

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-0-	-0-	-0-	-0-

ADDITIONAL FTE
POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes _____ No _____
Budget Acct No.: Fund ___ Dept. ___ Unit ___ Object _____
Program _____

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

This item has no additional fiscal impact.

C. Departmental Fiscal Review: R. D. Ward 6/27/06

III. REVIEW COMMENTS

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

Jim O'Neil 6-30-06
OFMB

Don J. Jandry 7/3/06
Contract Dev. and Control

Handwritten notes: 6-23-06, 6-28-06, 7/3/06

B. Approved as to Form and Legal Sufficiency:

Paul F. J. 7/5/06
Assistant County Attorney

This amendment complies with our review requirements.

C. Other Department Review:

Department Director

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

AMENDMENT TO AGREEMENT FOR ACQUISITION

THIS AMENDMENT TO AGREEMENT FOR ACQUISITION, which is made and entered into this _____, by and between, ASCOT DEVELOPMENT, LLC, hereinafter referred to as "Developer", and the **BOARD OF COUNTY COMMISSIONERS, PALM BEACH COUNTY, Florida**, hereinafter referred to as "County".

WITNESSETH:

WHEREAS, the County has approved an Agreement for Acquisition, on July 19, 2005, being R-2005-1399, a copy of said Agreement is attached hereto, as Exhibit "A", and made a part hereof; and,

WHEREAS, the Developer and the County now desire to amend said Agreement.

WHEREAS, the County has entered into a Joint Participation Agreement (JPA) with the State of Florida Department of Transportation (FDOT), dated January 31, 2004, and as amended on April 18, 2006, hereinafter Exhibit "B", attached hereto and made a part hereof; and,

WHEREAS, the Developer acknowledges the requirements as laid out in Exhibit "B", and more particularly along with the JPA Scope of Services (SOS), hereinafter Exhibit "C", attached hereto and made a part hereof.

NOW, THEREFORE, in consideration of the mutual terms and conditions hereof, the parties hereto agree to each with the other as follows:

The following portions are amended as follows:

1. PROVISION OF DOCUMENTS

- A. The Developer shall provide the County with all necessary right-of-way documents, including, but not limited to, surveys, property ownership maps, legal descriptions for acquisition, parceled acquisition maps, right-of-way maps, thirty (30) year title searches and title insurance, and appraisals and review appraisals for all parcels to be acquired.
- B. All items submitted must meet current FDOT standards and/or requirements, as detailed in JPA SOS, being Exhibit "C". The Developer shall submit the aforementioned items to the County to be approved prior to any acquisition procedures. If any item is found to be incomplete, inaccurate, or otherwise unacceptable, the correction must be completed and approved prior to any action to acquire parcels.
- C. All items remain unchanged.

2. APPRAISAL OF RIGHT-OF-WAY

- A. All items remain unchanged.
- B. The Developer shall cause to be appraised and reviewed the right-of-way to be acquired for the widening of West Atlantic Avenue from 1330 feet west of Lyons Road to Starkey Road. The appraisals and reviews must comply with Exhibit "C" requirements.
- C. All items remain unchanged.

3. ACQUISITION PROCESSES

- A. The Developer will contract with an experienced, and FDOT approved, right-of-way consultant to negotiate the acquisition of the required parcels. The Developer shall be responsible for any and all costs, direct and indirect, associated with said negotiating of said parcels. The Developer will ensure that all work is done in compliance with requirements in Exhibit "C".
- B. In the event the contracted consultant is successful in negotiating a settlement, the County will review and approve the settlement. The Developer shall remit to the County all funds necessary to complete said settlement. This amount shall be due within 10 business days following receipt of the County written request for these funds. In no case shall more than 30 calendar days elapse before receipt of these funds by the County.
- C. In the event negotiations are unsuccessful, the County shall institute condemnation proceeding against the properties necessary to complete the acquisition. Condemnation proceeding will be in compliance with requirements in Exhibit "B".
- D. A minimum of 25 % of the total appraised value of the properties to be acquired through eminent domain shall be provided to the County in advance. This amount shall be due within 10 business days following receipt of the County's written request for these funds. In no case shall more than 30 calendar days elapse before receipt of these funds by the County.
- E. The Developer shall pay any and all costs and expenses, direct and indirect, necessary to prosecute to completion the eminent domain proceedings. The County will bill such costs and expenses periodically to the Developer during the eminent domain proceedings. The Developer agrees that the amounts so billed shall be due within 10 business days following receipt of the County's written request for payment and must be received by the County within 30 days of the receipt of such request. The County will review and approve all settlements, costs and fees.
- F. The Developer agrees to ensure that any and all third parties under contract to the Developer will be available, if required by the County, to participate in eminent domain proceedings related to this project. To this end, any agreement and/or contract entered into between the Developer and said third parties for work pertaining to this project shall include provisions that said third parties will be available as required by the County to complete the eminent domain proceedings for this project. Inclusion of these provisions shall be the sole responsibility of the Developer, as will all costs incurred by said provisions and/or the producing of said third parties as required by the County. The Developer agrees to ensure that all third parties under contract to the Developer, and the work and/or performance of said third parties, at all times meet the requirements in Exhibit "C".
- G. If at any point during the acquisition process, the County is not satisfied with the work and/or performance of any third party(ies) contracted by the Developer, the County reserves the right to take any necessary steps to complete the project. The County will have the right to assume the existing contract(s) with any third party(ies) or, at its sole discretion, the County may contract with another firm(s) to complete the project in accordance with Exhibit "B" and existing County standards. The Developer will remain obligated to fully fund the project.

4. ACCOUNTING

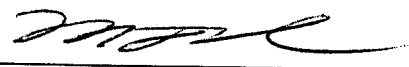
Items A., B., C., D., and E., remain unchanged.

F. All funds, with the exception of bills sent to Ascot by their contracted firms, will be issued by and through the County. This includes, but is not limited to, funds to property owners for agreed settlements, or as ordered by the courts; funds to tenants for agreed settlements, or as ordered by the courts; funds to experts, retained by the property owners, tenants, or their attorneys, for agreed settlements, or as ordered by the courts. Ascot shall continue to enjoy their current contractual agreements with their contracted firms, and will fund them directly, subject provisions as outlined in 3. G.

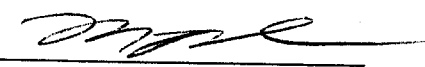
5. SANCTIONS

All items remain unchanged.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to be executed by their appropriate officials, as of the date first above written.


WITNESS *Markin Fried*


GARRETT M. BENDER, PRINCIPAL


WITNESS *Markin Fried*


TERI GEVINSON, PRINCIPAL

CORPORATE SEAL

ATTEST:
SHARON R. BOCK, CLERK &
COMPTROLLER

PALM BEACH COUNTY, FLORIDA , BY
ITS BOARD OF COUNTY COMMISSIONERS

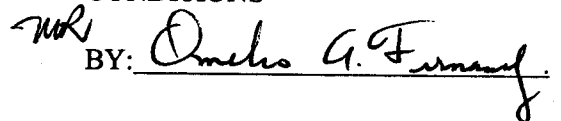
BY: _____
Clerk (or Deputy Clerk)

BY: _____
Its Chairman (or Vice-Chairperson)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS


BY: *Emilio G. Fernandez*

AGREEMENT FOR ACQUISITION

THIS AGREEMENT, which is made and entered into this JUL 19 2005, by and between, **ASCOT DEVELOPMENT, LLC**, hereinafter referred to as "Developer", and the **BOARD OF COUNTY COMMISSIONERS, PALM BEACH COUNTY, Florida**, hereinafter referred to as "County".

WITNESSETH:

WHEREAS, the County has approved PDD 2004-232 by Resolution No. 2004-2037, a copy of said Resolution is attached hereto, as Exhibit "A", and made a part hereof; and,

WHEREAS, the Developer desires to comply with the conditions of said Resolution by purchasing the right-of-way as stated therein; and,

WHEREAS, the Developer has been unable to negotiate a purchase of said right-of-way; and,

WHEREAS, the County desires to construct West Atlantic Avenue from Lyons Road to Starkey Road; and,

WHEREAS, the construction of West Atlantic Avenue from Lyons Road to Starkey Road serves a public purpose; and,

WHEREAS, the County's exercise of its condemnation authority is necessary to effect the acquisition of said right-of-way.

NOW, THEREFORE, in consideration of the mutual terms and conditions hereof, the parties hereto agree to each with the other as follows:

1. PROVISION OF DOCUMENTS

- A. The Developer shall provide the County with all necessary right-of-way documents, including, but not limited to, surveys, property ownership maps, legal descriptions for acquisition, parceled acquisition maps, right-of-way maps, thirty year title searches, and appraisals for all parcels to be acquired.
- B. All items submitted must meet current County standards and/or requirements. The Developer shall submit the aforementioned items to the Roadway Production Division to be approved prior to any acquisition procedures. If any item is found to be incomplete, inaccurate, or otherwise unacceptable, the correction must be completed and approved prior to any action by the Right-of-Way Section.
- C. The County shall have the right to reproduce, in whole or in part, any documents, maps or photographs submitted as a part of the acquisition process for which this agreement is instituted. The County may, at its option, request copies, reproductions or additional originals of any documents, maps, or photographs submitted as a part of the acquisition process for which this agreement is instituted and the Developer is able to procure. The Developer shall be responsible for any and all costs associated with compliance of these items. Any agreement entered into between the Developer and third parties shall include a clause permitting total access by the County to copies of all items.

2. APPRAISAL OF RIGHT-OF-WAY

- A. The Developer shall advance to the County the total amount of \$21,000 to begin the acquisition process.
- B. The Developer shall cause to be appraised the right-of-way to be obtained from the property located at West Atlantic Avenue from Lyons Road to Starkey Road.

- C. Upon the County's receipt of the appraisals, the Developer shall advance to the County the total of the appraised values of the properties to be acquired plus 25% for related costs of acquisition. Acquisition will not begin until the required funds are on deposit with the County. When any additional funds are needed, the required amount shall be due within 10 business days following the County's written request for these funds. In no event shall more than 30 calendar days elapse before receipt of these funds by the County.

3. ACQUISITION PROCESSES

- A. The County shall make every reasonable effort to negotiate a settlement for obtaining the right-of-way. The Developer shall be responsible for any and all costs, direct and indirect, associated with said negotiating of said settlement. A list of some included and possible expenses (Exhibit "B") is attached hereto and made a part hereof. This list is included for information purposes only and is not intended to exclude the obligation of payment of any cost provided for in this paragraph.
- B. In the event the County is able to negotiate a settlement, the Developer shall remit to the County all funds necessary to complete said settlement. This amount shall be due within 10 business days following receipt of the County written request for these funds. In no case shall more than 30 calendar days elapse before receipt of these funds by the County.
- C. In the event negotiations are unsuccessful, the County shall institute condemnation proceeding against the properties necessary to complete the acquisition.
- D. A minimum of 25 % of the total appraised value of the properties to be acquired through eminent domain, or any other amount required by the court, shall be required in advance. This amount shall be due within 10 business days following receipt of the County's written request for these funds. In no case shall more than 30 calendar days elapse before receipt of these funds by the County.
- E. The Developer shall pay any and all costs and expenses, direct and indirect, necessary to prosecute to completion the eminent domain proceedings. A list of some included and possible expenses (Exhibit "B") is attached hereto and made a part hereof. This list is included for information purposes only and is not intended to exclude the obligation of payment of any cost provided for in this paragraph. The County will bill such costs and expenses periodically to the Developer during the eminent domain proceedings. The Developer agrees that the amounts so billed shall be due within 10 business days following receipt of the County's written request for payment and must be received by the County within 30 days of the receipt of such request.
- F. The Developer agrees to ensure that any and all third parties will be available, if required by the County, to participate in eminent domain proceedings related to this project. To this end, any agreement and/or contract entered into between the Developer and said third parties for work pertaining to this project shall include provisions that said third parties will be available as required by the County to complete the eminent domain proceedings for this project. Inclusion of these provisions shall be the sole responsibility of the Developer, as will all costs incurred by said provisions and/or the producing of said third parties as required by the County.

4. ACCOUNTING

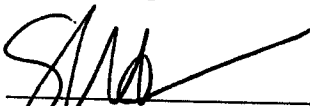
- A. The County shall deposit all funds received from the Developer into an account established by Fiscal Management for this acquisition project. No interest shall be due or payable to the Developer on said account.
- B. The County shall perform a final accounting for this acquisition project upon completion of said project. If any money is owed to the County, this amount shall be due from the Developer within 10 business days following receipt of the County's written request for these funds. In no case shall more than 30 calendar days elapse before receipt of these funds by the County.

