

Prepared by:
Robert Banks
Assistant County Attorney
301 North Olive Avenue
West Palm Beach, FL 33401

Return To:
Palm Beach County Planning & Zoning
Attention: Zoning Division
100 Australian Avenue
West Palm Beach, FL 33406

CONTRACT FOR THE SALE AND PURCHASE OF DEVELOPMENT RIGHTS

THIS CONTRACT entered into this _____ day of _____ by and between Palm Beach County, Florida (hereinafter referred to as "County") and **Holiday Management Associates, Inc.** (hereinafter referred to as "Developer").

WHEREAS, the County has established a Transfer of Development Rights (hereinafter referred to "TDR") Special Density Program pursuant to Section 6.10 of the Palm Beach County Unified Land Development Code (hereinafter referred to as "ULDC").

WHEREAS, the County has established a TDR Bank to facilitate the purchase and transfer of development rights.

WHEREAS, the Developer is desirous of purchasing **ninety-five (95)** development rights and "County" is desirous of selling and transferring **ninety-five (95)** development rights from the TDR bank for use on the subject property (hereinafter referred to as the "Property"), as described in Exhibit A.

WHEREAS, Developer seeks to use the development rights within the "Property" more particularly described as in Exhibit A attached hereto and made a part hereof.

WHEREAS, Resolution-R-~~2002-029~~ requires as a condition of approval that upon signing of this contract, that the funds for the purchase of the **ninety-five (95)** TDR units be placed in escrow to be released to the County upon approval of the first building permit for the project.

NOW THEREFORE, in consideration of the premises and other valuable consideration, the parties hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein for reference.
2. Purchase and Sale. The County hereby agrees to sell and "Developer" hereby agrees to purchase the **ninety-five (95)** TDR units to be used within the Property.
3. Purchase Rights. The purchase price for each TDR unit is **ten thousand three hundred ninety-nine dollars and 00/100 (\$10,399.00)** for a total purchase price of **nine hundred eighty-seven thousand nine hundred five dollars and 00/100 (\$987,905.00)**.
4. Timing. The Developer shall immediately place the funds for the total purchase price for the development rights, in full, by cash, or certified or cashiers check, into an escrow account. The said escrow account shall be established as set forth in the TDR Escrow Agreement which is incorporated and made a part thereof. After delivery of sworn receipt from Escrow Agent to the County, County shall deliver executed deed conveying the applicable TDR units from the County TDR Bank to the subject property, to the Escrow Agent. Prior to issuance of the first building permit for the project, full payment for all the TDR units shall be made to the County, from said escrow account. After full payment for the TDR units is made to the County, Escrow Agent shall deliver the TDR deed to developer to be recorded in the public records by the Developer. Building permits issued for sales models and/or temporary real estate sales and management offices permitted pursuant to

ULDC standards shall not require the release of the escrow funds.

5. Escrow Aareement. Simultaneously with this contract, the parties have entered into an escrow agreement which provides for disbursement of the escrow funds required by this contract.
6. Notices. Unless otherwise specifically provided herein, all notices shall be in writing and sent to the parties, by certified mail, return receipt requested, postage prepaid, or by other nationally recognized overnight courier service. Unless otherwise specifically provided herein, said notices shall be effective on the third (3rd) day following such notice being deposited in the United States mails or one (1) business day following mailing by overnight express mail.

As to County: Palm Beach County Zoning Division
100 Australian Avenue
West Palm Beach, Florida 33406

cc: Palm Beach County Attorney
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401
ATTN: Landuse Section

As to Developer: **Holiday Management Associates, Inc.**
400 Post Avenue
Westbury, New York 11590

7. Governing Law, Venue. This instrument shall be governed by and enforced and construed under the laws of the State of Florida. Venue for all actions shall be in Palm Beach County.
8. Assignment. This contract is assignable to any entity that is controlled by **Holiday Management Associates, Inc.**, for the benefit of this Property only. With the exception of this assignment provision, neither this Contract nor any interest therein may be assigned without the prior written consent of the County. Prior to approval of assignment of the contract, the escrow agreement shall be modified to reflect the assignment.
9. Enforcement. In the event any action, suit or proceeding is commenced with respect to this contract, each party shall be responsible for their own fees and costs.
10. Severability. In the event that any section, paragraph, sentence, clause, or provision hereof be held by a final judgment of a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.
11. Public Records. This document shall be recorded in the public records of Palm Beach County, Florida.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the dates set after their respective signatures.

