

RESOLUTION 08-20

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; APPROVING THE EXECUTION OF AN EASEMENT AGREEMENT WITH 17777 OLD CUTLER ROAD, LLC, FOR THE VILLAGE TO MAINTAIN AN ACCESS AND PARKING EASEMENT ACROSS A SPECIFIC PORTION OF 17777 OLD CUTLER ROAD, LLC PROPERTY KNOWN AS THE "PALMETTO BAY VILLAGE CENTER" TO PROVIDE PARKING AND ACCESS TO THE PALMETTO BAY LIBRARY AND LUDOVICI PARK ADJACENT TO THE VILLAGE CENTER SITE; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE EASEMENT AGREEMENT ON BEHALF OF THE VILLAGE OF PALMETTO BAY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Mayor and Village Council purchased the property formerly known as the Celestia Delamour property and have contracted to develop a library and park at the site; and

WHEREAS, the principals of 17777 Old Cutler Road, LLC, the owners of the Palmetto Bay Village Center, located at 17777 through 18001 Old Cutler Road, have agreement to provide the Village with an access easement from the Palmetto Bay Village Center property to the library and Ludovici Park site; and,

WHEREAS, the access easement shall provide public parking for resident to use the library and park site; and,

WHEREAS, the Village shall be able to construct the public parking facility at the Palmetto Bay Village Center location, along with landscaping; and,

WHEREAS, it is a benefit to the community to approve and record an easement agreement with the Palmetto Bay Village Center property.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. The easement agreement attached hereto as Exhibit 1 is incorporated by reference into this resolution and is hereby approved.

Section 2. The Village Manager is authorized to execute and record in the public records the perpetual access easement to the specific site at the Palmetto Bay Village Center property owned by 17777 Old Cutler Road, LLC.

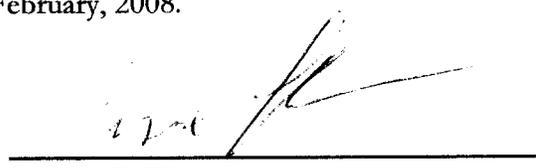
Section 3. This resolution shall take effect immediately upon approval.

PASSED AND ADOPTED this 25th day of February, 2008.

Attest:

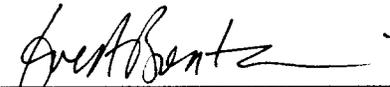


Meighan Rader
Village Clerk



Eugene P. Flinn, Jr.
Mayor

APPROVED AS TO FORM:



Eve A. Boutsis, Office of Village Attorney
Nagin Gallop & Figueredo, P.A.

FINAL VOTE AT ADOPTION:

Council Member Ed Feller	<u>YES</u>
Council Member Paul Neidhart	<u>YES</u>
Council Member Shelley Stanczyk	<u>YES</u>
Vice-Mayor Linda Robinson	<u>YES</u>
Mayor Eugene P. Flinn, Jr.	<u>YES</u>

**EASEMENT AGREEMENT BETWEEN
PALMETTO BAY VILLAGE CENTER, LLC AND
THE VILLAGE OF PALMETTO BAY**

THIS INDENTURE ("Agreement") made and entered into this ___ day of _____, 2008, by and between 17777 Old Cutler Road, LLC, a Georgia limited liability company ("Owner"), and the Village of Palmetto Bay ("Village"), a Florida municipal corporation under the laws of the State of Florida.

WITNESSETH: in consideration of the sum of \$10.00, the mutual promises and covenants contained in this agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which is acknowledged by both parties, the parties agree as follows:

1. Owner is the owner of that certain property described as:

A portion of Tract "2" according to the plat thereof as recorded in Plat Book 1 at page 1 of the public records of Miami-Dade County, Florida, more particularly described as follows:

Commence at the intersection of S.W. 176th Street and Old Cutler Road, said point being the beginning of a curve concave to the Northwest, of which the radius point lies N64°41'14"W, a radial distance of 2,864.93 feet; thence southwesterly along the arc of said curve, being coincident with the centerline of Old Cutler Road, through a central angle of 02°48'48", a distance of 140.67 feet to a point of tangency; thence S28°07'34"W for a distance of 172.31 feet along the centerline of Old Cutler Road to a point; thence N87°39'08"E for a distance of 40.61 feet to a point on the easterly right-of-way line of Old Cutler Road, said point being the point of beginning of the hereinafter described parcel; thence S61°52'26"E for a distance of 131.32 feet to a point, said point being on the southerly line of the aforementioned Tract "2"; thence continue along the southerly line of said Tract "2" S87°39'08"W for a distance of 152.37 feet to a point on the easterly right-of-way line of Old Cutler Road; thence N28°07'34"E for a distance of 77.27 feet along the easterly right-of-way line of Old Cutler Road to the point to beginning.