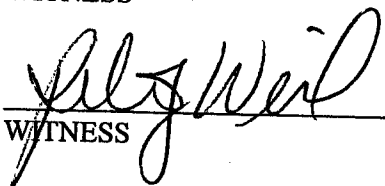
- C. In the event that there are funds in said account, and the acquisition phase of the project is complete, the funds shall be transferred by Fiscal Management, to the construction account for this project, if one exists; if not, these funds may be returned to the Developer, provided no other account exists for any other present or pending phase of this project.
- D. The Developer shall have the right to request, in writing, a statement of said account detailing deposits and disbursements.
- E. The Developer shall have the right to review any charges, fees, or costs for which funds are requested, however, the determinations and accountings of the County shall be final.

5. SANCTIONS

- A. The Developer is hereby put on notice that the signing of this agreement shall constitute acceptance of all portions contained herein, including all attachments and exhibits, without exception.
- B. The Developer is hereby put on notice that failure to comply with any portion of this agreement may result in revocation of the Special Exception granted to the Developer, in addition to any other sanctions and actions available. Should litigation be instituted for enforcement or breach of this agreement, the Developer shall be liable for any and all costs and expenses incident thereto, including, but not limited to, attorneys fees.
- C. The Developer is hereby put on notice that this agreement is made between the Developer and the County and stands alone and is not to be construed as running with the land.
- D. The Developer is hereby put on notice that no verification of Right-of-way for granting of permits requests will be granted by Right-of-Way Acquisition Section until this acquisition project is completed and all outstanding balances are paid in full, unless prior permission is obtained, in writing, by the Developer from one or more of the following: the County Attorney's Office, the Director of Engineering Services, the Director of Land Development, the Director of Traffic, the Director of Engineering and Public Works Operations, or the County Engineer, Deputy County Engineer or the Assistant County Engineer.

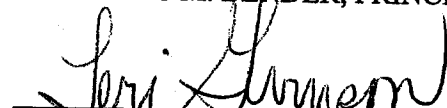
IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their appropriate officials, as of the date first above written.


WITNESS


WITNESS

CORPORATE SEAL

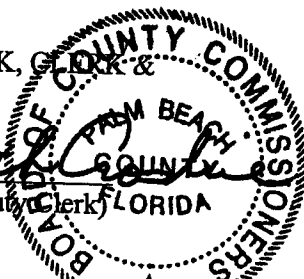

GARRETT M. BENDER, PRINCIPAL


TERI GEVINSON, PRINCIPAL

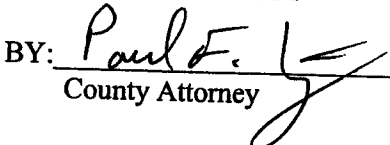
R 2005 1399
JUL 19 2005

ATTEST:
SHARON R. BOCK, CLERK &
COMPTROLLER


BY: 
Clerk (or Deputy Clerk) FLORIDA



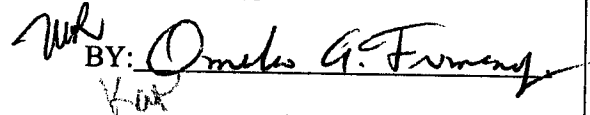
APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: 
County Attorney

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY COMMISSIONERS

BY: 
Its Chair (or Vice-Chairman)
Tony Masilotti, Chairman

APPROVED AS TO TERMS AND
CONDITIONS

BY: 
FOR

RESOLUTION NO. R-2004- 2037

**RESOLUTION APPROVING ZONING PETITION PDD2004-232
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF ASCOT DEVELOPMENT
BY GENTILE, HOLLOWAY, O'MAHONEY & ASSOCIATES INC, AGENT
(ASCOT DEVELOPMENT PUD)**

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067), have been satisfied; and

WHEREAS, Zoning Petition PDD2004-232 was presented to the Board of County Commissioners at a public hearing conducted on September 30, 2004; and,

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) with approved conditions is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) with approved conditions does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) with approved conditions will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20; and,
7. This official zoning map amendment (rezoning) with approved conditions is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 2.K.3.b (Action by Board of County Commissioners) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition PDD2004-232, the petition of Ascot Development, by Gentile, Holloway, O'Mahoney & Associates Inc, agent, for an Official Zoning Map Amendment from the Agricultural Reserve Zoning District to the Agricultural Reserve Residential Planned Unit Development District on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on September 30, 2004 subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner MASILOTTI moved for the approval of the Resolution.

The motion was seconded by Commissioner AARONSON and, upon being put to a vote, the vote was as follows:

Karen T. Marcus, Chair	- AYE
Tony Masilotti, Vice Chairman	- AYE
Jeff Koons	- AYE
Warren H. Newell	- AYE
Mary McCarty	- AYE
Burt Aaronson	- AYE
Addie L. Greene	- ABSENT

The Chair thereupon declared that the resolution was duly passed and adopted on September 30, 2004.

Filed with the Clerk of the Board of County Commissioners on 9th day of NOVEMBER, 2004.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: [Signature]
COUNTY ATTORNEY

BY: [Signature]
DEPUTY CLERK
BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
FLORIDA

EXHIBIT A

LEGAL DESCRIPTION

DEVELOPMENT AREA

TRACTS 73 THROUGH 88, TRACTS 105 THROUGH 112, AND THE NORTH HALF (N 1/2) OF TRACTS 117 THROUGH 120, INCLUSIVE, SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST OF THE PALM BEACH FARMS COMPANY PLAT NO. 1, AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL:

THAT PORTION OF LAND LYING WEST OF AND BEING CONTIGUOUS WITH THE WEST LINE OF TRACTS 80, 81, AND 112, SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, OF SAID PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 1, BEING MORE PARTICULARLY DESCRIBED AS BOUNDED ON THE NORTH BY THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID TRACT 80, ON THE WEST BY THE EAST LINE OF THE WEST 183 FEET OF SAID SECTION 18 FOR LAKE WORTH DRAINAGE DISTRICT CANAL E-1 AND ON THE SOUTH BY THE WESTERLY EXTENSION OF THE SOUTH LINE OF TRACT 112.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCELS:

LESS THE NORTH 38.28 FEET OF SAID TRACTS 73 THROUGH 78 PER CHANCERY CASE 407, AS RECORDED IN OFFICIAL RECORD BOOK 6495, PAGE 761, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. (L.W.D.D. CANAL LATERAL NO L-33)

LESS THAT PORTION OF TRACT 120, SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH FARMS COMPANY PLAT NO. 1, AS RECORDED IN PLAT BOOK 2, PAGE 26, PALM BEACH COUNTY PUBLIC RECORDS, WHICH LIES WITHIN 40 FEET OF, MEASURED AT RIGHT ANGLES TO, THE CENTERLINE OF SMITH-SUNDY ROAD, WHICH IS ALSO THE CENTERLINE OF A DEDICATED ROAD RIGHT-OF-WAY RUNNING IN A NORTH-SOUTH DIRECTION AND BISECTING SAID SECTION 18, AS SHOWN ON SAID PLAT (PER OFFICIAL RECORD BOOK 600, PAGE 280, PALM BEACH COUNTY PUBLIC RECORDS.

LESS THAT PART OF SAID TRACT 105 CONVEYED TO THE COUNTY OF PALM BEACH, FLORIDA, FOR ADDITIONAL RIGHT-OF-WAY (SMITH-SUNDY ROAD) IN OFFICIAL RECORD BOOK 859, PAGE 565, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS THAT PORTION OF SAID TRACT 73 CONVEYED TO THE COUNTY OF PALM BEACH, FLORIDA, FOR ADDITIONAL RIGHT-OF-WAY (SMITH-SUNDY ROAD) IN OFFICIAL RECORD BOOK 859, PAGE 565, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS THAT PORTION OF SAID TRACT 88 CONVEYED TO THE COUNTY OF PALM BEACH, FLORIDA, FOR ADDITIONAL RIGHT-OF-WAY (SMITH-SUNDY ROAD) IN OFFICIAL RECORD BOOK 848, PAGE 494, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS THE EAST 15.00 FEET OF TRACTS 73, 88 105 AND THE EAST 15.00 FEET OF THE NORTH HALF (N 1/2) OF TRACT 120 AS MEASURED FROM THE CENTERLINE OF THE 30 FOOT PALM BEACH FARMS COMPANY RIGHT-OF-WAY FOR SMITH-SUNDY ROAD, PALM BEACH FARMS COMPANY PLAT NO. 1 OF SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.
CONTAINING 130.22 ACRES, MORE OR LESS.

PRESERVE AREA 1

ALL OF SECTION 13, TOWNSHIP 46 SOUTH, RANGE 41 EAST, LESS THE NORTH HALF (N1/2) OF THE NORTH HALF (N1/2) OF THE NORTH HALF (N1/2) OF SECTION 13, TOWNSHIP 46 SOUTH, RANGE 41 EAST; LESS THE NORTH HALF (N1/2) OF THE SOUTH HALF (S1/2) OF THE NORTH HALF (N1/2) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 13, TOWNSHIP 46 SOUTH, RANGE 41 EAST; LESS THE NORTH HALF (N1/2) OF THE EAST HALF (E1/2) OF THE SOTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 13, TOWNSHIP 46 SOUTH, RANGE 41 EAST, ALL LYING AND BEING IN PALM BEACH COUNTY, FLORIDA. AND LESS THE RIGHT-OF-WAY FOR STATE ROAD # 7(US#441) AS SHOWN ON ROAD PLAT BOOK 1 PAGE 37 AND THE RIGHT-OF-WAY FOR ATLANTIC AVENUE AS LAID OUT AND IN USE AND PARCELS CONVEYED IN O.R. BOOK 4368, PAGE 1063; O.R. BOOK 4655 PAGE 1466; O.R. BOOK 5803, PAGE 353; O.R. BOOK 5803 PAGE 396; O.R. BOOK 6522, PAGE 670 AND THAT PORTION TAKEN IN AGREED ORDER OF TAKING RECORDED IN O.R. BOOK 10714 PAGE 1677, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PRESERVE AREA 2

Tract 3, Block 18, PALM BEACH FARMS COMPANY PLAT 1, according to the Plat thereof recorded in Plat Book 2, Page 26 of the Public Records of Palm Beach County, Florida.

LESS AND EXCEPT the North 38.28 feet of Tract 3, Block 18, per Chancery Case No. 407, Recorded in Official Records Book 6495, Page 761, of the Public Records of Palm Beach County, Florida.

PRESERVE AREA 3

TRACTS 12 & 21, BLOCK 18, PALM BEACH FARMS COMPANY, PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE NORTH 33.18 FEET THEREOF.

CONTAINING 9.80 ACRES MORE OR LESS.

PRESERVE AREA 4

TRACTS 23, 24 AND THE SOUTHEASTERLY 1/2 OF TRACT 22, ALL IN SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT 24; THENCE S.89°34'03"W., ALONG THE SOUTH LINE OF SAID TRACTS 22, 23 AND 24, A DISTANCE OF 979.07 FEET; THENCE N.26°04'09"E., A DISTANCE OF 722.88 FEET; THENCE N.89°28'33"E., ALONG THE NORTH LINE OF SAID TRACTS 23 AND 24, A DISTANCE OF 652.44 FEET; THENCE S.00°47'31"E., ALONG THE EAST LINE OF SAID TRACT 24, A DISTANCE OF 647.98 FEET TO THE POINT OF BEGINNING. LESS AND EXCEPT THAT PORTION CONVEYED TO PALM BEACH COUNTY IN OFFICIAL RECORD BOOK 4325, PAGE 1655, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND LESS THE EAST 15.0 FEET THEREOF.

TOGETHER WITH

THE SOUTH 60 FEET OF TRACT 9, LESS THE EAST 30' THEREOF, THE SOUTH 60' OF TRACT 10 AND THE SOUTH 70 FEET OF TRACT 11, 12, 13 AND 14, BLOCK 17, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, OF PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH

TOWNSHIP 46 SOUTH, RANGE 42 EAST, TRACTS 19, 20, 21 AND ONE-HALF (1/2) OF TRACT 22, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWEST CORNER OF TRACT 22; THENCE SOUTHERLY, A DISTANCE OF 646.24 FEET TO THE SOUTHWEST CORNER OF TRACT 22; THENCE IN A STRAIGHT LINE NORTHEASTERLY TO THE NORTHEAST CORNER OF SAID TRACT 22; THENCE WESTERLY, A DISTANCE OF 326.30 FEET TO THE POINT OF BEGINNING, ALL IN BLOCK 17, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT, PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 2, PAGES 26, 27 AND 28.