ATTEST:
DOROTHY H. WILKEN, Clerk

PALM BEACH COUNTY
BOARD OF COUNTY
COMMISSIONERS:

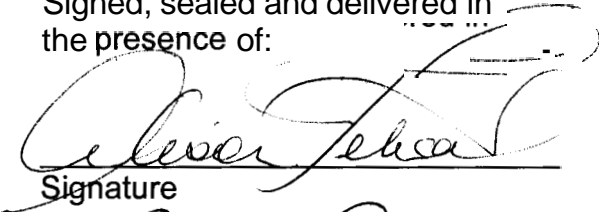
By: _____
Deputy Clerk

Warren H. Newell, Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
County Attorney

Signed, sealed and delivered in
the presence of:


Signature

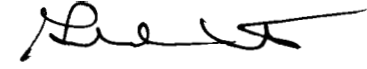
Alison Fehsal
Print


Signature

CLAIRE E DECRUZ
Print

Developer

Developer Name

By: 
Name

Title: CEO

Date: 3/15/02

STATE OF FLORIDA
SS:
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 15th day of March, 2002 by Gerald Monter (name of person acknowledging) who is personally known to me or has produced (type of identification) as identification and who did (did not) take an oath.

My Commission Expires:

Notary Public
State of Florida

NOTARY PUBLIC
STATE OF FLORIDA
ALISON FEHSAL
MY COMMISSION # DD006768
EXPIRES: MARCH 26, 2005

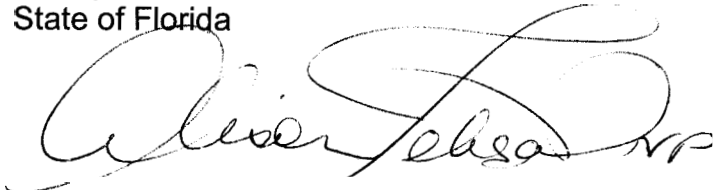


EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF TRACTS 4, 5 AND 7, AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN ET AL ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 9, PAGE 74 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 12; THENCE NORTH 89°40'51" EAST, ALONG THE NORTH LINE OF SAID SECTION 12, A DISTANCE OF 668.91 FEET; THENCE SOUTH 04'00'08" WEST, A DISTANCE OF 40.11 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE NORTH 89°40'51" EAST, ALONG THE SOUTH RIGHT OF WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-18 CANAL AS CONVEYED IN DEED BOOK 118, PAGE 518 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY, A DISTANCE OF 334.68 FEET TO A POINT ON THE WEST LINE OF THE WEST ONE-HALF OF THE EAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 12; THENCE SOUTH 03'40'40" WEST, ALONG SAID WEST LINE, A DISTANCE OF 279.90 FEET; THENCE NORTH 89°40'51" EAST, ALONG THE SOUTH LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 642, PAGE 291 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY, A DISTANCE OF 138.93 FEET; THENCE NORTH 03'30'42" EAST, ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 279.85 FEET; THENCE NORTH 89°40'51" EAST, ALONG THE SOUTH RIGHT OF WAY LINE OF SAID LAKE WORTH DRAINAGE DISTRICT L-18 CANAL, A DISTANCE OF 29.23 FEET TO A POINT ON THE EAST LINE OF THE WEST ONE-HALF OF THE EAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 12; THENCE SOUTH 03'30'55" WEST, ALONG SAID EAST LINE, A DISTANCE OF 1,300.18 FEET; THENCE SOUTH 89°38'51" WEST, ALONG THE SOUTH LINE OF SAID TRACTS 4, 5 AND 7, A DISTANCE OF 1,138.25 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE MILITARY TRAIL AS DESCRIBED IN OFFICIAL RECORDS BOOK 6089, PAGE 202 AND OFFICIAL RECORDS BOOK 6274, PAGE 304 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY; THENCE NORTHERLY ALONG SAID EASTERLY RIGHT OF WAY LINE, THROUGH THE FOLLOWING FOUR COURSES, NORTH 04'09'08" EAST, A DISTANCE OF 498.92 FEET; THENCE NORTH 04'39'02" EAST, A DISTANCE OF 166.86 FEET; THENCE NORTH 89'39'42" EAST, A DISTANCE OF 11.54 FEET; THENCE NORTH 04'39'02" EAST, A DISTANCE OF 5.36 FEET TO A POINT ON THE NORTH LINE OF SAID TRACT 7; THENCE NORTH 89'39'50" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 610.30 FEET TO THE NORTHEAST CORNER OF SAID TRACT 7; THENCE NORTH 04'00'08" EAST, ALONG THE WEST LINE OF SAID TRACT 5, A DISTANCE OF 630.58 FEET TO THE POINT OF BEGINNING.