Containing 5,073.59 square feet and/or .012 acres more or less, and as depicted in Exhibit 1.

and that said lands ("Premises") are desired by the Village for the purpose of a public easement (as hereinafter defined) associated with the development and use of a Library, Community Center and park on the Village's adjoining parcel ("Village Parcel") bearing

the following address: 17641 Old Cutler Road, Palmetto Bay, Florida, and legal description:

Beginning at a point on the East side of the County Road 187½ feet due South of the South Boundary of the Town of Cutler thence Southerly along said County Road to a point 338 feet due South of said South Boundary of the Town of Cutler, thence East 1000 feet to Biscayne Bay, thence Northeasterly along Biscayne Bay and parallel to said County Road to a point 187½ feet South of the South boundary line of the Town of Cutler, thence West 1000 feet to the Point of Beginning together with Riparian Rights lying between above described land and the channel of Biscayne Bay, said above described land being in the NE 1/4, SW 1/4, of Section 35, Township 55 South, Range 40 East, lying and being in Miami-Dade County, Florida.

LESS THE FOLLOWING DESCRIBED PARCEL OF LAND All that certain tract or parcel of land lying and being situated in Miami-Dade County, State of Florida, and being described as follows:

T. 55 S, R 40 E, S 35

Commencing at the intersection of the Easterly Right of Way of Old Cutler Road and a line 187.5 feet South of the South boundary of the Town of Cutler. Then go N 87°39'08" E for 750 feet to the Point of Beginning. For the Northern boundary of the Tract continued 87°39'08" E from the Point of Beginning for 169 feet, more or less, to the mean high water line of Biscayne Bay and a point hereafter designated as Point A, for the Western, Southern and Eastern boundaries, go S 07°24'35"W from the Point of Beginning for 152.71 feet to the South line of Tract 2, of DAUGHERTY'S SUBDIVISION, as recorded in Plat Book 1 at Page 1 of the Public Records of Miami-Dade County, Florida, then go N87°39'08"E for 152 feet, more or less, to the mean high water line of Biscayne Bay then go Northerly along said mean high line to Point "A."

see Exhibit 2.

2. Subject to the terms and conditions of this Agreement, Owner does hereby grant to Village the following easements:

- (i) a non-exclusive easement for the purpose of providing the Village and its residents with vehicular and pedestrian access, ingress and egress from Old Cutler Road over and across the sidewalks, parking lot,

driveways and paths more specifically delineated in the site plan ("Site Plan") attached to this Agreement as Exhibit 3, which site plan is incorporated by reference;

- (ii) a non-exclusive easement for the purpose of providing Village and its residents with surface parking spaces in the parking lot more specifically delineated in the Site Plan for use when using the Library, Community Center and park located on the Village Parcel;
- (iii) a non-exclusive easement for the purpose of permitting Village and its contractors and laborers to develop and construct the parking lot, driveways and paths more specifically delineated in the Site Plan and for staging construction and storage of materials in connection with the development of the Library, Community Center and the park on the Village Parcel ("Construction Easement");
- (iv) a non-exclusive easement over, upon and under the Premises for the installation, operation, maintenance, repair, replacement, alteration and expansion of utilities serving the Library, Community Center and park located on the Village Parcel and the parking lot, driveways and paths more specifically delineated in the Site Plan;
- (v) a non-exclusive easement for the purpose of permitting Village and its contractors to repair and maintain the parking lot, driveways and paths more specifically delineated in the Site Plan; and
- (vi) a non-exclusive easement for the purpose of providing Village's fire, police, health and sanitation and other public service personnel and vehicles access, ingress and egress over and across the Premises in the performance of their respective duties.

The easements described in subsection (1) through (vi) sometimes hereinafter are referred to collectively as the "Easements" and singularly as an "Easement". The uses described above for which each Easement may be utilized by Village sometimes hereinafter are referred to collectively as the "Permitted Uses". The Construction Easement shall commence on the date of this Agreement and terminate on the date of the completion of the construction of the parking lot, driveways and paths more specifically delineated in the Site Plan. All of the Easements other than the Construction Easement shall commence on the date of this Agreement and terminate on the date the Village Parcel ceases to be used by Village primarily as a public Library, Community Center and park.

3. This Agreement shall be recorded in public records of Miami-Dade County; and that the Easements shall inure to the benefit of the Village for the purposes of public easements considered and proclaimed by the parties hereto to be a covenant running with the Premises for as long as the Premises for the terms set forth above. All

obligations of Village under this agreement shall inure to and benefit Owner and its successors and assigns as owner of the Premises.

4. The Owner hereby reserves from the Easements granted above all rights and interests not specifically granted to Village and all uses and enjoyment of the Premises that will not interfere with the Permitted Uses. Without limiting in any way the general reservation made in the preceding sentence, Owner hereby reserves (i) the right, but not the obligation, to enter upon the Premises at such times and at such places during reasonable business hours, for the purpose of inspecting the Premises or for any purpose whatsoever, (ii) the right to construct improvements other than those designated in the Site Plan under Exhibit 3 and as designated in Exhibit 4, including but not limited to security facilities and gates along the shaded area of the Site Plan and (iii) the right to grant non-exclusive easements in its sole and absolute discretion in favor of persons and entities who are not Village over and upon the Premises (or portions thereof) for (x) pedestrian and/or vehicular access, ingress and egress to and from all or any portion of the remainder of Owner's property and (y) for the installation, operation, maintenance, repair, replacement, alteration and expansion of utilities serving all or any portion of the remainder of Owner's property.

5. Village covenants, warrants, and agrees that the Easements shall be used by Village only for the Permitted Uses, and that Village, its contractors, subcontractors, employees, and agents and all other persons using the Easements (collectively, "Permitted Parties") will comply with all laws, rules, and regulations of all federal, state, city and county governments and other authorities having jurisdiction (collectively, "AHJ"), and of any lawful order of any officer thereof, relating to the use of the Easements. No Permitted Party shall bring (other than fuel in parked vehicles) or release fuel, hazardous materials, solid waste or other toxic materials on, at, in or above the Premises. Used in this Agreement, the term "hazardous material" means any hazardous or toxic substance, material, or waste, which is or becomes regulated by any local governmental authority in the State of Florida or by any governmental authority of the United States.

6. Village covenants, warrants, and agrees that the Premises shall be maintained in compliance with the covenants, restrictions and maintenance obligations of Owner relating to maintaining the native vegetation on the Premises (as proscribed in Declaration of Restrictive Covenants and the First Amendment to the Declaration of Restrictive Covenants recorded May 1, 1989 at Official Records Book 14089 at Pages 2349-52 and Official Records Book 12428 at Pages 923-1010, of the Public Records of Miami-Dade County, Florida and any other covenants or restrictions requiring maintenance of a landscaping buffer as described below; collectively, "Vegetation Covenants" incorporated herein by reference). The Vegetation Covenants include, without limitation, the obligation that Village maintain native vegetation on the Premises so that no existing buildings on the Premises or on the existing buildings in the remainder of Owner's property are visible from those portions of Old Cutler Road adjoining the Premises and the Village Parcel. Village's maintenance of such required buffering shall

in no way limit or negate Owner's obligations under the Vegetation Covenants to maintain the visual landscape buffer on the remainder of Owner's property.

7. Village shall erect and maintain in good working order and aesthetically pleasing condition fences reasonably approved by Owner separating the Premises from the remainder of Owner's property. Village shall ensure that for the term of this Agreement the roadways, sidewalks, paved pathways, and curbs are not deteriorated due to Village's use of the Premises beyond normal wear and tear. Additionally, during construction of the Library, Community Center and park, Village will screen such fences and gates in order to visually block the activities on the Premises from view by the remainder of Owner's Property. During construction the Village can install a chain link fence typically used during construction. However, upon completion of construction, the Village shall ensure that the fencing separating the Premises from the remainder of Owner's property is in good working order, and consistent in grade and size as the fencing currently existing on the remainder of the Owner's property. Owner reserves the right, but not the obligation, to upgrade the type of fencing surrounding the premises.

8. Village warrants, covenants and agrees that Village shall not install a sewer system on the Premises, and that all stormwater retention/detention facilities necessary to serve the roadways, sidewalks, paved pathways, and curbs on the Premises and the Library, Community Center, park and other improvements on the Village Parcel shall be located entirely on the Village Parcel.

9. Village hereby further warrants, covenants and agrees that it will not assign the Easements, this Agreement, or any interest therein, either voluntarily or involuntarily to any person or entity without the prior written authorization of Owner, which authorization will not be unreasonably withheld.

10. It is further mutually understood and agreed that if suit be brought to correct any breach of any provision or condition of this Agreement, the prevailing party shall be entitled to an award of reasonable attorney fees and costs, including paralegal fees, for commencing or prosecuting any action, through trial, and any appeal. Venue for any litigation shall be Miami-Dade County, Florida, and this Agreement shall be interpreted under Florida law. Notwithstanding anything to the contrary, in the event that any AHJ except Village no longer allows use of the Premises for the purposes described in subparagraph 2(i), 2(ii) or 2(v), then either party shall have the right to terminate this Agreement upon delivering written notice thirty (30) days prior to the effective date of such termination, whereupon Village promptly shall remove all property and improvements from the Premises at its sole cost and expense. After the removal of such items, Owner may re-enter the Premises and the parties hereto shall have no further obligations to each other except for those obligations that expressly survive any termination of this agreement.

11. Village hereby indemnifies and agrees to defend and hold harmless Owner, its members, partners, officers, agents and employees from and against any and all claims, suits, actions, and causes of action, as well as the costs of removal, remediation and monitoring of a condition of construction, and/or environmental contamination caused by or arising out of Village's or any Permitted Parties' (i) construction, operation or maintenance of the Premises, (ii) use or enjoyment of the Easements, or (iii) breach of this Agreement, including, in each case, all costs, attorneys' fees, expenses, including any appeal, and including the investigations and defense of any action or proceeding and any order, judgment or decree which may be entered in any action or proceeding, except to the extent caused by or arising out of the gross negligence, strict liability, intentional torts or criminal acts of the Owner, its members, partners, officers, agents, employees or contractors. In the event that a judgment covered by the foregoing indemnity shall be rendered in any suit or action against Owner, Village shall either fully satisfy or bond the judgment within sixty (60) days after Village shall have received written notice from Owner or court of competent jurisdiction of the judgment following the final determination of the suit or action, if determined adversely to the Owner. If Village shall fail to satisfy or bond the judgment within the designated time period set forth in this Agreement, then the failure shall be a violation of this Agreement. Nothing in this Agreement shall be construed to affect in any way Village's rights, privileges, and immunities under the doctrine of "sovereign immunity" as set forth in section 768.28, Florida Statutes. The provisions of this section shall survive any termination of this Agreement.

12. Village shall maintain during the term of this Agreement commercial general liability insurance with personal injury and property damage liability with limits of \$1,000,000.00 for combined single limit per occurrence for bodily injury and property damage with a general aggregate limit of \$2,000,000.00, provided that Owner may require that Village increase such limits in reasonable amounts during the term of the Agreement by Owner. The policy shall name Owner as additional insured.

(a) Village shall furnish certificates of insurance to the Owner prior to the commencement of the Permitted Use. The certificates shall clearly indicate that Village has obtained insurance in the type, amount, and classification as required for strict compliance with this paragraph and that no reduction in limits by endorsement during the policy term, or cancellation of this insurance shall be effective without 30 days prior written notice to Owner.

(b) Compliance with the foregoing requirements shall not relieve Village of its liability and obligations under this Agreement.

13. It is further understood and agreed by and between the parties that the warranties, covenants and provisions set forth in this Agreement and made by Village are expressly made conditions to Village's continued use of the Premises, and if, during the term that this Agreement is in effect, Village fails or defaults in the faithful performance or keeping of any of the provisions of this Agreement, and the failure or default shall continue for a period of thirty (30) days after receipt by Village of written notice from Owner, specifying the particulars in which Village is in default, then Owner, at its option,

forthwith and without further notice to Village, may terminate and end this Agreement and all rights of Village hereunder; whereupon Owner may re-enter the Premises and remove all persons and property, at Village's sole cost and expense, unless within the said period of thirty (30) days Village, in good faith, shall have commenced and, if reasonably possible, completed such performance for the purpose of curing the default.

14. The Premises shall be developed by Village in accordance with Exhibit 3. Village shall construct the parking lot and entrance reconfiguration as depicted in construction documents based upon the site plan shown on Exhibit 3 to be approved by Owner, which approval cannot be unreasonably withheld, conditioned or delayed. Village shall be responsible for all expenditures, including all entry reconfigurations, associated with the construction of the improvements depicted in Exhibit 3. Village shall properly maintain the screening of the Premises in the aesthetically pleasing manner. Subject to further restriction by AHJ, the time of works are Monday through Saturday, 7:00 a.m. to 6:30 p.m. No staging uses are allowed on Sundays. When the Premises are not in use for construction activities, Village shall secure the fence surrounding the Premises by locking the gates. Notwithstanding the designation of the Premises, the existing roadways contained therein shall be kept clear of all materials and Owner reserves the right of access across same at all times. After completion of all such work, Village will restore the existing roadways, including but not limited to any connection to the adjacent roadways to the conditions they were in immediately prior to the commencement of the work.

15. Enforcement shall be by action against any parties or persons violating or attempting to violate any provision of this Agreement. Village acknowledges that, due to the impact such actions may have on Owner's remaining property, its failure to comply with the terms of this Agreement will give rise to irreparable injury to Owner, and such injury may not be adequately compensated by damages. Accordingly, Owner may seek injunctive relief against the breach or threatened breach of this Agreement, in addition to any other legal remedies which may be available, without the requirement of posting a bond. The prevailing party to any action or suit pertaining to or arising out of this Agreement shall be entitled to recover, in addition to costs and disbursements, allowed by law, such sum as the court may adjudge to be reasonable for the services of his attorney, including paralegal fees and costs. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

16. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

17. This Agreement shall be recorded in the public records of Miami-Dade County at Village's expense.

18. For the first ten (10) years of the term of this Agreement, Owner agrees to pay to Village of Palmetto Bay the sum of \$5,000, per year, which funds are to be used to enhance the Library and Community Center.