TOGETHER WITH

ALL OF TRACTS 41, 42, 43, 44, 45, 46, 51, 52, 53, 54, 55 AND 56, ALL IN SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST, ACCORDING TO PLAT BOOK 2, PAGES 26 THRU 28, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE EAST 30 FEET OF SAID TRACTS 41 AND 56, AND LESS THEREFROM, THE SOUTH 15 FEET OF SAID TRACT 56 AND THE NORTH 15 FEET OF SAID TRACT 41.

LESS THE FOLLOWING FOUR DESCRIBED PARCELS:

THAT PORTION OF TRACTS 20, 21 AND 22, BLOCK 17 PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT 22; THENCE S.25°10'24"W., A DISTANCE OF 337.70 FEET; THENCE S.85°10'24"W., A DISTANCE OF 220.82 FEET; THENCE S.51°10'24"W., A DISTANCE OF 349.38 FEET; THENCE N.38°49'36"W., A DISTANCE OF 300.73 FEET; THENCE N.51°10'24"E., A DISTANCE OF 431.75 FEET TO A POINT ON A LINE 30 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID TRACT 21; THENCE N.89°01'42"E., ALONG SAID PARALLEL LINE, A DISTANCE OF 169.38 FEET TO A POINT ON A CURVE CONCAVE TO THE NORTH, HAVING A CENTRAL ANGLE OF 133°09'49" AND A RADIUS OF 60.00 FEET; THENCE SOUTH, EAST AND NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE OF 139.45 FEET TO A POINT OF REVERSE CURVE OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A CURVE ANGLE OF 73°00'00" AND A RADIUS OF 25.00 FEET; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE 31.85 FEET TO A POINT ON THE NORTH LINE OF SAID TRACTS 20, 21 AND 22; THENCE N.89°01'42"E., ALONG SAID NORTH LINE, A DISTANCE OF 185.92 FEET TO THE POINT OF BEGINNING.

THAT PORTION OF TRACTS 41, 42 AND 43, BLOCK 17, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF A LINE 30.0 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID TRACT 41 WITH A LINE 15.0 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID TRACT 41; THENCE S.1°06'54"E., A DISTANCE OF 235.00 FEET TO THE POINT OF BEGINNING; THENCE S.88°53'06"W., A DISTANCE OF 710.00 FEET; THENCE S.1°06'54"E., A DISTANCE OF 180.00 FEET; THENCE S.88°53'06"W., A DISTANCE OF 60.00 FEET; THENCE S.1°06'54"E., A DISTANCE OF 150.00 FEET; THENCE N.88°53'06"., A DISTANCE OF 178.41 FEET; THENCE N.1°06'54"W., A DISTANCE OF 30.00 FEET; THENCE N.88°53'06"E., A DISTANCE OF 591.59 FEET TO A POINT ON A LINE 30.0 FEET WEST

OF AND PARALLEL TO THE EAST LINE OF SAID TRACT 41; THENCE N.1°06'54"W., ALONG SAID PARALLEL LINE, A DISTANCE OF 300.00 FEET TO THE POINT OF BEGINNING.

THAT PORTION OF TRACTS 53, 54, 55 AND 56, BLOCK 17, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN THE PLAT BOOK 2, PAGES 26, 27 AND 28 PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF A LINE 30.0 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID TRACT 56 WITH A LINE 15.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 56; THENCE N.1°06'54"W., A DISTANCE OF 381.06 FEET; THENCE S.88°53'06"W., A DISTANCE OF 780.00 FEET; THENCE N.1°06'54"W., A DISTANCE OF 187.39 FEET; THENCE S.88°53'06"W., A DISTANCE OF 435.26 FEET; THENCE S.1°06'54"E., A DISTANCE OF 360.49 FEET; THENCE N.88°53'06"E., A DISTANCE OF 546.16 FEET; THENCE S.1°06'54"E., A DISTANCE OF 221.39 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT 55; THENCE N.89°01'09"E., ALONG THE SOUTH LINE OF SAID TRACT 55, A DISTANCE OF 356.87 FEET TO THE SOUTHEAST CORNER OF SAID TRACT 55; THENCE N.1°06'36"E., ALONG THE EAST LINE OF SAID TRACT 55, A DISTANCE OF 15.0 FEET TO A POINT ON A LINE 15.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 56; THENCE N.89°01'09"E., ALONG SAID PARALLEL LINE, A DISTANCE OF 312.23 FEET TO THE POINT OF BEGINNING.

AND LESS THAT PORTION OF TRACTS 9, 10, 11, 12, 21 AND 22, BLOCK 17, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF A LINE 30 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID TRACT 9 WITH THE SOUTH LINE OF SAID TRACT 9; THENCE NORTH N.1d06'54"W., ALONG SAID PARALLEL LINE, A DISTANCE OF 60.00 FEET TO A POINT ON A LINE 60.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 9 AND 10; THENCE S.89d01'42"W., ALONG SAID PARALLEL LINE, A DISTANCE OF 639.11 FEET TO A POINT ON THE EAST LINE OF SAID TRACT 11; THENCE N.1d06'22"W., ALONG SAID EAST LINE, A DISTANCE OF 10.00 FEET TO A POINT ON A LINE 70.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 11 AND 12; THENCE S.89d01'42"W., ALONG SAID PARALLEL LINE, A DISTANCE OF 327.04 FEET; THENCE S.0d58'18"E., A DISTANCE OF 70.00 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT 12 AND TO A POINT ON A NONTANGENT CURVE CONCAVE TO THE NORTH HAVING A CENTRAL ANGLE OF 163d08'30" AND A RADIUS OF 60.00 FEET; THENCE SOUTH, EAST AND NORTHEAST, ALONG THE ARC OF SAID CURVE WHOSE CHORD BEARS S.82d24'03"E., A DISTANCE OF 170.84 FEET TO A POINT OF REVERSE CURVE OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A CENTRAL ANGLE OF 73d00'00" AND A RADIUS OF 25.00 FEET; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE OF 31.85 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT 11; THENCE N.89d01'42"E., ALONG THE SOUTH LONE OF SAID TRACTS 9 AND 10, A DISTANCE OF 825.04 FEET TO THE POINT OF BEGINNING.

PRESERVE AREA 5

Tract 43, LESS the East 80 feet thereof and the South 70 feet of Tract 42, LESS the East 80 feet thereof, Block 52, THE PALM BEACH FARMS CO., PLAT NO. 3. according to the Plat thereof on file in the office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 2, Page 45. Said lands situate, lying and being in Palm Beach County, Florida (Also known as Lot 9, Eatmon's, unrecorded).

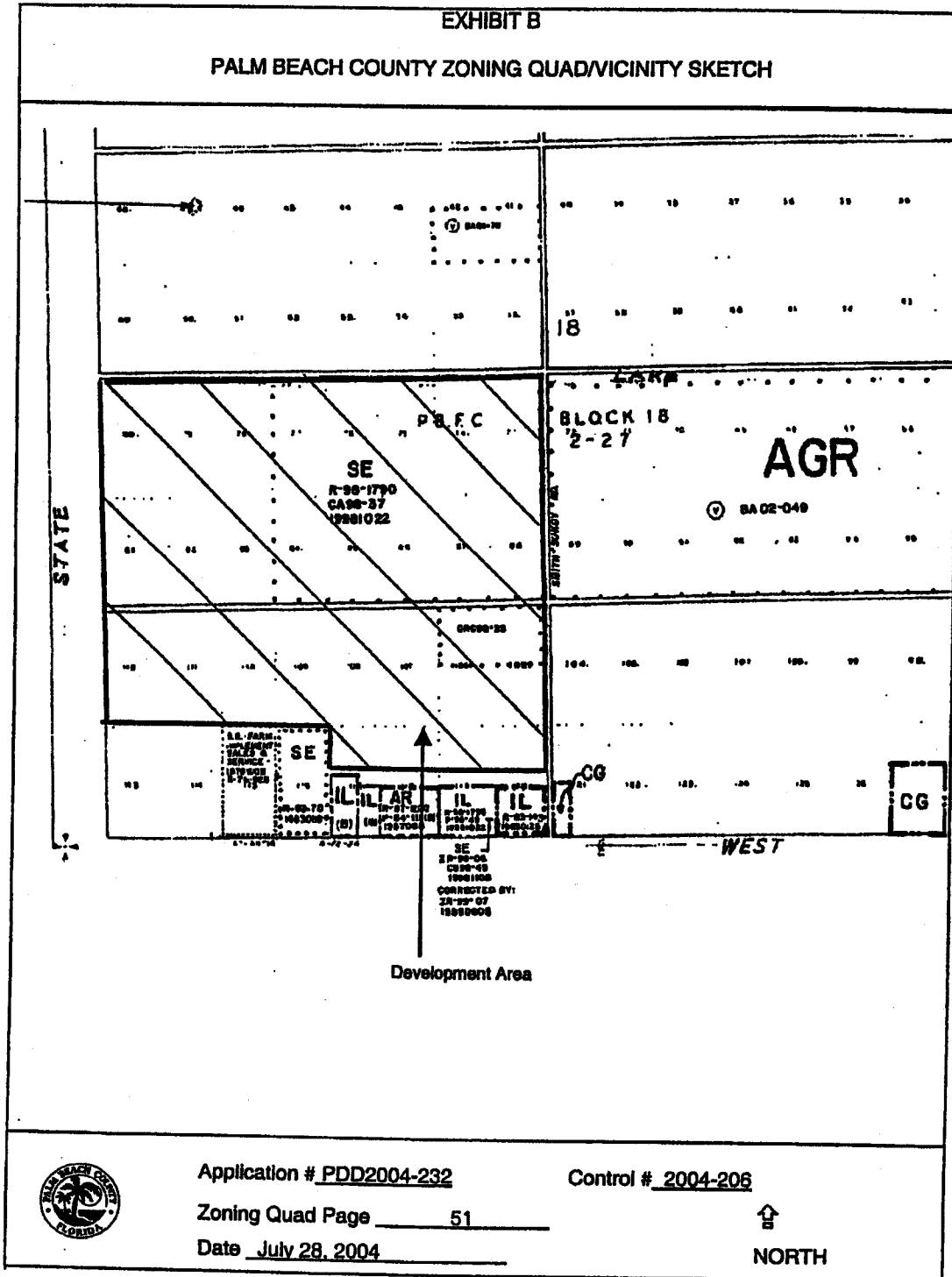
Less and except the South 36.05 feet and the West 25.13 feet of Tract 43, and the West 25.13 feet of the South 70 feet of Tract 42, Block 52, THE PALM BEACH FARMS CO., PLAT NO. 3, per Chancery Case No. 407, as recorded in O.R.B. 6495, PG 761 Palm Beach, Florida.

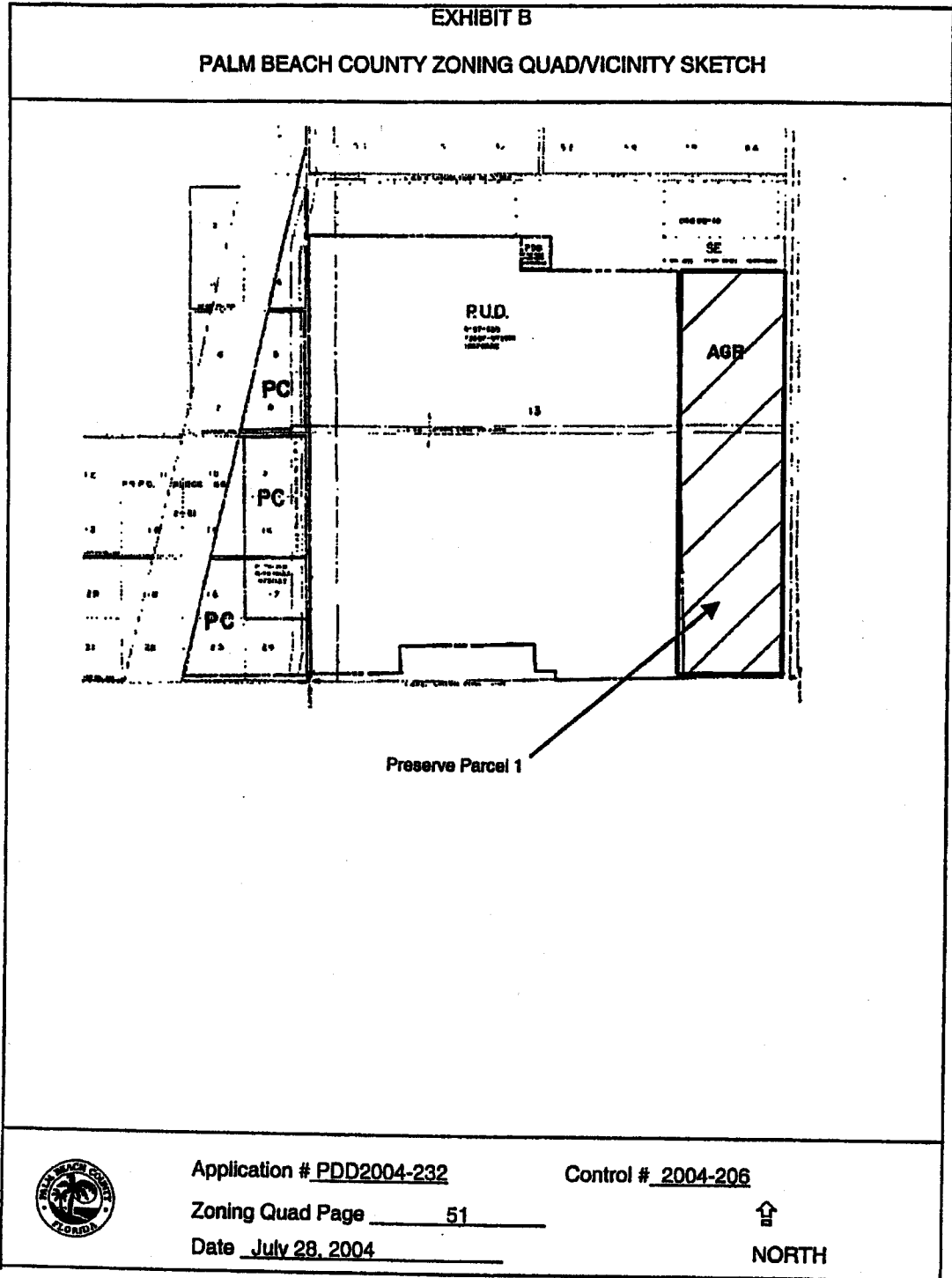
PRESERVE AREA 6

The East 1/2 of the South 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 14, Township 45 South, Range 41 East, Palm Beach County, Florida together with an easement for ingress and egress over the South 1/2 of the North 1/2 of Section 13, Township 45 South, Range 41 East, Palm Beach County, Florida and subject to an easement over the North 30 feet for ingress and egress to the West 1/2 of the South 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 14, Township 45 South, Range 41 East, Palm Beach County, Florida.

Said lands lying and being in Palm Beach County, Florida, containing 218,966 square feet (5.027 acres), more or less.

EXHIBIT B
VICINITY SKETCH





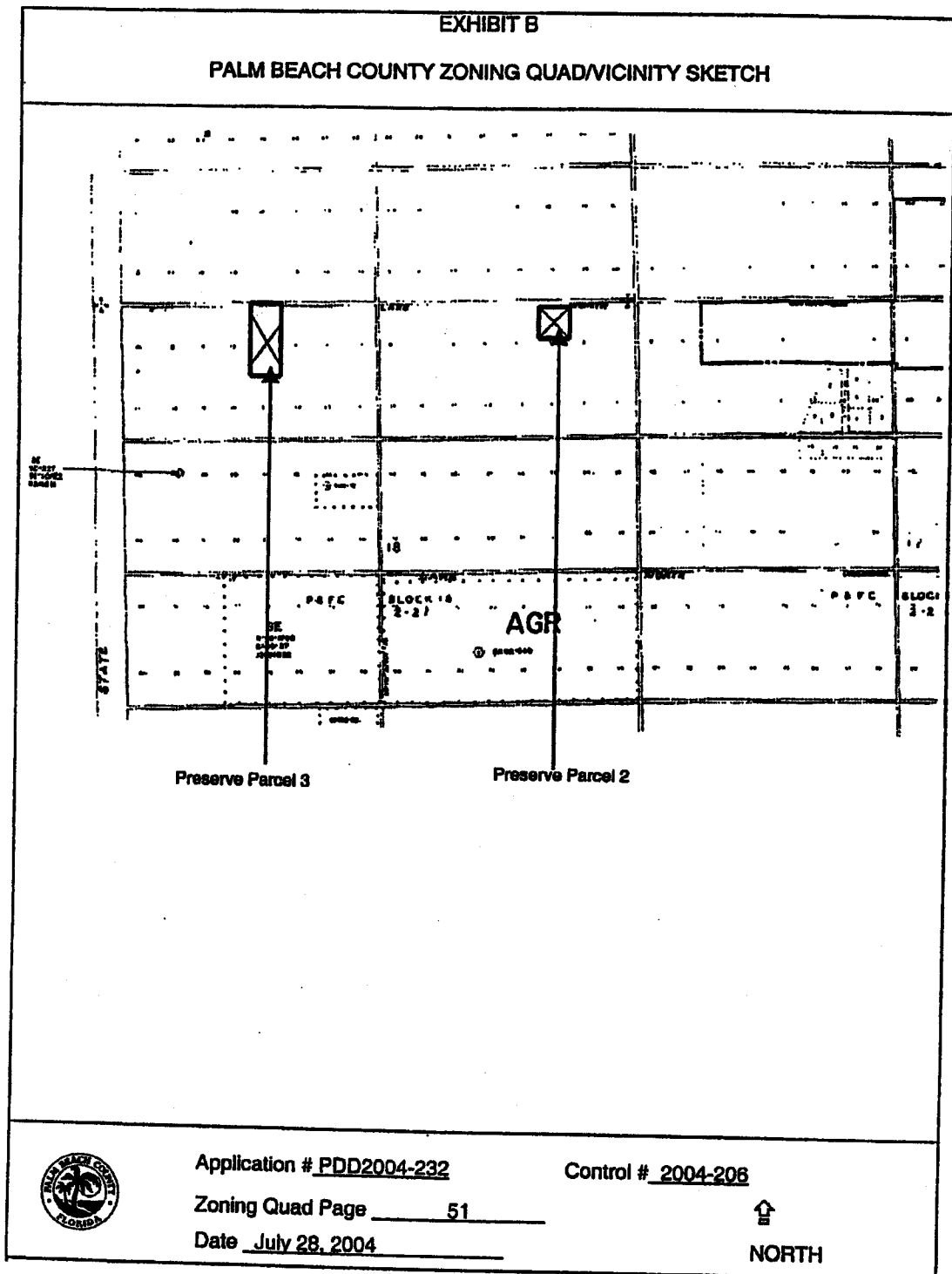
Application # PDD2004-232

Control # 2004-206

Zoning Quad Page 51

Date July 28, 2004

↑
NORTH



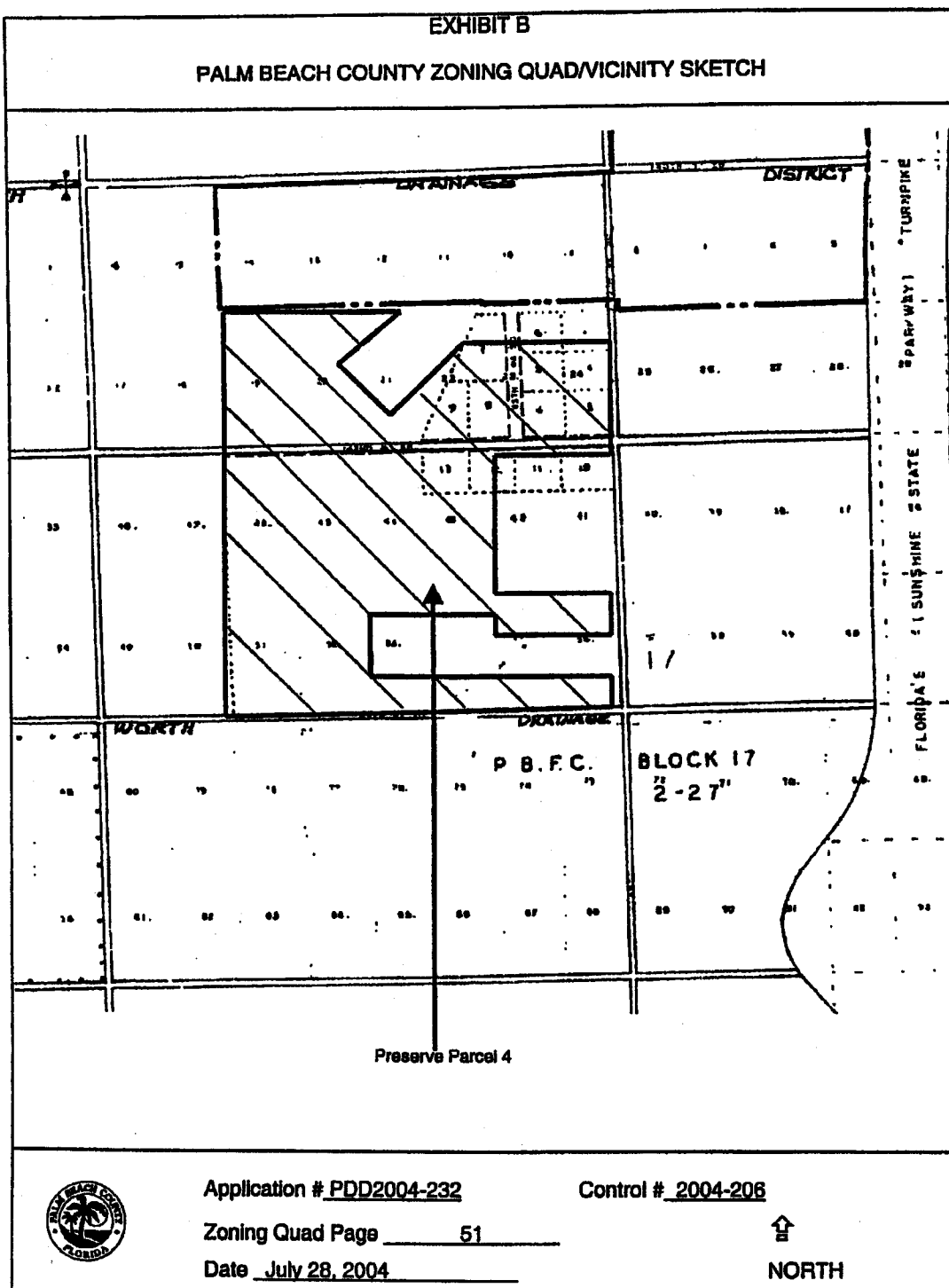
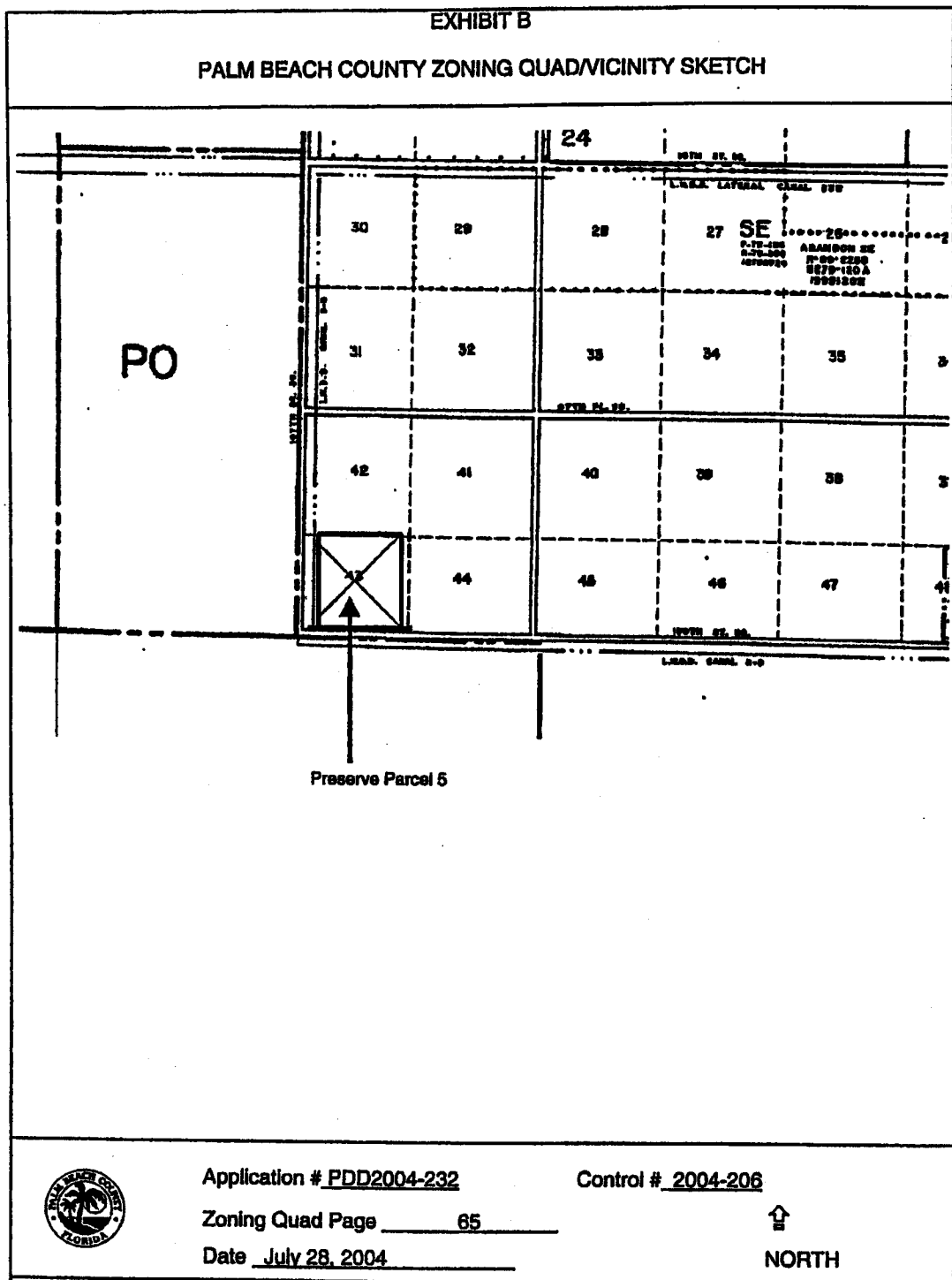
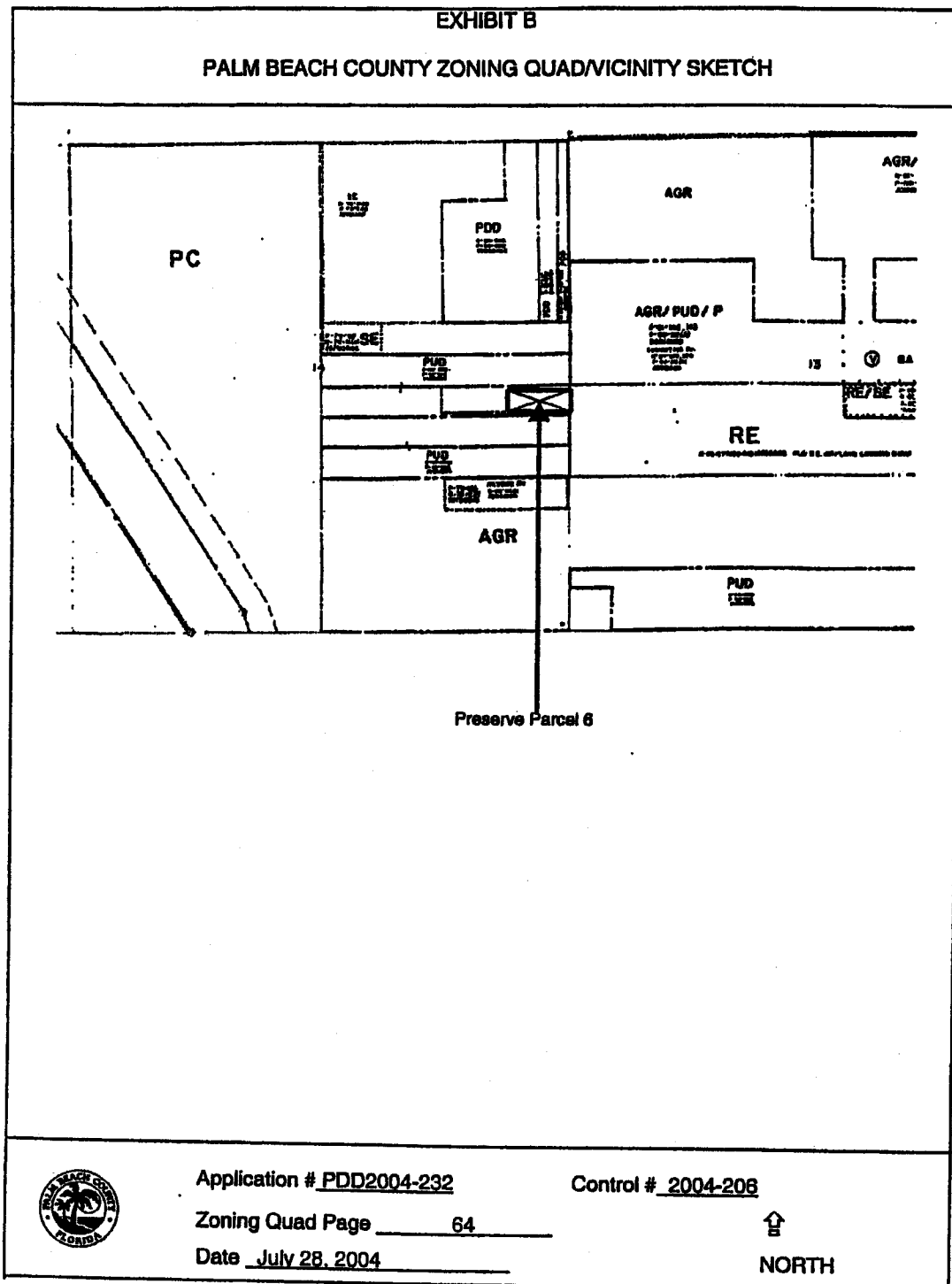


EXHIBIT "A"
PAGE 15 OF 29
TO AMENDMENT





Application # PDD2004-232

Control # 2004-206

Zoning Quad Page 64



Date July 28, 2004

NORTH

EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated August 3, 2004. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING)

B. LANDSCAPING - STANDARD

1. A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall meet the following minimum standards at installation:
 - a. Tree height: Fourteen (14) feet;
 - b. Trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. Canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
 - d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)
2. All palms required to be planted on the property by this approval, except on individual residential lots, shall meet the following minimum standards at installation:
 - a. palm heights: twelve (12) feet clear trunk;
 - b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
 - c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
3. Field adjustment of berms, walls and plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)

C. LANDSCAPING ALONG WEST PROPERTY LINE (FRONTAGE OF SR 7/US 441)

1. Landscaping and buffering along the west property line shall be upgraded to include:
 - a. A minimum fifty (50) foot wide landscape buffer strip. No width reduction shall be permitted;
 - b. A four (4) to six (6) foot high undulating berm, with an average height of five (5) feet, berm height shall be measured from top of nearest curb or the nearest finished floor elevation, whichever is higher. Prior to final Master/site plan approval by the Development Review Officer (DRO), the property owner shall submit an Alternative Landscape Plan to meet the berm requirement.
 - c. One (1) native canopy tree planted for each twenty (20) linear feet of the property line;
 - d. One (1) native palm or pine tree for each twenty (20) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;

- e. One (1) native small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation;
- f. One (1) native medium shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation; and,
- g. One (1) large shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation. (BLDG PERMIT: LANDSCAPE - Zoning)

D. ENVIRONMENTAL

- 1. An Exotic Removal Management Plan, covering the conservation parcels designated as P1, P2, P3 and P4, associated with the PUD, shall be approved by ERM prior to final DRC site plan approval by the Development Review Officer (DRO). (DRO: ERM)
- 2. All Restricted Covenant Agreements and Conservation Easements for the Conservation Parcels designated as P1, P2, P3 and P4, associated with the Ascot PUD, shall be submitted to ERM for review and approval prior to recordation. (DRO: ERM)

E. ENGINEERING

- 1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a) Building Permits for more than 98 age restricted single family dwelling units (the equivalent of up to 50 net external PM peak hour trips per day) shall not shall be issued until:
 - 1) The contract has been awarded by the FDOT for the construction of West Atlantic Avenue as a 4 lane facility from Starkey Road to the Florida Turnpike or commencement of construction by someone other than FDOT plus the appropriate paved tapers (and). (BLDG PERMIT: MONITORING-Eng)
 - 2) The commencement of construction of West Atlantic Avenue as a 4 lane facility from Starkey Road to Lyons Road, plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)
- 2. The Property owner shall construct a right turn east approach on the Project entrance road at SR 7. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.
 - a. Permits required by the LWDD and the Florida DOT for this right turn lane construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
 - b. Construction for this improvement shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)
- 3. Prior to the recordation of the first plat the property owner shall convey to Palm Beach County Land Development Division by road right of way warranty deed additional right of way for:

- a) Smith Sundy Road 40 feet from centerline. This condition shall apply to both the offsite preserve area parcels and the PUD.
- b) Happy Hollow Road 40 feet from centerline for parcels within the preserve area. The property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments.
- c) The property owner (grantor) further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the property owner, the property owner agrees to hold Palm Beach County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and "Corner Clips." (PLAT: ENG - Eng)

4. LANDSCAPE WITHIN THE MEDIAN OF SR 7

The property owner shall design, install and perpetually maintain the median landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by petitioner shall be perpetually maintained by the property owner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Paragraph d below.

- a) The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING - Eng)
- b) All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng)
- c) At property owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the petitioner. The petitioner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Petitioner. (ONGOING: ENG)

- d) Also, prior to the issuance of a Building Permit, and at the option of the property owner, the property owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beatification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the projects front footage along SR 7. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGONG: ENG)
5. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance.
6. The property owner shall fund the cost of signal installation if warranted as determined by the County Engineer at the Project Entrance and SR 7. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation. Should signalization not be warranted after 24 months of the final Certificate of Occupancy this property owner shall be relieved of this condition of approval.
- a) Building Permits for more than 200 dwelling units shall not be issued until the developer provides acceptable surety to the Land Development Division in an amount as determined by the Director of the Traffic Division for the installation of this signal. (BLDG PERMIT: MONITORING - Eng).
7. Prior to recordation of a plat for the development parcel, a copy of all preserve area boundary plats and the development area plat shall be approved by the Planning Division. At time of any plat submittal, the property owner shall provide a copy of each respective plat to the Planning Division for their review and approval. (PLAT: MONITORING - Engineering/Planning)
8. Prior to Development Review Officer (DRO) approval of the Final Development Plan, the property owner shall record a restrictive covenant on the subject property limiting dwelling unit occupancy to Adult only. (DRO: ENG - Eng)
9. Acceptable surety required for the offsite road improvement FOR West Atlantic Avenue as outlined in Condition No. E1a2 shall be posted with the Office of the Land Development Division on or before 3/30/05. Surety shall be in the amount of 110% of a Certified Cost Estimate provided by the Developer's Engineer and approved by the County Engineer. This surety may be required to be adjusted within 30 days notification from the County Engineer. This revision shall be based upon an updated cost estimate prepared by the Roadway Production Division at the time the final construction plans are completed. (TPS - Maximum 6 month time extension) (DATE: MONITORING - Eng)
10. Prior to issuance of a Building Permit the Developer shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. Required plats shall also include the parent tract of properties for the PUD Developed portions plus the parent tract for all preserve areas as determined by the County Engineer. (BLDG PERMIT: MONITORING - Eng)

F. PLANNED UNIT DEVELOPMENT

1. Prior to the recordation of the first plat, all property included in the legal description of the petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall include the following:
 - a. Formation of a single "master" property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas;
 - b. All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents; and
 - c. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the planned development. This Declaration shall be amended when additional units are added to the PUD. (PLAT: ENG / COUNTY ATTY - Zoning)
2. The property owner shall include in homeowners documents as well as written sales brochures, sales contracts, Master Plans and related Site Plans a disclosure statement identifying and notifying of the existence of agricultural uses in the vicinity of the development. The property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building beginning on September 10, 2005 and shall continue on an annual basis until all units within the development have been sold or the petitioner relinquishes control to the homeowners association. (DATE: MONITORING - Zoning)
3. Street bike lanes shall be provided in or adjacent to all streets eighty (80) feet in width, pursuant to Article 3.E.1.C.2.e of the ULDC and subject to approval by the County Engineer. (CO: LANDSCAPE - Eng/Zoning)
4. Zero-lot line lots (units) with a side yard that abuts the rear yard of two (2) or more lots (units) shall be restricted to one (1) story in height. (DRO: BLDG PERMIT - Zoning)
5. Street trees shall be required within the street tracts or right-of-ways of the subject development consistent with the requirements of the Engineering Department, and the following criteria:
 - a. Along both sides of all internal PUD streets, fifty (50) feet in width or greater;
 - b. All Final Subdivision Applications shall include roadway cross-section sketches showing street trees. (DRO: ZONING/ENG - Zoning)
6. Recreation uses provided in accordance with Section 3.E.2.B.2.e of the ULDC shall be located on a minimum of 0.1 acre and shall be located within designated open space tracts (neighborhood park) in the PUD. A minimum of four (4) neighborhood parks shall be provided in the PUD. The neighborhood parks shall have a direct connection to the pedestrian system on the property and include a tot lot, gazebo, fitness station, rest station, or similar recreation amenity subject to approval of the Development Review Officer (DRO). The neighborhood parks shall not be used towards the Parks and Recreation Department's minimum recreation requirement or be located within land areas designated for drainage, stormwater management or other utility purposes. (DRO: DRO - Zoning)

7. Prior to final approval by the Development Review Officer (DRO), the master/site plans shall be revised to indicate a landscape focal point within all eyebrow/cul-de-sac islands. Each focal point shall be subject to review and approval by the Landscape Section. (DRO: DRO/LANDSCAPE - Zoning)
8. Prior to final approval by the Development Review Officer (DRO), the property owner shall revise the master/site plans to indicate:
 - a. Deletion of all side loading garage unit references;
 - b. Indicate eyebrow/semi cul-de-sacs at all T-intersections at areas currently shown as a side loading garage unit pursuant to the site plan dated August 3, 2004. (DRO: DRO - Zoning)
9. Prior to final approval by the Development Review Officer (DRO), the master/site plans shall indicate a minimum of one (1) fountain in each lake. (DRO: DRO - Zoning)

G. PLANNING

1. Prior to the final approval of the Master/Site Plans by the Development Review Officer (DRO), all tabular data on required plans shall be revised to reflect the most current acreage totals per surveys submitted on the following dates: PUD Development area (5/25/04) and all other Preserve parcels (either on 5/25/04 and 6/6/04 respectively), and application materials dated (6/10/04). (DRO: PLANNING - Planning)
2. The PUD shall be limited to a maximum of 315 dwelling units provided 60/40 AGR-PUD requirements are met. The balance of 15 additional units, which could have been allowed on the site, shall not be utilized on this site or transferred elsewhere. (DRO: PLANNING)
3. Prior to final Master Plan approval by the Development Review Officer (DRO), the property owner shall provide an "AGR/PUD Preserve and Development Parcel Location Map". This Plan shall also indicate the location, access, acreage, and permitted uses within the preservation areas consistent with the Palm Beach County Comprehensive Plan and the Unified Land Development Code (ULDC). (DRO: PLANNING)
4. Prior to final Master Plan approval by the Development Review Officer (DRO), a management plan for all of the preservation parcels shall be submitted. The property owner shall also submit a commitment letter indicating that the preservation properties will remain in their same state from the time of development approval to the final recordation of the conservation easement. The management plan shall contain a legal description and sketch of the parcel, an inventory of existing uses and environmental assets on the site, and a plan approved and enforced by the Department of Environmental Resources (ERM) for exotic removal and maintenance. (DRO: PLANNING/ERM)
5. Prior to final Master Plan approval by the Development Review Officer (DRO), the property owner shall add a "Preservation Area/Proposed Uses" notes section on page 2 of the Master Plan and include the following:
 - a. The preservation areas approved as part of Petition 2004-232 shall be restricted to preservation uses as follows, with the exception of areas designated as environmentally sensitive in the conservation easement:

PERMITTED USES

- i. Crop production, pasture, or equestrian purposes or may be retained as fallow land;
- ii. Accessory structures such as barns and pump structures are permitted;
- iii. Regional water storage areas to serve as water management functions or to serve as a Water Preserve Area if designated by the South Florida Water Management District: to serve regional water management purposes as certified by either Lake Worth Drainage District or South Florida Water Management District, or for water management purposes not directly related to the 60/40 AgR-PDD if approved by the Department of Environmental Resources Management and managed for environmental resource values;
- iv. Wetland or bona fide agricultural uses per the ULDC;
- v. Other uses as permitted by the required conservation easements;
- vi. Other uses as may be permitted within the protected area of an AGR-PDD consistent with the Comprehensive Plan and the Unified Land Development Code;

NOT PERMITTED

- i. Agricultural support uses such as processing facilities, farmworker housing and the like shall not be accommodated in the protected or preservation area of the AGR-PUD; nor shall new residential uses be accommodated thereon.
 - ii. No residential units or farm residences (whether existing or proposed) shall be allowed within the preserve areas.
 - iii. Preserve parcel 4b previously listed as a homesite on the June 6, 2004, survey must be removed or converted to a permitted agricultural use such as a grooms quarters provided the conversion is consistent with requirements in the ULDC for agricultural related uses such as grooms quarters.
 - iv. Preserve parcel 5 previously labeled as a porch with an A/C pad on the June 6, 2004, survey must be removed or converted to a permitted agricultural related use provided the conversion is consistent with requirements in the ULDC. (DRO/ONGOING: PLANNING)
6. Prior to recordation of a plat for the development parcel, the property owner is responsible for the recordation of boundary plats for all of the Preserve parcels, and include on said boundary plats, language limiting these parcels to Agricultural Reserve preservation uses as permitted by the conditions in this Resolution, the Comprehensive Plan Objective 1.5, and Policies hereunder of the Future Land Use Element. (PLAT: PLANNING/ENG)
7. Prior to receipt of Technical Compliance of a plat, the property owner shall provide documentation to the Planning Division that the recordation of the proposed boundary plat for the Ascot Development parcel would not result in the creation of an illegal lot of record(s). The applicant shall provide documentation to the Planning Division and the County Attorney's Office that any lots created to achieve the configuration of this preservation parcel total a combined acreage of 130.22 acres. (TC: ENG/CTY ATTY -Planning)

8. Prior to receipt of Technical Compliance of a plat of this PUD, the property owner shall provide documentation to the Planning Division that the recordation of the proposed boundary plat for Preservation Parcel 4 would not result in the creation of illegal lots of record. The applicant shall provide documentation to the Planning Division and the County Attorney's Office that the lots created to achieve the configuration of this preservation parcel total a combined acreage of 70.70 acres. The configuration shall be consistent with the certified surveys for Parcel 4 dated either May 25, 2004 or June 6, 2004. (TC: ENG/CTY ATTY - Planning)
9. Prior to receipt of Technical Compliance of a plat of this PUD, the property owner shall provide documentation to the Planning Division that the recordation of the plat for these parcels would not result in the creation illegal lots of record. The applicant shall provide documentation to the Planning Division and the County Attorney's Office that any lots created to achieve the configuration of these Preserve Parcels total: Preserve Area Parcel 1= 103.9 acres, Preserve Area Parcel 2= 4.89 acres, Preserve Area Parcel 3= 9.8 acres, Preserve Area Parcel 4= 70.70 acres, Preserve Area Parcel 5= 6.04 acres, and Preserve Area Parcel 6= 5.03 acres. (TC: ENG/CTY ATTY - Planning)
10. Prior to or concurrent with recordation of the plat for the developable area as identified in Petition No. 2004-232, for all of the Preserve parcels, the property owner shall either: 1) dedicate these lands to Palm Beach County; 2) record a restrictive covenant in a form acceptable to the Palm Beach County Attorney for these subject parcels; or 3) subject these parcels to a conservation easement, limiting these sites to Agricultural Reserve preserve areas in accordance with the Agricultural Reserve preserve provisions of the Comprehensive Plan. (PLAT: PLANNING/ENG - Planning)
11. Prior to or concurrent with the plat for the Ascot Development PUD, the conservation easements for Preservation parcels 1, 2, 3, 4, 5, and 6 shall be recorded, as approved by the County Attorney's Office and the Department of Environmental Resources Management.
 - a. The conservation easements for all of these preserve parcels shall contain:
 - i. a legal description, site location, including the address of the parcel and a sketch including the area subject to the easement depicting reference points such as main streets and showing the location of the preserve within the context of the Ag Reserve;
 - ii. a list of permitted uses, uses not permitted, and prohibited activities.
 - b. Title insurance for these easements shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Department of Environmental Resources Management and the Planning Division.
 - c. Should conservation easements not be recorded for these properties in a form acceptable to the County Attorney prior to January 1, 2007, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. No administrative time extension for this condition shall be allowed. (DATE: MONITORING - Planning/Eng)
12. Prior to the issuance of the certificate of occupancy (CO) for the project number for the primary recreation building for the 2.23 acre recreation site, the property owner shall mulch or pave the pedestrian trail shown fronting the recreation area as shown on the master plan dated 6/10/04. In addition, a minimum of two (2) benches shall be placed at this location. (CO: MONITORING - Planning)

H. PREM

1. The property owner shall provide Palm Beach County Board of County Commissioners with a Statutory Warranty Deed on a net 2.59-acre public civic site (net usable area minus any buffers), in a location and form acceptable to Facilities, Development & Operations Department (FD&O) by February 24, 2006. The property owner shall plat and dedicate the civic site to Palm Beach County prior to conveying the deed, and shall have satisfied each of the following conditions prior to deed conveyance.
 - a) The property owner shall provide a title policy insuring marketable title to Palm Beach County (PBC) for the civic site and any easements that service the civic site as required by the County Attorney's office. All title exception documentation to be provided to PBC. The policy is subject to the approval of Property & Real Estate Management Department's (PREM) and the County Attorney. The title policy shall be insured to PBC for a dollar value based on current market appraisal of the proposed civic site or the Contract purchase price on a per acre basis (if the contract purchase was concluded within the previous 24 month period). If an appraisal is required, it shall be obtained by the property owner. The property owner shall release PBC all Declarations of Covenants and Conditions of the PUD or other restrictive covenants as they may apply to the civic site.
 - b) The property owner shall reserve sufficient traffic trip capacity such that the traffic volume associated with a County facility shall be attached to the civic site and recorded on the concurrency reservation. The property owner shall be provided with input as to the size of a structure (and proposed use), which the civic site would support and the corresponding amount of trips.
 - c) All ad valorem real estate taxes and assessments for the year of acceptance shall be pro-rated to include the day of acceptance.
 - d) The civic site to be free and clear of all trash and debris at the time of acceptance of the Statutory Warranty Deed.
 - e) The property owner shall provide all retention, detention, and drainage required for any future development of the proposed civic site by the County. The property owner shall specifically address the following issues:
 - 1) The discharge of surface water from the proposed civic site into the property owner's water retention basins.
 - 2) As easement across property owner's property from the proposed civic site to the retention basins, if required.
 - f) By acceptance of these conditions the property owner shall agree to allow the County to perform any on site inspections and testing deemed appropriate to support the acquisition of the civic site.
 - g) The property owner shall perform a tree survey and obtain a vegetation clearing permit. If it is determined by PREM that clearing is not required at time of conveyance, the cost of such clearing shall be paid to the County.
 - h) Prepare the civic site to buildable grade under the direction of the Facilities Development & Operations Department. The site shall be stabilized with 1) sod and watered or, 2) seeded, mulched and watered (until seed has established itself) to the satisfaction of Facilities Development and Operations.

- i) The property owner shall provide water and sewer stubbed out to the property line and other required utilities as determined by PREM. (DATE: MONITORING - PREM)
2. The property owner shall provide the County with a survey certified to Palm Beach County of the proposed civic site by December 1, 2005. This survey shall reflect the boundary and topographical areas of the site and the surveyor shall use the following criteria when preparing the survey:
 - a) Meet Minimum Technical Standards for a Boundary Survey as prescribed by F.A.C. 21HH.6.
 - b) If this parcel is a portion of Palm Beach Farms, sufficient data to make a mathematical overlay should be provided.
 - c) The survey shall include a location of any proposed water retention area that will border the civic site.
 - d) The survey is also subject to the County's approval of any proposed or existing easements within the proposed civic site and all title exceptions are to be shown on the survey. (DATE: MONITORING - PREM)
3. The property owner shall provide PREM with an Environmental Assessment certified to Palm Beach County of the proposed civic site by December 1, 2005. The minimum assessment which is required is commonly called a "Phase I Audit". The audit shall describe the environmental conditions of the property and identify the past and current land use.

The assessment will include but not be limited to the following:

- a) Review of property abstracts for all historical ownership data for evidence of current and past land use of the proposed civic site.
- b) Review of local, state, and federal regulatory agency's enforcement and permitting records for indication of prior groundwater or soil contamination. Also, a review of the neighboring property that borders the proposed civic site will be required. The review shall include, but not be limited to, Palm Beach County Environmental Resources Management Department Records, and Florida Department of Regulation Records.

The assessment shall reflect whether the civic site or any bordering property is on the following lists:

- 1) EPA's National Priorities list (NPL)
- 2) Comprehensive Environmental Response Compensation and Liability Act System List (CERCLA)
- 3) Hazardous Waste Data Management System List (HWDMS).
- c) Review of current and historical aerial photographs of the proposed civic site. Provide a recent aerial showing site and surrounding properties.
- d) The results of an on-site survey to describe site conditions and to identify potential area of contamination.
- e) Review of Wellfield Protection Zone maps to determine if property is located in a Wellfield Zone.

- f) If the Phase I audit indicates that a Phase II is necessary, then the Developer shall be required to provide that audit as well. (DATE: MONITORING - PREM)
4. The property owner may request to exchange the required on-site dedication of land for cash of equal value or off-site land equal in acreage, however, this option shall be used only upon County approval when the County has established that the cash or offsite land enhances or supports a County property, facility or function in the general vicinity of the PUD. In addition, should the off-site land option be chosen, each PREM condition listed in numbers 1, 2 & 3 above will also apply. If the land off-site is of less cash value than the on-site dedication the property owner shall contribute cash equal to the difference in values. Valuation of the on-site and off-site land shall be subject to the County appraisal process and be at the cost of the property owner or if the property owner is a contract purchaser the per acre value used for the entire PUD may be used to determine the civic site value. If off-site land or cash contribution is accepted by Palm Beach County, the property owner shall be deemed to have satisfied the intent of ULDC. (ONGOING: MONITORING - Prem/Em)

I. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (ONGOING: MONITORING - Zoning)

EXHIBIT "B"

COSTS/FEES - DIRECT

Total appraised parcel values
Board approved counter-offers
Attorney's fees (county and property owners)
Experts (county and property owners)
Court costs
Filing fees
Recording fees
Publication costs
Jury awarded compensations

COSTS/FEES - INDIRECT

Right-of-Way Acquisition Section staff
Engineering Services staff
County Attorney staff
Roadway Production staff
All related clerical staff for above listed
Transportation charges and fees
Any additional staff or services deemed necessary for the completion of the project

**COSTS/FEES UNDER SEPARATE CONTRACT
DEVELOPER CONTROLLED**

Appraiser's fees and costs (initial and updates)
Right-of-way maps, parcel maps and acquisition maps
Legal descriptions, surveys and sketches
Survey staking of property lines (initial and updates)
Title searches (initial and updates)
Construction plans (all phases)
Consultant's fees
Surveyor's fees
Attorney's fees (county and property owners)
Experts (county and property owners)

The above items shall become Direct or Indirect Costs/Fees if it becomes necessary for the County to assume any of the responsibility for any item by failure or default of the Developer or the responsible party, according to the contract entered into by the Developer.

Some items appear in more than one category. This is intentional.

FM No.: 229658-3-43/45-01

FEID No: _____

R2006 0634 APR 18 2006

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
JOINT PARTICIPATION AGREEMENT
AMENDMENT NO. ONE**

THIS AMENDMENT, made and entered into this _____ day of _____, 2006, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, an agency of the State of Florida, hereinafter called the **DEPARTMENT**, and **PALM BEACH COUNTY** with offices at 160 Australian Avenue, West Palm Beach, Florida 33406 hereinafter called the **PARTICIPANT**.

WHEREAS, on **January 31, 2004**, the **DEPARTMENT** and **PARTICIPANT** entered into a Joint Participation Agreement, hereinafter referred to as **AGREEMENT**, wherein the **PARTICIPANT** agreed to participate in certain improvements described as follows: Financial Number (FM) 229658-3-38-01 for Widening & Reconstruction of Atlantic Avenue from West of Lyons Road to East of Florida's Turnpike (hereinafter referred to as the **PROJECT**) in Palm Beach County, Florida; and

WHEREAS, the **DEPARTMENT** and **PARTICIPANT** agree to change the funding designation from the Design phase FM# 229658-3-38-01 to the Right of Way phase FM# 229658-3-48-01; and

WHEREAS, the **PROJECT** consists of parcels to be acquired within the Project limits as identified above (hereinafter called the **PROPERTY**); and

WHEREAS, the **PARTICIPANT** shall be responsible for acquiring said **PROPERTY** for the purpose of constructing the **PROJECT**; and

WHEREAS, the **PARTICIPANT** does not have an employee designated as a qualified review appraiser capable of establishing just compensation as described in The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (hereinafter called the **Uniform Act**) and the Florida Department of Transportation Right of Way Procedures; and

WHEREAS, the **PARTICIPANT** does not have an employee designated to review Relocation Assistance appeals as described in the **Uniform Act** and the Florida Department of Transportation Right of Way Procedures; and

WHEREAS, upon completion of the **PROJECT** the **PARTICIPANT** shall convey title to the **PROPERTY** to the **DEPARTMENT**; and

WHEREAS, the DEPARTMENT and PARTICIPANT hereto mutually agree that this Amendment is in their best interest;

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the PROJECT, the DEPARTMENT and PARTICIPANT agree to amend that certain Joint Participation Agreement dated January 31, 2004, as follows:

1. The recitals herein before set forth are true and correct and are deemed to be restated herein.
2. Page 1, Paragraph 5 of the AGREEMENT shall be amended as follows:

The DEPARTMENT agrees to pay the PARTICIPANT for the services described in Exhibit "A" of this Amendment, annexed hereto and made a part hereof. The total DEPARTMENT participation towards this Project is determined to be TWO MILLION DOLLARS (\$2,000,000.00). In accordance with the Scope of Services, described in Exhibit "A" attached hereto, the PARTICIPANT will be paid a total amount not to exceed TWO MILLION DOLLARS (\$2,000,000.00) which will be invoiced and paid as a reimbursement to the PARTICIPANT in accordance with Section 339.12(4)(c), Florida Statutes. The PARTICIPANT will not invoice the DEPARTMENT prior to the PROPERTY being conveyed by marketable title to the PARTICIPANT. After receipt of an invoice documenting the expenditure of funds for services described in the Scope of Services payment will be made to the PARTICIPANT as follows:

Lump sum payment of invoiced amount up to TWO MILLION DOLLARS (\$2,000,000.00).

3. It is understood and agreed PARTICIPANT will be obligated to continue to perform the services described in Exhibit "A" of the AGREEMENT as well as perform those set forth in this Amendment, and the payment of funds previously designated for Design are transferred to Right of Way.
4. The DEPARTMENT shall have the responsibility for establishing just compensation as described in the Uniform Act and the FDOT Right of Way Procedures Manual.
5. The DEPARTMENT shall have the responsibility for reviewing Relocation Assistance appeals as described in the Uniform Act and the FDOT Right of Way Procedures Manual.
6. PARTICIPANT shall receive title to the PROPERTY free of encumbrances and encroachments, except those deemed acceptable to the DEPARTMENT,

in the DEPARTMENT's sole discretion, and the PARTICIPANT shall obtain title insurance policies for the PROPERTY.

7. The PARTICIPANT is responsible for delivering title to the DEPARTMENT free of encumbrances and encroachments, except those deemed acceptable to the DEPARTMENT, and for providing a title insurance policy (or policies) for the PROPERTY to the DEPARTMENT. All permanent easement rights obtained by the PARTICIPANT shall specifically provide for and authorize assignment of said easement to the DEPARTMENT.
8. PARTICIPANT shall be responsible for resolving any encumbrances and/or encroachments or actions arising from the date of acquisition of the PROPERTY until conveyance of said PROPERTY to the DEPARTMENT, and PARTICIPANT shall not take any actions that will adversely affect the condition of the PROPERTY, including but not being limited to, encumbrances, encroachments or environmental contamination. The terms of this paragraph shall survive the conveyance of the PROPERTY to the DEPARTMENT.
9. The DEPARTMENT reserves the right to withhold payment in the event:
 - a. title to the PROPERTY has not been conveyed to the PARTICIPANT by marketable title free and clear of encumbrances and encroachments, except those deemed acceptable to the DEPARTMENT; and
 - b. work performed by the PARTICIPANT is not performed satisfactorily in accordance with the Scope of Services described in Exhibit "A" and is deemed inadequate by the DEPARTMENT.

Any payment withheld will be released and paid to the PARTICIPANT promptly when work is satisfactorily completed in accordance with the Scope of Services described in Exhibit "A" and title to the PROPERTY has been conveyed by marketable title free and clear of encumbrances and encroachments, except those deemed acceptable to the DEPARTMENT in its sole discretion. Any remediation must occur prior to the expiration of the AGREEMENT, as amended, or completion of the PROJECT, whichever occurs first.

10. Except as otherwise set forth herein the AGREEMENT, as amended, shall continue in effect and be binding to both the PARTICIPANT and the DEPARTMENT until December 31, 2012 or upon the completion of the PROJECT as evidenced by the written acceptance by the DEPARTMENT, whichever occurs first.

11. The PARTICIPANT acknowledges and agrees that the DEPARTMENT's obligation to pay the sum set forth herein is contingent upon an annual appropriation by the Florida legislature.

All provisions, covenants, terms and conditions of the AGREEMENT between the DEPARTMENT and PARTICIPANT theretofore entered into under the date of January 31, 2004, as originally set forth therein, which are not hereby expressly amended or modified and not in conflict with the terms hereof, are hereby ratified and confirmed and shall remain the same and be unaffected by these presents.

IN WITNESS WHEREOF, this AMENDMENT to be executed by the parties below for the purposes specified herein.

R2006-0634

APR 18 2006

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: Tony Masilotti
Tony Masilotti, Chairman
Sharon R. Bock, Clerk & Comptroller
Palm Beach County

By: _____
Director of Administration
District Four

By: Judith C. ...
Deputy Clerk
COUNTY CLERK
PALM BEACH COUNTY
FLORIDA

APPROVED:

ATTEST:

By _____
Professional Services Administrator

APPROVED: (As to Form)

BY: Paul F. J.
Palm Beach County Attorney

APPROVED (As to Form)

Approved
and Conditions

District General Counsel - District Four

By: Seny T. Will

Right of Way Activities

All right of way acquired by or on behalf of Florida Department of Transportation (DEPARTMENT) must be in compliance with Public Law 91-646, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and in compliance with 49 CFR part 24 and all State laws and rules applicable to Palm Beach County (PARTICIPANT) governing right of way acquisition by the DEPARTMENT. By complying with these policies and procedures the PARTICIPANT also agrees to include, but is not limited to, the following in all their right of way acquisition:

1. The PARTICIPANT shall be responsible for utilizing the services of a right-of-way consultant who has been pre-qualified by the DEPARTMENT to perform services for work groups 21.0, 24.0, and 25.0 as identified under Rule 14-75, Florida Administrative Code. The PARTICIPANT is to be in responsible control of the project. The following responsibilities may not be delegated to the consultant:
 - a) approval of administrative and legal settlements and settlements of attorney and expert fees and costs; and
 - b) granting final acceptance of purchase agreements, as applicable; and
 - c) executing deeds, easements, leases and contracts.
2. Report Real Estate transactions to the Internal Revenue Service pursuant to 26 CFR part 1.5045;
3. Comply with the basic acquisition policies as outlined in 49 CFR part 24.102, which include but are not limited to:
 - a) **Expeditious acquisition.** The PARTICIPANT shall make every reasonable effort to acquire the real property expeditiously by negotiation;
 - b) **Notice to owner.** As soon as feasible, the owner shall be notified of the PARTICIPANT's interest in acquiring the real property and the basic protections, including the PARTICIPANT's obligation to secure an appraisal which, by law, is to be provided to the owner upon their request;
 - c) **Appraisal waiver thereof, and invitation to owner.** (1) Before the initiation of negotiations, the real property to be acquired shall be appraised and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property; (2) An appraisal is not

required if the owner is donating the property and releases the PARTICIPANT from this obligation;

- d) **Establishment and offer of just compensation.** Before the initiation of negotiations the DEPARTMENT shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. Promptly thereafter, the PARTICIPANT shall make an offer to the property owner to acquire the property for the full amount believed to be just compensation;
- e) **Summary statement.** Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation;
- f) **Basic negotiation procedures.** The PARTICIPANT shall make reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation, and explain its acquisition policies and procedures, including its payment of incidental expenses;
- g) **Updating offer of just compensation.** If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the PARTICIPANT shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the DEPARTMENT shall promptly reestablish just compensation and the PARTICIPANT shall offer that amount to the owner in writing;
- h) **Coercive action.** The PARTICIPANT shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property;
- i) **Administrative settlement.** The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized PARTICIPANT official approves such administrative settlement as being reasonable, prudent, and in the public interest. When federal funds pay for or participate in acquisition costs, a written justification shall be prepared which indicates that available information (e.g., appraisals, recent court awards, estimated trial costs, and/or valuation problems) supports such a settlement;
- j) **Payment before taking possession.** Before requiring the owner to surrender possession of the real property, the PARTICIPANT shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an

EXHIBIT 'B'
PAGE 6 OF 9
TO AMENDMENT

amount not less than the approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the PARTICIPANT may obtain a right of entry for construction purposes before making payment available to an owner;

- k) **Uneconomic remnant.** If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the PARTICIPANT shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project;
- l) **Inverse condemnation.** If the PARTICIPANT intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property;
- m) **Fair rental.** If the PARTICIPANT permits a former owner or tenant to occupy the real property after acquisition for a short term or period subject to termination by the PARTICIPANT on short notice, the rent shall be the fair market rent for such occupancy per Florida Statute.