CONTAINING 23.810 ACRES, MORE OR LESS.

Return To:

Robert Banks
Assistant County Attorney
301 North Olive Avenue
West Palm Beach, FL 33401

**TRANSFER OF DEVELOPMENT RIGHTS
ESCROW AGREEMENT**

Palm Beach County, (the "County"), being the stated beneficiary of this agreement, ***Holiday Management Associates, Inc.*** ("Developer") and ***Harry L. Seaton*** (the "Escrow Agent"), in consideration of the mutual covenants contained in this Agreement, hereby agree as follows:

1. Developer received approval for and has contracted to buy ***ninety-five (95)*** TDR units in Palm Beach County, Florida for use in the development known as ***Colony Club PUD***. The approval for the transfer of these TDR units was granted by Resolution #R-~~2002-0211~~. The County requires that Developer pay County for the TDR units prior to the issuance of the first building permit other than for sales models or a temporary real estate sales and management office is issued by County to Developer. Developer is to pay ***nine hundred eighty-seven thousand nine hundred five dollars and 00/100 (\$987,905.00)*** for the purchase of ***nine@-five(95)*** TDR units.
2. Establishment of Escrow Account. The parties hereby authorize and direct the Escrow Agent to establish an Escrow Account (the "Account") at ***Bank of America***, a national banking association, located at ***6330 Lantana Road, Lake Worth, Florida 33463-6606*** (the "Bank") to be held pursuant to the terms of this Agreement. The account shall be an interest bearing account, maintained in a segregated account which is not a loan reserve or hold back of bank funds. When the escrowed funds are released to the County, all interest earned by such funds while in escrow shall accrue to the County. If the County is not entitled to the funds, the interest earned by such funds shall accrue to the Developer. Developer shall pay all costs, fees and expenses of Bank and Escrow Agent arising from or in connection with the Account.
3. Deposit of Funds. Upon execution of this agreement, Developer shall deposit ***nine hundred eighty-seven thousand nine hundred five dollars and 00/100 (\$987,905.00)*** into the Account. The Escrow Agent shall hold funds in escrow. Developer shall evidence such deposit by delivering to County two copies of a sworn receipt (which is attached hereto as Exhibit "A") executed by Escrow Agent.
4. Delivery of Deed. Upon receipt of the evidence of deposit of funds, County shall deliver to Escrow Agent an executed deed conveying the ***ninety-five (95)*** TDR units to developer. This deed shall be held by the Escrow Agent.
5. Disbursement of Escrowed Funds. Escrow agent shall hold the escrow funds until Developer directs escrow agent to disburse the funds to the County. Building permits to be issued, if all other applicable requirements are met, after disbursement of funds to the County. Any accrued interest earned on the escrow account shall be disbursed to the County.
6. Release of Deed. After the disbursement of funds to the County, Escrow Agent shall deliver the deed to Developer to be recorded in the public records by the Developer.

7. Revocation or abandonment of Approval. In the event that the approval of this development is revoked in accordance with Section 5.8 of the Palm Beach County Unified Land Development Code, or formally abandoned by the Developer and that the abandonment has been approved by the County, the County shall send written notification to Escrow Agent. Escrow Agent shall then disburse all funds to Developer and return the deed to County.
8. Dispute Resolution. In the event of dispute between County and Developer, Escrow Agent may, at its option, continue to hold any disputed funds until Developer and County mutually agree to disbursement, or until a final administrative or judicial order is issued; or Escrow Agent may interplead such disputed sums in the Circuit Court for Palm Beach County, Florida. County and Developer agree that Escrow Agent shall not be liable to any person for its acts pursuant to this Agreement other than for Escrow Agent's willful breach of this Agreement or Escrow Agent's gross negligence.
9. Standard Provisions:
 - A. Additional Instruments. Each of the parties shall from time to time at the request of the other, execute, acknowledge and deliver to the other party any and all further instruments that may be reasonably required to give full force and effect to the provisions of this Agreement.
 - B. The Entire Agreement. This Agreement constitutes the entire understanding of the parties and there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
 - C. Modification. A modification or waiver of any of the provisions of this Agreement shall be effective only if made in writing and executed with the same formality as this Agreement.
 - D. Waiver. The failure of either party to insist upon strict performance of any of the provisions of this Agreement shall not be construed as a waiver of any subsequent default of the same or similar nature.
 - E. Severability. If any provisions of this Agreement are held to be invalid or unenforceable, all of the other provisions shall nevertheless continue in full force and effect.
 - F. Notices. Unless otherwise specifically provided herein, all notices shall be in writing and sent to the parties by certified mail, return receipt requested, postage prepaid, or by other nationally recognized overnight courier service. Unless otherwise specifically provided herein said notices shall be effective on the third (3rd) day following such notice being deposited in the United States mails or one (1) business day following mailing by overnight express mail.