19. Whenever notice is required, it shall be addressed as follows until written notice of change of address is given to the other party and shall be sent by overnight carrier, Certified Mail, postage prepaid or via hand delivery provided a receipt is given:

Owner: 17777 Old Cutler Road, LLC,
a/k/a The Palmetto Bay Village Center
18001 Old Cutler Road, Suite 600
Palmetto Bay, Florida 33157
Attention: Scott Silver, Manager
Telephone: (305) 377-8802

With a copy to: 17777 Old Cutler Road, LLC
c/o Goddard Investment Group, LLC
3390 Peachtree Road, Suite 1200
Atlanta, GA 30326
Attention: Steve DeVinney, Asset Manager
Telephone: (404) 442-5510

Village: Village of Palmetto Bay
8950 SW 152nd Street
Palmetto Bay, Florida 33157
Attention: Ron E. Williams, Village Manager
Telephone: (305) 259-1234

With a copy to: Eve A. Boutsis, Office of General Counsel
Nagin Gallop Figueredo, P.A.
18001 Old Cutler Road, Suite 556
Miami, Florida 33157
Telephone: 305-854-5353
Facsimile: 305-854-5351

20. Village shall not cause or permit any mechanics' liens or any other encumbrances to affect the Premises. At Owner's option, relevant provisions of Chapter 713, Florida Statutes, shall be complied with by Village.

21. In the event of any litigation concerning this Agreement, Village and Owner hereby agree to waive any trial by jury.

22. Village shall not trespass on property adjacent to the Premises.

23. Nothing contained in this Agreement shall be construed to create the relationship of principal and agent, partnership, joint venture or any other relationship between the parties other than the relationship of Owner as licensor and Village as licensee.

24. If any term, covenant or condition of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.

25. It is understood and agreed that "time is of the essence" and this applies to all terms and conditions contained in this Agreement.

26. Owner hereby acknowledges that after approval by applicable mortgagee(s) it has the right and the authority to grant the Easement to the Village access to the premises and to permit Village to use the premises as set forth herein. The parties agree that this Agreement shall not be deemed effective until such time as Owner secures such consent in writing from mortgagee(s) and provides a copy of same to Village.

27. The parties acknowledge that all documents prepared under this Agreement shall be public records, and shall be subject to public inspection and copying, as provided by chapter 119, Florida Statutes. Upon conclusion of this Agreement and any extensions, after written request by Village all pertinent documents shall be delivered by Owner to Village.

28. Village warrants that neither it, nor any principal, employee, agent, representative or family member has promised to pay, and Village has not paid, and will not pay, a fee the amount of which is contingent upon the Owner awarding this Agreement to Village.

29. Village warrants that to its knowledge neither it, nor any principal, employee, agent, representative or family member has procured, or attempted to procure, this Agreement in violation of any of the provisions of Miami-Dade County or Village's conflict of interest and code of ethics ordinances.

30. Each of the signatories to this Agreement warrant that s/he is duly authorized, by the appropriate action of his or her respective Village Council, board of directors or other authority, to execute this Agreement and to bind the parties hereto to the promises, terms, conditions and warranties contained in this Agreement.

31. This Agreement, when signed by all of the parties, constitutes the full and complete understanding and agreement of all the parties hereto and may not be in any manner interpreted or fulfilled in contradiction of its express terms.

32. This Agreement and the incorporated attachments constitute the entire understanding between the parties and integrates by its terms all previous contracts or understandings, oral or written, between the parties. In the event of any conflict, the terms of this Agreement will govern over the provisions of any incorporated documents.

33. This Agreement may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same Agreement. The parties hereby acknowledge and agree that facsimile signature of this Agreement shall have the same force and effect as original signatures.

34. In the event a court must interpret any word or provision of this Agreement, the word or provision shall not be construed against either party by reason of drafting or negotiating this Agreement.

IN WITNESS WHEREOF, the parties have executed this instrument for the purpose expressed in this Agreement to be effective on the ____ day of February, 2008.

VILLAGE OF PALMETTO BAY

By: _____
Ron E. Williams,
Village Manager

ATTEST:

Meighan J. Rader,
Village Clerk

SEAL

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

Sworn to and subscribed before me this ____ day of _____, 2008, by Ron E. Williams, Village Manager, Village of Palmetto Bay, who is ____ personally known to me or ____ produced _____ as identification.

Notary Public – State of Florida
Printed Name: _____
Commission No.: _____

My Commission Expires:

17777 OLD CUTLER ROAD,
L.L.C., a Georgia limited liability
company

By: Palmetto Bay Village Center,
L.L.C., a Florida limited liability
company
Its: Manager

By: _____
Scott A. Silver,
Manager & President

WITNESSED:

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

Sworn to and subscribed before me this ____ day of _____, 2008, by
Scott Silver, President, Palmetto Bay Village Center, LLC, who is ____ personally
known to me or ____ produced _____ as identification.

Notary Public – State of Florida
Printed Name: _____
Commission No.:

My Commission Expires:

EXHIBIT 1
Premises

A PORTION OF TRACT "A" OF "BURGER KING WORLD HEADQUARTERS" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 127 AT PAGE 86 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF S.W. 176th STREET AND OLD CUTLER ROAD, SAID POINT BEING THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST, OF WHICH THE RADIUS POINT LIES N64°41'14"W, A RADIAL DISTANCE OF 2,884.93 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, BEING COINCIDENT WITH THE CENTERLINE OF OLD CUTLER ROAD, THROUGH A CENTRAL ANGLE OF 02°48'48", A DISTANCE OF 140.67 FEET TO A POINT OF TANGENCY; THENCE S28°07'34"W FOR A DISTANCE OF 249.44 FEET ALONG THE CENTERLINE OF OLD CUTLER ROAD TO A POINT; THENCE N87°39'08"E FOR A DISTANCE OF 40.81 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF OLD CUTLER ROAD, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUE N87°39'08"E FOR A DISTANCE OF 323.06 FEET TO A POINT, ALONG THE SOUTH BOUNDARY LINE OF TRACT 2 ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1 AT PAGE 1 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE S13°58'30"E FOR A DISTANCE OF 42.85 FEET TO A POINT; THENCE S28°07'34"W FOR A DISTANCE OF 184.74 FEET TO A POINT; THENCE S87°39'08"W FOR A DISTANCE OF 34.99 FEET TO A POINT; THENCE N43°14'44"W FOR A DISTANCE OF 92.62 FEET TO A POINT; THENCE S86°50'26"W FOR A DISTANCE OF 8.71 FEET TO A POINT; THENCE N53°13'25"W FOR A DISTANCE OF 20.84' TO A POINT; THENCE S47°12'20"W FOR A DISTANCE OF 129.00 FEET TO A POINT; THENCE N61°52'26"W FOR A DISTANCE OF 118.88 FEET TO A POINT, SAID POINT BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF OLD CUTLER ROAD; THENCE N28°07'34"E FOR A DISTANCE OF 164.00 FEET, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF OLD CUTLER ROAD TO THE POINT OF BEGINNING.

CONTAINING 58,824.44 SQUARE FEET OR 1.35 ACRES, MORE OR LESS.

EXHIBIT I
Premises

NORTH



GRAPHIC SCALE



(IN FEET)
1 inch = 60 ft.

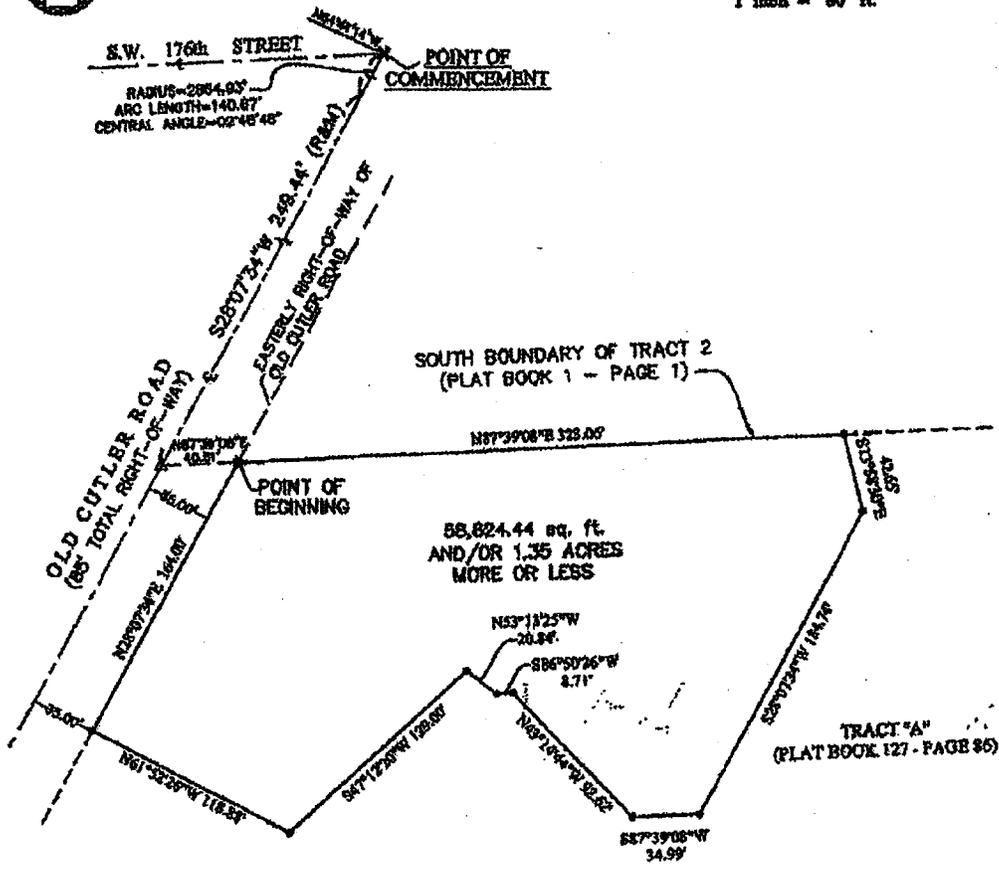


EXHIBIT 2
Village Parcel

Beginning at a point on the East side of the County Road 1872 feet due South of the South Boundary of the Town of Cutler thence Southerly along said County Road to a point 338 feet due South of said South Boundary of the Town of Cutler, thence East 1000 feet to Biscayne Bay, thence Northeasterly along Biscayne Bay and parallel to said County Road to a point 1872 feet South of the South boundary line of the Town of Cutler, thence West 1000 feet to the Point of Beginning together with Riparian Rights lying between above described land and the channel of Biscayne Bay, said above described land being in the NE 1/4, SW 1/4, of Section 35, Township 55 South, Range 40 East, lying and being in Miami-Dade County, Florida.

LESS THE FOLLOWING DESCRIBED PARCEL OF LAND All that certain tract or parcel of land lying and being situated in Miami-Dade County, State of Florida, and being described as follows:

T. 55 S, R 40 E, S 35

Commencing at the intersection of the Easterly Right of Way of Old Cutler Road and a line 187.5 feet South of the South boundary of the Town of Cutler. Then go N 87E39'08" E for 750 feet to the Point of Beginning. For the Northern boundary of the Tract continued 87E39'08" E from the Point of Beginning for 169 feet, more or less, to the mean high water line of Biscayne Bay and a point hereafter designated as Point A, for the Western, Southern and Eastern boundaries, go S 07E24'35"W from the Point of Beginning for 152.71 feet to the South line of Tract 2, of DAUGHERTY-S SUBDIVISION, as recorded in Plat Book 1 at Page 1 of the Public Records of Miami-Dade County, Florida, then go N87E39'08"E for 152 feet, more or less, to the mean high water line of Biscayne Bay then go Northerly along said mean high line to Point AA.®

EXHIBIT 3
Site Plan

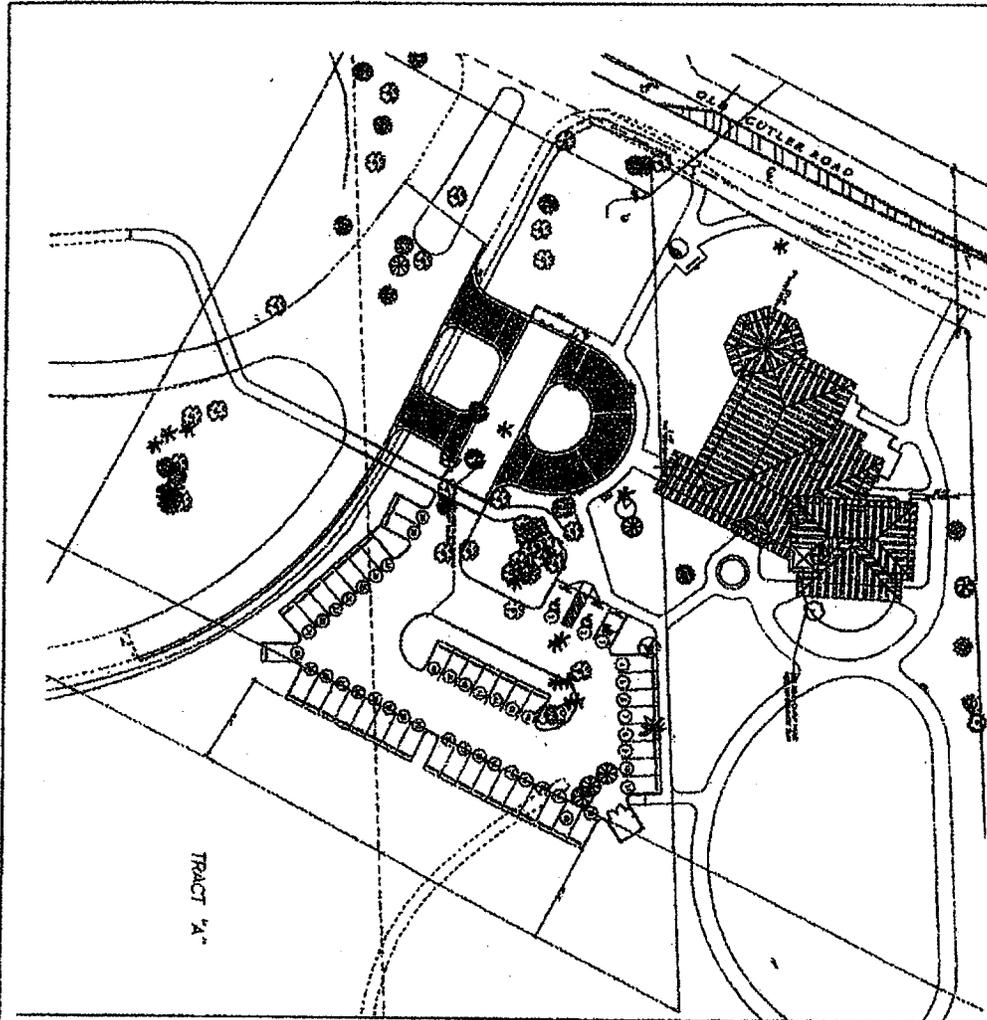


EXHIBIT 4
Additional Buffer Area

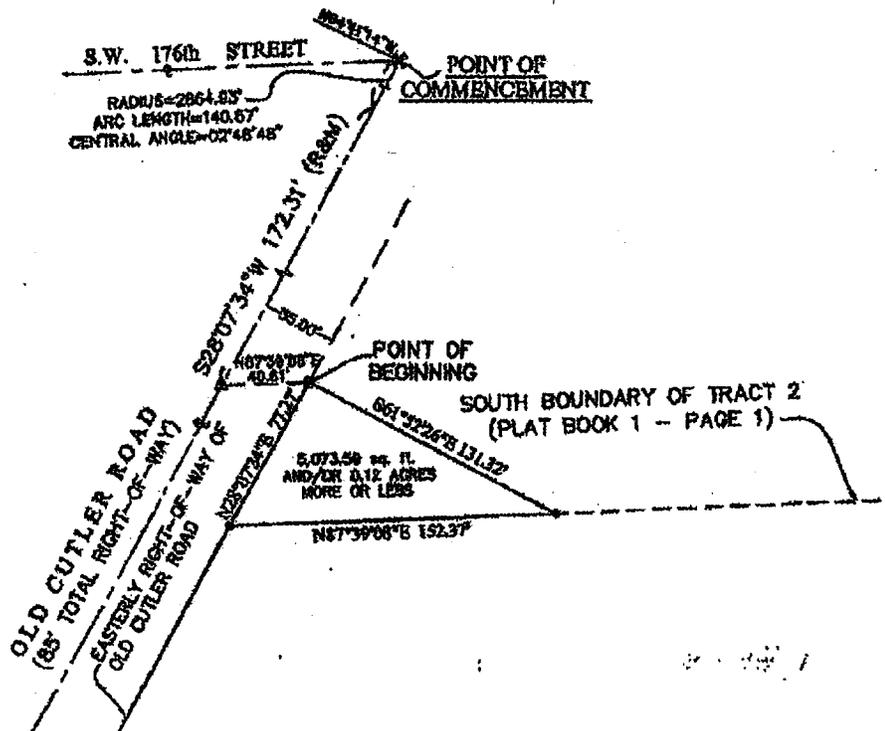
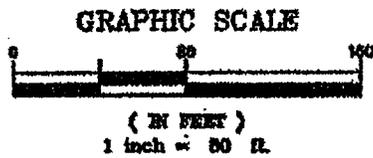


EXHIBIT 4
Additional Buffer Area

A PORTION OF TRACT "2" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1 AT PAGE 1 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF S.W. 176th STREET AND OLD CUTLER ROAD, SAID POINT BEING THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST, OF WHICH THE RADIUS POINT LIES N64°41'14"W, A RADIAL DISTANCE OF 2,864.93 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, BEING COINCIDENT WITH THE CENTERLINE OF OLD CUTLER ROAD, THROUGH A CENTRAL ANGLE OF 02°48'48", A DISTANCE OF 140.67 FEET TO A POINT OF TANGENCY; THENCE S28°07'34"W FOR A DISTANCE OF 172.31 FEET ALONG THE CENTERLINE OF OLD CUTLER ROAD TO A POINT; THENCE N87°39'08"E FOR A DISTANCE OF 40.61 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF OLD CUTLER ROAD, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL; THENCE S61°52'26"E FOR A DISTANCE OF 131.32 FEET TO A POINT, SAID POINT BEING ON THE SOUTHERLY LINE OF THE AFOREMENTIONED TRACT "2"; THENCE CONTINUE ALONG THE SOUTHERLY LINE OF SAID TRACT "2" S87°39'08"W FOR A DISTANCE OF 152.37 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF OLD CUTLER ROAD; THENCE N28°07'34"E FOR A DISTANCE OF 77.27 FEET ALONG THE EASTERLY RIGHT-OF-WAY LINE OF OLD CUTLER ROAD TO THE POINT OF BEGINNING.

CONTAINING 5,073.59 SQUARE FEET AND/OR 0.12 ACRES MORE OR LESS.