

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI DADE COUNTY, FLORIDA**

PALM GREENS AT VILLA DEL RAY  
RECREATION CONDOMINIUM  
ASSOCIATION, INC., a Florida  
not for profit corporation; and NUMBER 1  
CONDOMINIUM ASSOCIATION – PALM  
GREENS AT VILLA DEL RAY, INC.,  
a Florida not for profit corporation,

CASE NO: 2023-027942-CA-01

*Plaintiffs,*

v.

13th FLOOR INVESTMENTS, LLC,  
a Florida limited liability corporation;  
13FH PALM BEACH, LP, a Delaware  
limited partnership; PB MARINA  
DELRAY GP LLC, a Delaware limited liability  
company; AG EHC II (LEN) MULTI STATE I,  
LLC, a Delaware limited liability company;  
LENNAR HOMES, LLC, a Florida limited  
liability company; SANDRA KLIMAS, an  
individual; ROBERT THOM aka ROB THOM,  
an individual,

*Defendants.*

**SECOND AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**

**COMES NOW**, Plaintiffs Palm Greens at Villa Del Ray Recreation Condominium Association, Inc. (“Recreation Corporation”) and Number 1 Condominium Association – Palm Greens at Villa Del Ray, Inc. (“Association”) (collectively “Plaintiffs”) and hereby respectfully file their Second Amended Complaint against 13th Floor Investments, LLC, 13FH Palm Beach, LP, PB Marina Delray LLC, AG EHC II (LEN) MULTI STATE I, LLC, and Lennar Homes, LLC (collectively "Development Defendants") as well as against Sandra Klimas and Robert Thom (hereinafter collectively "Individual Defendants") (all collectively referred to as “Defendants”), and in support thereof state as follows:

## **INTRODUCTION**

Operating pursuant to a course of conduct involving intentional breaches of contract, intentional breaches of the covenant of good faith and fair dealing, intentional breaches of fiduciary duty, and classic interference with contractual relations, the Defendants are in the midst of egregiously violating the terms and conditions of a land development contract and committing other unlawful actions. Unfortunately, the victim of the Defendants' wrongful actions is a successful, nearly half-century old condominium development that has never had similar controversy or strife since its declarations of condominium were recorded in the early 1970s. As a result of the Defendants' intentional misconduct, as set forth in this Second Amended Complaint, this condominium development — with all its primary, common real estate owned by the Recreation Corporation and referred to hereinafter as "Palm Greens" — is in the midst of experiencing what are classic examples of irreparable injury brought about by the foregoing violations. For these reasons, Plaintiffs seek preliminary and permanent injunctive relief against the Development Defendants, statutory and equitable relief preventing the Development Defendants from any further trespass on the land owned by Plaintiffs, as well as monetary damages for the Defendants' contractual violations.

At the core of this Second Amended Complaint are the violations by the Development Defendants of a development agreement executed between Plaintiffs and Defendant 13FH Palm Beach, LP on February 19, 2019 (the "Development Agreement"). In violation of their contractual obligations, the Development Defendants began vertical construction of hundreds of single-family residences, while incurring innumerable and irreparable building code and other governmental and contractual violations, as found by governmental authorities with supervision over the construction. This occurred while each of the Development Defendants were in possession of permits under their or their affiliates' names as issued by the County of Palm Beach, State of

Florida. This alone constituted a material violation of the Development Agreement, which precluded the Development Defendants from even obtaining permits for the vertical construction of residences unless and until renovation and new construction of the large clubhouse and recreation campus facilities (the “New Recreation Campus”) was commenced at their own expense.

The New Recreation Campus was specifically agreed to by the Development Defendants as part of the compensation to Plaintiffs (and the more than 1,400 homeowners they serve), in exchange for the promises and commitments in the Development Agreement for the benefit of the Development Defendants, including an easement giving access to Plaintiffs’ lands as well as ultimate usage rights of recreational facilities owned by Plaintiffs. Thanks to these promises and commitments, the Development Defendants have already received profits in excess of \$75 million. Yet, the Development Defendants have returned no value whatsoever to Plaintiffs. Instead, they have intentionally and maliciously injured Plaintiffs. If not for the expectation that they would receive the benefit of the commitments pertaining to the New Recreation Campus, Plaintiffs would have never even entered into the Development Agreement.

Instead of complying with the Development Agreement, the Development Defendants, in an attempt to avoid their legal responsibilities under the agreement, have intended to arbitrage – and have in fact arbitrated – their legal responsibility under the Development Agreement. The Development Defendants have done this by using various affiliates and associates in a manner designed to frustrate the contractual and legal rights of Plaintiffs and the homeowner-interests they serve and represent. Notwithstanding these efforts, the reality is that, as alleged in detail below, all of the Development Defendants are responsible for performance of 13FH Palm Beach, LP's obligations under said Development Agreement.

As a result of the ongoing violations and misconduct set forth herein, Plaintiffs, and those represented by Plaintiffs pursuant to the applicable governing documents, have suffered significant damages according to proof. Unless equitable relief is obtained restraining and enjoining any further activities by Development Defendants and their affiliates appertaining to Plaintiffs' land, the result will be that Plaintiffs will suffer what is classic irreparable harm as defined by applicable Florida law. As of the date of filing this Second Amended Complaint, Plaintiffs' land holdings have further been commandeered and occupied by the Development Defendants without a legitimate claim of legal right. Accordingly, Plaintiffs are entitled – as set forth in this Second Amended Complaint – to an order forcing the Development Defendants currently possessing Plaintiffs' land to immediately dispossess the landholdings that are owned by Plaintiffs.

#### **PARTIES, JURISDICTION AND VENUE**

1. This is an action within the jurisdictional limits of this Court, seeking damages that exceeds \$50,000.00, exclusive of interest and costs.
2. At all material times, Plaintiff Recreation Corporation has been and continues to be a Florida not for profit corporation registered and doing business in the State of Florida.
3. At all material times, Plaintiff Condominium Association has been and continues to be a Florida not for profit corporation registered and doing business in the State of Florida.
4. At all material times, 13th Floor Investments, LLC ("13th Floor") has and continues to be a Florida limited liability company registered and doing business in the State of Florida with its principal place of business in Miami-Dade County, Florida.
5. At all times material hereto, PB Marina Delray GP LLC ("PB") is a Delaware limited liability company authorized and registered to transact business in the State of Florida with its principal place of business in Miami-Dade County, Florida.



6. At all times material hereto, 13FH Palm Greens LP ("13FH") has and continues to be a Delaware limited partnership or limited liability partnership authorized and registered to transact business in the State of Florida with its principal place of business in Miami-Dade County, Florida.

7. At all times material hereto, AG EHC II (LEN) Multi State I, LLC ("AG-EHC"), has and continues to be a Delaware limited liability company with its principal place of business in New York, New York and with its agent for service of process located in Plantation, Florida.

8. At all times material hereto, Lennar Homes, LLC ("Lennar") has and continues to be a Delaware limited liability company with its principal place of business in Miami-Dade County, Florida.

9. At all times material hereto, Defendant Sandra Klimas has been and continues to be a citizen and resident of Florida, over the age of eighteen years, and otherwise *sui juris*.

10. At all times material hereto, Defendant Robert Thom has been and continues to be a citizen and resident of Florida, over the age of eighteen years, and otherwise *sui juris*.

11. Jurisdiction and venue are proper in Miami-Dade County, Florida because the signatory to the Development Agreement, 13FH, resides and has its principal place of business there; because the Development Defendants reside or transact significant business there; because 13FH and 13th Floor have legally stipulated to venue in Miami-Dade County, Florida, and because the conspiracy described in this Second Amended Complaint was conducted in Miami-Dade County, Florida under the supervision of Defendant 13th Floor Investments, LLC.

12. All conditions precedent to this lawsuit have been performed or otherwise waived.

13. As a result of the Defendants' actions as alleged herein, Plaintiffs were forced

to retain the undersigned counsel for which they are obligated to pay reasonable attorney's fees.

## **RELEVANT FACTS**

### **Development Agreement Between Development Defendants and Palm Greens**

14. In or about November and December of 2018, Plaintiffs and Defendant 13th Floor conducted negotiations regarding the terms of a large real estate development plan.

15. The negotiations centered around 13th Floor's desire to develop and construct new residences adjacent to more than 1,400 homes within the Association and abutting a large set of recreation facilities owned or controlled by Plaintiffs. For the Court's convenience, attached hereto as **Exhibit "1"** is a simple graphic-rendering of the land currently owned by all of the parties to this litigation.

16. The development planned by 13th Floor included the utilization of significant property and land owned or substantially controlled by the Recreation Corporation and Plaintiff Association.

17. At the core of the negotiations was 13th Floor's need to obtain a series of easements to provide its contractors and prospective new homeowners with access to its yet-to-be-built land.

18. The facilities owned and controlled by Plaintiffs already included a full-service clubhouse, two large pools, several tennis courts and other facilities and amenities (hereinafter the "Existing Recreation Facilities"). During the negotiations, 13th Floor also expressed its need to utilize the land and facilities housing and surrounding Plaintiffs' Existing Recreation Facilities, and all associated amenities, for the benefit of 13th Floor's planned new homeowners.

19. Without the easements and access to the Existing Recreation Facilities and associated amenities, 13th Floor knew it would have no development project of any kind. In fact, 13th Floor often remarked during negotiations that the prospective condominium owners to which

it intended to sell the new units would not be interested in any construction or residential home development or purchases without these kinds of substantial and wide-ranging easements and amenities.

20. At the time of the foregoing negotiations, 13th Floor knew that construction of a New Recreation Campus was an important condition-precedent to any vertical construction of new homes. This was so because Plaintiffs' Existing Recreation Facilities were simply unable, pursuant to Florida law, to safely (let alone comfortably) accommodate the hundreds of new residents planned to matriculate into the yet-to-be-built 13th Floor condominium development. For this reason, 13th Floor was aware that Plaintiffs would not agree to the proposed development unless significant new construction and renovations were made to the Existing Recreation Facilities, including construction of a New Recreation Campus as set forth herein. The parties therefore carefully negotiated, throughout late 2018 and early 2019, the kinds of construction and renovations that would be required in order for Plaintiffs to consider entering into a contract with 13th Floor to permit it to develop condominiums and residences adjacent to Palm Greens.

21. As the Development Agreement was scheduled to be consummated, one of 13th Floor's principals, Michael Nunziata, stated that 13<sup>th</sup> Floor had decided to utilize a single purpose vehicle named 13FH to execute the Development Agreement in furtherance of 13th Floor's interests. Notwithstanding this, 13th Floor was, at all times, the one to negotiate and bargain with Plaintiffs.

22. On February 19, 2019, 13FH, Plaintiffs and others entered into the Development Agreement for Delray Trails at Palm Greens and the Palm Greens at Villa Del Ray Recreation Condominium Association, Inc. ("the Development Agreement"). The Development Agreement is attached hereto as **Exhibit "2."**

23. At the time of entering into the Development Agreement, all parties understood and agreed that 13FH was simply a single purpose company with no business operations, and that its execution of the Development Agreement would not affect in any way, shape, or form 13th Floor's liability and responsibility under the Development Agreement. It was primarily as a result of this understanding between and among the parties that 13FH is referred to throughout the Development Agreement on more than 250 occasions as "13th Floor" and not as "13FH." *See generally*, Exhibit "2," the Development Agreement and exhibits thereto.

24. Section 6 of the Development Agreement expressly provides that 13th Floor is not even entitled to seek permits for the construction of single-family homes on its land – any such construction thereby necessarily having to utilize the easements provided to it pursuant to the Development Agreement – unless and until construction of the New Recreation Campus was commenced.