As to County: Palm Beach County Zoning Division
100 Australian Avenue
West Palm Beach, Florida 33406

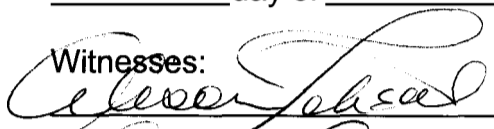
cc: Palm Beach County Attorney
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401
ATTN: Landuse Section

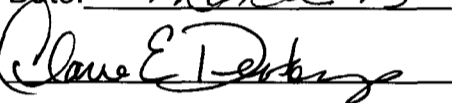
As to Developer: **Holiday Management Associates. Inc.**
400 Post Avenue
Westbury, New York 11590

As to Escrow Agent: Harry L. Seaton
7350 LeChalet Boulevard
Boynton Beach, Florida 33437

- G. Captions. Captions contained in this Agreement are inserted only as a matter of convenience or for reference and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision hereof.
- H. Venue. This instrument shall be governed by and enforced and construed under the laws of the State of Florida. Venue for all actions shall be in Palm Beach County.

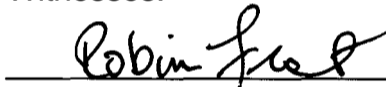
IN WITNESS WHEREOF, the parties have executed this Escrow Agreement this _____ day of _____, 200_.

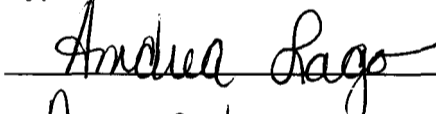
Witnesses:

Alison Fehsal
Typed or Printed Name


Date: March 15, 2002


CLAIRE E. DERTOUZOS
Typed or Printed Name

Witnesses:


ROBIN FROST
Typed or Printed Name


ANDREA LASC
Typed or Printed Name

DEVELOPER

C/E/P
Typed or Printed Name

Date: 3/15/02, 200_
561 498-1112
Telephone Number

ESCROW AGENT

HARRY L. SEATON
Typed or Printed Name

Date: 3/18, 2002
561-734-9890
Telephone Number

ATTEST:

DOROTHY H. WILKEN, Clerk

By: _____
Deputy Clerk

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

By: _____
Warren H. Newell, Chairman

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

By: _____
County Attorney

EXHIBIT A

CERTIFIED RECEIPT

STATE OF FLORIDA

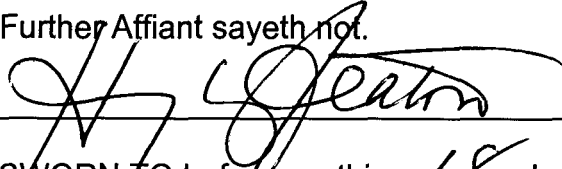
COUNTY OF PALM BEACH

Before me, the undersigned authority, personally appeared Escrow Agent, who, being by me first duly sworn, deposes and says:

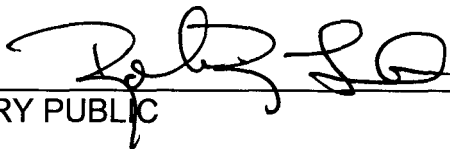
1. Escrow Agent hereby acknowledges that it has received **nine hundred eighty-seven thousand nine hundred five dollars and 00/100 (\$987,905.00)** to be held by Escrow Agent pursuant to the Transfer of Development Rights Escrow Agreement dated _____ in connection with Resolution #R-~~2602-021~~ of the Development known as **Colony Club PUD**, Zoning Petition **PDD/TDR2001-029**, in connection with the purchase of **Ninety Five (95)** development rights.

2. Escrow Agent acknowledges that this Affidavit is being given as an inducement to Palm Beach County to deliver an executed deed conveying the development rights to the Escrow Agent.

Further Affiant sayeth not.



SWORN TO before me this 18 day of March, 2002



NOTARY PUBLIC

My commission expires:

