timeline of pertinent events regarding the Property and a brief summary of those events is presented below:

<u>Time Period</u>	<u>Summary of Events</u>
May 1979	Palm Beach County donates 10 acres of land, including the Property, to the Elizabeth H. Faulk Foundation, Inc. (the "Foundation"). Among the conditions of the donation is that the subject land will be used for rehabilitative purposes of the mentally ill, that the Foundation remain a non-profit corporation, and any conveyance or encumbrance of the subject land be approved by Palm Beach County.
Circa 2014	The Foundation obtains approval to develop a 96 unit assisted living facility providing memory care services on the Property. In connection with this approval, the deed restrictions applicable to the Property are modified by the County to permit the Property to be conveyed to an LLC owned by the Foundation, and for the Property to be mortgaged to secure bonds issued by the Capital Trust Agency to finance development of the Property.

Early-2015	Construction of the proposed facility stalls when it is determined that the costs of the project will materially exceed the available construction funds.
October 2015	PJPF's parent and sole member, then known as Piper Jaffray Companies ("Piper Jaffray") ¹ , elects to hold all bondholders in the project harmless by purchasing all of the bonds issued to finance the project. The bonds are purchased by Piper Jaffray using the remaining funds left for construction of the project plus additional funds in the approximate amount of \$3.3 million which Piper Jaffray elects to contribute from its own funds.
June 2016	Piper Jaffray and the Foundation enter into a forbearance agreement permitting the Foundation an opportunity to market the Property for its own account. The Foundation is unsuccessful in these efforts.
November 2017	Following the Foundation's inability to identify a purchaser of the property, Piper Jaffray causes the Property to be foreclosed.
August 2018	PJPF acquires the Property at the foreclosure sale.
August 2018 to May 2019	PJPF actively engages in efforts to sell the Property. These efforts include an attempted auction of the Property in December 2018 which fails to yield any satisfactory bidders. Subsequently, following a more traditional marketing strategy, Protea Capital Partners ("Protea") submits an offer to purchase the Property in May 2019.

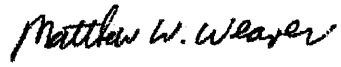
As has been represented, PJPF's contract with Protea is contingent upon the Modification being approved. Should you approve the Modification and the transaction subsequently close, PJPF expects to realize a little more than \$2.5 million in net sales proceeds after paying the various closing costs associated with the transaction. As set forth on the accompanying schedule attached to this letter, this amount will be insufficient to fully recoup Piper Jaffray's total investment in the project, which exceeds \$3.5 million. However, PJPF has determined that Protea's offer, even though it results in a loss to Piper Jaffray which exceeds \$1 million, represents the best opportunity to sell the Property and permit its development in the near to medium term.

Without question, it is unfortunate that the original project as envisioned in 2014 was unable to move forward. However, PJPF sincerely believes that Protea's development proposal represents the best opportunity to "turn back the clock" and achieve an outcome which very closely approximates the outcome which the Foundation was seeking to achieve. Approval of the Modification will result in real and tangible benefits to (1) the Foundation as a result of the substantial infrastructure improvements which Protea has agreed to make to the Foundation's property, (2) those residents of Palm Beach County needing assisted living and memory care services by affording them another provider of such services, and (3) the citizens of Palm Beach County as a whole through the construction and services jobs which will result from the project as well as the property taxes which the facility will pay on account of its for profit status. On the other hand, denial of the Modification will put the Property into a state of limbo which would likely extend into the foreseeable future on account of the degree of difficulty which will exist in attempting to find a congregate living facility developer willing to accept the existing deed restrictions upon the Property. During this time, the residents of Palm Beach County will be deprived of the benefits which the project will provide.

¹ Earlier this year, Piper Jaffray Companies' name was change to Piper Sandler Companies.

On behalf of PJPF, I trust this letter assists in your consideration of the Modification and I thank you for your favorable consideration.

Very truly yours,

A handwritten signature in black ink that reads "Matthew W. Weaver". The signature is written in a cursive, slightly slanted style.

Matthew Weaver, Managing Director
Piper Sandler & Co.
On behalf of PJPF Holdings LLC

Schedule 1
to
March 23, 2020 Letter to Palm Beach County Commission

Summary of PJPF Holdings LLC Investment in Property

Bond Acquisition Costs ¹	\$(3,300,000.00)
Carry Costs ²	\$(288,451.15)
Total Investment	\$(3,588,451.15)
Anticipated Net Sales Proceeds	\$ 2,513,047.31
Estimate Net Loss Following Sale	\$(1,075,403.84)

Notes:

1 Constitutes sums contributed by Piper Jaffray Companies to acquire the bonds following failure of the project in excess of cash available in the trust estate.

2 Consists of expenses such as delinquent property taxes paid by PJPF, attorneys' fees, insurance premiums, and additional third party costs.

ATTACHMENT 4
Letter from Vicki Katz
2 pages

Elizabeth H Faulk Foundation
Faulk Center for Counseling

22455 Boca Rio Road
Boca Raton, FL 33433

March 24, 2020

Via Electronic Mail
Palm Beach County Commission

Mayor Dave Kerner
Vice Mayor Robert S. Weinroth
Commissioner Hal R. Valeche
Commissioner Greg K. Weiss
Commissioner Mary Lou Berger
Commissioner Melissa Mckinlay
Commissioner Mack Bernard

RE: Sale of property located behind the Faulk Center for Counseling, effectively transferring ownership from Piper Sandler to Protea Capital Partners

Dear Mayor Kerner, Vice-Mayor Weinroth and Commissioners,

I apologize that I was not able to attend last week's meeting in which this transaction was to have been approved. As I believe you know, our nonprofit organization provides free and low cost mental health services to the Palm Beach County community and has been working under tremendous pressures as we deal the COVID-19 crisis. We are working to establish remote telehealth therapy services and enable our organization to continue our valuable work.

The property was transferred to Piper Sandler (Piper Jaffray) last summer through foreclosure proceedings. There is no financial gain in this sale for us, but it will settle what has been a long and costly effort for us and provide some needed improvements to our property. We are very much in favor of the sale to Protea Capital Partners, as it will fit with the original project and the restricted use of the site to serve as an ALF.

The \$25 million bond offering dates to 2014 and our plans to build an Assisted Living/Memory Care facility that would fit with our mental health services to the senior community. We gave up our property and \$2 million of our foundation assets to make it happen. No one is more distressed than us with the outcome. Although we have a foundation to support our work, it is primarily restricted to operate the Faulk Center for Counseling and we are always in need of additional funds to cover the cost of services for our clients.

The project did not move forward in 2015, as we learned after the bond closing of considerable cost overruns and begin a lengthy dispute with the general contractor, architect and developer. In

the end, the project was cancelled by the bondholders who choose to unwind the bonds. The resulting legal challenges for us have been difficult and costly.

We met with Protea several months ago and are in favor of their project as it will use the existing site plan, provide us with county sewers (which they will install and maintain and it removes us from the septic system), will clean up our parking areas and exit road, and provide additional site beautification. Protea will also restrict the use to an ALF with Memory Care, offering our center the opportunity to partner on providing mental health services to residents. And finally, it will provide us with certainty as to the property's use, allowing us to begin to look at needed repairs to our 40 year old building.

I am happy to speak to any of you who may have additional questions. This has been a long and costly battle for our small nonprofit organization. I believe we provide important mental health services to the Palm Beach community and we need to move forward. The coming months will present significant challenges to our community and to the network of nonprofit organizations with whom we partner.

I thank you in advance for your consideration in allowing this sale to proceed.

Sincerely,
Vicki Katz, CEO
Elizabeth H Faulk Foundation, Inc
Faulk Center for Counseling

ATTACHMENT 5

Second Modification and Restatement of Deed Restrictions
6 pages

PREPARED BY AND RETURN TO:

Jason E. Merritt
HOPPING GREEN & SAMS, P.A.
119 South Monroe Street, Suite 300
Tallahassee, Florida 32301

PCN: 00-42-47-29-20-001-0010

**SECOND MODIFICATION AND RESTATEMENT OF DEED
RESTRICTIONS**

THIS SECOND MODIFICATION AND RESTATEMENT OF DEED RESTRICTIONS (“Modification”), made and entered into _____ by and between PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida (“County”) and PJPF HOLDINGS, LLC, a Delaware limited liability company (“Holdings”).

WHEREAS, HOLDINGS is the current owner of record of certain land located in Palm Beach County, Florida more particularly described in Exhibit “A” (the “Property”) attached hereto and incorporated by reference; and

WHEREAS, the Property is currently subject to the terms and conditions contained in that certain County Deed dated May 8, 1979 and recorded in Official Records Book 3110, Page 1982, and that certain Agreement dated July 24, 1979 and recorded in Official Records Book 3110, Page 1984, as the same have been modified by the provisions of that certain Modification of Deed Restrictions dated July 22, 2014 and recorded in Official Records Book 27224, Page 1962, all of the public records of Palm Beach County, Florida (collectively, the “Deed Restrictions”); and

WHEREAS, the Property is also subject to the terms and conditions contained in that certain Declaration of Unity of Control dated October 29, 2014 and recorded in Official Records Book 27225, Page 722 of the public records of Palm Beach County, Florida, as the same is amended by that certain Amendment to

Declaration of Unity of Control dated December 27, 2019 and recorded contemporaneously with this Modification (the “Declaration of Unity Control”); and

WHEREAS, HOLDINGS is the successor in title to Faulk Senior Services, LLC and acquired title to the Property by virtue of that certain Certificate of Title dated August 2, 2018 and recorded in Official Records Book 30035, Page 214 of the public records of Palm Beach County, Florida, following foreclosure of a certain mortgage placed against the Property, which mortgage was previously approved by the COUNTY by virtue of the aforementioned Modification of Deed Restrictions dated July 22, 2014; and

WHEREAS, among other provisions, the Deed Restrictions require that COUNTY approve “any further or subsequent conveyance or encumbrance” of the Property; and

WHEREAS, HOLDINGS has entered into that certain Contract of Sale and Purchase dated as of May 22, 2019 (the “Contract”), with Protea Capital Partners, LLC, which Contract has been assigned to Protea Senior Living Boca Raton, LLC, a California limited liability company (“Prospective Purchaser”), and which Contract contemplates that HOLDINGS will transfer and convey the Property, subject to the Deed Restrictions, as modified and superseded by this Modification, and the Declaration of Unity of Control, to Prospective Purchaser (the “Proposed Transfer”); and

WHEREAS, HOLDINGS desires to obtain COUNTY’S approval of the Proposed Transfer as required by the Deed Restrictions, and COUNTY is willing to consent to the Proposed Transfer on the terms and conditions contained herein; and

WHEREAS, COUNTY and HOLDINGS further desire to modify and restate the Deed Restrictions in their entirety as contained herein.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

1. **RECITALS.** The foregoing recitals are true and correct and are hereby incorporated by reference.

2. **APPROVAL OF PROPOSED TRANSFER.** COUNTY hereby approves the Proposed Transfer of the Property to Prospective Purchaser and does further release any and all restrictions requiring that the Property remain owned or operated by a not-for-profit entity or organization.

3. **USE OF PROPERTY.** From and after the date hereof, the Property shall be used solely for the purpose of the development, use and operation of a senior living facility, with assisted living units accommodating approximately 117 beds providing assisted living and memory care services (the "Senior Living Facility"). Any proposed change in use shall require the prior written approval of County, which approval shall be in County's sole discretion.

4. **SUBSEQUENT TRANSFER OR ENCUMBRANCE OF THE PROPERTY.** Those provisions of the Deed Restrictions which require approval by the COUNTY of any further transfer or encumbrance of the Property, shall terminate upon issuance of a Certificate of Occupancy for the Senior Living Facility and thereafter shall be of no further force or effect. Any conveyance or encumbrance of the Property shall be subject to the Declaration of Unity of Control,

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the day and year aforesaid.

Signed and Sealed in the presence of:

PJPF HOLDINGS, LLC
a Delaware limited liability company

Witness

By: Piper Sandler Companies, a
Delaware corporation
Its Sole Member

Printed Name

By: _____
Print Name: _____
As its: _____

Witness

Printed Name

(SEAL)

STATE OF MINNESOTA

COUNTY OF HENNEPIN

The foregoing instrument was acknowledged before me this ____ day of January 2020, by _____, as _____ of Piper Sandler Companies, a Delaware corporation, as sole member of PJPF Holdings, LLC, a Delaware limited liability company, on its behalf.

Signature of Notary Public

Name of Notary Public
(Typed, Printed or stamped)

Personally Known _____ OR Produced Identification _____
Type of Identification Produced: _____

ATTEST:

**SHARON R. BOCK
CLERK & COMPTROLLER**

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

By: _____
Deputy Clerk

By: _____
Dave Kerner, Mayor

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

(OFFICIAL SEAL)

By: _____
Assistant County Attorney

EXHIBIT "A"

Description of the Property

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF BOCA RATON, COUNTY OF PALM BEACH, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

A PARCEL OF LAND BEING A PORTION OF TRACT "A", ELIZABETH FAULK FOUNDATION MUPD, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 118, PAGES 179 AND 180, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT "A"; THENCE SOUTH 89°36'18" WEST ALONG THE SOUTH LINE OF SAID TRACT "A", A DISTANCE OF 665.98 FEET TO THE SOUTHWEST CORNER OF SAID TRACT "A"; THENCE NORTH 00°26'58" WEST, ALONG THE WEST LINE OF SAID TRACT "A", A DISTANCE OF 630.00 FEET TO THE NORTHWEST CORNER OF SAID TRACT "A"; THENCE NORTH 89°35'53" EAST ALONG THE NORTH LINE OF SAID TRACT "A", A DISTANCE OF 350.42 FEET; THENCE SOUTH 00°26'58" EAST DEPARTING SAID NORTH LINE OF TRACT "A", A DISTANCE OF 230.35 FEET; THENCE SOUTH 59°38'45" EAST, A DISTANCE OF 10.85 FEET; THENCE SOUTH 00°26'58" EAST, A DISTANCE OF 219.02 FEET; THENCE SOUTH 58°44'48" WEST, A DISTANCE OF 11.09 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 79.78 FEET, A RADIAL LINE THROUGH SAID POINT BEARS SOUTH 87°56'17" EAST; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE HAVING A CENTRAL ANGLE OF 92°27'25", A DISTANCE OF 128.74 FEET TO A POINT OF TANGENCY; THENCE NORTH 89°36'18" EAST, A DISTANCE OF 13.90 FEET; THENCE NORTH 00°23'42" WEST, A DISTANCE OF 67.00 FEET; THENCE NORTH 89°36'18" EAST, A DISTANCE OF 230.42 FEET TO A POINT ON THE EAST LINE OF SAID TRACT "A"; THENCE SOUTH 01°06'25" EAST ALONG SAID EAST LINE OF SAID TRACT "A", A DISTANCE OF 143.25 FEET; THENCE CONTINUE SOUTH 44°14'56" WEST ALONG SAID EAST LINE OF TRACT "A", A DISTANCE OF 14.05 FEET TO THE AFOREMENTIONED POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 6.144 ACRES OR 267,654 SQUARE FEET, MORE OR LESS.

ATTACHMENT 6

**Amendment to Declaration of Unity of Control
6 pages**

Instrument Prepared By
and Return to:

Jason E. Merritt
Hopping Green & Sams, P.A.
119 South Monroe Street, Suite 300
Tallahassee, Florida 32301

**AMENDMENT TO
DECLARATION OF UNITY OF CONTROL**

THIS AMENDMENT TO DECLARATION OF UNITY OF CONTROL ("*Amendment*") is made this 27th day of December 2019, by ELIZABETH H. FAULK FOUNDATION, INC., a Florida non profit corporation ("*Foundation*"), and PJPF HOLDINGS LLC, a Delaware limited liability company ("*Holdings*" and, together with, Foundation, the "*Declarants*").

RECITALS:

A. By virtue of that certain Declaration of Unity of Control dated October 29, 2014, recorded in the Public Records of Palm Beach County, Florida in Official Records Book 27225, Page 722 (the "*Declaration of Unity of Control*"), Foundation and Holdings' predecessor in title, Faulk Senior Services, LLC, imposed certain covenants, conditions and easements upon certain land located in Palm Beach County, Florida identified in the Declaration of Unity of Control as the "*Properties*."

B. Holdings is the successor in title to Faulk Senior Services, LLC by virtue of that certain Certificate of Title dated August 2, 2018 and recorded in Official Records Book 30035, Page 214 of the Public Records of Palm Beach County, Florida.

C. The Declaration of Unity of Control contemplated that the Properties would be developed in accordance with the site plan attached to the Declaration of Unity of Control as Exhibit C.

D. The Declarants have determined that certain modifications to the site plan attached as Exhibit C to the Declaration of Unity of Control are necessary in order to facilitate development of the Properties, and, therefore, are entering into this Amendment for the purpose of amending and replacing the site plan originally attached to the Declaration of Unity of Control.

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 agree as follows:

1. **Recitals.** The foregoing recitals are incorporated herein by reference as though set forth in detail in this place.
2. **Amendment to Site Plan.** Exhibit C of the Declaration of Unity of Control is hereby deleted in its entirety, is of no further force or effect, and the site plan attached hereto as **Exhibit C-1** is hereby substituted in its place and stead. By execution of this Amendment, the Declarants acknowledge and confirm that from and after the date of this Amendment that all references to the term “***Site Plan***” contained in the Declaration of Unity of Control shall be deemed to be to the site plan attached to this Amendment as **Exhibit C-1**.
3. **Counterparts.** This Amendment may be executed in any number of and by different parties hereto on separate counterparts, all of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one (1) and the same instrument
4. **Legal Effect.** Except as provided herein, the Declaration of Unity of Control is unmodified hereby and remains in full force and effect. If and to the extent any of the provisions of this Amendment conflict with or otherwise are inconsistent with any of the provisions of the Declaration of Unity of Control, whether or not such inconsistency is noted expressly in this Amendment, the provisions of this Amendment shall prevail.

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[Signatures on Following Pages]

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

DECLARANTS:

Witnesses:

Anthony Lucas

Anthony Lucas
Printed Name

Brooke Bernstein

Brooke Bernstein
Printed Name

ELIZABETH H. FAULK FOUNDATION, INC.,
a Florida non-profit corporation

By: Vicki Katz, CEO

Print Name: VICKI KATZ

As its: CEO.

STATE OF FLORIDA)
) SS.
COUNTY OF PALM BEACH)

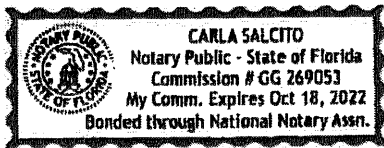
The foregoing instrument was acknowledged before me this 20th day of December, 2019, by Vicki Katz, as CEO of Elizabeth H. Faulk, Foundation, Inc., a Florida non-profit corporation, on behalf of the corporation, () who is personally known to me; or (X) who produced Florida D/L as identification.

Carla Salcito

Signature of Notary

Carla Salcito

Printed Notary Name



My commission expires: Oct 18, 2022

[Signatures Continue on Following Page]

Unity of Control.

EXHIBIT C-1

Modified Site Plan

[See Attached]

ATTACHMENT 7
July 22, 2014 Agenda Item
13 pages

50-4

Agenda Item #:

MB/SA 6-0
PB abs

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

R-2014-1096

Meeting Date: July 22, 2014 Consent Regular
 Ordinance Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a Modification of Deed Restrictions on 10 acres of land donated by the County to the Elizabeth Faulk Foundation.

Summary: In 1979, the County conveyed approximately 10 acres of land located on the West side of Boca Rio Road just North of S.W. 8th Street to the Elizabeth Faulk Foundation. The County Deed restricted use of the property to habilitative purposes of the mentally ill; required that the Foundation remain a non-profit corporation; prohibited conveyance or encumbrance of the property without the County's consent; and provided that in the event these restrictions were violated, the property would revert to the County. The Elizabeth Faulk Foundation, Inc. was organized in 1971 as a Florida not-for-profit corporation with the charitable purpose of "providing free psychological and consultation services to the needy". The Foundation constructed a 13,000 SF building on roughly 4 acres of the property in which it operates its Faulk Center for Counseling. In 2013, the trustees of the Foundation determined that the Foundation needed to expand its scope of services to offering assisted living and memory care services to the elderly. To that end, the Foundation created Faulk Senior Services, LLC ("FSS"), a wholly owned and controlled entity, in order to effect the development and operation of the Faulk Senior Residence, which is programmed to include a 96 unit/117 bed Assisted Care Living Facility (ACLF) providing Alzheimer's and memory care services. The Foundation has entered into a Development Agreement with Mainsail Healthcare Development, LLC to develop the ACLF on the vacant property. The project will be financed through issuance of tax exempt revenue bonds. Once constructed, the ACLF will be managed and operated by MJM Associates, a related entity of Mainsail. Operation of the ACLF will be governed and controlled by FSS as the owner of the property and ACLF, and the profit from operations will accrue to the benefit of FSS/Foundation. The Modification of Deed Restrictions releases the County's reverter; restricts use of the property to i) mental health counseling and rehabilitation of the mentally ill; and ii) the development, use and operation of a senior living facility with assisted living units accommodating approximately 117 assisted living beds providing memory care services; allows for conveyance of the property to FSS; allows FSS to mortgage the property to secure the bonds; and in the event of foreclosure, expands the allowable use to include a congregate living facility as defined by the ULDC. (PREM) District 5 (HJF)

Background and Policy Issues: On page 3

Attachments:

1. Location Map
2. Foundation Letter
3. Modification of Deed Restrictions

Recommended By: [Signature] Annex W/14
Department Director

7/11/14
Date

Approved By: [Signature]
County Administrator

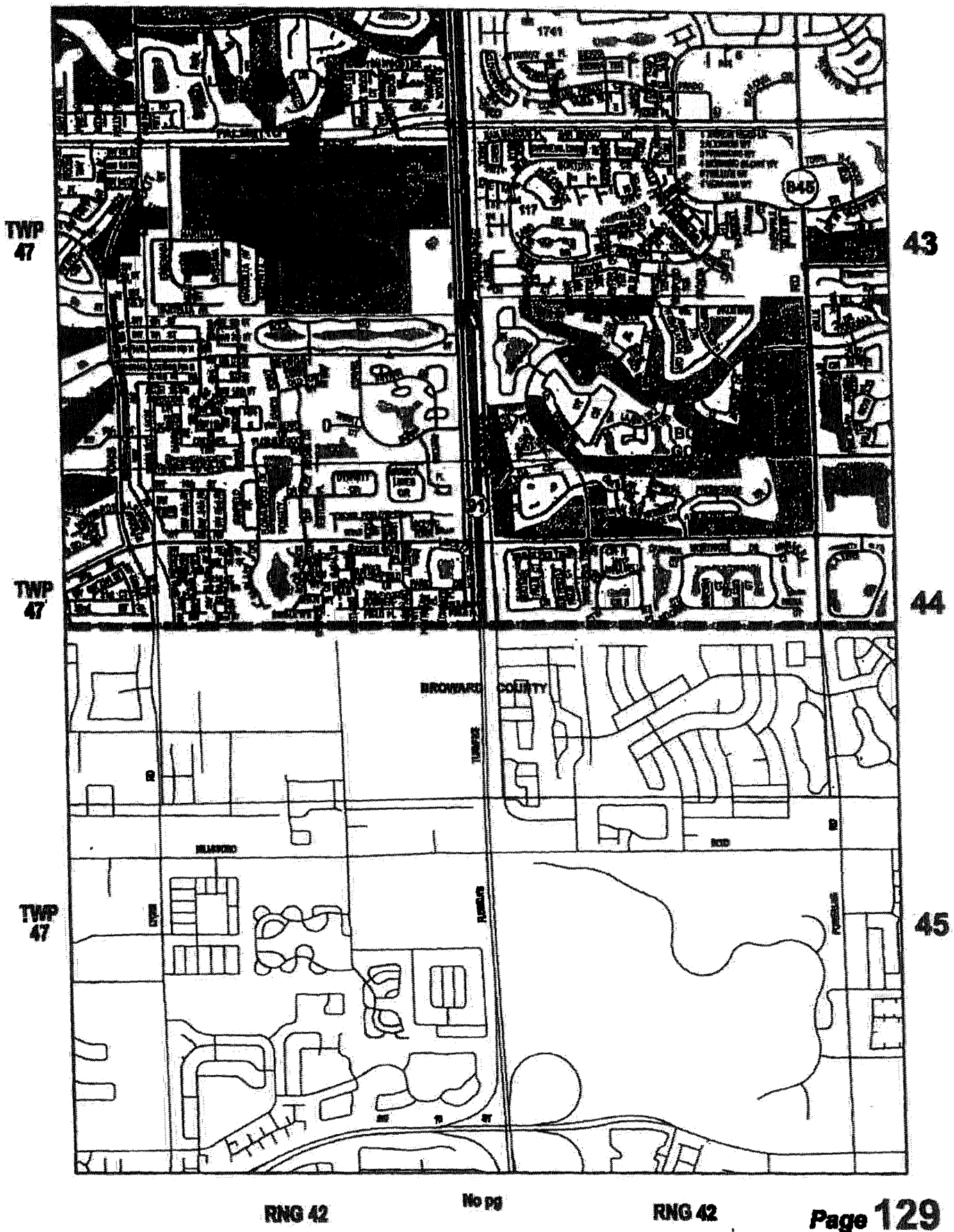
7-17-14
Date

Page 3

Background and Policy Issues: Attached is a letter from the Foundation supporting their request for modification of the deed restrictions. The ACLF will cost roughly \$20M to develop. FSS will issue tax exempt revenue bonds in order to finance the project. In order to underwrite the bonds, a market study was performed to demonstrate the need/demand within the community for the ACLF. The bonds will require a Trustee to oversee expenditure of the bond funds and establishment of trust accounts for revenue and expenses of operations of the facility, payment of debt service, reserves for maintenance, repair and replacement of the facility. The bonds will also require a management agreement with a professional management company to manage day to day operations. The foregoing provides substantial protection against the project failing and falling into foreclosure.

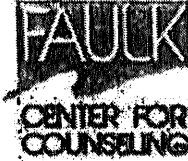
Staff has reviewed preliminary information provided by Mainsail confirming the organization and financial structure of this transaction. While releasing the reverter and allowing the Foundation/FSS to mortgage the property is necessary to obtain financing, it poses some risk in the event of foreclosure where the FSS/Foundation would lose the building and the bondholders or subsequent purchaser would then be allowed to use the facility as a general purpose ACLF without obligation to provide Alzheimer's/memory care services. However the market study, professional management, bond Trustees etc., mitigate this risk.

Staff will not deliver the Modification of Deed Restrictions until we receive a copy of the formal prospectus for the bond issuance in order to verify all of the information and representations referenced herein.



LOCATION MAP





The SKILL to HEAL, the HEART to CARE

July 9, 2014

Board of County Commissioners
Palm Beach County, Florida

Re: The Elizabeth H. Faulk, Inc. and Faulk Senior Services, LLC, development of a 96 Unit Assisted Living Facility providing Alzheimer's and Memory Care Services

Honorable Commissioners:

The Elizabeth H. Faulk Foundation, Inc. (the "Foundation") desires to develop a 96 Unit Assisted Living Facility providing Alzheimer's and Memory Care services (the "Faulk Senior Residence"). As you are probably aware, the Foundation has been providing counseling services to the citizens of Palm Beach County (the "County") for the past 40 years. These counseling services include numerous categories of counseling, many of which are specifically oriented towards senior citizens and are provided at little or no cost. As a logical extension of the Foundation's current mission, the Foundation via Faulk Senior Services, LLC ("FSS") plans to develop a residential care facility where our mission can be expanded. This would include free support groups for families dealing with loved ones with various memory care disorders, community presentations and awareness campaigns regarding the same.

The structure of this proposed project is such that FSS is a limited liability corporation and the sole member of FSS is the Foundation. Thus the Foundation will retain full control over FSS and its activities in operating the Faulk Senior Residence.

The ten acre parcel which was given to the Foundation some 35 years ago by the County has a two story building thereon from which the Foundation provides its counseling services both on site and in many other venues such as schools and senior care centers. Thus, approximately 3.8 acres is utilized by the existing building and its attendant parking. The Foundation plans to convey to FSS approximately 6.2 acres of unutilized land on which the Faulk Senior Residence will be developed. However, the Foundation cannot convey the 6.2 acres to FSS without the consent of the County and FSS cannot encumber the 6.2 acres without the consent of the County.

In order to develop the Faulk Senior Residence on the 6.2 acre parcel, FSS will be utilizing tax exempt revenue bond financing to develop and construct the same. This financing will require that the revenue bonds be secured by a first mortgage on the 6.2 acres. Thus the Foundation and FSS are requesting permission of the County to so encumber the 6.2 acres.

In order to effect the development and financing of the Faulk Senior Residence, the Foundation entered into a Development Agreement with Mainsail Healthcare Development, LLC. As per the Development Agreement, Mainsail is to provide all development services related to architecture and construction and also to assist FSS in the securing the needed revenue bond financing. The Foundation has also entered into a Management Agreement with MJM Associates, LLC to provide the overall management services

for the Paulk Senior Residence. However, FSS retains full control over all operation decisions, including the scope and types of services to be provided to its senior citizen residents. The revenue bond financing will utilize a trust indenture, where among other things, it requires that all net operating income from the operations of the Paulk Senior Residence will accrue solely to the benefit of FSS as the owner. All of such funds would then be up-streamed to the Foundation as the sole member of FSS.

The current deed restrictions contained in the deed from the County to the Foundation some 35 years ago must be modified in order to comply with the above development and financing structure. These modified deed restrictions will ensure that so long as the mortgage on the Paulk Senior Residence is in good standing, only mental health counseling and Alzheimer's and memory care services will be provided within the Paulk Senior Residence which will be licensed as an assisted living facility. However, in the event of foreclosure of the mortgage, the permitted use within the assisted living facility can be expanded to general assisted living facility services usage. This modification is a requirement in order to secure the revenue bond financing for the development of the Paulk Senior Residence.

The documents (which are either attached hereto or which have been previously provided to the County) which confirm the foregoing outlined structure are as follows: the Indenture of Trust, the Management Agreement, the Sources and Uses of Funds, the incorporation documents for FSS and the Modification of the Deed Restrictions. And, prior to the delivery of the Resolution and the Modification of the Deed Restrictions, a copy of the Revenue Bond Prospectus will be provided to the County.

The many benefits provided to the County and its citizens by the Foundation will continue and can expand through this development. Since 1973, the Foundation has provided free and low cost counseling services to more than 50,000 Palm Beach County, Florida residents who could not afford private treatment. The Foundation which depends on contributions and receives very little government funding will utilize the net proceeds from the operation of the Paulk Senior Residence to continue these services. In addition, the Paulk Senior Residence will provide new and expanded preclusion and internship opportunities for mental health, nursing and medical students at our local universities. And lastly, a much needed state-of-the-art residential care facility will be available to serve the County's residents with Alzheimer's and other memory care disorders.

We believe that the Foundation is an inspiration to others in the medical and mental health field. We believe that working with our core partners, developing key community support, and ensuring future medical professionals (through our educational program) will sustain the mission and activities that will pave the way to our continued success in the future. We look forward to continue to deliver these fundamental services to the indigent, at-risk, and underserved community of Palm Beach County as a result of this development.

The Foundation and FSS respectfully request that the Modification of the Deed Restrictions and the Resolution relating to the issuance of the revenue bonds be approved.

Sincerely,


Elizabeth H. Paulk
Paulk Senior Services, LLC

By: Vicki S. Katz, CRRE
Chief Executive Officer

22433 Boon Rio Road, Boon Rating, Florida 33433 - (561)497-5300 - www.paulkseniorscounseling.org

PREPARED BY AND RETURN TO:

Ross C. Hering
PALM BEACH COUNTY
PROPERTY & REAL ESTATE MANAGEMENT DIVISION
2633 Vista Parkway
West Palm Beach, FL 33411-5605

FCN: 00-42-43-27-05-060-0490

R 2014 1096
MODIFICATION OF DEED RESTRICTIONS

THIS MODIFICATION OF DEED RESTRICTIONS, made and entered into JUL 22 2014 by and between PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida ("County") and ELIZABETH H. FAULK FOUNDATION, INC., a Florida non-profit corporation ("Foundation").

WHEREAS, on May 8, 1979, County donated the property legally described in Exhibit "A" (the "Property") to Foundation and conveyed said Property to Foundation by County Deed recorded in Official Record Book 3110, Page 1982, Public Records of Palm Beach County, Florida; and

WHEREAS, said conveyance was made upon the express conditions that: i) the Property be used for rehabilitative purposes of the mentally ill; ii) that Foundation remain a non-profit corporation; and iii) any conveyance or encumbrance of the Property be subject to approval of County; and

WHEREAS, Foundation previously constructed the Faulk Center for Counseling on a portion of the Property and provides mental health counseling services in said Center; and

WHEREAS Foundation now desires to utilize the balance of the Property for development of an assisted living facility to be known as the Faulk Senior Residence; and

WHEREAS County has agreed to modify and replace the restrictions set forth in the above described County Deed upon the terms and conditions hereinafter set forth.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, the receipt and sufficiency of which are acknowledged, the parties hereto hereby agree as follows:

1. From and after the date hereof, the Property shall be used solely for the purposes of: i) mental health counseling and rehabilitation of the mentally ill; and ii) the development, use and operation of a senior living facility, with assisted living units accommodating approximately 117 assisted living beds providing memory care services

(the Senior Living Facility") on that portion of the Property designated for a congregate living facility on the site plan attached hereto as Exhibit "B" (the "Site"). Any proposed change in use shall require the prior approval of County, which shall not be unreasonably withheld.

2. The Foundation shall have the right to convey the Site to Faulk Senior Services, LLC ("FSS"), a Florida limited liability company, which shall at all times remain wholly-owned and controlled by Foundation.

3. FSS shall have the right to mortgage the Senior Living Facility to secure a loan to finance the construction of the Senior Living Facility, such loan to be extended to FSS in conjunction with revenue bonds to be issued subject to approval of County. Such mortgage shall at all times remain subject to and subordinate to the rights of County hereunder. In the event of foreclosure of said mortgage or issuance of a deed in lieu of foreclosure, title to the Site and the Senior Living Facility may be transferred as provided in said mortgage, subject to the use restrictions set forth in paragraph 1 above, provided that subsequent to such foreclosure the Site and the Senior Living Facility may be used as a congregate living facility (as such term is used in the County land development code).

4. Except as expressly permitted above, any further or subsequent conveyance or encumbrance of any portion of the Property shall require approval by County, which approval shall not be unreasonably withheld.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the day and year aforesaid.

Signed and Sealed in the presence of:

ELIZABETH H. FAULK FOUNDATION, INC.,
a Florida non-profit corporation

[Handwritten Signature]
Witness Name

Vicki Katz
(Signature)

Michelle Remnick
Print Witness Name

Vicki Katz, CEO.
(Print Signatory's name)

[Handwritten Signature]
Witness Name

(SEAL) (corporation not for profit)

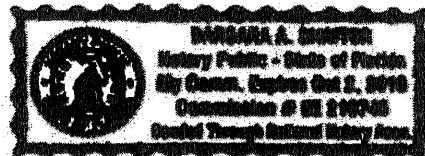
Maryann Suchaski
Print Witness Name

SWORN TO AND SUBSCRIBED before me this 15 day of July,
2014, by the Vicki Katz of the aforesaid corporation, who is
personally known to me OR who produced _____ as identification and who did
take an oath.

[Handwritten Signature]
Notary Signature

Barbara A. Shaffer
Print Notary Name

NOTARY PUBLIC
State of Florida at Large
My Commission Expires:



ATTEST:

R201411096

JUL 22 2014

**SHARON R. BOCK
CLERK & COMPTROLLER**

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

By: 
Deputy Clerk



By: 
Priscilla A. Taylor, Mayor

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

(OFFICIAL SEAL)

By: 
Assistant County Attorney

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION

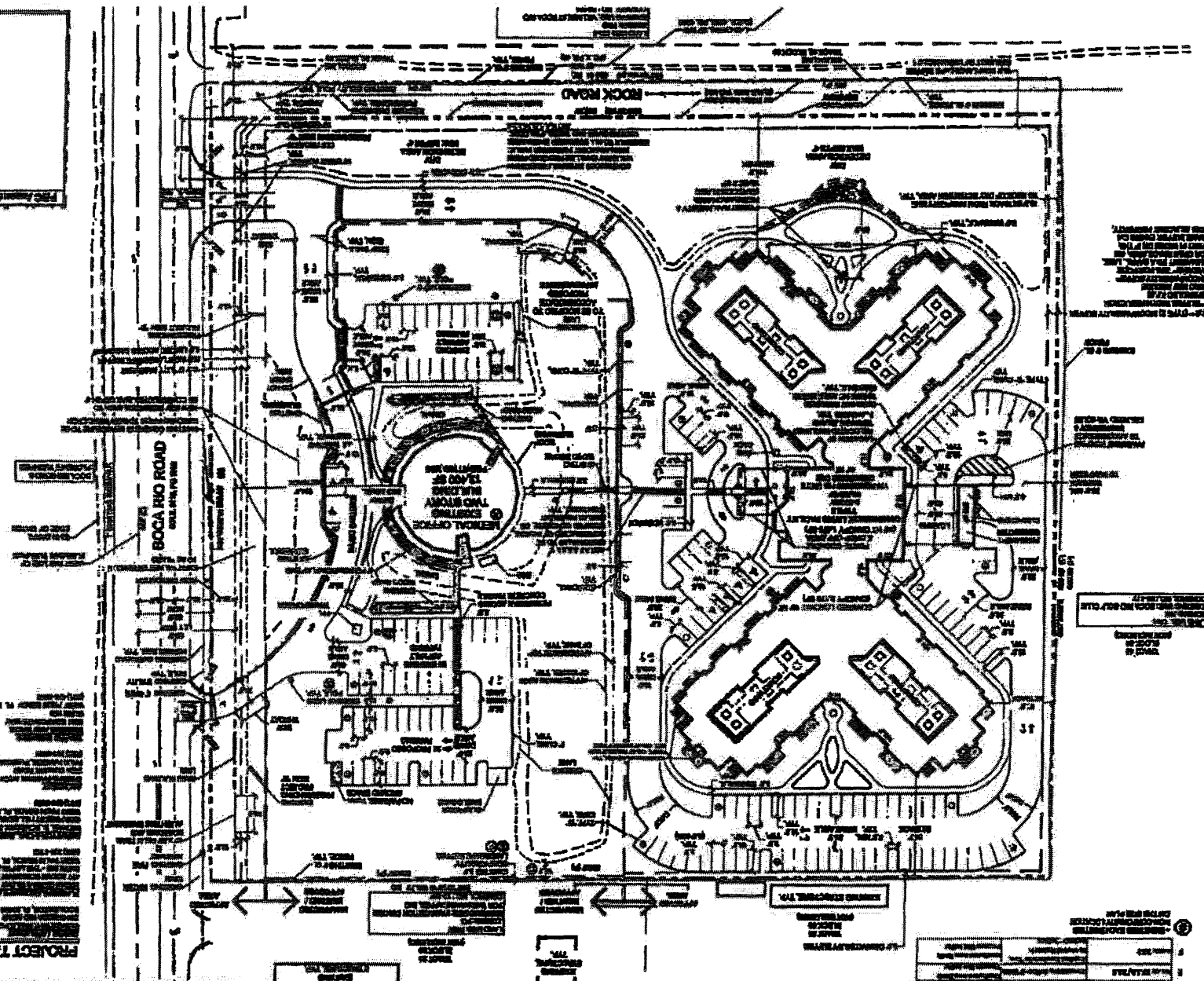
**Faulk Senior Residence at Elizabeth Faulk Foundation
(Elizabeth Faulk Foundation MUPD)**

TRACT 49 AND THAT PORTION OF TRACT 50 LYING WEST OF THE FLORIDA TURNPIKE, BLOCK 80, PALM BEACH FARMS PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK #2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LESS THE EAST 80 AS RIGHT-OF-WAY FOR BOCA RIO ROAD IN TRACT 50.

ALSO LESS THAT PARCEL OF LAND CONVEYED TO PALM BEACH COUNTY FOR THE ROCK ROAD RIGHT-OF-WAY, BY RIGHT-OF-WAY DEED RECORDED IN OFFICIAL RECORDS BOOK 3259, PAGE 918, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SOUTH 30 FEET OF TRACT 49, AND THE SOUTH 30 FEET OF THAT PORTION OF TRACT 50 LYING WEST OF THE FLORIDA TURNPIKE, BLOCK 80, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS THE EAST 80 AS RIGHT-OF-WAY FOR BOCA RIO ROAD IN TRACT 50. (THE "PROPERTY") OWNED BY ELIZABETH H. FAULK FOUNDATION, INC. (THE "OWNER") CONTAINS 436,222 SQUARE FEET (10.01 ACRES) MORE OR LESS.



1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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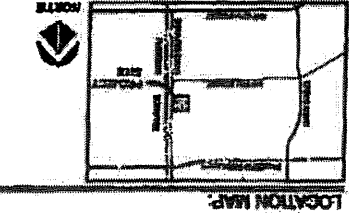
NON-CONFORMING SITE ELEMENTS

NO.	DESCRIPTION	REMARKS
1
2
3
4
5
6
7
8
9
10

TYPE II VARIANCE TABLE

NO.	DESCRIPTION	REMARKS
1
2
3
4
5
6
7
8
9
10

PROJECT TEAM:
 ARCHITECT: ...
 ENGINEER: ...
 LANDSCAPE ARCHITECT: ...
 PLANNING: ...
 CIVIL ENGINEER: ...
 ELECTRICAL ENGINEER: ...
 MECHANICAL ENGINEER: ...
 ENVIRONMENTAL ENGINEER: ...
 GEOTECHNICAL ENGINEER: ...
 HISTORIC PRESERVATION: ...
 TRAFFIC ENGINEER: ...
 WATER ENGINEER: ...
 WASTE ENGINEER: ...
 AIR QUALITY ENGINEER: ...
 SOUND AND VIBRATION ENGINEER: ...
 ENERGY ENGINEER: ...
 FIRE ENGINEER: ...
 SECURITY ENGINEER: ...
 SPECIALTY CONSULTANTS: ...



SITE DATA:
 SITE AREA: ...
 ZONING: ...
 ADJACENT PROPERTIES: ...
 EXISTING UTILITIES: ...
 EXISTING STRUCTURES: ...
 EXISTING LANDSCAPE: ...
 EXISTING TRAFFIC: ...
 EXISTING ENVIRONMENT: ...

NO.	DESCRIPTION	REMARKS
1
2
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NOTES:
 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

Elizabeth Faulk Foundation MUPD
 Palm Beach County, Florida
 Preliminary Site Plan
 Control No. 1979-00220