25. Section 6 of the Development Agreement further expressly provides that 13th Floor shall, prior to issuance of any vertical building permits for construction of residential units, renovate and improve the Recreation Corporation's Existing Recreation Facilities as well as undertake and complete construction of the New Recreation Campus. More specifically, as reflected in the Development Agreement, 13th Floor agreed to the following:

- i. To replace the Recreation Association's pre-existing clubhouse and amenities with a brand-new clubhouse equipped with an emergency generator and other similar facilities;
- ii. To construct one resort-style pool of a larger size than the existing pool with a separate lap area;
- iii. To construct one shallow kids pool;

- iv. To construct one hot tub of a larger size than the existing hot tub within the existing recreation facilities;
- v. To construct one cafe;
- vi. To construct one library;
- vii. To construct one fitness center;
- viii. To construct one administrative area with at least four (4) separate administrative office spaces with conference rooms;
- ix. To construct one multi-purpose office for resident use;
- x. To construct one billiards room;
- xi. To construct one renovated shuffleboard area with a minimum of ten lighted shuffleboard courts;
- xii. To construct a multi-purpose room with a minimum capacity of five hundred (500) persons to include a stage and dressing rooms, separate catering kitchen and server preparation area;
- xiii. To construct card rooms with a minimum capacity of one hundred and eighty (180) persons;
- xiv. To construct landscape entrance features at entrances to the Recreation Campus that include monument signage and decorative landscaping at the main entrance to the new clubhouse building;
- xv. To construct four new lighted tennis courts and to renovate with lighting nine pre-existing tennis courts;
- xvi. To construct four pickle ball and two bocce ball courts; and
- xvii. To construct a separate maintenance building with a portable generator of a size

and specification sufficient to service the separate maintenance building.

26. On numerous occasions following the execution of the Development Agreement, representatives and agents of 13th Floor Investments represented that the obligations set forth in Section 6 of the Development Agreement would be strictly complied with by 13th Floor. These representations were made orally and in writing by 13th Floor and included estimates which always showed the completion of the new homes to be built on 13th Floor's land (*see* Exhibit 1 hereto) being finished *many years following* the completion of the New Recreation Campus.

27. For example, on September 21, 2021, a wholly owned subsidiary of 13th Floor called 13th Floor Homes sent a memorandum to Plaintiffs estimating that completion of home construction on 13th Floor's land would occur some *three years* following completion of the New Recreation Campus. A true and correct copy of this memorandum is appended hereto as **Exhibit “3.”**

28. Importantly, the Development Agreement expressly provides that the foregoing covenants of construction run with the land owned by 13th Floor and shall bind all subsequent purchasers thereof, with 13th Floor itself always remaining primarily liable unless and until the commitments were satisfied. To be precise, Section 26 of the Development Agreement states as follows:

Covenants Running With Land. The *benefits and burdens* of each covenant set forth in this Agreement *shall run with the title* to the Property and the Recreation Association Property and *shall bind* or benefit *the record title owners* thereof, their respective *successors, successors-in-title, and assigns*.

*See* Exhibit “2” at § 26 (emphasis added).

29. Section 26 of the Development Agreement was meant to assure Plaintiffs that, one way or the other, the significant construction obligations set forth in Section 6 would be satisfied in full, so that neither 13th Floor nor anybody following its chain of title could get the benefit of

the easements and consideration provided by Plaintiffs under the Development Agreement without having full responsibility for shouldering the cost and burden related to such easements and consideration.

30. In late December, 2021, 13FH executed a warranty deed purporting to transfer the vast majority of the land it owned that is covered by the Development Agreement to Defendant AG EHC. A true and correct copy of this warranty deed is appended hereto as **Exhibit “4.”**<sup>1</sup>

31. In late December, 2021, 13FH executed a warranty deed purporting to transfer additional land it owned that is covered by the Development Agreement to Defendant Lennar. A true and correct copy of this warranty deed is appended hereto as **Exhibit “5.”**<sup>2</sup>

32. In late December, 2021, 13FH executed a warranty deed purporting to transfer the land for the New Recreation Clubhouse to Lennar. A true and correct copy of this warranty deed is appended hereto as **Exhibit “6.”**<sup>3</sup>

33. Importantly, every single one of the warranty deeds issued by 13FH to AG EHC and Lennar expressly state that the grantee was taking the property subject to the Development Agreement. *See* Exhibit “B” to the warranty deeds attached hereto as Exhibits 4-6.

34. Absent compliance with the Development Agreement and absent being able to benefit from its terms (e.g., the extensive easements across the Palm Greens landholdings), none of the Development Defendants would be able to construct or maintain any residences or other dwellings of any kind on the land set forth on Exhibit 1. The reason for this being that each of the parcels owned by the Development Defendants, as set forth on Exhibit 1, are land locked. Only

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<sup>1</sup> The portion of the 13FH land purportedly transferred to AG EHC is identified on the schematic map-rendering of the overall development covered under the Development Agreement, appended hereto as Exhibit 1.

<sup>2</sup> The portion of the 13FH land purportedly transferred to Lennar is identified on the schematic map-rendering of the overall development covered under the Development Agreement, appended hereto as Exhibit 1.

<sup>3</sup> The portion of the 13FH land purportedly transferred to Lennar is identified on the schematic map-rendering of the overall development covered under the Development Agreement, appended hereto as Exhibit 1.

with the easements provided in the Development Agreement are the Development Defendants able to traverse through Plaintiffs' real estate in order to build, construct, and enjoy the structure and use of their properties and residences.

35. When contemplating taking title of the subject land, AG EHC and Lennar realized that they were in a predicament, given the land-locked nature of the Development Defendants' real estate interests (as depicted on Exhibit 1). The predicament being that complying with Section 6 of the Development Agreement would cost AG-EHC and Lennar millions of dollars before they could even get a permit for the construction of the new residences.

36. Regardless of the obligations imposed by Section 6 of the Development Agreement, AG EHC and Lennar desired to build homes immediately to realize more than a hundred million dollars of profit without having to expend any capital to comply with the Development Agreement.

37. So, notwithstanding the fact that Section 26 of the Development Agreement expressly provides that the benefits and burdens under said agreement were and are covenants running with the land that bind all future title owners, successors and assigns, the Development Defendants attempted to skirt the provisions of Section 6 of the Development Agreement by inserting an unusual *proviso* in all three deeds to the effect that the obligations set forth in the Development Agreement would not be "reimpose[d]" upon either AG-EHC or Lennar. *See* Exhibits 4-6 attached hereto. Upon information and belief, this unusual provision was inserted in the deeds for the sole and exclusive purpose of providing the Development Defendants with a so-called "argument" to avoid the provisions of Section 6 of the Development Agreement.

38. Yet, the reality is that the deeds expressly reference that the property is subject to those encumbrances provided for in the Development Agreement. As such, as of the date of filing this Second Amended Complaint, Defendants 13th Floor and 13FH, by relying on these deeds,



have made countless judicial admissions before this Court to the effect that the Development Agreement indeed binds their successors. *See* Exhibit “B” to Exhibits 4-6 hereto.

39. Despite their clear obligations under the Development Agreement, and pursuant to the scheme described in this Second Amended Complaint, from and after their purported purchases of the land set forth in Exhibits 4-6, AG-EHC and Lennar have at all material times openly taken the position that Section 6 of the Development Agreement need not be complied by them.

40. At all material times hereto, AG-EHC and Lennar have taken the position that they intend to begin and complete construction of new homes *many years* prior to completion of the New Recreation Campus.

41. With respect to the estimates by 13th Floor regarding construction of homes being fully completed three years *after* completion of the New Recreation Campus, *see* Exhibit 3 hereto, both AG-EHC and Lennar have made it clear that they intend to reverse the order so that all of their home construction will be completed years *before* the completion of the New Recreation Campus.

42. 13th Floor Investments and 13FH have at all times ratified and approved of the foregoing violations of the Development Agreement and have not taken action to assure compliance thereof despite their continuing obligation pursuant to Section 26 of the Development Agreement and despite having received the benefit of the easements pursuant to the Development Agreement.

43. As of the date of filing of the initial complaint in this action, construction of innumerable new residences had already been completed – and residences had even been sold – yet not a single brick had been laid for renovation or construction of any of the items set forth in Section 6 of the Development Agreement. This was done in clear violation of the Development

Agreement, which provides that 13th Floor was to commence construction of the new amenity area before a single permit was issued for construction of the residential units. Attached hereto as **Composite Exhibit “7”** are true and correct copies of an email sent by Defendant Robert Thom right after the initial complaint in this matter was filed, stating that the development of the new clubhouse had just commenced, i.e., right after the filing of this lawsuit, as well as photographs showing how the recreation facilities looked as of the date of that email.

44. As of the date of filing this Second Amended Complaint, construction of new residences by the Development Defendants is substantially complete, but the vast majority of renovations and construction set forth in Section 6 of the Development Agreement have not yet even been started. Attached hereto as **Composite Exhibit “8”** are true and correct copies of photographs of the condition of construction of the new residences and the recreation facilities as of the time of filing this Second Amended Complaint.

45. From and after early 2023, by engaging in construction of hundreds of new residences and structures while openly and notoriously refusing to comply with Section 6 of the Development Agreement, the Development Defendants have violated the Development Agreement. Such violations are continuing unabated as of the date of filing this Second Amended Complaint, with the Development Defendants now forcing their way onto the actual Recreation Corporation land and beginning construction activities in violation of the Development Agreement, creating the injuries and dangers as set forth in the Second Count of this Second Amended Complaint.

46. As a result of the foregoing breaches under the Development Agreement, the property values of more than 1,400 homeowners have plummeted and Plaintiffs are in the midst of experiencing irreparable damage to their real estate valuations and the quiet enjoyment of their

properties over the next decade, as well as suffering substantial financial injuries with respect to outlays of money to perform maintenance and renovations themselves in order to prevent life safety issues from occurring because of the Development Defendants' contractual violations.

**Civil Conspiratorial Relationship of Development Defendants**

47. At all times material hereto, each of the Development Defendants were the agent and co-conspirator of each other, and all acts and omissions set forth in this Second Amended Complaint were done and achieved pursuant to and with the intent to further the schemes and violations of law set forth in this Second Amended Complaint.

48. From and after October of 2021, 13th Floor, 13FH, Lennar, and AG-EHC conspiratorially agreed among themselves to perform the unlawful actions of intentionally ignoring and flouting the detailed provisions of Section 6 of the Development Agreement. The Development Defendants did this for the purpose of pulling out more than \$75 million in profits from the land set forth on Exhibit 1 hereto and subject to the Development Agreement, despite knowing that Plaintiffs would be substantially injured thereby.

49. The roles in the conspiracy of each of the Development Defendants has been as follows:

- i. Defendant 13th Floor induced Plaintiffs to enter into the Development Agreement in the first place, without which there would have been no way to build a single residence or earn a single penny from the land-locked property it owned.
- ii. Defendant 13th Floor knew that Plaintiffs would never do a deal with either AG-EHC or Lennar, in view of the multiple class action lawsuits and overall adverse reputation of these entities and the circumstances of Plaintiffs' unique, half-century old, condominium development.