Note: The PARTICIPANT shall negotiate in good faith with the property owner and shall attempt to arrive at an agreed upon amount for the parcel to be acquired. Good faith negotiation shall include but is not limited to all of the items summarized above as set forth at 49 CFR part 24.102.

- 4. Notify the property owners and business owners in writing of their rights under chapters 73 and 337 of the Florida Statutes;
- 5. All requirements of the DEPARTMENT's Right of Way Procedures must be met including the preparation of a written statement of the closing transaction that itemizes all closing costs and consideration to be paid;
- 6. The property conveyed to the DEPARTMENT must be free of the presence of any soil or ground water contaminates or pollutants, unless deemed acceptable by the Department;
- 7. Conduct all Eminent Domain action in accordance with chapter 73 and 74 of Florida Statute (and any revision/addition thereto);
- 8. Conduct all Property Management, Asbestos Management in accordance with section 337 and 255 F.S.;
- 9. The project will comply with section 253.77 F.S.;
- 10. Right of Way Mapping activities shall be in accordance with the DEPARTMENT's Right of Way Mapping Procedure (Topic No. 550-030-015) and Right of Way Mapping Handbook and must comply with the Minimum Technical Standards, pursuant to Section 472.027, Florida Statutes;

11. Appraisal report and review shall be in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) and Sections 6.1 (Supplemental Standards of Appraisal) and 6.2 (Appraisal and Appraisal Review) of the DEPARTMENT's Right of Way Procedures;
12. Appraisal and the review appraiser's statement shall be submitted to the DEPARTMENT for approval and establishment of just compensation prior to delivery of the offer to the property owner;
13. All permanent easements for roadway or drainage must include the DEPARTMENT's standard purpose language, and must contain language allowing the easement to be freely assigned to the DEPARTMENT;
14. At the time the PARTICIPANT makes arrangements for title searches to be performed on the parcels to be acquired, a title commitment is to be obtained and a copy forwarded to the DEPARTMENT's Legal Office for review. Title insurance policies reflecting no exceptions, unless deemed acceptable by the DEPARTMENT, are to be obtained for all properties acquired;
15. Funds referenced in Amendment One cannot be used to secure consultant or contractor services, including but not limited to: appraisal, appraisal review, right of way consultant, asbestos survey, abatement, demolition or roadway construction;
16. Funds referenced in Amendment One may be used for the following: payment for land, improvements, cost to cure/damages, reimbursement of property owner attorney and expert fees & costs, and relocation benefits.
17. The PARTICIPANT shall obtain title insurance for the property acquired. When PARTICIPANT acquires title to the property a title insurance policy shall be issued insuring PARTICIPANT and shall contain an endorsement that upon transfer of the property by PARTICIPANT to the DEPARTMENT the title insurance policy will be endorsed to the DEPARTMENT as the insured party.

Quality Control / Quality Assurance for Right Of Way Activities

1. The PARTICIPANT shall have quality control processes in place to ensure compliance with all State and Federal regulations. The PARTICIPANT shall furnish a quality assurance plan to the DEPARTMENT prior to beginning right of way activities. The quality assurance plan should detail the procedure evaluation criteria, and instruction to organizational members to ensure conformance with this agreement;
2. A progress report addressing the status of all right of way activities shall be submitted to the DEPARTMENT on a monthly basis. It shall include the list of parcels to be acquired along with the target and actual date for critical activities;
3. The PARTICIPANT will maintain permanent records in parcel files kept in an identified and accessible location in accordance with 49 CFR 24.9, and

which the PARTICIPANT will make available to the public for review and copying, subject to Section 119.07.3 of the Florida Statutes, for a period of three (3) years following the final voucher date of the Project;

4. All permanent records shall be sufficient to demonstrate compliance with applicable laws and requirements and shall be available for inspection at reasonable times by authorized representatives of the DEPARTMENT and other authorized State and Federal officials. Further, copies of appraisal reports and their accompanying review statements shall be provided to the DEPARTMENT upon request;
5. DEPARTMENT personnel will review the PARTICIPANT's official records files and perform periodic quality assurance reviews on an as needed basis during the life of the Project.

rev. 2/20/06

EXHIBIT "B"
PAGE 9 OF 9
TO AMENDMENT

Right of Way Activities

All right of way acquired by or on behalf of Florida Department of Transportation (DEPARTMENT) must be in compliance with Public Law 91-646, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and in compliance with 49 CFR part 24 and all State laws and rules applicable to Palm Beach County (PARTICIPANT) governing right of way acquisition by the DEPARTMENT. By complying with these policies and procedures the PARTICIPANT also agrees to include, but is not limited to, the following in all their right of way acquisition:

1. The PARTICIPANT shall be responsible for utilizing the services of a right-of-way consultant who has been pre-qualified by the DEPARTMENT to perform services for work groups 21.0, 24.0, and 25.0 as identified under Rule 14-75, Florida Administrative Code. The PARTICIPANT is to be in responsible control of the project. The following responsibilities may not be delegated to the consultant:
 - a) approval of administrative and legal settlements and settlements of attorney and expert fees and costs; and
 - b) granting final acceptance of purchase agreements, as applicable; and
 - c) executing deeds, easements, leases and contracts.
2. Report Real Estate transactions to the Internal Revenue Service pursuant to 26 CFR part 1.5045;
3. Comply with the basic acquisition policies as outlined in 49 CFR part 24.102, which include but are not limited to:
 - a) **Expeditious acquisition.** The PARTICIPANT shall make every reasonable effort to acquire the real property expeditiously by negotiation;
 - b) **Notice to owner.** As soon as feasible, the owner shall be notified of the PARTICIPANT's interest in acquiring the real property and the basic protections, including the PARTICIPANT's obligation to secure an appraisal which, by law, is to be provided to the owner upon their request;
 - c) **Appraisal waiver thereof, and invitation to owner.** (1) Before the initiation of negotiations, the real property to be acquired shall be appraised and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property; (2) An appraisal is not

required if the owner is donating the property and releases the PARTICIPANT from this obligation;

- d) **Establishment and offer of just compensation.** Before the initiation of negotiations the DEPARTMENT shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. Promptly thereafter, the PARTICIPANT shall make an offer to the property owner to acquire the property for the full amount believed to be just compensation;
- e) **Summary statement.** Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation;
- f) **Basic negotiation procedures.** The PARTICIPANT shall make reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation, and explain its acquisition policies and procedures, including its payment of incidental expenses;
- g) **Updating offer of just compensation.** If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the PARTICIPANT shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the DEPARTMENT shall promptly reestablish just compensation and the PARTICIPANT shall offer that amount to the owner in writing;
- h) **Coercive action.** The PARTICIPANT shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property;
- i) **Administrative settlement.** The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized PARTICIPANT official approves such administrative settlement as being reasonable, prudent, and in the public interest. When federal funds pay for or participate in acquisition costs, a written justification shall be prepared which indicates that available information (e.g., appraisals, recent court awards, estimated trial costs, and/or valuation problems) supports such a settlement;
- j) **Payment before taking possession.** Before requiring the owner to surrender possession of the real property, the PARTICIPANT shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an

amount not less than the approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the PARTICIPANT may obtain a right of entry for construction purposes before making payment available to an owner;

- k) **Uneconomic remnant.** If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the PARTICIPANT shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project;
- l) **Inverse condemnation.** If the PARTICIPANT intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property;
- m) **Fair rental.** If the PARTICIPANT permits a former owner or tenant to occupy the real property after acquisition for a short term or period subject to termination by the PARTICIPANT on short notice, the rent shall be the fair market rent for such occupancy per Florida Statute.

Note: The PARTICIPANT shall negotiate in good faith with the property owner and shall attempt to arrive at an agreed upon amount for the parcel to be acquired. Good faith negotiation shall include but is not limited to all of the items summarized above as set forth at 49 CFR part 24.102.

- 4. Notify the property owners and business owners in writing of their rights under chapters 73 and 337 of the Florida Statutes;
- 5. All requirements of the DEPARTMENT's Right of Way Procedures must be met including the preparation of a written statement of the closing transaction that itemizes all closing costs and consideration to be paid;
- 6. The property conveyed to the DEPARTMENT must be free of the presence of any soil or ground water contaminates or pollutants, unless deemed acceptable by the Department;
- 7. Conduct all Eminent Domain action in accordance with chapter 73 and 74 of Florida Statute (and any revision/addition thereto);
- 8. Conduct all Property Management, Asbestos Management in accordance with section 337 and 255 F.S.;
- 9. The project will comply with section 253.77 F.S.;
- 10. Right of Way Mapping activities shall be in accordance with the DEPARTMENT's Right of Way Mapping Procedure (Topic No. 550-030-015) and Right of Way Mapping Handbook and must comply with the Minimum Technical Standards, pursuant to Section 472.027, Florida Statutes;

11. Appraisal report and review shall be in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) and Sections 6.1 (Supplemental Standards of Appraisal) and 6.2 (Appraisal and Appraisal Review) of the DEPARTMENT's Right of Way Procedures;
12. Appraisal and the review appraiser's statement shall be submitted to the DEPARTMENT for approval and establishment of just compensation prior to delivery of the offer to the property owner;
13. All permanent easements for roadway or drainage must include the DEPARTMENT's standard purpose language, and must contain language allowing the easement to be freely assigned to the DEPARTMENT;
14. At the time the PARTICIPANT makes arrangements for title searches to be performed on the parcels to be acquired, a title commitment is to be obtained and a copy forwarded to the DEPARTMENT's Legal Office for review. Title insurance policies reflecting no exceptions, unless deemed acceptable by the DEPARTMENT, are to be obtained for all properties acquired;
15. Funds referenced in Amendment One cannot be used to secure consultant or contractor services, including but not limited to: appraisal, appraisal review, right of way consultant, asbestos survey, abatement, demolition or roadway construction;
16. Funds referenced in Amendment One may be used for the following: payment for land, improvements, cost to cure/damages, reimbursement of property owner attorney and expert fees & costs, and relocation benefits.
17. The PARTICIPANT shall obtain title insurance for the property acquired. When PARTICIPANT acquires title to the property a title insurance policy shall be issued insuring PARTICIPANT and shall contain an endorsement that upon transfer of the property by PARTICIPANT to the DEPARTMENT the title insurance policy will be endorsed to the DEPARTMENT as the insured party.

Quality Control / Quality Assurance for Right Of Way Activities

1. The PARTICIPANT shall have quality control processes in place to ensure compliance with all State and Federal regulations. The PARTICIPANT shall furnish a quality assurance plan to the DEPARTMENT prior to beginning right of way activities. The quality assurance plan should detail the procedure evaluation criteria, and instruction to organizational members to ensure conformance with this agreement;
2. A progress report addressing the status of all right of way activities shall be submitted to the DEPARTMENT on a monthly basis. It shall include the list of parcels to be acquired along with the target and actual date for critical activities;
3. The PARTICIPANT will maintain permanent records in parcel files kept in an identified and accessible location in accordance with 49 CFR 24.9, and

which the PARTICIPANT will make available to the public for review and copying, subject to Section 119.07.3 of the Florida Statutes, for a period of three (3) years following the final voucher date of the Project;

4. All permanent records shall be sufficient to demonstrate compliance with applicable laws and requirements and shall be available for inspection at reasonable times by authorized representatives of the DEPARTMENT and other authorized State and Federal officials. Further, copies of appraisal reports and their accompanying review statements shall be provided to the DEPARTMENT upon request;
5. DEPARTMENT personnel will review the PARTICIPANT's official records files and perform periodic quality assurance reviews on an as needed basis during the life of the Project.

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EXHIBIT "C"
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TO AMENDMENT