

CITY OF HOMESTEAD, FLORIDA

ORDINANCE NO. 2011-07-08

AN ORDINANCE OF THE CITY OF HOMESTEAD, FLORIDA, AMENDING THE DEVELOPMENT ORDER FOR THE VILLAGES OF HOMESTEAD DEVELOPMENT OF REGIONAL IMPACT; FINDING THAT SAID AMENDMENT DOES NOT CONSTITUTE A SUBSTANTIAL DEVIATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the City of Homestead (the "City") adopted Ordinance No. 75-11-70, which constitutes a development order (the "Development Order") under Chapter 380 of the Florida Statutes, for the Villages of Homestead, a Development of Regional Impact (the "DRI"); and

WHEREAS, the City has amended the Development Order by the adoption of Ordinance Nos. 76-02-9, 79-10-32, 81-07-47, 84-05-33, 85-05-34, 87-01-1, 94-05-33, 94-10-100, 94-10-104, 99-05-29, 2001-12-36, and 2011-03-05 (collectively, the "Development Order Amendments"); and

WHEREAS, Homestead-Miami Speedway, LLC (the "Developer") has applied for an amendment to the DRI, as more particularly described in the Notification of a Proposed Change to a Previously Approved Development of Regional Impact (DRI) Subsection 380.06(19), Florida Statutes (the "NOPC"), which is incorporated by reference to this Ordinance; and

WHEREAS, the proposed modification to the DRI Development Order is intended to provide for an expansion to the existing motorsports stadium (the "Speedway") by increasing the acreage for the Attraction/Recreation land use; incorporating a 120-acre parcel located directly north of the Speedway; adding 12,000

spectator seats; reducing density in the eastern one-half of the DRI by four (4) dwelling units; addressing issues related to air quality, storm-water management, disposal and utility programs, wetlands, water and sewer, and traffic impacts; and extending the DRI termination date to 2023 ("Proposed Changes"); and

WHEREAS, the City Council finds that it is necessary to further amend the Development Order and to incorporate the Proposed Changes; and

WHEREAS, the City of Homestead Planning and Zoning Board has reviewed the Proposed Changes, and has recommended adoption thereof; and

WHEREAS, the City Council finds that the adoption of this Ordinance is in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA:

Section 1. Findings. The City Council makes the following findings:

- 1.1 Each of the recitals set forth above is hereby incorporated and confirmed.
- 1.2 The clear and convincing evidence presented demonstrates that the Proposed Changes and the previous changes to the Development Order neither individually nor cumulatively constitute or create a substantial deviation under the criteria provided for in Section 380.06(19), Florida Statutes, or laws of the City.
- 1.3 The clear and convincing evidence presented demonstrates that the Proposed Changes do not require further Development of Regional Impact review under Chapter 380 of the Florida Statutes or the laws of the City.

- 1.4 The Proposed Changes are consistent with the State Comprehensive Plan, the City's Comprehensive Development Plan, the City's Land Development Regulations, and any other applicable laws.
- 1.5 This Ordinance meets the applicable legal standards that are regularly applied to the DRI and Master Plan matters provided herein.

Section 2. Amendment to Section 2 of Ordinance 2011-03-05.

The

Proposed Changes are hereby approved subject to the following conditions:

- 2.1 The maximum number of residential dwelling units within the DRI shall not exceed ~~9,882~~ 9,878 dwelling units.
- 2.2 The commercial development within the DRI shall not exceed 974,000 square feet on 107.52 acres.
- 2.3 The hotel shall be limited to 400 hotel rooms.
- 2.4 The industrial development within the DRI shall not exceed 3,100,000 square feet on 275.10 acres.
- 2.5 The Developer shall develop a 127-bed hospital on 13 acres.
- 2.6 The office development within the DRI shall not exceed 241,000 square feet on 14.50 acres.
- 2.7 The DRI shall have 843.23 acres of recreation/open space, of which 2.21 acres shall be private recreation space, 90.75 acres shall be community park, and 150 acres shall be golf course.
- 2.8 Lands identified as school sites shall be 93.64 acres. ←
- 2.9 The Major Events described in Exhibit "H" of the NOPC approved pursuant to City of Homestead Ordinance 94-05-33 shall be limited to

600.81
512.23
22.75

eighteen (18) days in any given calendar year. Notwithstanding anything to the contrary in said Exhibit "H" and/or this Ordinance, a Major Event shall mean an event or separate events conducted simultaneously at the Baseball Facility and/or Motor Sports Facility for which the number of spectators exceeds 28,000. All weekday Major Events shall be limited to total of 53,128 spectators seats and a start time of no earlier than 8:00 PM. Spectator seating for weekend Major Events shall be limited to 79,612.

2.10 The attraction/recreation facility uses shall be on ~~527.90~~ 647.90 acres as follows: The Baseball Facility shall be on 100 acres, of which up to 25.3± acres may be developed with a school. The Motor Sports Facility shall be a total of ~~427.90~~ 547.90 acres, of which 203 acres shall be designated for the Motor Sports Facility grass buffer/overflow parking.

2.11 All use and development activities authorized herein shall comply with the environmental regulatory permits (the "Permits") as described in the Notice and as issued by the Miami-Dade County Department of Environmental Resource Management (DERM), the South Florida Water Management District (SFWMD) and the US Army Corps of Engineers (USACOE). No development authorized in this Ordinance shall be undertaken unless such Permits have first been issued, and all development must comply with the Permits, as amended from time to time. A copy of the DERM, SFWMD and USACOE permits, as issued and amended, shall be maintained on file in the City Clerk's office.

2.12 The development of the DRI property shall be in substantial compliance with the Proposed Master Plan entitled "Proposed Master Plan / Keys Gate at Villages of Homestead," dated ~~10-26-01~~ and revised ~~11-29-04~~ 04-26-10, and attached hereto as Exhibit "A", and the Proposed Master Development Plan - Proposed Land Use Chart, dated ~~11-28-01~~ 07-26-11, attached hereto as Exhibit "B".

2.13 The 120 acres of land immediately north of the existing Motor Sports Facility in Sections 22 and 23, Township 57 South, Range 39 East, which consist of tax folio numbers: 10-7922-001-0071, 10-7923-001-0022, and 10-7923-001-0023 shall only be used for up to 12,000 additional spectator seats and the following ancillary uses associated with the Motor Sports Facility: temporary and permanent parking facilities; temporary event concessions consisting of kiosks, tents, and other similar portable facilities; a permanent kitchen facility of up to 6,000 square feet; and other similar ancillary uses; provided, however, in no event shall the 120 acres be used for hotels or motels, residential dwelling units, commercial office buildings, shopping centers, or other similar development. The 120 acres may also be used for the agricultural uses described in Exhibit "B" of the recorded Declaration of Restrictive Covenants on an intermittent or temporary basis when the 120 acres is not being used for Motor Sports related purposes.

2.14 Air Quality: At least 120 days prior to the issuance of the first certificate of occupancy for the proposed seat expansion at the Homestead Miami

Speedway, the Applicant shall meet with FDEP, DERM and the SFRPC to discuss a Carbon Monoxide Air Quality Analysis for parking facilities and intersections. This analysis shall be based upon the latest FDEP "Guidelines for Evaluating the Air Impacts of Indirect Sources". These guidelines require that the following be considered for air quality modeling:

- a. Intersections impacted by 5 percent or more of the project traffic directly related to the proposed seat expansion, which are located within 5 miles of the Motor Sport Facility and which are projected to operate at Level of Service (LOS) "E" or "F" with the impact of the proposed seat expansion;
- b. Any surface parking area serving the proposed seat expansion generating 1,500 (or greater) vehicle trips per hour;
- c. Any parking garage serving the proposed seat expansion generating 750 (or greater) vehicle trips per hour.

The analysis shall demonstrate that the National Ambient Air Quality Standards for Carbon Monoxide shall not be violated as a result of the proposed seat expansion and if necessary, shall include corrective mitigation measures for which the Applicant shall be responsible.

2.15 Storm water Management, Disposal and Utility Program: Prior to the issuance of a building permit for any new construction or development within the 120-acre Application Area, the Applicant shall secure any required new permit or permit modification from the Miami-Dade County Department of Environmental Resources Management (DERM), or South Florida Water Management District (SFWMD), as applicable.

2.16 Wetlands: During the roadway design phase associated with the proposed realignment of S.W. 137 Avenue, the Applicant shall meet with

DERM, SFWMD, and Army Corps of Engineers to determine if any jurisdictional wetlands may be impacted by the proposed realignment of S.W. 137 Avenue, and secure any necessary environmental permit(s), prior to construction.

2.17 Potable Water: Prior to the issuance of a building permit for any new construction or development within the 120-acre Application Area, the Applicant shall secure approval(s) from all appropriate governmental agencies having jurisdiction over potable water allocation, treatment plant capacity and transmission to ensure compliance with all applicable federal, state and local regulations.

2.18 Water Conservation: Applicant shall utilize ultra-low volume water use plumbing fixtures, self-closing and/or metered water faucets, Florida-friendly (drought tolerant) landscape techniques, and other water efficiency and conservation devices and or methods in accordance with Section 8-31., 32-84 and 8A-381 of the Miami-Dade County Code. In addition, any future development shall comply with the landscape standards in Section 18-A and 18-B of the Miami-Dade County Code and Chapter 29 of the City of Homestead Code of Ordinances.

2.19 Sanitary Sewer: Prior to the issuance of a building permit for any new construction or development within the 120-acre Application Area, the Applicant shall secure approval(s) from all appropriate governmental agencies having jurisdiction over sanitary sewer transmission and plant

capacity to ensure compliance with all applicable federal, state and local regulations.

2.20 Aquifer Recharge: One Hundred percent (100%) of the storm-water runoff from the 100 year, 3 day storm event for the 120 acre site shall be retained on site as well as on the adjacent Motor Sports Facility property, thereby greatly facilitating aquifer recharge. The Owner shall obtain all necessary permits and /or permit modifications from DERM and/or the SFWMD in order to construct any necessary drainage improvements.

Section 3. Amendment to Attachment B, Condition 2 of Ordinance 87-01-

1. The Proposed Changes are hereby approved subject to the following conditions:

2. A proposed amended development order termination date that reasonably reflects the time required to complete the development is ~~the year 2015~~ December 31, 2023.

Section 4. Master Development Plan. The Proposed Master Plan, dated ~~10-16-01 and revised 11-29-01~~ 07-26-11, which is attached hereto as Exhibit "A" (and attached as Exhibit "C" to the NOPC) shall supersede all prior approved development plans, shall serve as the Master Development Plan for the DRI, and shall control the development of the DRI. The properties governed by the Proposed Master Plan shall be developed and used in accordance with the Proposed Master Plan, and in accordance with the purposes and conditions of this Ordinance.

Section 5. Master Development Plan Land Use Chart. The Proposed Master Development Plan - Proposed Land Use Chart, dated ~~11-28-01~~ 07-26-11, (the "Proposed Land Use Chart") attached hereto as Exhibit "B" (and attached as Exhibit "D" 2011-07-08

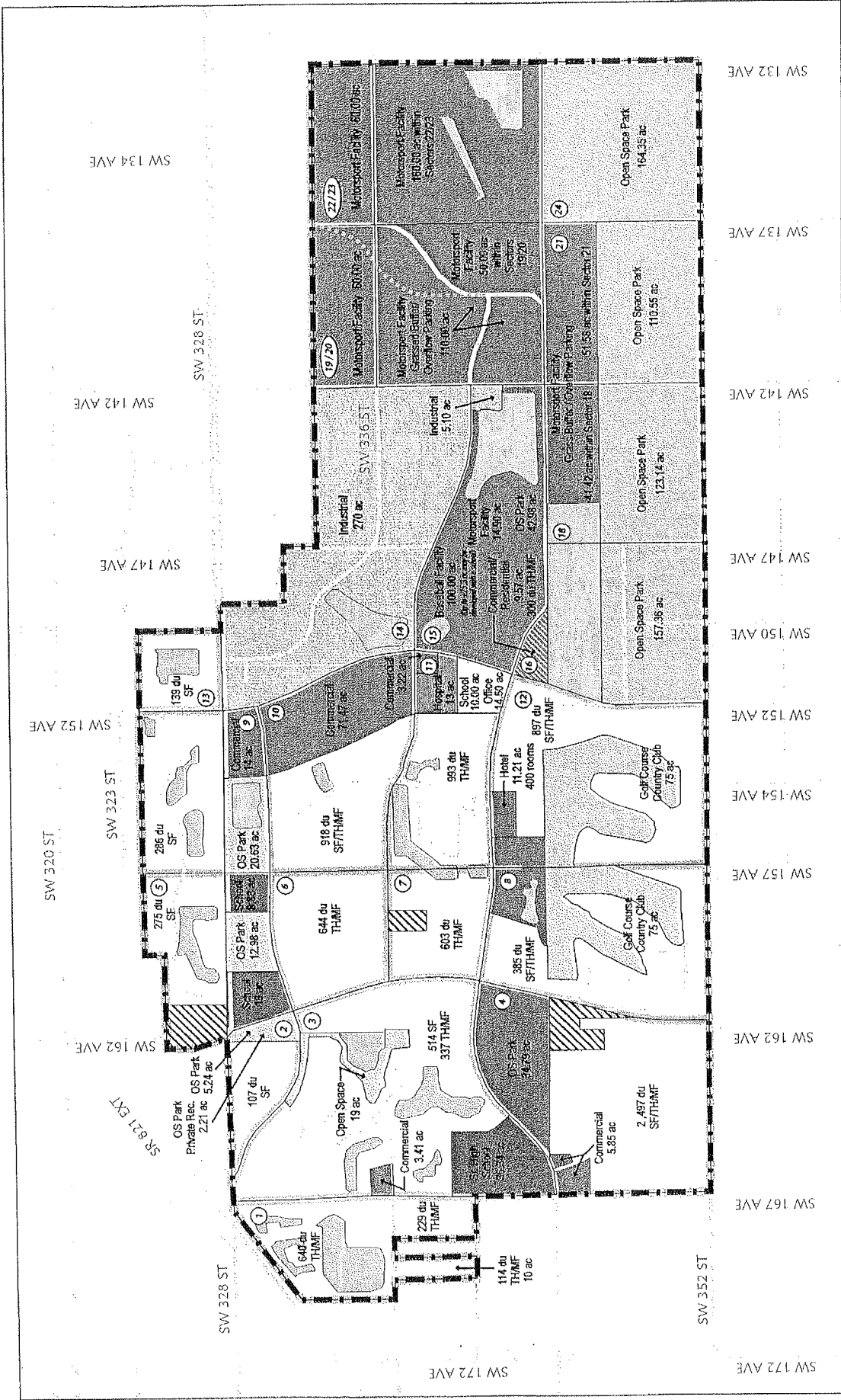
to the NOPC) shall supersede all prior approved Land Use Charts, shall serve as the Master Development Plan Land Use Chart for the DRI, and, in conjunction with the Proposed Master Plan, shall control the development of the DRI. The properties governed by the Proposed Land Use Chart shall be developed and used in accordance with the Proposed Land Use Chart, and in accordance with the purposes and conditions of this Ordinance.

Section 6. Development Order. The Development Order, as previously amended by the Development Order Amendments, and as amended herein, is hereby approved and confirmed in accordance with the terms hereof.

Section 7. Restatement. Except as provided for in this Ordinance, the Development Order and all prior Development Order Amendments for the DRI shall remain in full force and effect, in accordance with the terms and conditions provided therein.

Section 8. Transmittal of Development Order. The City Clerk is hereby directed to make the appropriate transmittals of this Development Order Amendment, as required by law, as advised by the City Attorney.

Section 9. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.



Source: Miami-Dade GIS 2008; Adapted by The Curtis Group, 2011



- LEGEND**
- PROPOSED 2010 VILLAGES OF HOMESTEAD DRI BOUNDARY
 - PROPOSED 2010 VILLAGES OF HOMESTEAD DRI SECTORS
 - SECTORS
 - RESIDENTIAL
 - COMMERCIAL
 - SCHOOL
 - INDUSTRIAL
 - OPEN SPACE
 - RECREATIONAL
 - OFFICE
 - COMMERCIAL / RESIDENTIAL
 - HOSPITAL
 - NON-OWNED
 - PROPOSED REALIGNMENT OF SW 137 AVENUE

**EXHIBIT A
PROPOSED 2010 MASTER PLAN**

ISC HOMESTEAD
07-26-11

*Proposed 2010 Villages of Homestead DRI boundary is based on the corrected boundary shown in the 2004 and 2007 NOFC which were filed, but later withdrawn, and the proposed 120 acre addition to Sector 19/20 and Sector 22/23.
DRI uses for all sectors, except Sector 13, Sector 19/20 and Sector 22/23, remain exactly consistent with the currently approved Master Plan.

**EXHIBIT B
2010 MASTER DEVELOPMENT PLAN**

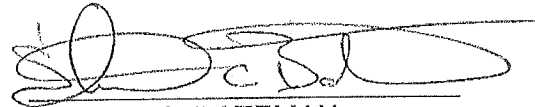
	Residential (DU)		Open Space (AC)	Private Recreation (AC)	Community Park (AC)	Golf Course (AC)	School (AC)	Public Service (AC)	Hospital (AC)	Commercial (AC)	Office (AC)	Industrial (AC)	Hotel (Rooms)	Baseball Stadium (AC)	Motorsport Facility (AC)
	SF	THRU*													
AREA 1															
Sector 1	983		983												
2	107		107	5.24											
3	514	337	851	19.00						3.41					0.00
Subtotal	621	1,320	1,941	24.24	0.00	0.00	36.34	0.00	0.00	3.41	0.00	0.00	0.00	0.00	0.00
AREA 2															
Sector 5	275		275		12.98										
6	644		644												
7	603		603							14.00					
9	286		286	20.63						71.47					
10	918		918				10.00		13.00	3.22	14.50				
11	993		993												
13	139		139												
Subtotal	700	3,158	3,858	20.63	12.98	0.00	32.00	0.00	13.00	88.69	14.50	0.00	0.00	0.00	0.00
AREA 3															
Sector 4			2,487		34.79					5.85					
8			385			75.00									
12			897			75.00				9.57			400.00		
16		300	300	157.36											
Subtotal	1,128	2,951	4,079	157.36	34.79	150.00	0.00	0.00	0.00	15.42	0.00	0.00	400.00	0.00	0.00
AREA 4															
Sector 14												270.00			
15					42.98		25.30					5.10			14.90
Subtotal	0	0	0	0.00	42.98	0.00	25.30	0.00	0.00	0.00	0.60	275.10	0.00	100.00	14.90
AREA 5															
Sector 18			123.14												
19															41.42
20															140.00
21			110.55												80.00
22															51.58
23															140.00
24															80.00
Subtotal	0	0	0	184.35	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	533.00
Total Sectors	2,443	7,423	9,878	600.27	2.21	90.75	93.64	0.00	13.08	107.52	14.50	275.10	400.00	100.00	547.90

¹ Built out sectors
² Based on 1985 cumulative changes and known built out sectors.
³ Land uses proposed for change between 2001 and 2010.
⁴ This acreage is part of the 100-acre baseball facility.
⁵ Up to 25.3 acres may be developed with a school.

Section 10. Effective Date. This Ordinance shall be effective upon passage by the City Council on second reading.

PASSED on first reading this 22nd day of June, 2011.

PASSED AND ADOPTED on second reading this 26th day of July, 2011.

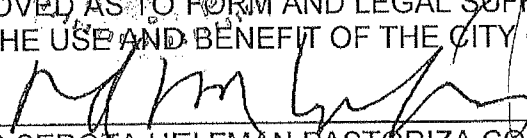


STEVEN C. BATEMAN
Mayor

ATTEST:


ELIZABETH SEWELL
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND BENEFIT OF THE CITY ONLY:


WEISS SEROTA HELFMAN PASTORIZA COLE & BONISKE, P.L.
City Attorney

Motion to adopt by Councilman Maldonado, seconded by Vice Mayor Waldman.

FINAL VOTE AT ADOPTION

Mayor Steven Bateman	<u>YES</u>
Vice Mayor Judy Waldman	<u>YES</u>
Councilman Jon Burgess	<u>YES</u>
Councilwoman Wendy Lobos	<u>YES</u>
Councilman Elvis Maldonado	<u>YES</u>
Councilman Stephen Shelley	<u>YES</u>
Councilman Jimmie L. Williams, III	<u>YES</u>

CITY OF HOMESTEAD, FLORIDA

ORDINANCE NO. 2011-08-15

AN ORDINANCE OF THE CITY OF HOMESTEAD, FLORIDA, AMENDING THE DEVELOPMENT ORDER FOR THE VILLAGES OF HOMESTEAD DEVELOPMENT OF REGIONAL IMPACT; FINDING THAT SAID AMENDMENT DOES NOT CONSTITUTE A SUBSTANTIAL DEVIATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the City of Homestead (the "City") adopted Ordinance No. 75-11-70, which constitutes a development order (the "Development Order") under Chapter 380 of the Florida Statutes, for the Villages of Homestead, a Development of Regional Impact (the "DRI"); and

WHEREAS, the City has amended the Development Order by the adoption of Ordinance Nos. 76-02-9, 79-10-32, 81-07-47, 84-05-33, 85-05-34, 87-01-1, 94-05-33, 94-10-100, 94-10-104, 99-05-29, 2001-12-36, 2011-03-05 and 2011-08-15 (collectively, the "Development Order Amendments"); and

WHEREAS, DOUG, LLC (the "Developer") has applied for an amendment to the DRI, as more particularly described in the Notification of a Proposed Change to a Previously Approved Development of Regional Impact (DRI) Subsection 380.06(19), Florida Statutes (the "NOPC"), which is incorporated by reference to this Ordinance; and

WHEREAS, the proposed modification to the Development Order is intended to provide for amendment to the limitation of area for "school sites" within the DRI, in order to permit the applicant to construct an educational facility on 37 acres accommodating approximately 6,000 student stations ("Proposed Changes"); and

WHEREAS, the City Council finds that it is necessary to further amend the Development Order and to incorporate the Proposed Changes; and

WHEREAS, the City of Homestead Planning and Zoning Board has reviewed the Proposed Changes, and has recommended adoption thereof.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA:

Section 1. Findings. The City Council makes the following findings:

- 1.1 Each of the recitals set forth above is hereby incorporated and confirmed.
- 1.2 The clear and convincing evidence presented demonstrates that the Proposed Changes and the previous changes to the Development Order neither individually nor cumulatively constitute or create a substantial deviation under the criteria provided for in Section 380.06(19), Florida Statutes, or laws of the City.
- 1.3 The clear and convincing evidence presented demonstrates that the Proposed Changes do not require further Development of Regional Impact review under Chapter 380 of the Florida Statutes or the laws of the City.
- 1.4 The Proposed Changes are consistent with the State Comprehensive Plan, the City's Comprehensive Development Plan, the City's Land Development Regulations, and any other applicable laws.
- 1.5 This Ordinance meets the applicable legal standards that are regularly applied to the DRI and Master Plan matters provided herein.

Section 2. Amendment to Section 2 of Ordinance 2011-08-15. The Proposed Changes are hereby approved subject to the following conditions:

- 2.1 The maximum number of residential dwelling units within the DRI shall not exceed 9,878 dwelling units.
- 2.2 The commercial development within the DRI shall not exceed 974,000 square feet on 107.52 acres.
- 2.3 The hotel shall be limited to 400 hotel rooms.
- 2.4 The industrial development within the DRI shall not exceed 3,100,000 square feet on 275.10 acres.
- 2.5 The Developer shall develop a 127-bed hospital on 13 acres.
- 2.6 The office development within the DRI shall not exceed 241,000 square feet on 14.50 acres.
- 2.7 The DRI shall have 843.23 acres of recreation/open space, of which 2.21 acres shall be private recreation space, 90.75 acres shall be community park, and 150 acres shall be golf course.
- 2.8 Lands identified as school sites shall be ~~93.64~~ 130.64 acres.

* * * * *

Section 3. Development Order. The Development Order, as previously amended by the Development Order Amendments, and as amended herein, is hereby approved and confirmed in accordance with the terms hereof.

Section 4. Restatement. Except as provided for in this Ordinance, the Development Order and all prior Development Order Amendments for the DRI shall remain in full force and effect, in accordance with the terms and conditions provided therein.

Section 5. Transmittal of Development Order. The City Clerk is hereby directed to make the appropriate transmittals of this Development Order Amendment, as required by law, as advised by the City Attorney.

Section 6. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

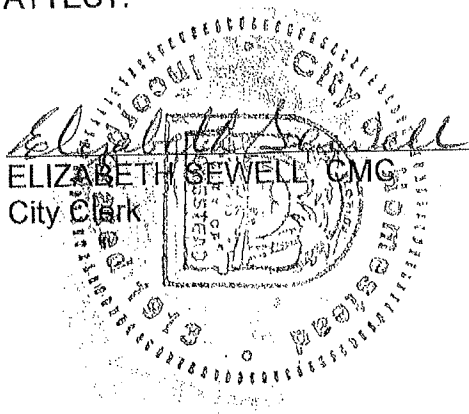
Section 7. Effective Date. This Ordinance shall be effective upon passage by the City Council on second reading.

PASSED on first reading this 26th day of July, 2011.

PASSED AND ADOPTED on second reading this 17th day of August, 2011.

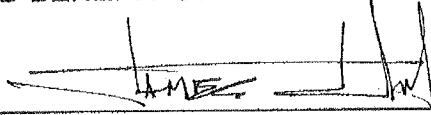

STEVEN C. BATEMAN
Mayor

ATTEST:



2011-08-15

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND BENEFIT OF THE CITY ONLY:



WEISS SEROTA HELFMAN PASTORIZA COLE & BONISKE, P.L.
City Attorney

Motion to adopt by Councilman Burgess, seconded by Councilwoman Lobos.

FINAL VOTE AT ADOPTION

<i>Mayor Steven Bateman</i>	<u>YES</u>
<i>Vice Mayor Judy Waldman</i>	<u>YES</u>
<i>Councilman Jon Burgess</i>	<u>YES</u>
<i>Councilwoman Wendy Lobos</i>	<u>YES</u>
<i>Councilman Elvis Maldonado</i>	<u>ABSENT</u>
<i>Councilman Stephen Shelley</i>	<u>YES</u>
<i>Councilman Jimmie L. Williams, III</i>	<u>ABSENT</u>



CAMERA OPERATOR
DEPUTY CLERK, CIRCUIT COURT

REC: 1625872780

AGREEMENT TO ASSIGN CONTRACT RIGHTS

74R092614 1994 FEB 25 09:56

THIS AGREEMENT, made and entered into this 20 day of April, 1993, by and between VOM ACQUISITION, INC., a Florida corporation hereinafter referred to as ("ASSIGNOR"), and THE CITY OF HOMESTEAD, FLORIDA, a municipal corporation (hereinafter referred to as the "CITY").

RECITALS:

WHEREAS, ASSIGNOR is the Contract Purchaser of the property that is commonly known as the Villages of Homestead under that certain Contract for Sale and Purchase, dated March 24, 1993 between ASSIGNOR, as Purchaser, and Homestead Properties, a Florida general partnership ("SELLER"), as Seller (the "Contract for Sale");

WHEREAS, ASSIGNOR and the CITY agree that the ASSIGNOR will assign to the CITY ASSIGNOR's right under the Contract for Sale to acquire all of that portion of Phase III of the Villages of Homestead (referred to in this Agreement as the Property) being conveyed under the Contract for Sale on the terms provided herein; and

WHEREAS, the CITY intends to use the Property for municipal uses and as a proposed motorsports park (the "Proposed Use").

WITNESSETH:

For and in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable consideration, to each party in hand paid to the other, receipt whereof is hereby acknowledged, as well as in consideration of the promises, covenants and agreements herein contained, the parties hereto hereby agree as follows:

1. Assignment. ASSIGNOR agrees to assign to the CITY ASSIGNOR's right to be conveyed fee simple title to that portion of Phase III of the Villages of Homestead required to be conveyed to ASSIGNOR under the Contract for Sale, which parcel of property is legally described on Exhibit "A" attached hereto and made a part of this Agreement (the "Property"). The CITY shall have no other rights under the Contract for Sale other than to receive such title to the Property at the closing under the Contract for Sale. In the event ASSIGNOR does not close under the Contract for Sale, for any reason, this Agreement shall be null and void and of no further force or effect.

2. Portion of Purchase Price Applicable to the Property. The CITY and ASSIGNOR agree that the portion of the "Purchase Price" under the Contract for Sale applicable to the Property is FIVE MILLION AND NO/100 DOLLARS (\$5,000,000.00) (the "Purchase Price"). Such Purchase Price shall be paid by the CITY to SELLER (or to the title agent or other party as directed by ASSIGNOR) at closing without any offset or deduction or prorations whatsoever.

3. Loan to CITY. ASSIGNOR shall loan the CITY \$850,000 at closing hereunder, to be used to pay a portion of the Purchase price, and such loan (the "Loan") shall be repaid as follows:

(a) Credit for Back Taxes. A portion of the Loan shall be repaid by the CITY either crediting, forgiving or paying (as is permitted by applicable law) all unpaid CITY taxes for the years 1989 through 1992 and applicable to the Property and the balance of the Villages of Homestead acquired by ASSIGNOR (the "Remainder Property"), up to but in no event to exceed a total Loan amount of \$850,000. The amount of such taxes presently due and owing or assessed shall be applied to the Loan in an amount equal to the portion of such taxes that the CITY would have received as its share thereof had the taxes been actually paid by ASSIGNOR at closing hereunder, and when finally determined and adjusted. The principal balance of the Loan shall be paid or considered to be paid as and

870

DATE MICROFILMED

LOCATION

CAMERA OPERATOR
DEPUTY CLERK - CIRCUIT COURT

REC: 162587:2781

when the taxes noted in herein are finally determined and adjusted and when the CITY has formally notified the tax collector of Dade County, or such other authority, that such tax amount has been duly and properly waived, credited or paid by the CITY on behalf of or to the credit of the ASSIGNOR. This subparagraph shall survive closing and shall constitute a continuing obligation of CITY until fully and completely satisfied.

4. Water and Sewer Connections and Impact Fee Credits. As additional consideration for the Loan and this Agreement, the CITY shall waive all water and sewer connection fees for dwelling unit equivalencies of water and/or sewer plant capacity (impact fees), with such credits being realized, except as noted below, at the time that such fees would be paid for developing properties, for the full residential development of the Villages of Homestead, but not to exceed 8,000 dwelling units within the Remainder Property (and any portion of the Property at any time acquired by ASSIGNOR), and ASSIGNOR, or its successors and assigns, shall not be responsible or liable for the payment of any such connection fees even as they may be amended or increased in the future. In the event, for any reason whatsoever, the CITY chooses or is required to charge such fees to ASSIGNOR, or is permitted to do so by a Court of competent jurisdiction, then and in that event, the CITY shall pay ASSIGNOR the amount of the then in effect fees times the number of remaining residential units then not connected to the CITY's water and/or sewer system, as the CITY's additional consideration for the Loan and this Agreement. This provision shall not apply to any water or sewer connection fees collected by the CITY on behalf of any other non-CITY related governmental entity or authority and which the CITY is required to collect, as a matter of law. This provision shall survive closing.

5. Conveyance of City Property. Simultaneously with the closing hereunder, the CITY shall convey to either ASSIGNOR or the Keys Gate Community Association, Inc., at ASSIGNOR's sole option, by Special Warranty Deed and with title and the same condition in which the CITY received title, all of that certain real property described on Exhibit "B" attached hereto and made a part hereof (the "CITY Property"), consisting of all real property heretofore conveyed to the CITY contained within the Villages of Homestead, and including, but not limited to, the 20-acre park site (the "Park Site") and the 5-acre F.O.P. Lodge site (the "Lodge Site") (which Park Site and Lodge Site are herein referred to collectively as the "Lake Sites").

As part of such conveyance by the CITY, the CITY and said Association shall grant to ASSIGNOR the sole and exclusive right to design and excavate lakes on the Lake Sites and to take and retain all soil, mineral and other materials so extracted from the Lake Sites. Any such excavations to be done by ASSIGNOR shall be accomplished pursuant to the construction and design standards of the CITY and any other affected governmental authority. The CITY hereby releases ASSIGNOR and the SELLER from any and all obligations to the CITY in connection with the Lake Sites, including any obligation to construct a park on the Park Site. No later than ten (10) days prior to closing, the CITY shall deliver to the ASSIGNOR a title insurance commitment, issued by Lawyers Title Insurance Corporation, agreeing to insure title to the CITY property, in favor of ASSIGNOR in an amount requested by ASSIGNOR, the cost of which commitment shall be paid by the CITY, showing title to be in the condition called for in this Paragraph.

6. Title. The CITY shall receive title to the Property from SELLER subject to those matters as provided for in the Contract for Sale, and as shown on the title commitment attached hereto as Exhibit "C" (the "Commitment").

7. Release of Land Bank. The CITY shall release that certain "land bank" agreement, as recorded in O.R. Book 9465, at Page 1815, a copy of which is attached hereto as Exhibit "D", thereby satisfying all requirements thereof. The CITY shall execute a release of said agreement in recordable form and deliver the same to ASSIGNOR at closing (the "Release").

8. Police Firing Range. The police firing range site is now being used under lease by the CITY for such purpose; and upon acquisition of the Property by the CITY, the

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CITY may continue to use this portion of the Property for a police firing range. The CITY hereby agrees with ASSIGNOR, as successor and assign of the lessor, that subsequent to the acquisition of this property by the CITY, the CITY shall continue to abide by the provisions of Paragraphs 1.5 and 1.6 of said lease as amended by the First Amendment to Lease between the CITY and Homestead Properties, a Florida general partnership, and dated October 27, 1992, a copy of which is attached hereto and made a part hereof as Exhibit "E".

9. Letters of Credit and Other Security. The CITY shall, at closing, deliver to the Owner (or ASSIGNOR) all performance bonds, surety bonds, letters of credit, and other security held by the CITY with respect to any part of the Villages of Homestead, or any development thereon, including without limitation, that certain Personal Performance Bond by SELLER in the original amount of \$892,323.00, and that certain letter of credit in the amount of \$341,977.00, and those other letters of credit more specifically described on Exhibit "F" attached hereto. The CITY agrees to accept in replacement of the Personal Performance Bond and letters of credit described on Exhibit "F" attached hereto and made a part hereof, and as a substitute for any future letters of credit, bonds, or other security generally or specifically required, a first mortgage or mortgages on any part of that part of the Villages of Homestead described on Exhibit "G" attached hereto and made a part hereof (the "Security Property") at a security value of \$15,000 per acre of said land. After any such mortgages are given, ASSIGNOR may substitute the lands encumbered by any of such mortgages with other portions of said Security Property, at any time and from time to time, so long as the same number of acres remain encumbered. All costs and expenses of said mortgages shall be paid by ASSIGNOR.

10. Right of First Refusal of Industrial Park Site. The CITY shall grant to ASSIGNOR at closing the right of first refusal to purchase from the CITY that portion of the Property (which is all of the Industrial Park Site, as shown in the master plan for the Villages of Homestead, less approximately (a) 15 acres in the Northwest section thereof; and (b) 25 acres in the Southeast Section thereof) described on Exhibit "H" attached hereto and made a part hereof (the "Industrial Park Site") on the same terms and conditions as offered to a bona fide third-party purchaser. Subsequent to closing, the parties shall work together, in good faith, to identify the exact location of said 15 and 25 acre parcels and to have said properties specifically identified by accurate legal descriptions. Said legal descriptions shall be agreed to by the parties, within 30 days of this Agreement and shall become a Supplemental Exhibit (Exhibit H-1 and H-2) to this Agreement, as if originally attached hereto. Any dispute between the parties as to the location of these parcels shall be resolved pursuant to the arbitration provisions of Paragraph 17 hereof.

This right of first refusal shall expire at such time, if any, as ASSIGNOR has declined to exercise this right of first refusal three (3) consecutive times. In the event the CITY desires to transfer any or all of that portion of the Property to a governmental entity, agency or utility, for a bona fide public purpose, this right of first refusal shall not apply. Further, this right of first refusal shall not apply to any proposed sale by the CITY of fifteen (15) acres or less to any one party on a cumulative basis.

In order to effectuate the provisions of this paragraph, in the event the CITY at any time desires to make any such conveyance of any of such portion of said Property, the CITY shall notify ASSIGNOR in writing of the same along with an executed agreement of purchase and sale containing the full terms of the proposed sale. ASSIGNOR shall then have ten (10) days after receiving such notice to elect to purchase such Property and exercise its right of first refusal by notifying the CITY in writing on or before the expiration of said fifteen (15) days, whereupon if this first right of refusal is exercised, closing of the sale and transfer of such Property to ASSIGNOR from the CITY shall occur in accordance with the terms of such Purchase and Sale Agreement, except as set forth above in this paragraph.

The terms of this paragraph shall be included in a covenant running with the land binding the Property, in form reasonably acceptable to ASSIGNOR ("Covenant"), to be executed by the CITY and recorded at closing.

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Boards and agencies, and are within the police power of the CITY, which cannot be contracted for or promised in the form of an agreement. However, insofar as this Agreement indicates the agreement of the CITY to such findings, modifications, amendments or changes, as specifically noted herein, it is not the intent of the parties that the CITY be bound hereby, but instead, the CITY only indicates herein its present intention regarding such findings, changes, modifications or changes, with full and complete reservation of the CITY's rights to review and approve or reject such findings, modifications, amendments or changes, upon due application by the ASSIGNOR to the CITY. However, the CITY agrees to use its best efforts to expeditiously process and review any such applications and to not withhold its consent either unreasonably or arbitrarily, and without competent substantial evidence supporting any such decision, in light of this agreement.

In the event, for whatever the reason, the CITY fails to approve any or all of the findings, modifications, changes, or amendments as specifically set forth above, then ASSIGNOR, at its sole and complete option, may choose to rescind the assignment of ASSIGNOR's right to receive title to the Property, with respect to all or any portion of the Property as ASSIGNOR so chooses and designates in ASSIGNOR's sole and absolute discretion, and the CITY, upon written notice of said option being exercised and the Property or portions of the Property as may be designated, shall convey title to said Property (or portion thereof) to ASSIGNOR within one-hundred and eighty (180) days of the date of the exercise of the option, in the condition that the Property is in at the time of the exercise of the option. The CITY shall bear any and all costs, fees, expenses and charges associated with such rescission including, without limitation, documentary stamps, surtax, attorneys' fees, etc., and upon conveyance of the Property or portion thereof to the ASSIGNOR, the ASSIGNOR shall remit to the CITY the consideration (or pro rata portion thereof) paid by the CITY for the Property or portion thereof, less \$150,000.00 per month (or pro rata portion thereof) as an agreed upon rental value for the Property, for the time that the Property was in the possession of the CITY.

(b) Findings and Agreements: The CITY and ASSIGNOR agree to and acknowledge certain rights and responsibilities and make certain findings concerning the DRI, DO and PUD. The CITY believes and finds and acknowledges at this point, and subject to the provisions hereof:

(i) that the proposed use of the Property as described herein is consistent with the DO for the Villages of Homestead, as amended from time to time; and

(ii) that the proposed use of the Property by the CITY, when combined with all existing and proposed uses for the remainder of the Villages of Homestead governed by the DO (the "Remainder Property"), does not constitute a substantial deviation pursuant to Chapter 380, Florida Statutes, or a "significant change" of the PUD approval, under Section 30-816 of the CITY Code; and

(iii) that the further modifications, changes or amendments to the DO and PUD, as more fully set forth in this Agreement, do not constitute a "substantial deviation" from the approved DO, pursuant to Section 380.06(19), Florida Statutes, or a "significant change" of the PUD under the provisions of Section 30-816 of the CITY Code; and

(iv) ASSIGNOR shall be responsible to review the provisions of the DO and to submit any and all reports or data called for therein regarding the Property and required to be filed prior to the date of closing hereof, at its own cost and expense.

(v) the CITY will be responsible for all fees, costs and expenses associated with the filing, processing of any applications or plans for and the completion of all work and mitigation work, including, but not limited to roadway improvements, that may be necessary today or at any time in the future for the completion of development and operation of the Property for the Proposed Use, in accordance with state, regional, county and local developmental standards, and that said work shall be accomplished in a manner

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that will not impede the ability of the ASSIGNOR, its successors and/or assigns to develop the Remainder Property governed by and in accordance with the DO, the PUD and this Agreement, as amended from time to time.

In the further event, that construction or operation of work or projects on the Property result, directly or indirectly, in additional requirements or conditions or expenditures being required of or by ASSIGNOR, due to impacts of said CITY work or projects, then the CITY shall be responsible for any additional fees, costs and expenses incurred by ASSIGNOR as a result thereof, but only to the extent and proportion that such fees, costs and expenses are related to the CITY's work or projects on the Property. Fees, costs and expenses related to other changes, modifications or amendments to the ASSIGNOR's Master Development Plan, not specifically addressed herein, shall be the responsibility of ASSIGNOR.

(c) Density Reduction. ASSIGNOR hereby agrees to a reduction of the overall approved residential density of the Villages of Homestead by approximately 6,465 dwelling units so that ASSIGNOR will not develop more than 8,000 additional residential dwelling units. ASSIGNOR agrees to take such actions as are necessary to provide the CITY with such further reasonable assurances as may be necessary in order to provide the CITY with an enforceable density restriction consistent with the terms hereof.

(d) Hotel and Convention Center. ASSIGNOR, at its own cost and expense, will apply for, and the CITY will expeditiously consider and, if determined to be appropriate and in accordance with law, approve, all governmental approvals necessary to establish the redesignation of the portion of the Remainder Property located in Phase II of the Villages of Homestead, adjacent to the west of the Keys Gate Golf Club, which is currently designated Convenience and Shopping Villa (townhouse), located in the southeast quadrant of the Intersection of Farm Life School Road and Palm Drive (approximately 24 ± acres, as shown on Exhibit "K"), for the development of a hotel of not to exceed 240 units, and a conference center including associated commercial uses. If required by applicable law or ordinance, the use of this parcel will be subject to the CITY consideration and review as a modification, change or amendment of the DO, PUD and for site plan review and comment. Approval of any site plan by the CITY will not be unreasonably withheld, unreasonably delayed or unreasonably conditioned, but will be subject to all applicable legal requirements of the CITY. The exact configuration of uses within this parcel will be determined through the site plan process.

(e) Heliport. The CITY hereby agrees to assume all responsibilities and obligations of ASSIGNOR contained in the PUD or DO concerning the construction and maintenance of a dual heliport in the industrial area that is presently approved for the Property. ASSIGNOR reserves the right, however, to seek the CITY approval for another or other heliport facility/ies as ASSIGNOR may require, upon due and proper application and review, to be applied for and constructed at ASSIGNOR's sole option, cost and expense. The CITY approval of any such application/s will not be unreasonably withheld, unreasonably delayed or unreasonably conditioned, but will be subject to all applicable legal requirements of the CITY.

(f) RV Park and/or Modular Housing. Upon due and proper application by ASSIGNOR, at its sole cost and expense, the CITY shall consider and, if permitted by law or ordinance, will redesignate portions of the Remainder Property south of Palm Drive to be used for modular housing and/or a recreational vehicle park within those portions of the remainder property located south of Palm Drive, as more specifically described on Exhibit "L" and the Residential Site referred to in Paragraph 18, herein if repurchased by ASSIGNOR. Such redesignation requests will be subject to such CITY approvals as required by law or ordinance and site plan approval, which approval shall not be unreasonably withheld, unreasonably delayed or unreasonably conditioned, but will be subject to all applicable legal requirements of the CITY. As a general matter, the parties intend that the definition of modular units are that type of residential unit that is prefabricated off-site and assembled on-site, and in compliance with all applicable

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governmental requirements. It is not the intent of the parties to allow within this definition mobile homes. Similarly, RV vehicles shall not include mobile homes. The precise location and configuration of said RV and modular housing uses within the parcels described in Exhibit 'L' will be determined by the CITY as part of the site plan (prepared and submitted by ASSIGNOR at its sole cost and expense) review process which approval shall not be unreasonably withheld, unreasonably delayed or unreasonably conditioned, but will be subject to all applicable legal requirements of the CITY. In no event, without affecting ASSIGNOR's rights to use the parcel for RV purposes, will ASSIGNOR allow individual RV vehicles users of this parcel to stay on said parcel for more than one-hundred twenty (120) consecutive days.

(g) Roadway Improvements. The CITY and ASSIGNOR mutually agree that the DO/PUD approvals are to be amended, modified or changed, if required by law or ordinance, to reflect the following responsibilities for construction of roadway improvements, which responsibilities shall survive closing:

(i) The CITY's Roadway Obligations. Notwithstanding anything to the contrary contained in the DO or PUD, the CITY agrees, at its sole cost and expense, to construct, complete and maintain the following roadway improvements including all utility facilities that are within the CITY's power and authority to construct and maintain, including, without limitation, water and sewer lines, lift or pump stations, landscaping and required infrastructure including but not limited to drainage, landscaping, irrigation, and signage, (in substantial accordance with the attached typical roadway and landscape plans (Exhibit 'M')), which improvements are more particularly described in Exhibit 'N'. In the event that the CITY does not have either the power or authority to construct certain utility facilities, such as telephone, electric, cable TV and telephone, then the CITY shall not obstruct any areas required for such utilities and will provide such easement areas or preparatory work as may be required for the installation of such utility facilities by the appropriate utility supplier. Except as otherwise set forth herein, it shall be the CITY's obligations to construct:

(1) On or before October 1, 1996, the CITY will extend and complete the four (4) lane extension of Palm Drive west from and with a full Florida Turnpike Interchange (if said Interchange improvement is permitted and funded by the Florida Department of Transportation or other appropriate governmental authority) and extending to S.W. 167 Avenue. The Florida Turnpike interchange improvement noted above shall be sought by the CITY using its best efforts to obtain all necessary funding and governmental approvals, including the Florida Department of Transportation, but CITY shall not have any financial obligations to construct said Interchange improvements if such other funding is not secured or obtained by CITY. That portion of said roadway from U.S. 1 to S.W. 167 Avenue shall be completed by the CITY on or before March 1, 1995.

(2) On or before October 1, 1996, the CITY shall construct a four lane roadway cross section from Campbell Drive east to S.W. 137 Avenue and south to the northern border of the Property.

(3) On or before January 30, 1995, the CITY will construct or complete the remaining portion of Towne Center Boulevard from S.W. 152 Avenue to S.W. 142 Avenue.

(ii) ASSIGNOR's Roadway Obligations. The CITY and the ASSIGNOR mutually agree that the ASSIGNOR will no longer be required to construct certain roadway improvements pursuant to the DO/PUD and the CITY agrees to consider and, if permitted by law or ordinance, modify same in order to reflect that such roadway improvements are no longer required due to the changes of ownership provided for in this Agreement, the reduction in density provided for herein, and based upon the CITY's proposed use of the Property. However, ASSIGNOR agrees that it will construct or provide, at its own cost and expense, for the improvement of Kingman Road, but only to the extent specifically necessary to adequately serve the remaining development parcels in

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Sectors 12 and 13 (for example, to the entrance of the Villa/townhouse entrance road as shown in the Master Development Plan.

(1) The roadway improvements that need not be constructed by ASSIGNOR, if determined by the CITY to be not reasonably necessary in order to serve the developmental needs of the Remainder Property are:

- a. Tennessee Road between Palm Drive and S.W. 352 Street;
- b. Farm Life School Road between S.W. 352 Street and Palm Drive;
- c. Kingman Road between Palm Drive and S.W. 352 Street;
- d. S.W. 132 Avenue between Palm Drive and S.W. 352 Street;
- e. S.W. 147 Avenue between Palm Drive and S.W. 352 Street;
- f. S.W. 142 Avenue between S.W. 344 Street and S.W. 352 Street.

(2) Roadway improvements that need not be constructed:

- a. North Canal Drive between Villages of Homestead and U.S. 1;
- b. Farm Life Road between North Canal Drive and Campbell Drive;
- c. Tallahassee Road (S.W. 137 Avenue) between S.W. 336 Street and Palm Drive;
- d. S.W. 336 Street between 142 Avenue and S.W. 132 Avenue.

(3) Roadway improvements that may be constructed by the ASSIGNOR at his discretion:

- a. South Canal Drive between Kingman Road and Farm Life School Road;
- b. Tallahassee Road between S.W. 344 Street and S.W. 352 Street;
- c. S.W. 352 Street between S.W. 167 Avenue and S.W. 132 Avenue;
- d. North Canal Drive between Farmlife Road and Kingman Road.

(iii) Other Improvements. The CITY will assume or cause the Dade County Metropolitan Planning Organization ("MPO") to assume all responsibility for the remaining traffic improvements, including signalization, necessary and/or required pursuant to the DRI Development Order and PUD, as they may be amended from time to time.

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(h) Public Utilities and Infrastructure. The CITY hereby agrees to be responsible for all costs and expenses for the installation of all utilities and infrastructure (as previously defined in subparagraph (g)(1) above) outside or within the roadway rights of way within the Property and the Remainder Property that are to be constructed within the road rights-of-way for Towne Center Boulevard, Palm Drive, North Canal Drive, S.W. 132 Avenue, S.W. 137 Avenue, S.W. 142 Avenue, S.W. 147 Avenue, S.W. 336 Street, S.W. 352 Street and any and all extensions required as part of amended, modified or changed DO and PUD for the Villages of Homestead and additionally as shown on Exhibit "O" (Water) and Exhibit "P" (Sanitary Sewer). The CITY's responsibilities and liabilities shall include adequate sizing and provision of such facilities as may be required to serve any and all approved development contained in the Villages of Homestead Master Development Plan, DO or PUD, and as required for the full and complete development of the Remainder Property. At the CITY's request, ASSIGNOR shall furnish to the CITY any and all plans, drawings, surveys and soil borings that ASSIGNOR may have in its possession or control and which are reasonably available to ASSIGNOR that will assist the CITY in planning, permitting or construction these improvements. This section shall survive closing.

(i) Elimination of School Sites. The CITY and ASSIGNOR agree to work together to eliminate as many of the school site designations within the Property and in the Remainder Property as may be possible, based on the reduction of dwelling units created by the sale of the Property and its proposed use by the CITY; the voluntary reduction of dwelling units by the ASSIGNOR set forth herein; and the additional consideration that portions of the Remainder Property is to be designated in the future for retirement residential development, RV and modular home uses and other non-school childrens generating uses. It is mutually recognized and agreed that such uses and modifications considerably reduce the need for and the requirement for future schools within the Villages of Homestead. These efforts are agreed to be undertaken to ensure the reduction of the number of sites equal to the reductions identified within twelve months of the execution of this agreement. In order to accomplish such tasks, the CITY and the ASSIGNOR mutually agree to designate an individual to represent each who will be responsible for negotiating such reductions and that both individuals will be available, with reasonable notice, for meetings with the School Board and appearances before the School Board in order to ensure such reduction. If required by law or ordinance, ASSIGNOR will apply to modify, change or amend the DO/PUD in order to accomplish these school reductions, and the CITY hereby agrees to consider and, if permitted by law and ordinance, approve said requests. This Paragraph shall survive closing.

(j) Lakes and Fill/Mineral Rights. Notwithstanding the terms of this Agreement or any transfers of property envisioned hereby, the CITY hereby reaffirms any and all rights of SELLER to excavate the lakes and fill/minerals noted in that certain agreement entered into by and between the CITY and SELLER, dated October 26, 1989, which generally dealt with the construction of the "Baseball Complex", and the CITY hereby agrees that ASSIGNOR shall have the full benefit of all of SELLER's said rights, and that the CITY will recognize ASSIGNOR as the successor to all such rights and SELLER's interest under such agreement. A copy of said agreement is attached as Exhibit "Q" hereto and incorporated herein, by reference. If requested by ASSIGNOR, the CITY agrees to convey to the ASSIGNOR, at no cost to the ASSIGNOR, those rights in a recordable form reasonably acceptable to ASSIGNOR.

All such lakes or lake expansion areas are as described in the Villages of Homestead Master Development Plan and are more specifically shown on Exhibit "R" hereof. In the event it is required by law or ordinance, ASSIGNOR, at its sole cost and expense, will apply for any changes, modifications or amendments to the DO/PUD in order to designate said areas for lake excavation purposes and the CITY agrees to consider and, if permitted by law or ordinance, approve same. Subject to any such required approvals, the CITY agrees that the ASSIGNOR, at its sole cost and expense, is authorized to both construct lakes on said areas and remove fill for any use, in its sole discretion. Any such excavations to be done by ASSIGNOR shall be accomplished pursuant to the construction and design standards of the CITY and any other affected governmental authority.

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Each party shall be responsible and liable for any damages caused to existing roadways, utilities, infrastructure or any other properties or structures, as a result of that respective party's lake excavation activities. This Paragraph shall survive closing.

(k) Effectiveness of DO and PUD. Subject to and only at the time of the effectiveness of this Agreement, as set forth in Paragraph 1 hereof, the CITY hereby finds, determines and agrees that the DO and PUD are presently active, valid and in full force and effect and have been complied with in all material respects by ASSIGNOR and SELLER. The CITY also believes that the foregoing proposed modifications to the DO and PUD will not, when approved and implemented, create a substantial deviation of the DO or significant change of the PUD. Failure of any state, regional or local agencies to approve the Cities proposed use of the Property as a non-substantial deviation constitutes a default pursuant to paragraph 22 of this agreement, and will allow ASSIGNOR's exercise of its rights set forth in paragraph 12 (a) hereof.

(l) Effect on Remainder Property. The CITY agrees that it will not take or allow to be taken any actions in the planning, development or operation of the Property for its intended use which would in anyway prevent, inhibit, delay or restrict the ASSIGNOR from developing the Remainder Property pursuant to the DO and PUD, as amended. The CITY agrees to defend, indemnify and hold ASSIGNOR harmless from any breach or alleged breach of the DO, PUD or any other existing or modified governmental approval for the development of the Remainder Property, which is occasioned, directly or indirectly, by the CITY's acquisition, development or use of the Property. The CITY shall only be responsible for such indemnification to the extent and proportion that such breach or alleged breach is related to the CITY's work or projects on the CITY Property. Breaches or alleged breaches related to other changes, modifications or amendments to the ASSIGNOR's Master Development Plan, not specifically addressed herein, shall be the responsibility of ASSIGNOR. This Paragraph shall survive closing.

(m) Obligation of Parties to Comply with DO/PUD. The CITY and ASSIGNOR agree to comply fully with the DO and PUD and comply fully with same as to their respective parts, as they may be modified, amended or changed, from time to time, as to the Property and Remainder Property, respectively, including, but not limited to, annual reporting requirements, fiscal analyses, energy conservation and other matters of compliance which could otherwise defer, delay, inhibit, breach or stay the effectiveness of the DO and PUD.

(n) The CITY's Obligation for Payment of Plan Amendments. In the event it becomes necessary to seek and receive the approvals of the CITY or any other governmental entity for determinations of substantial deviation, significant change status, or to seek and receive approvals for any of the changes, modifications or amendments set forth in this Agreement, required by or related to the CITY's proposed project/s on the Property, the CITY shall be responsible for either the processing of any such applications or the payment of any such fees, costs or expenses including, without limitation, attorneys' fees, engineering fees, other consultants' fees, filing fees or other soft costs incurred by ASSIGNOR in the processing of any such approvals or findings. ASSIGNOR shall hire such professionals as it deems appropriate in order to expeditiously process these findings and approvals and the CITY shall have the right of approval of the ASSIGNOR's choices, but said approval shall not be unreasonably withheld, unreasonably delayed or unreasonably conditioned. The CITY shall only be responsible for such fees, costs or expenses to the extent and proportion that such application/s are related to the CITY's work or projects on the Property. Applications related to other changes, modifications or amendments to the ASSIGNOR'S Master Development Plan, not specifically addressed herein, shall be the responsibility of ASSIGNOR. The CITY shall pay ASSIGNOR such costs, fees and expenses within thirty (30) days of invoice by ASSIGNOR to the CITY.

(o) Water Tower. The CITY shall be solely responsible, at the CITY's sole cost and expense, for complying with all requirements in the DO and/or the PUD to construct, operate and maintain a water tower on the Property; and, further, and for the

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benefit of ASSIGNOR, the CITY agrees that it will so construct, operate and maintain the water tower as currently contemplated by the DO when required for development to proceed on the Property and/or the Remainder Property, at the CITY's sole cost and expense. The provisions of this subsection shall survive closing.

13. ASSIGNOR's Site Plan Review of the CITY's Plans. The CITY acknowledges that the development and use of the Property by the CITY or its authorized users should be compatible with and sensitive to the development both the existing development of the Villages of Homestead and the future development of the Remainder Property and the CITY agrees to ensure that the development within the Property is aesthetically pleasing and in no way inhibits, limits, delays, devalues or obstructs the beneficial use and enjoyment of the Remainder Property by the ASSIGNOR and its potential purchasers and is not developed or operated in a way so as to violate any then existing laws, ordinances, rules or regulations of applicable governmental authorities. The CITY hereby agrees that the appearance of any such project/s, including landscaping, color, type of materials, architectural design, and all other aesthetic qualities, and all signage and landscaping shall be submitted to ASSIGNOR for review and comments in advance of construction. In order to implement this intent, the CITY will submit to the ASSIGNOR for its review and comment the proposed plans for the following proposed plans for the CITY's project/s at the following stages of proposed development:

- (a) site plans;
- (b) schematic designs;
- (c) design development; and
- (d) final plans to be used as construction drawings.

The CITY will review any comments of ASSIGNOR and incorporate those that the staff and/or consultants agree with. The CITY's incorporation of ASSIGNOR's comments will not be unreasonably withheld, unreasonably delayed or unreasonably conditioned. ASSIGNOR will provide its comments to the CITY in writing, by certified mail, within ten (10) days of receipt of said plans or designs. This Paragraph shall survive closing.

14. Motorsports Park. The CITY hereby agrees that ASSIGNOR shall be entitled at no cost, the exclusive and perpetual use of ten (10) reserved seats within the motor sports complex planned by the CITY to be constructed on the Property (the "Motorsports Park"), at the most desirable location for every racing event at the sole discretion of and at no cost to ASSIGNOR, and including preferred VIP parking for said seats. The CITY further agrees that ASSIGNOR will be entitled to its choice, but at ASSIGNOR's cost, of one skybox in the Motorsports Park after the skyboxes that are chosen by the CITY and the promoter of the Park, along with sufficient preferred VIP parking for the users of the skybox. ASSIGNOR will pay all costs of interior finishes to the skybox and maintaining such interior finishes. This Paragraph shall survive closing.

15. Noise from the CITY's Proposed Use. It is the intent of the parties that noise emanating from the CITY's proposed motor sports project not exceed the noise levels that existed on the Remainder Property from the day to day operations of Homestead Air Force Base prior to Hurricane Andrew. Prior to the CITY's construction of a motor sports project, the CITY agrees to conduct noise modelling and actual testing, if required by ASSIGNOR, to ensure that noise decibel levels generated by the proposed motor sports project and events will not exceed that level of noise decibels generally created by activities within the Homestead Air Force Base as set forth in the approved AICUZ study prepared for developments surrounding said Air Force Base. Notwithstanding said AICUZ study, the CITY shall not exceed the noise levels that existed on the Remainder Property from the day to day operations of Homestead Air Force Base prior to Hurricane Andrew. The CITY agrees to defend, indemnify and hold ASSIGNOR harmless from any and all claims, costs, damages, fees, fines, penalties or actions relating, directly or indirectly, to noise and motor sport activities which may be claimed or initiated by residents or others against the ASSIGNOR as a result of the construction or operation of the motor sports project. The CITY shall not allow the Park to be developed or operated (including RV usage) in a way

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so as to violate any then existing laws, ordinances, rules or regulations of applicable governmental authorities. This Paragraph shall survive closing.

16. Covenant Regarding Similar Uses of the CITY Property. The CITY agrees that it will not place any residential or recreational uses in the Property that are the same or similar to the residential uses and/or amenities provided by the Villages of Homestead (excluding any part thereof owned by the CITY) to its residents and customers, such as, but without limitation, golf course (except for a Par 3 golf course), club facilities (except for club facilities located within the Motor Sports Park), etc. This provision shall not prevent the CITY from construction or allowing the use of any portion of the Property for an RV Park, as long as the CITY has first notified ASSIGNOR of its intention to do so and has given ASSIGNOR the opportunity to develop or provide such an RV Park on the Remainder Property (or any part of the Property then owned by ASSIGNOR) in or around the same time frame planned by the CITY for such a use. This Paragraph shall survive closing.

17. Conflict Resolution, Arbitration and Litigation.

Arbitration. Except as otherwise provided in this Agreement, any disputes between the CITY and ASSIGNOR regarding this Agreement may be determined through non-binding arbitration in accordance with this Paragraph. In the event and to the extent the non-prevailing party in such an arbitration thereafter pursues either judicial review of the arbitration award or independent judicial adjudication of a previously arbitrated dispute, and is unsuccessful in such pursuit, then said non-prevailing party shall bear all of the reasonable costs and expenses for the prior arbitration, trial and appeal, and shall be liable for any damages incurred by the prevailing party as a result of the delay in the implementation of the arbitration award.

(a) Arbitration shall be commenced by either party serving written notice on the other of the former party's demand to arbitrate. Within thirty (30) days after actual receipt of a written demand to arbitrate, either (i) the receiving party shall file a complaint or petition with a court of competent jurisdiction to resolve the dispute by civil litigation or (ii) the parties shall proceed with arbitration. In the latter event, within said thirty (30) days, the CITY and ASSIGNOR each shall appoint a person as arbitrator who shall have had at least ten (10) years recent experience in a calling requiring familiarity with the subject matter of the dispute and who shall have no business or other pecuniary (except for the payment of arbitration fees) relationship with either party. Such appointment shall be signified in writing by each party to the other, and the arbitrators so appointed shall, within ten (10) days of their appointment, appoint a third similarly qualified and disinterested arbitrator and who shall chair the panel. If the arbitrators appointed by the parties are unable to agree upon a third arbitrator, the same shall be appointed by the American Arbitration Association from its qualified panel of arbitrators, and shall be a person having at least ten (10) years recent experience as to the subject matter in question. If the CITY or ASSIGNOR fails to appoint an arbitrator within thirty (30) days after receipt from the other party of a written demand to arbitrate, then the arbitrator appointed by the party not in default hereunder shall appoint a second arbitrator and the two so appointed shall appoint a third arbitrator to chair the panel.

(b) The three arbitrators, after being duly sworn to perform their duties with impartiality and fidelity, shall proceed to determine the questions submitted. The arbitration hearing shall convene within forty-five (45) days of the appointment of the chair by the two arbitrators chosen by the parties. The arbitrators shall render an award within thirty (30) days of the conclusion of the arbitration hearing, and such award shall be in writing and in duplicate, one counterpart thereof to be delivered simultaneously to each of the parties hereto. The award shall contain findings of fact and conclusions of law.

(c) Except in the event of an unsuccessful challenge of an arbitration award, as provide above, the fees, charges and expenses of such arbitrators shall be borne equally by the parties hereto. The fees of respective counsel engaged by the parties, and

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LOCATION

CAMERA OPERATOR
DEPUTY CLERK, CIRCUIT COURT

REF. 162587-2792

the fees of expert witnesses and other witnesses called by the parties shall be paid by the respective party engaging such counsel or calling or engaging such witnesses.

(d) Any arbitration proceedings conducted pursuant to the provisions of this Paragraph shall be conducted pursuant to the procedures set forth in this Paragraph, and shall be governed by applicable provisions of Florida substantive law.

(e) The provisions of Chapter 682, Florida Statutes, except to the extent inconsistent with this Paragraph, shall specifically be deemed to apply to any arbitration proceedings conducted under the provisions of this Agreement; provided, however, that the parties agree upon the following additional procedural matters: (i) the parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, and to submit proposed findings of facts and conclusions of law and proposed awards; (ii) irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida; (iii) any part of the evidence may be in written form but shall be given the weight due it since it is not subject to cross examination, and all testimony of parties and witnesses shall be made under oath; (iv) hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil judicial action; (v) findings of fact shall be based exclusively on the evidence of record and on matters officially recognized; and (vi) if a party elects to submit proposed findings of fact or conclusions of law, its proposal shall be delivered to the arbitrators within ten (10) days from the conclusion of the arbitration hearing; and provided, further, that the parties agree that any arbitration award under the provisions of this Paragraph may be vacated, modified, or corrected upon judicial review based on any of the grounds specified therefor in said Chapter 682 or because of the failure of the arbitrators to follow the standards and procedures established by this Paragraph.

18. Development, Right of First Refusal and Option To Purchase The Residential Site.

(a) Subsequent to closing, the CITY may excavate portions of the part of the Property more specifically described in Exhibit "S" hereto (the "Residential Site") for purposes of providing fill material for the construction of the Motorsports Park. Prior to said excavation, the CITY work with ASSIGNOR in preparing a proposed site plan for said excavation parcel which also shows potential future residential or other use of those portions of this property not so excavated. Said site plan shall be subject to ASSIGNOR's review and comment. The CITY will review any comments of ASSIGNOR and incorporate those that the staff and/or consultants agree with. The CITY's incorporation of ASSIGNOR's comments will not be unreasonably withheld, unreasonably delayed or unreasonably conditioned. ASSIGNOR will provide its comments to the CITY in writing, by certified mail, within ten (10) days of receipt of said plans or designs. This provision shall survive closing. Right of

(b) The CITY shall grant to ASSIGNOR at closing, and for a period of ten (10) years from the date of closing, the right of first refusal to purchase all or any portion of the Residential Site, except as otherwise set forth herein, from the CITY on the same terms and conditions as offered to a bona fide third-party purchaser. In the event the CITY desires to transfer any or all of that portion of the Property to a governmental entity, agency or utility, for a bona fide public purpose, this right of first refusal shall not apply. Further, this right of first refusal shall not apply to any proposed sale by the CITY of fifteen (15) acres or less to any one party on a cumulative basis. In order to effectuate the provisions of this paragraph, in the event the CITY at any time desires to make any such conveyance of any of such portion of said Property, the CITY shall notify ASSIGNOR in writing of the same along with an executed agreement of purchase and sale containing the full terms of the proposed sale. ASSIGNOR shall then have ten (10) days after receiving such notice to elect to purchase such Property and exercise its right of first refusal by notifying the CITY

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SECURITY CLERK, SECURITY GUARD

REF: 1625872795

With a Copy to: CLIFFORD S. SULLIVAN, ESQ.
GREENBERG TRAUBER LAW FIRM
1221 BRICKELL AVE.
MIAMI, FL 33131

As to the CITY: ALICE HUXO, JR.
CITY OF HOMESTEAD,
790 N. HOMESTEAD BLVD.
HOMESTEAD, FL 33030

With a Copy to: MIKE PATRINO, ESQ.
CITY OF HOMESTEAD
790 N. HOMESTEAD BLVD.
HOMESTEAD, FL 33030

All Notices mailed shall be deemed given two (2) business days after mailing as provided above or, if delivered by other means, when actually received. Any notice required hereunder to be delivered by a date which is a holiday or Saturday or Sunday shall be deemed to be due on the next business day following such date.

26. **Assignment.** The CITY shall not have the right to assign this Agreement or any of its right, title and interest hereunder.

27. **Plurals.** For all purposes of interpretation of construction of this Agreement, the singular shall include the plural and the plural shall include the singular. words of any gender shall include words of any other gender.

28. **Captions.** Captions and paragraph headings used herein are for convenience only and are not part of this Agreement and shall not be used in construing it.

29. **Severability.** If for any reason any non-material provision or portion of this Agreement is declared or found by a tribunal of competent jurisdiction to be unenforceable or null and void, such provision shall be deemed stricken and severed from this Agreement, and the remaining provisions and portions hereof shall continue in full force and effect.

30. **Survival.** Except where specifically provided elsewhere herein, all warranties, representations, covenants, obligations and agreements contained or referred to in this Agreement shall survive the execution and delivery of this Agreement and of any and all documents or instruments executed or delivered in connection herewith and shall survive the closing hereunder and any and all performance in accordance with this Agreement.

31. **Merger.** All understandings and agreements heretofore had between the parties hereto are merged in this Agreement which alone fully and completely expresses their understanding, and the same is entered into only after full investigation, neither party relying upon any such statement or representation not embodied in this Agreement made by the other party. No change or modification hereof shall be binding upon the parties unless evidenced by an instrument in writing signed by the party against whom enforcement is sought. All recitals and Exhibits herein are hereby incorporated herein.

32. **Entire Agreement/Binding Effect.** This Agreement constitutes the entire understanding and agreement between the parties hereto, and shall be binding upon the parties hereto and their respective successors, heirs and assigns. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Florida.

33. **Compliance By the CITY.** For the benefit of SELLER and ASSIGNOR, the CITY agrees to comply with all obligations pertaining to the Property from and after the date of closing hereunder, including, without limitation, all applicable provisions of the development order and planned unit development ordinance affecting the Property, and to defend, indemnify and hold ASSIGNOR and SELLER harmless from and against any all

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DEPT. CLERK - CIRCUIT COURT

REC: 1625872796

claims, losses or liability (including attorneys' fees and costs through all appellate levels) incurred by or alleged against ASSIGNOR or SELLER as a result of any violation or alleged violation of any of said obligations, or any noncompliance therewith, by the CITY.

34. Time of the Essence. The parties hereby agree that time is of the essence of this Agreement and the performance of the parties obligations hereunder.

35. Approval. The effectiveness of this Agreement shall be subject to the CITY obtaining approval of the Agreement in the manner required to make this Agreement fully binding upon and enforceable against the CITY in accordance with its terms.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Signed in the presence of:

ASSIGNOR:

VOH ACQUISITION, INC., a Florida corporation

[Signature]

By: [Signature]
Name: A. HERGENROTHER
Title: President
Date: 4/20, 1993

[SEAL]

THE CITY:

CITY OF HOMESTEAD, a municipal corporation

[Signature]
Harold Volant

By: [Signature]
Mayor

Attest: [Signature]
Name: Sharon Starnet
Title: City Clerk

Date: 4/20, 1993

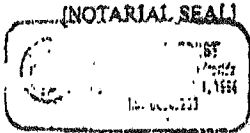


DATE MICROFILMED LOCATION CAMERA OPERATOR SECURITY OFFICER CIRCUIT CLERK

REC: 16258PP2797

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

The foregoing instrument was acknowledged before me this ___ day of April, 1993 by A. Hollaway as _____ of VOH ACQUISITION, INC., a Florida corporation, on behalf of the corporation. He/she/they personally appeared before me. is/are personally known to me or produced _____ as identification, and (did) (did not) take an oath.



Notary: Sharon L. Ernst
Print Name: Sharon L. Ernst
Notary Public, State of Florida
My commission expires: 10/1/94

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

The foregoing instrument was acknowledged before me this ___ day of April, 1993 by J.W. DeHilly and SHARON ERNST as the Mayor and DEPUTY CITY CLERK of the City of Homestead, a municipal corporation, on behalf of the City. He/she/they personally appeared before me, is/are personally known to me or produced _____ as identification, and (did) (did not) take an oath.

(NOTARIAL SEAL)

Notary: Bocky J. Bagnole
Print Name: Bocky J. Bagnole
Notary Public, State of FLORIDA
My commission expires: 9/1/95

Bocky J. Bagnole
Notary Public/State of Florida
My Commission Expires 9.1.95
Commission #02112704

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REVIEW CLERK, CIRCUIT COURT

REC: 16258PT2798

SCHEDULE OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	The Property
B	City Property
C	Title Commitment
D	Land Bank Agreement
E	Police Firing Range Lease
F	Letters of Credit to be Released and Letters of Credit to be Substituted
G	Security Property
H	Industrial Park Site
I	D.O. Resolutions
J	P.U.D. Resolutions
K	Hotel Site
L	Modular Housing/RV Site
M	Typical Roadway and Landscape Plans
N	City Roadway Improvements
O	Infrastructure and Utilities - Water
P	Infrastructure and Utilities - Sewer
Q	Easeball Complex Agreement
R	Lake/Lake Expansion Areas
S	Residential Site

RECORDED IN CIVIL RECORDS SECTION
 OF DADE COUNTY, FLORIDA
 RECORD NUMBER
HARVEY RUNYAN
 Clerk of Circuit & County
 Courts