- iii. 13th Floor had a pre-existing relationship with AG-EHC and Lennar and at all times contemplated transferring title to them, but 13th Floor knew that it first had to induce Plaintiffs to enter into the Development Agreement. Defendant 13th Floor's role was thus central to the conspiracy, as it had to entice Plaintiffs not only to enter into the Development Agreement but to begin operating under that contract long enough to allow monetization to occur through the ultimate construction of single-family residences.
- iv. Defendant 13FH's role in the conspiracy was to adopt any and all mechanisms to attempt to limit the liability of 13th Floor regarding what it knew were going to be clear and unequivocal breaches of contract. Executing the Development Agreement was 13FH's key role in the conspiracy, for 13th Floor used 13FH's existence to attempt to avoid liability for its obligations under the Development Agreement. In fact, 13th Floor was unwilling to enter into the Development Agreement unless 13FH was the signatory because 13th Floor knew and intended that the Development Agreement would be breached and therefore was using 13FH to attempt to limit its legal exposure. Using 13FH as the signatory for the Development Agreement provided 13th Floor with what, in its view, constituted a shield from any potential exposure to liability for the planned future violations of the Development Agreement.
- v. Defendant AG-EHC's role in the conspiracy was to act as a stakeholder of most of the real estate covered by the Development Agreement for the period of time during which the Development Agreement was intended to be violated by the co-conspirators. In this way, AG-EHC would also operate to possibly limit liability for

millions of dollars of breaches of obligations under the Development Agreement, keeping this liability from harming companies with greater liquid asset-bases such as 13th Floor and Lennar Corporation<sup>4</sup> (NYSE: LEN), which were always the "crown jewels" against whom liability must at all times be shielded in the view of the Development Defendants.

- vi. Defendant Lennar's role in the conspiracy was to use its standing to promote and sell the single-family residences, even way before title to the property was actually transferred to it. Lennar used its standing and reputation to promote and sell the single-family residences that were being built on the property, while representing that the recreational amenities were fully renovated,<sup>5</sup> thereby misrepresenting the status of the development. In other words, Lennar was the marketer and point of contact for new potential buyers and homeowners. Thus, Lennar ultimately cashed the monetary benefit of the Development Defendants' violations.
- vii. Defendant Lennar's role in the conspiracy was to act as stakeholder of significant real estate covered by the Development Agreement for a period of time during which the Development Agreement was intended to be violated by the co-conspirators. In this way, Lennar would also operate to possibly limit liability for millions of dollars of breaches of obligations under the Development Agreement, keeping this liability from harming companies with greater liquid asset-bases such as 13th Floor Investments and Lennar Corporation (NYSE: LEN), which were always the "crown jewels" against whom liability must at all times be shielded.

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<sup>4</sup> Plaintiffs clarify for the Court that Lennar Corporation is a publicly traded company that it is distinct from Lennar Homes, LLC – the Defendant in this action.

<sup>5</sup> See Lennar's website: <https://www.lennar.com/new-homes/florida/palm-beach/delray-beach/delray-trails/the-woods#community>

50. Pursuant to the conspiracy described herein, the Development Defendants overtly obtained, in or about April of 2023, a permit to begin vertical construction of new residences on their land.<sup>6</sup> They did this knowing that they not only had not commenced construction of the New Recreation Campus as of that date, but indeed knowing that they would not be able to simultaneously construct the New Recreation Campus alongside the vertical construction of new homes as required under Section 6 of the Development Agreement.

51. Further pursuant to the conspiracy, Defendants AG-EHC and Lennar – operating pursuant to the agreement of all co-conspirators – at all material times overtly and intentionally delayed and frustrated the construction and renovation activities required under Section 6 of the Development Agreement, it being the intention of each of them to harm Plaintiffs for purposes of yielding various financial benefits in the short and long term, according to proof.<sup>7</sup>

52. Also pursuant to the conspiracy, Defendants AG-EHC and Lennar – operating pursuant to the agreement of all co-conspirators – overtly and intentionally caused and are continuing to cause injury to the land of Plaintiffs in violation of the Development Agreement. Such injury has included collapsed building structures, piping deterioration and bursts, water main outages, and the creation of other detrimental conditions, costing Plaintiffs money and reducing Plaintiffs' resolve to insist on compliance with Section 6 of the Development Agreement.

53. Additionally, each of the Development Defendants – operating pursuant to the agreement of all co-conspirators – overtly and intentionally caused to be inserted into the warranty deeds attached hereto as Exhibits 4-6, the unusual *proviso* to the effect that the obligations set forth

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<sup>6</sup> As depicted on the rendering appended as Exhibit 1 hereto.

<sup>7</sup> After discovery is completed, Plaintiffs reserve the right to amend this Second Amended Complaint to include the various portions of the conspiratorial plan forming the reasoning, in the view of the Development Defendants, behind these overt acts described in this subparagraph.

in the Development Agreement would not be "reimpose[d]" upon either AG-EHC or Lennar. This provision was inserted for the sole and exclusive purpose of providing the Development Defendants with a so-called "argument" to enable them to attempt to skirt the provisions of Section 6 thereof, which was always their intention pursuant to the conspiracy described herein.

54. As a result of the conspiracy of the Development Defendants set forth in paragraphs 43 through 49 of this Second Amended Complaint, Plaintiffs have been injured as more fully alleged in Counts I, II, III and VI of this Second Amended Complaint.

**Alter Ego Relationship of 13th Floor Entities**

55. At all material times hereto, 13th Floor dominated and controlled the affairs of 13FH and PB in such a way where the legal fiction of maintaining separate entities would constitute a fraud and work an injustice to third parties, including Plaintiffs.

56. As a result of 13th Floor Investments' domination and control of these entities, 13th Floor, 13FH, and PB have been, and still are, the *alter egos* of each other as well as the agent, servant, employee, employer, partner and/or joint venture of each of other. In performing the acts herein alleged, each of these Defendants were acting within the course and scope of such relationship, agency and/or employment with the advance knowledge, acquiescence or subsequent ratification of each and every remaining of these co-Defendants when engaged in the conduct herein alleged.

57. In addition to sharing the same staff and principal places of business, these entities literally have not even existed at all or for substantial periods of time during the operation of the Development Agreement. Instead, as to each of these 13th Floor-related entities, there has been a complete unity of interest whereby the principals of 13th Floor have at all material times owned and controlled in all material ways each of the entities known as 13FH and PB. In this way, 13FH

and PB have no separate corporate personalities apart from 13th Floor, making them *alter egos* of one another based upon the following additional facts:

- i. 13FH contracted pursuant to the Development Agreement to undertake significant financial obligations in the millions of dollars. However, 13FH never possessed the assets or the capital required to satisfy those obligations and never intended to possess such assets or capital. Indeed, under Section 7 of the Development Agreement, 13FH was responsible for making payments totaling \$1 million to compensate for expected adverse impacts of the construction activities. Because 13FH was inadequately capitalized, the \$1 million was paid not by 13FH but by the dominator 13th Floor, through the trust account of its lawyers. This is evidenced by payments made in or about March of 2020 and September of 2021.
- ii. Similar to the foregoing \$1 million impact mitigation payment, 13FH was set up such that it was incapable of ever advancing the capital or resources necessary to comply with the Development Agreement. Instead, *all* parties (including 13FH and its affiliate 13th Floor) understood at the time of entering into the Development Agreement that 13FH was merely a shell and *alter ego* of 13th Floor, and that 13th Floor would be the entity responsible for and benefitting from the Development Agreement.
- iii. Moreover, 13FH was at all times during its existence inadequately capitalized to perform the functions required of it pursuant to its business charter. 13FH had no capital whatsoever but instead was a passthrough entity with books maintained by the staff of 13th Floor.
- iv. Once 13FH's role in the conspiracy was completed, as set forth above, and because



it was not a real and viable entity but rather an intentionally formed *alter ego* of 13th Floor, 13FH was canceled as of November 17, 2023 and no longer purports to transact business in Florida. At all times material hereto, 13th Floor specifically intended 13FH and PB to be the *alter egos* of 13th Floor.

- v. At the time 13th Floor decided to form 13FH and PB, 13th Floor knew and intended that both 13FH and PB would exist for no other purpose other than as a vehicle to deceive the public into believing they were actual business entities. In fact, the intention was that their existence was meant by 13th Floor to be a sham such that they were intended to never actually transact business.
- vi. Both 13FH and PB were set up by 13th Floor with the intention that they would eventually and ultimately financially fail and cease to be active and operate as soon as their purpose had been satisfied, the purpose being to assist in the scheme involving more than \$75 million of home construction without returning the agreed upon value under the Development Agreement
- vii. At all material times, 13FH and PB were financially insolvent, with their debts and obligations far exceeding their assets, operating with no payroll or other operational indicia of the kind expected pursuant to Florida law of actual, viable juridic entities.
- viii. At all material times, all of the value generated by 13FH and PB pursuant to the Development Agreement was siphoned by 13th Floor and its principals, without any stoppage to consider the corporate wisdom of siphoning all of the available resources of 13FH and PB.

#### **COUNTS AGAINST DEVELOPMENT DEFENDANTS ONLY**

##### **COUNT I – BREACH OF CONTRACT**

58. Plaintiffs re-allege and reaffirm herein all of the allegations contained in paragraphs

1 through 57.

59. The Development Agreement is a valid and binding contract in the State of Florida, imposing serious and important material obligations on the part of the Development Defendants, including, but not limited to, the obligation to timely and efficiently develop the entire New Recreation Campus in accordance with the contractual provisions set forth in the Development Agreement.

60. The Development Defendants have already profited from the Development Agreement in the sum of at least \$75 million.

61. In the middle of 2023, the Development Defendants began vertical construction of single-family residences pursuant to the Development Agreement, although the Development Defendants had not even received permits to begin construction of the New Recreation Campus. This was a direct violation of Section 6 of the Development Agreement.

62. The foregoing misconduct by Development Defendants thus constituted an egregious violation of the Development Agreement.

63. At the time they began construction of such single-family residences, the Development Defendants intended to violate the terms of the Development Agreement.

64. As of the date of filing this lawsuit and in violation of the Development Agreement, the Development Defendants have substantially completed vertical construction on more than 100 single-family homes – profiting in the sum of at least \$75 million, according to proof – without taking any action to even attempt to comply with the "concurrent construction" obligations regarding building and developing the New Recreation Campus under Section 6 of the Development Agreement.

65. The Development Defendants have breached the Development Agreement

knowing full well that the result will be substantial injury to the Plaintiffs, considering the importance to Plaintiffs of the New Recreation Campus and related obligations expressly set forth in the Development Agreement.

66. Defendant PB is directly responsible for 13FH's violations of the Development Agreement because PB is the general partner of 13FH. As such, PB is directly responsible for all matters for which 13FH is legally responsible as a signatory to the Development Agreement.

67. In addition, all limited partners of 13FH associated with 13th Floor Investments are directly liable for the aforementioned breaches of contract based upon their active participation in the control of PB, including exercising control over PB's day-to-day operations in all respects, according to proof, at a time when 13th Floor Investments held itself out as one of the controlling general partners of 13FH.

68. All conditions precedent to maintaining this lawsuit have been performed, excused or waived.

69. Paragraph 17 of the Development Agreement expressly provides that the prevailing party in enforcing said agreement is entitled to payment of costs and reasonable attorneys' fees.

70. As a proximate and foreseeable result of the Development Defendants' flagrant and continuing breaches of the Development Agreement, Plaintiffs have been damaged in an unknown sum according to proof and are entitled to recovery of their reasonable costs and attorneys' fees.

**WHEREFORE**, Plaintiffs demand judgment against the Development Defendants, for compensatory and special damages, costs, prejudgment interest, reasonable attorney's fees, and all other damages and relief which is permitted by law and which this Court deems just and proper.

#### **COUNT II – EQUITABLE AND INJUNCTIVE RELIEF**

71. Plaintiffs re-allege and reaffirm herein all of the allegations contained in paragraphs 1 through 57.

72. The flagrant breaches by Development Defendants of the Development Agreement set forth in this Second Amended Complaint have caused and continue to cause immediate and irreparable injury to the Plaintiffs.

73. In addition, starting in late July, 2024, Defendants AG-EHC and Lennar forced their way onto the land of Plaintiff Recreation Corporation and undertook certain construction activities over Plaintiffs' objections. These activities have resulted in dangerous conditions including, but not limited to, flying debris, land crevices, dust accumulation, among others, which officials and experts have determined to be unsafe and likely to result in the risk of death or serious bodily injury.

74. Pursuant to the foregoing adverse conditions created by AG-EHC and Lennar, numerous residents of Palm Greens have *already* been injured and experts have opined, in writing, that residents will in the future be exposed to substantial injuries and risks to life and limb.

75. Plaintiffs' injuries and damages cannot be cured or mitigated by money damages alone. Among other things, the congestion, nuisance, unsafe conditions and code violations created by Development Defendants' real estate development requires issuance of injunctive relief.

76. Moreover, given that the Developer Defendants have not complied with the contractual terms of the Development Agreement, neither the Developer Defendant nor the potential hundreds of new homeowners that will buy properties from them have any legal right to occupy Plaintiff's property. This requires issuance of injunctive relief to maintain the *status quo*.

77. Injunctive relief is thus appropriate here to remedy ongoing code violations, prohibit further code violations, eliminate risk of death or serious bodily injury, and maintain the quiet enjoyment of Plaintiffs and its resident homeowners and related parties without the congestion, inconvenience, lack of quiet enjoyment, and dangers caused by Development

Defendants' improper development and associated misconduct appertaining and relating to the Development Agreement.

78. Plaintiffs have the clear right to immediate and substantial construction associated with the New Recreation Campus, along with stoppage of all vertical construction of residential dwellings until the New Recreation Center-construction is completed to at least the point that construction is complete on vertical home constructions in the area, all pursuant to Section 6 of the Development Agreement, which expressly provides that "[p]rior to issuance of any vertical building permits for construction of residential units within the Project," the Development Defendants shall commence, at their "own expense, construction of [the] Recreation Campus" and further provides that any vertical construction of residential homes is only permitted "**concurrent** with construction of the Recreation Campus." *See* Exhibit "2" at § 6. (emphasis added).

79. Plaintiffs further are entitled to injunctive relief restraining and enjoining the Development Defendants from entering Plaintiffs' real estate, as set forth on Exhibit 1 hereto, regardless of and without reference to the presence of irreparable injury and pursuant to longstanding Florida law requiring the dispossession of trespassers. Plaintiffs are entitled to injunctive relief even in the absence of a finding of danger or irreparable injury.

80. Plaintiffs have no adequate remedy at law regarding the foregoing circumstances in any event, because their real estate holdings are unique and require that those not having property rights thereto be enjoined from interfering with such real estate possession.

81. In the event Plaintiffs are left with unrenovated and dilapidated amenities, along with not having the New Recreation Campus that Plaintiffs bargained for as set forth in the Development Agreement, Plaintiffs' successful, decades-old facilities and organizations will continue to depreciate in value and become insolvent. If allowed to continue, the actions by the

Development Defendants will continue to divest Plaintiffs' community of untold millions of dollars in value.

82. Moreover, the Development Defendants' current construction in and around Plaintiff's property has failed to meet reasonable safety standards, failing to use silt fences, letting debris accumulate, not using appropriate safety signage. As a result of these failures, residents within the Palm Greens communities have been injured.

83. The requested equitable relief would not be contrary to the interest of the public. Indeed, it is in the public's interest to assure that Plaintiffs and Plaintiffs' community is not subjected to injuries, nuisances, safety issues, building code violations, and diminution of property values caused by violations of land contracts such as the Development Agreement at issue here. This is particularly true where thousands of elderly residents of relatively limited means are being subjected to substantial injury by said violations.

84. As a result of the foregoing, Plaintiffs are entitled to temporary, preliminary, and permanent injunctive relief restraining and enjoining any further vertical construction of single-family residences or other activities of the Development Defendants on Plaintiffs' land, as well as prohibiting the Development Defendants and their agents and assigns from coming onto Plaintiffs' land.

**WHEREFORE**, Plaintiffs demand temporary, preliminary and permanent injunctive relief against Development Defendants, and against their agents, contractors, assigns, assignees, successors and those acting in concert with them, restraining and enjoining each of them from occupying, directly or indirectly, any portion of Plaintiffs' real estate as set forth in the rendering attached hereto as Exhibit 1, as well as regarding the real estate interests set forth in the deeds appended hereto as Exhibits 4-6.

### **COUNT III - BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING**

85. Plaintiffs re-allege and reaffirm herein all of the allegations contained in paragraphs 1 through 57.

86. The Development Agreement is a valid and binding contract in the State of Florida, imposing serious and important material obligations on the part of Development Defendants, including, but not limited to, the right to timely and efficiently develop the entire New Recreation Campus in accordance with the contractual obligations set forth therein.

87. In the middle of 2023, the Development Defendants began vertical construction of single-family residences pursuant to the Development Agreement, although the Development Defendants had not begun construction of the New Recreation Campus. At the time they took this action, the Development Defendants intended to violate the terms of the Development Agreement.

88. As of the date of filing this Second Amended Complaint, the Development Defendants have allowed, in violation of the Development Agreement, vertical construction to be substantially completed on more than 100 single family homes, without taking even the slightest action to assure simultaneous construction of the New Recreation Campus, in direct breach of the express terms of the Development Agreement.

89. As of the date of filing this lawsuit, the naked eye can see more than 100 fully completed and occupied (as well as innumerable nearly fully completed) one and two-story single-family residences.

90. Yet, there is virtually no construction whatsoever with respect to the New Recreation Campus. Indeed, only after the filing of the initial complaint in this matter, the Development Defendants finally caused the permit to be issued for construction of the new clubhouse and broke ground thereon. But the New Recreation Campus construction has nonetheless still not begun.

91. Further, the Development Defendants have now announced that they will complete construction of all of their homes *years* before the New Recreation Campus has any chance of being completed.

92. The Development Defendants have permitted and caused the foregoing breaches of the Development Agreement, intentionally and knowingly, with the result being irreparable injury to the Plaintiffs, considering the importance to Plaintiffs of the New Recreation Campus and related obligations expressly set forth in the Development Agreement as well as applicable regulatory law.

93. All conditions precedent to maintaining this lawsuit have been performed, excused or waived.

94. As in every contract and pursuant to Florida law, implied into the Development Agreement is an obligation on the part of Development Defendants to act in accordance with the covenant of good faith and fair dealing, and to avoid taking any actions that may frustrate or unreasonably interfere with the bargain contemplated.

95. The Development Defendants violated this obligation by virtue of their failure to disclose that they did not ever intend to comply with the express terms and obligations of the Development Agreement, let alone applicable law pertaining to real estate developments of the kind set forth in the Development Agreement, as well as by Development Defendants' failure to act reasonably or in good faith toward Plaintiffs to ensure compliance with the Development Agreement and that Plaintiffs would get the full benefit of their bargain.

96. Paragraph 17 of the Development Agreement expressly provides that the prevailing party in enforcing said agreement is entitled to payment of costs and reasonable attorneys' fees.

97. As a proximate and foreseeable result of the Defendants' flagrant and continuous



breaches of the covenant of good faith and fair dealing under the Development Agreement, Plaintiffs have been damaged in an unknown sum according to proof and are entitled to recovery of their reasonable costs and attorney's fees.

**WHEREFORE**, Plaintiffs demand judgment against the Development Defendants, for compensatory and special damages, costs, prejudgment interest, reasonable attorney's fees, and all other damages and relief which is permitted by law and which this Court deems just and proper.

**COUNTS AGAINST INDIVIDUAL DEFENDANTS ONLY**

**COUNT IV – BREACH OF FIDUCIARY DUTY**

98. Plaintiffs re-allege and reaffirm herein all of the allegations contained in paragraphs 1 through 57.

99. At all material times, Defendants Klimas and Thom served as members of the Board of Directors of the entity known as Number 2 Condominium Association - Palm Greens at Villa Delray, Inc. ("Number 2 Association"), which entity is a part of the Palm Greens community

100. At all material times, Defendants Klimas and Thom served as fiduciaries designated by Number 2 Association to carry out duties on behalf of Number 2 Association beyond its own affairs and including providing assistance with respect to securing rights and performance from 13th Floor pursuant to the Development Agreement for the benefit of all of Palm Greens – including the Recreation Corporation and the Association.

101. At all times material hereto, Defendants Klimas and Thom expressly took on and accepted the role of fiduciaries to all Plaintiffs named herein, inter alia, with respect to assuring 13th Floor's compliance or at least substantial compliance with the important Development Agreement.

102. Furthermore, Klimas and Thom's service as fiduciaries of Number 2 Association placed them in fiduciary positions of trust with respect to all affairs of the Recreation Corporation

and obligated them fiduciarily to avoid taking actions that might harm the Recreation Corporation. Among other things, the Recreation Corporation is managed directly and indirectly by directors of the Association as well as Number 2 Association and Klimas and Thom have taken on managerial roles during the pendency of the Development Agreement, Exhibit 1. In doing so, Klimas and Thom have repeatedly expressed their acceptance of their fiduciary obligations towards all Plaintiffs in this action for and with respect to all matters affecting Palm Greens appertaining or relating to the Development Agreement, Exhibit 1.

103. As a result of the foregoing positions of extensive and substantial trust and fidelity, which Klimas and Thom expressly accepted, and pursuant to the circumstances including an outstanding Development Agreement that was important to the future of the Palm Greens community as a whole, Klimas and Thom held fiduciary duties of the very highest character to Plaintiffs.

104. Under the facts and circumstances alleged herein, considering their positions and including common ownership of the Recreation Facilities by Number 2 Association and the Association as well as joint duties vis a vis the Development Agreement obligating 13th Floor, both Klimas and Thom owed solemn fiduciary duties of the highest character to Plaintiffs Recreation Corporation and the Association.

105. In violation of their fiduciary duties, Thom and Klimas have authorized and encouraged 13th Floor to violate the terms of the Development Agreement knowing and in fact intending that Plaintiffs' rights be harmed thereby.

106. In further violations of their fiduciary duties, once they were successful in prodding 13th Floor to violate the terms of the Development Agreement, Thom and Klimas publicly stated that they would never permit action to be taken against 13<sup>th</sup> Floor or any affiliate or associate of

13th Floor. Such egregious violations of fiduciary duty had the effect of and in fact did cause 13th Floor to continue violating the Development Agreement. Once 13th Floor's violations became more egregious, Thom and Klimas attempted to ratify and approve of the contractual and other violations of 13th Floor alleged herein, and this extended even further 13th Floor's violations and caused even more injuries to Plaintiffs, according to proof.

107. As a proximate and foreseeable result of Thom and Klimas' continuing breaches of their fiduciary duties, Plaintiffs have been damaged in an unknown sum according to proof.

**WHEREFORE**, Plaintiffs demand judgment against the Defendants Thoms and Klimas, for compensatory and special damages, costs, prejudgment interest, and all other damages and relief which is permitted by law and which the Court deems just and proper.

#### **COUNT V – INTERFERENCE WITH CONTRACTUAL RELATIONS**

108. Plaintiffs re-allege and reaffirm herein all of the allegations contained in paragraphs 1 through 57 and 98 through 107.

109. Neither Thom nor Klimas are parties to the Development Agreement, Exhibit 1.

110. The compliance with the Development Agreement by 13th Floor was critical to the future not only of Plaintiffs but also of Number 2 Association.

111. Thom and Klimas intentionally interfered with the Development Agreement with malice and with the express intention not only of harming Number 2 Association but also harming Plaintiffs, and each of them. Specifically, Thom and Klimas were vigorous in assuring that, at all times material hereto, neither of Plaintiffs knew or understood the full scope of 13th Floor's intentions to violate the Development Agreement, Exhibit 1. Furthermore, Thom and Klimas encouraged 13<sup>th</sup> Floor to violate the Development Agreement for the reasons set forth herein which were to enhance their ability to divert money from Number 2 Association and continue a scheme of wrongdoing that began simultaneously with the 13th Floor negotiations and ultimate execution

of the Development Agreement.

112. The intention of Thom and Klimas in inducing the foregoing breaches of the Development Agreement was to divert the attention of thousands of homeowners and/or their families in the Palm Greens community away from the severe financial problems and diversions of assets Thom and Klimas were in the midst of committing to the detriment of Number 2 Association and Plaintiffs involving diversions of money and assets that continues to this day. Thom and Klimas hoped to be able to continue their fraud involving the operation of Number 2 Association through the diversion of attention described above, and they did this to benefit themselves personally. The moment he realized that Plaintiffs had learned of this plan, Thom left the Palm Greens community and moved far away, attempting to flee the scene in the classic tale of leaving the scene of the crime.

113. In interfering with the Development Agreement, Exhibit 1, Thom and Klimas acted with malice.

114. As a proximate and foreseeable result of Thomas and Klimas' continuing interference with the Development Agreement, Exhibit 1, Plaintiffs have been damaged in an unknown sum according to proof.

**WHEREFORE**, Plaintiffs demand judgment against the Defendants Thoms and Klimas, for compensatory and special damages, costs, prejudgment interest, and all other damages and relief which is permitted by law and which the Court deems just and proper.

**ADDITIONAL COUNT FROM RECREATION ASSOCIATION**  
**AGAINST LENNAR AND AG-EHC**

**COUNT VI – EJECTMENT AGAINST LENNAR AND AG-EHC**

115. Plaintiff Recreation Corporation re-alleges and reaffirms herein all of the allegations contained in paragraphs 1 through 57.

116. Lennar and AG-EHC currently occupy all or substantially all portions of the Recreation Corporation's real estate as set forth on Exhibit 1 hereto.

117. The chain of title regarding the property wrongfully occupied by Lennar and AG-EHC is appended hereto as **Exhibit "9"** and shall be relied upon Plaintiffs at trial pursuant to the provisions of Fla. Stat. § 66.021(7).

118. The Recreation Corporation has owned the land identified as "Recreation Assoc" on Exhibit 1 hereto since March 31, 1975, when Yusem Properties of Delray Limited, as Grantor, transferred the property to Palm Greens at Villa Del Ray Master Condominium Association, Inc, as Grantee. *See* Exhibit "9." This land is more specifically described as follows:

Tract F, Plat II, Villadelrey, as same is recorded in Plat Book 30, at pages 77, 78 and 79, public records of Palm Beach County, Florida.  
Together with the East 148 feet of the South 123 feet of Tract G-1, Plat II Villadelray, as same is recorded in Plat book 30, at pages 77, 78 and 79, public records of Palm Beach County, Florida.

119. The deed attached hereto as Exhibit 9 was recorded on February 3, 1983, in book 3874, page 1364.

120. The only reason Lennar and AG-EHC claim a right to enter and occupy this land in any way, shape, or form is pursuant to the Development Agreement appended hereto as Exhibit 2, which granted the Development Defendants a construction easement over the Recreation Corporation's property. The Development Agreement was recorded on March 23, 2020, in book 31315, page 810.

121. However, as a result of the Development Defendants' multiple materials breaches of the Development Agreement, the Recreation Corporation's obligations under the Development Agreement have been suspended and the easement is no longer valid.

122. Because of the egregious breaches of the Development Agreement, Lennar and AG-EHC – and any title holder taking from them in the chain of title – no longer have any right to

occupy the Recreation Corporation's real property.

123. As of the date of filing this Second Amended Complaint, Lennar and AG-EHC are occupying and conducting construction activities on the Recreation Corporation's property, over the objection of the Recreation Corporation and without any legal right to do so.

124. The Recreation Corporation has suffered damages as a result of Lennar and AG-EHC's activities set forth above and are entitled to eject Lennar and AG-EHC from possession and occupation of the Recreation Corporation's property.

**WHEREFORE**, the Recreation Corporation demands judgment against Lennar and AG-EHC for ejectment and writ of possession ousting them from possession and occupation of the Recreation Corporation's land and equitably restraining and enjoining them from accessing the land at any point in the future, as well as for compensatory and special damages, costs, prejudgment interest, and all other damages and relief which is permitted by law and which the Court deems just and proper.

**RESERVATION OF PUNITIVE DAMAGES CLAIM**

Pursuant to the law of this jurisdiction requiring leave of Court in order to include allegations of punitive damages, Plaintiffs reserve their right to interpose such a claim as the facts and law merit.

**DEMAND FOR TRIAL BY JURY**

Plaintiffs hereby demand trial by jury on all matters triable as of right by a jury.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this October 21, 2024, a true and correct copy of the foregoing has been furnished to all Parties of Record via the Florida e-portal automatically generated email.

Dated: October 21, 2024

Respectfully submitted,

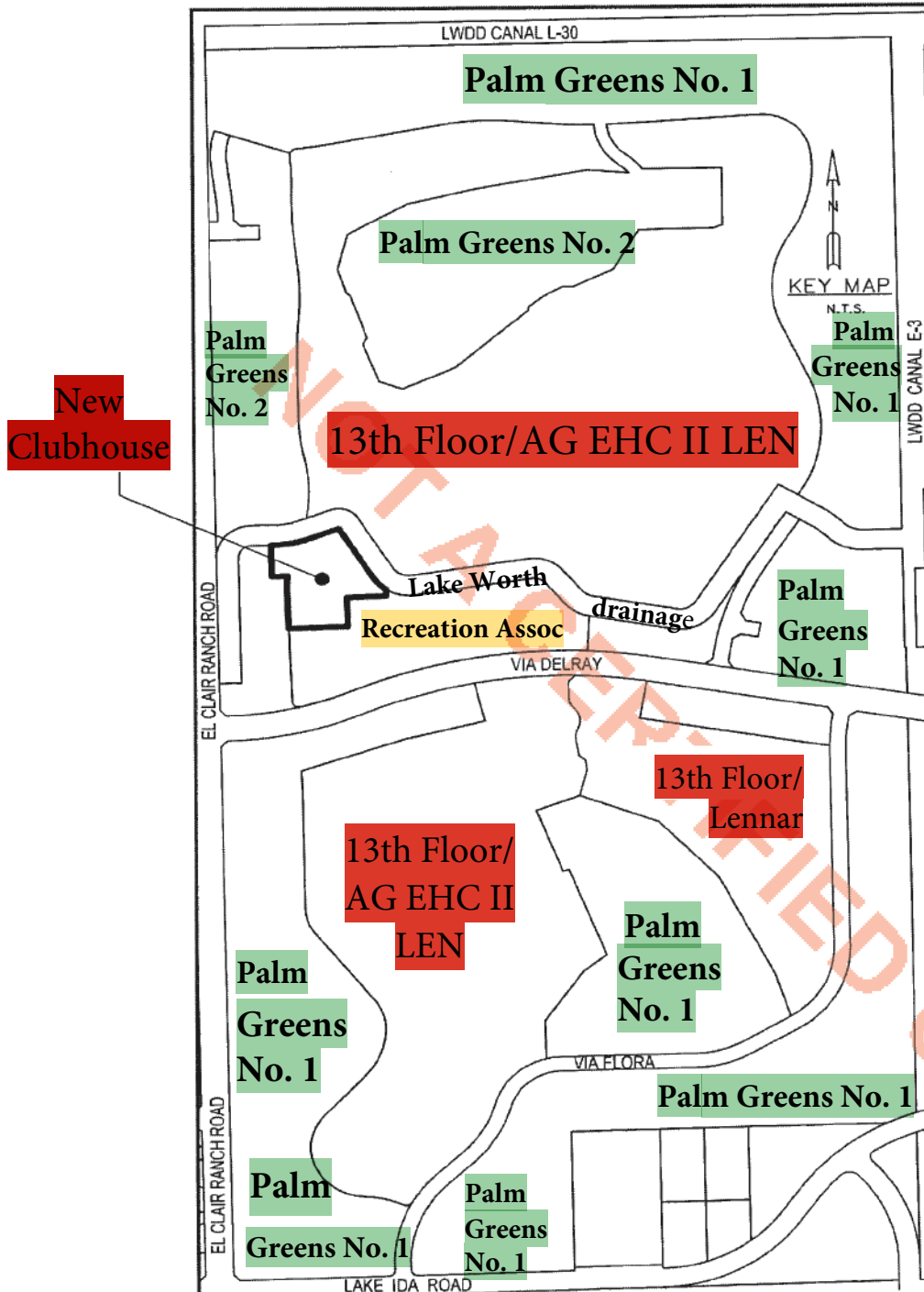
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Email: [service1@business-esq.com](mailto:service1@business-esq.com)

# **Exhibit 1**

## *Rendering*





**Exhibit 2**  
*Development Agreement*

Return recorded copy to:

Dunay Miskel Backman, LLP  
14 SE 4<sup>th</sup> Street, Suite 36  
Boca Raton, Florida 33432

Document prepared by:

Dunay Miskel Backman, LLP  
14 SE 4<sup>th</sup> Street, Suite 36  
Boca Raton, Florida 33432

**DEVELOPMENT AGREEMENT  
FOR DELRAY TRAILS AT PALM GREENS AND THE PALM GREENS AT VILLA  
DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC.**

This Development Agreement ("Agreement") is entered into as of the last date written below on the Signature Pages by 13FH PALM BEACH, LP, a Delaware limited partnership, and its successors and assigns ("13<sup>th</sup> Floor") and Number 1 Condominium Association – Palm Greens at Villa Del Ray, Inc., a Florida not for profit corporation ("Palm Greens 1"), Number 2 Condominium Association – Palm Greens at Villa Del Ray, Inc., a Florida not for profit corporation ("Palm Greens 2"), Palm Greens At Villa Del Ray Recreation Condominium Association, Inc., a Florida not for profit corporation ("Recreation Association") and Palm Greens Community Association, Inc., a Florida not for profit corporation ("Community Association") (collectively referred to herein as "Parties"). Recreation Association, Palm Greens 1 and Palm Greens 2 shall collectively be referred herein as "Associations".

**RECITALS**

A. The Recreation Association is responsible for the governance of the recreation amenity areas on the real property owned by the Recreation Association and legally described on Exhibit "C-1" (the "Recreation Association Property"), such real property being located within the residential community known as Palm Greens at Villa Del Ray (the "Palm Greens Community"), consisting of Palm Greens 1 and Palm Greens 2. The Recreation Association members are Palm Greens 1 and Palm Greens 2 and its Board of Directors is comprised of members elected or appointed by Palm Greens 1 and Palm Greens 2 unit owners or Board of Directors.

B. Community Association is the entity created by Recreation Association, Palm Greens 1 and Palm Greens 2 to assist in the negotiation and operation of this Agreement.

C. Palm Greens 1 is an entity created pursuant to Chapter 718, Florida Statutes, whose Board is responsible for governing the Palm Greens at Villa Del Ray Condominium 1 property.

D. Palm Greens 2 is an entity created pursuant to Chapter 718, Florida Statutes, whose Board is responsible for governing the Palm Greens at Villa Del Ray Condominium 2 property.

E. When this Agreement is recorded in the Palm Beach County Public Records, 13<sup>th</sup> Floor will be the record title owner of certain real property, which is a former golf course and other related lands, more specifically described on Exhibit "A" attached hereto ("Property");

F. 13<sup>th</sup> Floor desires to develop a residential community tentatively to be named "Delray Trails at Palm Greens" as more specifically illustrated on the site plan attached hereto as Exhibit "B" ("Project") and as specifically restricted by the "Developer Representations" attached hereto as Exhibit "B-1";

G. To ameliorate the potential impacts on the Palm Greens Community associated with the development of the Project, 13<sup>th</sup> Floor has offered, *inter alia*, to restrict the future utilization of the Property and to provide new benefits and amenities to the Palm Greens Community, as more specifically set forth herein and in the Developer Representations; and

H. In recognition of the substantial consideration offered by 13<sup>th</sup> Floor, the Recreation Association has offered, *inter alia*, to provide access and construction easement rights over and into Recreation Association Property and to manage the future amenities constructed by 13<sup>th</sup> Floor for the benefit of the residents of Palm Greens 1 and Palm Greens 2 and the future residents of Delray Trails at Palm Greens.

#### TERMS

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledge and confirmed, 13<sup>th</sup> Floor, the Community Association and the Associations agree to the following terms which shall be binding on the Parties and their successors and assigns.

1. Recitals. The recitals above are incorporated into this Agreement.
2. Development of the Property. 13<sup>th</sup> Floor will develop the Property substantially in accordance with the site plan attached hereto as Exhibit "B" and Developer Representations attached hereto as Exhibit "B-1". 13<sup>th</sup> Floor agrees to the following restrictions on the development and use of the Property which upon recordation of this Agreement in the Palm Beach County Public Records shall become restrictive covenants running with the land:
  - a. Types of Residential Development. 13<sup>th</sup> Floor hereby restricts the types of residential development on the Property to single family homes, townhouses, and coach homes which may be established under a

condominium form of ownership. The Project shall be comprised of residential homes that will be owned in fee simple and such homes may be leased to third parties only in compliance with the Delray Trails Association's governing documents. The Project will not be developed as rental apartments and commercial uses shall be prohibited, except sales marketing and development activities in connection with the development and sale of fee simple homes by 13th Floor, its successors and assigns, including residential home builders.

- b. Location of Residential Development. The residential units proposed for the Project shall be developed substantially in accordance with the site plan attached as Exhibit "B" as to location within the Property. 13<sup>th</sup> Floor may change the location of residential units within the Property or decrease their size or total number, so long as the Property's perimeter setbacks and landscape buffer do not decrease in size. Any change to the Project that substantially deviates from the conceptual plan attached as Exhibit "B" by decreasing perimeter setbacks or reducing the width of the landscape buffer ("Substantial Modification") shall be submitted to the Community Association for its review and approval. In addition, during the Palm Beach County DRO approval process, 13<sup>th</sup> Floor shall transmit to the Community Association an electronic copy of each plan submittal and resubmittal within five (5) business days of such submittal or resubmittal until such time as the DRO has certified the applications for public hearings by the Zoning Commission and Board of County Commissioners. Community Association will within five (5) business days following such transmittal, provide any comments to 13th Floor. The Community Association shall not unreasonably withhold such comments. However, 13<sup>th</sup> Floor shall not submit applications and plans for DRO certification until such applications and plans have been reviewed by Community Association. Following DRO certification and approval of the Project by Palm Beach County, 13<sup>th</sup> Floor agrees that it shall also provide the Community Association with any subsequent amendments to the Project prior to submitting such amendments to the County. The Community Association will within five (5) business days following such transmittal, provide any comments to 13<sup>th</sup> Floor.
- c. Residential Density. 13<sup>th</sup> Floor hereby restricts the residential density for the development of the Property to not more than 436 residential units. 13<sup>th</sup> Floor acknowledges this restriction constitutes a limitation on the number of units to be constructed on the Property and it shall not seek to increase the number of allowable units set forth herein.
- d. Height. The residential development on the Property shall not exceed two stories in height.
- e. 55-Plus. The Project shall be developed as a "55-plus" age-restricted

community comprised primarily of residents that are fifty (55) years of age and older in compliance with the Fair Housing Amendments Act, 42 U.S.C. §3601 et seq. (1988), as amended, the exemption set out in 42 U.S.C. §3607(b)(2)(C) and the regulations promulgated thereunder, and Chapter 760, Florida Statutes (2017) as amended from time to time.

- f. Open Space Areas. 13<sup>th</sup> Floor will develop open space areas within the Property substantially in accordance with the site plan attached as Exhibit "B" and, once completed, will not develop those open space areas for any other purpose.
    - g. Surface Water Management. 13<sup>th</sup> Floor will use commercially reasonable efforts to obtain its own surface water management permit from any and all applicable government agencies. Notwithstanding the above, 13<sup>th</sup> Floor will be responsible for construction and maintenance of all lakes within the Property and will be responsible for the maintenance of all water related permits required for the Project, including all water use, environmental resource and surface water maintenance permits. The Associations shall cooperate with 13<sup>th</sup> Floor in obtaining any required surface water management permits or approvals necessary for the development of Delray Trails. 13<sup>th</sup> Floor shall cooperate with the Association to obtain any surface water management permits or permit amendments required by Association(s) as a result of 13<sup>th</sup> Floor's development. 13<sup>th</sup> Floor shall assume all costs or fees that may be incurred by the Associations related to or in association with the surface water management permitting process required for either 13<sup>th</sup> Floor's development or for Palm Greens 1 and/or Palm Greens 2 surface water management permits that are the direct result of improvements being made by 13<sup>th</sup> Floor.
3. Creation of a Homeowners Association for the Project. 13<sup>th</sup> Floor will create a homeowners' association for the Project, in accordance with Chapter 720, Florida Statutes, to be named "The Delray Trails Association," or a similarly descriptive name. 13<sup>th</sup> Floor will create the Delray Trails Association before it conveys title to any of the new residential units in the Project to third parties and will transfer control of the Delray Trails Association to the non-developer members of the Delray Trails Association in accordance with Section 720.307, Florida Statutes (2017), which event is referred to as "Turnover."
4. Landscape Buffer. Prior to commencement of vertical construction within any pod, a landscape buffer shall be substantially completed around the perimeter of such pod substantially in accordance with the landscape buffer shown on the site plan attached as Exhibit "B" at 13<sup>th</sup> Floor's sole cost and expense. 13<sup>th</sup> Floor shall also provide landscaping within the entrance to the Delray Trails at Palm Greens community prior to construction of any new residential units. For clarification, final completion, inspection and certification by Palm Beach County are not required prior to issuance of a building permit within the applicable pod. The Delray Trails



Association shall perpetually maintain, at its own expense, both sides of the perimeter landscape buffer.

5. Walking Trail. Prior to issuance of the first certificate of occupancy for the Project, 13<sup>th</sup> Floor shall commence construction of a walking trail on the Property at its own cost and expense. The Delray Trails Association shall perpetually maintain, at its own expense, the walking trail. The walking trail shall be accessible to all residents of Delray Trails at Palm Greens and the Palm Greens Community.
6. Clubhouse and Amenities. Prior to issuance of any vertical building permits for construction of residential units within the Project, 13<sup>th</sup> Floor shall commence, at its own expense, construction of a new amenity area, which will include a new clubhouse, new amenities, and certain of the pre-existing amenities which 13<sup>th</sup> Floor will renovate (collectively referred to herein as the "Recreation Campus"). It is understood that 13<sup>th</sup> Floor may construct homes concurrent with construction of the Recreation Campus. The Recreation Campus will be constructed partially on the real property owned by 13<sup>th</sup> Floor and legally described on Exhibit "C" and partially on the Recreation Association Property legally described on Exhibit "C-1." A conceptual location and illustration of the Recreation Campus and maintenance facility is attached hereto as Composite Exhibit "C-2."
  - a. Recreation Campus Features. As 13<sup>th</sup> Floor will replace the Recreation Association's pre-existing clubhouse and amenities, the Recreation Campus will include at minimum: one (1) resort-style pool of a larger size than the existing pool with a separate lap area, one (1) shallow kids pool, one (1) hot tub of a larger size than the existing hot tub, one (1) cafe, one (1) library, one (1) fitness center, an administrative area with at least four (4) separate administrative office spaces with conference rooms, one (1) multi-purpose office for resident use, a billiards room, one (1) renovated shuffleboard area with a minimum of ten (10) lighted shuffleboard courts, a multi-purpose room with a minimum capacity of five hundred (500) persons to include a stage and dressing rooms, separate catering kitchen and server preparation area, card rooms with a minimum capacity of 180 persons, landscape entrance features at entrances to the Recreation Campus that include monument signage and decorative landscaping at the main entrance to the new clubhouse building, four (4) new lighted tennis courts and nine (9) renovated tennis courts with lighting, four (4) pickle ball and two (2) bocce ball courts and a separate maintenance building with a portable generator of a size and specification sufficient to service the separate maintenance building (the "Central Maintenance Facility"), collectively referred to as the ("Committed Facilities"). The pools shall be constructed in accordance with Palm Beach County's code requirements. In addition to the above, the clubhouse shall be equipped with a separate maintenance area that includes storage for We Care equipment and an emergency generator.
  - b. Renovation of Pre-Existing Amenities. Prior to or immediately upon

completion of new facilities within the Recreation Campus, 13<sup>th</sup> Floor will renovate and improve certain of the Recreation Association's existing amenities as noted in subparagraph a. above, at 13<sup>th</sup> Floor's expense. The Recreation Association will grant a Construction Easement to 13<sup>th</sup> Floor to allow for these renovations and other construction activities, as described further in paragraph 9.a. below.

- c. Temporary Management Agreement for Recreation Campus. As the amenities will be in transition during the construction of the Project, the Recreation Association and 13<sup>th</sup> Floor will enter into the Temporary Management Agreement attached hereto as Exhibit "D," which will (i) commence upon the issuance of a Certificate of Occupancy for the new clubhouse, (ii) require 13<sup>th</sup> Floor to manage the Recreation Campus, (iii) grant residents of the Palm Greens Community and residents of Delray Trails at Palm Greens the right to use the Recreation Campus, and (iv) guarantee use of the Recreation Campus for a fixed fee of \$59 per month per household until conveyance of the Recreation Campus to the Recreation Association. This Use and Management Agreement will terminate upon conveyance of the Recreation Campus to the Recreation Association on or before "Turnover," as defined in Paragraph 3 above.
- d. Ownership of Recreation Campus. On or before "Turnover," as defined in paragraph 3 above, 13<sup>th</sup> Floor will convey to the Recreation Association fee simple title to the real property legally described on Exhibit "C," which will include the new clubhouse and any new amenities constructed on this portion of the Property. As a condition precedent to this conveyance, the Recreation Association's Bylaws and Articles of Incorporation will be amended and restated in substantially the same form as provided in the "Amended and Restated Recreation Association Articles of Incorporation," attached hereto as Exhibit "E-1" and incorporated herein by this reference (the "Amended and Restated Articles"), and the "Amended and Restated Recreation Association Bylaws," attached hereto as Exhibit "E-2" and incorporated herein by this reference (the "Amended and Restated Bylaws"). The Amended and Restated Articles and the Amended and Restated Bylaws shall (i) increase the size of the Board to nine (9) Directors and to provide that three (3) Directors shall be elected or appointed by the Delray Trails Association, (ii) provide the Delray Trails Association is a "Member Association" of the Recreation Association entitled to elect three (3) Directors to the Recreation Association Board commencing upon the conveyance of fee simple title to the real property legally described on Exhibit "C," to the Recreation Association from 13<sup>th</sup> Floor, its successors and assigns, and (iii) provide a cost sharing methodology for allocation of the Recreation Association's expenses which allocates one-third (1/3) of the Recreation Association's expenses to the Delray Trails Association, with the remaining two-thirds (2/3's) being allocated to each of Palm Greens 1 and Palm Greens 2 proportionately based upon the respective number of condominium units in each of Palm Greens 1 and Palm Greens 2 multiplied



by two-thirds (2/3's) of the total amount of the Recreation Association's expenses, and then divided by the combined number of condominium units in both Palm Green 1 and Palm Greens 2.

- e. Warranty for Recreation Campus. On or before Turnover (as defined herein), 13<sup>th</sup> Floor shall assign, set over and transfer to the Recreation Association all of 13<sup>th</sup> Floor's right, title and interest in, to and under any guaranties and warranties in effect as of the Turnover date with respect to any portion of the Recreation Campus, or the personal property located therein, if and only to the extent the same are assignable and may be assigned or quitclaimed by 13<sup>th</sup> Floor without expense to the Recreation Association.
  - f. Shared Facilities Agreement. A Recreation Campus Use, Exclusive Management and Easement Agreement (the "Shared Facilities Agreement") is attached hereto as Exhibit "K," and incorporated herein by this reference. In the event that any provision of the Amended and Restated Articles relating to the Delray Trails Association being a "Member Association" is challenged by the filing of a lawsuit against 13<sup>th</sup> Floor, the Recreation Association, or any other party, and such lawsuit results in a temporary injunction being issued restricting, impeding or preventing the Delray Trails Association from becoming a Member Association of the Recreation Association, then Delray Trails Association shall no longer become a Member Association of the Recreation Association, and the Shared Facilities Agreement shall, in that event, and only in that event, become effective and binding against the parties to the Shared Facilities Agreement; provided, however, in the event that such lawsuit is finally adjudicated by a court of competent jurisdiction, including all appeals, and such adjudication results in Delray Trails Association being a Member Association of the Recreation Association, then in that event, and only in that event, the Shared Facilities Agreement shall automatically terminate and the Delray Trails Association shall revert back to being a Member Association. In the event that such lawsuit is finally adjudicated by a court of competent jurisdiction, including all appeals, and such adjudication results in Delray Trails Association not being a Member Association of the Recreation Association, then the Delray Trails Association shall no longer become a Member Association of the Recreation Association, and the Shared Facilities Agreement shall, in that event, and only in that event, become effective and binding against the parties to the Shared Facilities Agreement.
7. Payment from 13<sup>th</sup> Floor to the Associations.
- a. Impact Mitigation Payment. To mitigate the potential adverse impacts of the Project on the Palm Greens Community, 13<sup>th</sup> Floor will pay a total of one million dollars (\$1,000,000.00) (the "Impact Mitigation Payment") to Palm Greens 1 and Palm Greens 2 (\$500,000.00 each) in two (2) payments

as follows: 13<sup>th</sup> Floor will make the first payment of \$500,000.00 (\$250,000.00 each) on or before fifteen (15) days after the date on which 13<sup>th</sup> Floor closes on the purchase of the Property. 13<sup>th</sup> Floor will make the second payment in the amount of \$500,000.00 (\$250,000.00 each) on or before fifteen (15) days after issuance of the first vertical building permit for construction of a residential unit within the Project or eighteen (18) months from the date that 13<sup>th</sup> Floor closes on the purchase of the Property, whichever comes first. In the event 13<sup>th</sup> Floor assigns this Agreement to any third party that is not owned or affiliated with 13<sup>th</sup> Floor, the entire impact fee payment shall be due and payable prior to any such assignment. Upon final payment of the Impact Mitigation Payment, Escrow Agent shall record in the Public Records of Palm Beach County, Florida, the Receipt of Payment, Release and Amendment to Declaration of Restrictive Covenants attached hereto as Exhibit "F" to acknowledge the payment of the Impact Mitigation Payment and modify and amend this Agreement to delete this Section 7.a. The Parties acknowledge that upon payment of the full Impact Mitigation Payment to Palm Greens 1 and Palm Greens 2, that 13<sup>th</sup> Floor has satisfied this obligation and shall owe no additional monies to the Associations.

- b. Reimbursement for Attorneys' Fees. 13<sup>th</sup> Floor hereby agrees to reimburse the Community Association for the reasonable attorneys' fees it incurs for the negotiation of and legal counsel provided in relation to this Agreement, which total reimbursement shall not exceed One Hundred and Fifty Thousand Dollars (\$150,000.00). In order to receive any reimbursement payment, the Community Association shall provide to 13<sup>th</sup> Floor evidence of payment of the attorneys' fees incurred. 13<sup>th</sup> Floor shall make an initial Fifty Thousand Dollar (\$50,000.00) payment to the Community Association within five (5) business days following approval of the Development Agreement by the membership of Palm Greens 1 and Palm Greens 2 and delivery of the fully executed Agreement with all exhibits to the Escrow Agent. Any remaining reimbursement payment shall be paid to the Community Association concurrent with the first payment due in accordance with Paragraph 7.a. above.
8. Access Easement over Recreation Association Property. On the same date of the execution of this Agreement, the Recreation Association will execute and deliver to 13<sup>th</sup> Floor the Access Easement attached hereto as Exhibit "G" and a Plat Dedication Agreement attached hereto as Exhibit "G-1." The Access Easement will grant to 13<sup>th</sup> Floor, its successors and assigns, including the Delray Trails Association and its members, perpetual ingress and egress rights over and across the area identified on Exhibit "G." The Plat Dedication Agreement will require the Recreation Association join in and execute the Plat for the Project to dedicate the easement area identified in Exhibit "G" as a platted right of way for the benefit of the Palm Greens Community and its residents and, if required by Palm Beach County, create a separate recreation pod on the Plat that includes the property legally described in Exhibit "C" and Exhibit "C-1". The Recreation Association also

acknowledges and agrees that it will be required to sign the Palm Beach County Ownership Consent Form submitted to Palm Beach County with the development applications necessary to obtain approval of the Project. 13<sup>th</sup> Floor, and upon "Turnover" the Delray Trails Association, shall be financially responsible for the installation and maintenance of an entrance roadway and sidewalks within the easement area identified in Exhibit "G" and will indemnify and hold harmless Recreation Association from any and claims or liabilities in association with the use of the easement area. The executed Access Easement and Plat Dedication Agreement will be held in escrow by the Escrow Agent defined below and will not be recorded in the Palm Beach County Public Records until 13<sup>th</sup> Floor makes the first \$500,000.00 payment (\$250,000.00 each) to Palm Greens 1 and Palm Greens 2. In the event that 13<sup>th</sup> Floor does not close on the Property, the Plat Dedication Agreement shall be null and void.

9. Construction Easement Agreement over Recreation Association Property and Mitigation of Adverse Impacts of Construction Activities.

- a. Construction Easement Agreement. On the same date of execution of this Agreement, the Recreation Association and 13<sup>th</sup> Floor will execute the Construction Easement Agreement attached hereto as Exhibit "H." The Construction Easement Agreement, *inter alia*, will grant 13<sup>th</sup> Floor and its agents and contractors the right to engage in construction activities on Recreation Association Property, including renovation to the existing amenities and construction of the Recreation Campus. The Construction Easement Agreement will also obligate 13<sup>th</sup> Floor to indemnify the Recreation Association for all of these construction activities and insure against any loss incurred by the Recreation Association as a direct and proximate result of the construction activities. The executed Construction Easement Agreement will be held in escrow by the Escrow Agent defined below and will not be recorded in the Palm Beach County Public Records until 13<sup>th</sup> Floor makes the first \$500,000.00 payment (\$250,000.00 each) to the Palm Greens 1 and Palm Greens 2
- b. Mitigation of Adverse Impacts of Construction Activities. 13<sup>th</sup> Floor will use commercially reasonable efforts to ensure adverse noise and air quality impacts from construction of the Project will be minimized by complying with all Palm Beach County and State construction regulations. 13<sup>th</sup> Floor will install construction fences and/or gates around any site under construction and will utilize silt cloth, water trucks and any other materials commonly utilized to reduce impacts from construction in order to comply with noise, sound, and environmental regulations imposed by Palm Beach County. It is also specifically agreed by the Parties that the Community Association Board will be permitted to monitor the noise levels and dust particle levels and relay any violations to 13<sup>th</sup> Floor. In the event any noise, sound, or environmental concerns are observed by the Community Association's Board, a representative of the Community Association's Board shall contact 13<sup>th</sup> Floor's representative to report such concerns and 13<sup>th</sup> Floor shall

thereafter use commercially reasonable efforts to address any such concerns as soon as reasonably practical. Until further notice from 13<sup>th</sup> Floor, the 13<sup>th</sup> Floor representative for such reporting purposes is Mr. Landon Massel.

- c. Access During Construction. 13<sup>th</sup> Floor shall ensure that residents of Palm Greens maintain access to the existing amenities during construction of the Recreation Campus. Accordingly, 13<sup>th</sup> Floor shall construct the Recreation Campus in phases in order to permit the residents of the Palm Greens Community to utilize existing components of the existing amenities (including pools, tennis courts, offices and meeting rooms) until construction of similar components of the Recreation Campus are completed. Notwithstanding the foregoing, 13<sup>th</sup> Floor shall have the sole and unilateral authority to temporarily (no more than 5 continuous days) close or otherwise restrict access to any of the existing amenities as necessary to ensure the safety of Palms Greens residents during construction of the Recreation Campus.
10. Maintenance of the Property Prior to Site Plan Approval. During the time period prior to closing on the Property, the Property will be maintained by a third-party vendor engaged by the seller so that it is free from trash, debris, overgrown vegetation, and rodents. The seller shall be reimbursed by 13<sup>th</sup> Floor for any costs incurred by the seller in connection with the third-party vendor engaged to maintain the Property.
11. Cooperation Among the Parties During Development Application Process. The Parties agree to cooperate during the development application and site plan approval process. All development applications to Palm Beach County or any other governmental authority shall be substantially consistent with Exhibit "B" and "B-1". 13<sup>th</sup> Floor shall furnish electronic copies of submittal and resubmittal materials in accordance with Paragraph 2.b above. 13<sup>th</sup> Floor shall be responsible for all costs related to any submittal to governmental agencies and shall be responsible for all conditions of approval and any obligations imposed on any of the Associations as a result of its applications. The Recreation Association hereby authorizes 13<sup>th</sup> Floor and its agents to process any applications necessary to develop the Project, including, but not limited to, a development order amendment application, replat application and building permit applications, and the Recreation Association acknowledges and agrees that Palm Beach County may require it to sign certain documentation related to such development applications establishing ownership over a portion of the Project. The Recreation Association also agrees to execute and deliver to 13<sup>th</sup> Floor the "Letter of Support" attached hereto as Exhibit "I" at the same time that this Agreement is executed.
12. Failure to Close. In the event that 13<sup>th</sup> Floor does not close on the Property within two (2) years from the Effective Date, this Agreement, including all terms, provisions and Exhibits that have not already been implemented, shall

automatically terminate and be of no further force or effect unless 13th Floor, at its sole discretion, continues to pursue the acquisition of the Property but has not been able to close through no fault of its own (i.e., litigation, lack of seller cooperation, etc.). In the event that 13th Floor does not close on the Property, the Plat Dedication Agreement and Access Easement shall automatically terminate and be of no further force or effect. The Parties further agree that in the event 13th Floor files for bankruptcy prior to closing or prior to issuance of a land development permit from Palm Beach County, the Plat Dedication Agreement and Access Easement shall automatically terminate and be of no further force or effect. In the event that the Plat Dedication Agreement and Access Easement have been recorded prior to such termination, the Parties shall execute and record an acceptable document in the Palm Beach County Public Records memorializing such termination.

13. Representation and Warranties.

- a. 13th Floor. 13th Floor is a limited partnership validly existing under the laws of the State of Delaware and duly authorized to operate in the State of Florida. 13th Floor has the full power and capacity to own and transfer property and enter into this Agreement. 13th Floor's execution, delivery, and performance of this Agreement have been duly authorized by all necessary individuals and/or entities.
- b. The Recreation Association. The Recreation Association is a non-profit corporation validly existing under and duly authorized to operate in the State of Florida. The Recreation Association has the full power and capacity to own property and transfer property and enter into this Agreement, on behalf of its members. However, the approval and implementation of this Agreement by the Recreation Association shall be contingent upon approval of the Board of Directors of the Recreation Association, Palm Greens 1 and Palm Greens 2, as well as a majority vote of the entire membership of each of Palm Greens 1 and Palm Greens 2, and which shall also include a vote to approve the Amended and Restated Articles attached hereto as Exhibit "E-1" and the Amended and Restated Bylaws attached hereto as Exhibit "E-2". The Recreation Association's execution, delivery, and performance of this Agreement have been duly authorized by all necessary individuals and/or entities.
- c. Palm Greens 1. Palm Greens 1 is a non-profit corporation validly existing under and duly authorized to operate in the State of Florida. The Board of Directors of Palm Greens 1 has the full power and capacity enter into this Agreement, on behalf of its members. The Palm Green 1 Board of Director's execution, delivery, and performance of this Agreement have been duly authorized by all necessary individuals and/or entities.
- d. Palm Greens 2. Palm Greens 2 is a non-profit corporation validly existing under and duly authorized to operate in the State of Florida. The Board of



Directors of Palm Greens 2 has the full power and capacity enter into this Agreement, on behalf of its members. The Palm Green 2 Board of Director's execution, delivery, and performance of this Agreement have been duly authorized by all necessary individuals and/or entities.

- e. Community Association. The Community Association is a non-profit corporation validly existing under and duly authorized to operate in the State of Florida. The Community Association has the full power and capacity enter into this Agreement, on behalf of its members. The Community Association's execution, delivery, and performance of this Agreement have been duly authorized by all necessary individuals and/or entities.
14. Amendment. This Agreement shall not be modified, waived, amended or released, except by written instrument executed by the Parties; provided, however, after the Turnover of the Delray Trails Association, the Delray Trails Association shall have the right to approve any such modification, waiver, amendment, or release on behalf of and instead of 13<sup>th</sup> Floor. Any amendment, modification, waiver or release of this Agreement shall be recorded in the public records of Palm Beach County, Florida.
15. Notice. Except as otherwise provided herein, all notices and other communications provided for hereunder shall be in writing and sent by certified mail return receipt requested, by overnight mail delivery with proof of delivery, or by hand delivery, and shall be deemed effective if mailed, when deposited in a United States Postal Service mailbox with postage prepaid, if by overnight mail delivery when deposited with the overnight mail delivery company with postage prepaid, or if hand delivered when personally handed to the Party to whom the notice or other communication is addressed. The Parties' representatives for notice purposes are:
- |                             |   |
|-----------------------------|---|
| The Recreation Association: | Palm Greens at Villa Del Ray Recreation<br>Condominium Association, Inc.<br>5801 Via Delray<br>Delray Beach, FL 33484 |
| Palm Greens 1:              | Number 1 Condominium Association – Palm<br>Greens at Villa Del Ray, Inc.<br>5801 Via Delray<br>Delray Beach, FL 33484 |
| Palm Greens 2:              | Number 2 Condominium Association – Palm<br>Greens at Villa Del Ray, Inc.<br>5801 Via Delray<br>Delray Beach, FL 33484 |
| Community Association:      | Palm Greens Community Association, Inc.<br>5801 Via Delray  |

Delray Beach, FL 33484

With a copy to:

Andre S. Parke  
Sachs Sax Caplan P.L.  
6111 Broken Sound Parkway NW  
Suite 200  
Boca Raton, FL 33487

13th Floor:

13FH PALM BEACH, LP  
848 Brickell Avenue, PH1  
Miami, FL 33131

With a copy to:

Scott Backman  
Dunay, Miskel & Backman, LLP  
14 SE 4 Street, Suite 36  
Boca Raton, FL 33432

16. Default. No party shall be held in default of any provision of this Agreement unless and until the putative non-defaulting party gives notice in writing to the putative defaulting party of the alleged default and 30 days to cure the alleged default.
17. Enforcement. In the event a Party initiates litigation to enforce any provision of this Agreement, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees incurred as a result of the litigation.
18. Applicable Law; Venue. In the event a Party initiates litigation to enforce any of the provisions of this Agreement, the Agreement shall be construed in accordance with the laws of Florida and venue shall be in Palm Beach County, Florida.
19. Execution and Escrow Agreement. Following a final vote and ratification by the Associations, the Parties shall, within two (2) business days, execute and deliver in escrow their respective fully executed original counterparts of this Agreement and all of the Exhibits hereto to Scott Backman, Esq. ("Escrow Agent"). The original executed Agreement and Exhibits will be released from escrow by the Escrow Agent pursuant to the terms of the separate Escrow Agreement, which is attached as Exhibit "J," to be executed between the Parties simultaneously with the execution of this Agreement.
20. Recordation and Effective Date. This Agreement shall be effective upon execution by all Parties ("Effective Date"). This Agreement shall be recorded in the Public Records of Palm Beach County, Florida, in accordance with the timeframes and conditions established in the Escrow Agreement; provided, however, the terms of this Agreement shall be binding upon the Parties upon execution by all Parties.
21. Construction. All Parties to this Agreement participated in the negotiation and preparation of this Agreement, and accordingly this Agreement shall not be

construed more strictly against any of the Parties to this Agreement. In construing this Agreement, the captions and section paragraph headings shall be disregarded. All of the exhibits attached to this Agreement are incorporated in and made a part of this Agreement.

22. Severability. If any court of competent jurisdiction shall declare any section, paragraph or part of this Agreement invalid or unenforceable, then such judgment or decree shall have no effect on the enforcement or validity of any other section, paragraph or part hereof, and the same shall remain in full force and effect.
23. Time is of the Essence. Time shall be of the essence for each and every provision hereof.
24. Entire Agreement. This Agreement sets forth the entire Agreement and understanding between the Parties relating in any way to the subject matter contained herein and merges all prior discussions between the Parties. The Agreement may not be amended or modified except by written instrument signed by both Parties.
25. Exhibits. The Exhibits are incorporated hereto and have the same force and effect as if set forth in full.
26. Covenants Running With Land. The benefits and burdens of each covenant set forth in this Agreement shall run with the title to the Property and the Recreation Association Property and shall bind or benefit the record title owners thereof, their respective successors, successors-in-title, and assigns. Notwithstanding the foregoing, with respect to the Impact Mitigation Payment obligation required pursuant to Section 7.a. hereof, such obligation shall be binding as a covenant running with the land only upon 13<sup>th</sup> Floor's successor's in title who have or take title to all of the Property and not who have or take title to only a portion thereof, including the individual record title owners of any lots or units created for the Project. Similarly, the Del Ray Trails Association formed for Project shall not be obligated under this Agreement for payment of the Impact Mitigation Payment obligation required pursuant to Section 7.a. hereof.

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Signature Pages

IN WITNESS WHEREOF, 13<sup>th</sup> Floor has executed this Development Agreement as follows:

Witnesses:

Janet L. Trump  
Print Name: Janet L. Trump  
Janet L. Trump  
Print Name: Janet L. Trump

**13FH PALM BEACH, LP**, a Delaware limited partnership and/or its Permitted Assigns

By: [Signature]  
Its: Authorized Representative  
Name: Michael Nunziata

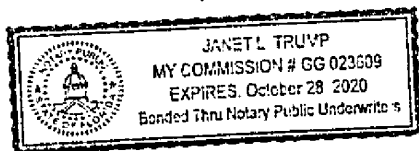
Date of Execution: 2/19/19

STATE OF Florida )  
COUNTY OF Broward ) SS.

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of February, 2019, by Michael Nunziata, as Authorized Representative of **13FH PALM BEACH, LP**, a Delaware limited partnership, on behalf of the limited partnership. He or she is: ☒ personally known to me, or ☐ produced identification. Type of identification produced \_\_\_\_\_.

(Seal)

My commission expires:



NOTARY PUBLIC:

Print name:

Janet L. Trump

[SIGNATURES CONTINUE ON THE NEXT PAGE]

IN WITNESS WHEREOF, Palm Greens At Villa Del Ray Recreation Condominium Association, Inc. has executed this Development Agreement as follows:

Witnesses:

Palm Greens At Villa Del Ray  
Recreation Condominium Association,  
Inc., a Florida not for profit corporation

[Signature]  
Print Name: Andre Labe  
[Signature]  
Print Name: Susan S Herman

By: [Signature]  
Its: PRESIDENT  
Name: THOMAS T. ALDRICH  
Date of Execution: 4/16/19

STATE OF )  
COUNTY OF ) SS.  
)

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of APRIL, 2019, by THOMAS ALDRICH, as PRESIDENT of Palm Greens At Villa Del Ray Recreation Condominium Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He or she is: ☒ personally known to me, or ☐ produced identification. Type of identification produced \_\_\_\_\_

(Seal)  
My commission expires: 12/06/21

NOTARY PUBLIC:

Print name: MONIQUE HUNT



[SIGNATURES CONTINUE ON THE NEXT PAGE]

IN WITNESS WHEREOF, Number 1 Condominium Association – Palm Greens at Villa Del Ray, Inc., has executed this Development Agreement as follows:

Witnesses:

Number 1 Condominium Association –  
Palm Greens at Villa Del Ray, Inc., a  
Florida not for profit corporation

[Signature]  
Print Name: Andee Ricketts  
[Signature]  
Print Name: Susan R. Herman

By: Marilyn Dickmann  
Its: President  
Name: MARILYN DICKMANN  
Date of Execution: 4/16/19

STATE OF )  
COUNTY OF ) SS.

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of April, 2019, by MARILYN DICKMANN, as PRESIDENT of Number 1 Condominium Association – Palm Greens at Villa Del Ray, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He or she is: ☒ personally known to me, or ☐ produced identification. Type of identification produced \_\_\_\_\_

(Seal)  
My commission expires: 12/08/21


NOTARY PUBLIC:  
MONIQUE HUNT  
Print name:


[SIGNATURES CONTINUE ON THE NEXT PAGE]



IN WITNESS WHEREOF, Number 2 Condominium Association – Palm Greens at Villa Del Ray, Inc., has executed this Development Agreement as follows:

Witnesses:

  
Thomas T. A. Reich  
Print Name: \_\_\_\_\_

  
Print Name: Sandra Parks

Number 2 Condominium Association –  
Palm Greens at Villa Del Ray, Inc., a  
Florida not for profit corporation

By: Susan R. Herman

Its: President

Name: Susan R. Herman

Date of Execution: 6/16/19

STATE OF )  
COUNTY OF ) SS.

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of April, 2019, by SUSAN HERMAN, as PRESIDENT of Number 2 Condominium Association – Palm Greens at Villa Del Ray, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He or she is: ☒ personally known to me, or ☐ produced identification. Type of identification produced \_\_\_\_\_

(Seal)

My commission expires: 12/08/21

NOTARY PUBLIC:

Monique Hunt

Print name: \_\_\_\_\_



[SIGNATURES CONTINUE ON THE NEXT PAGE]

IN WITNESS WHEREOF, Palm Greens Community Association, Inc. has executed this Development Agreement as follows:

Witnesses:

Palm Greens Community Association,  
Inc., a Florida not for profit corporation

Susan R. Neuman  
Print Name: Susan R. Neuman

OK All  
Print Name: Andrew Baker

By: Thomas T. Aldrich

Its: President

Name: Thomas T. Aldrich

Date of Execution: 4/16/19

STATE OF )  
                  ) SS.  
COUNTY OF )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of April, 2019, by THOMAS ALDRICH, as PRESIDENT of Palm Greens Community Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He or she is: ☒ personally known to me, or ☐ produced identification. Type of identification produced \_\_\_\_\_.

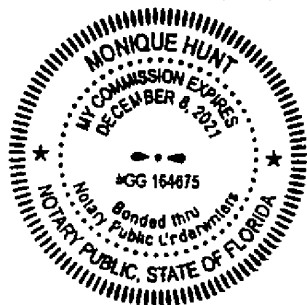
(Seal)

My commission expires: 12/08/21

NOTARY PUBLIC

MONIQUE HUNT

Print name:



**LIST OF EXHIBITS**

<b>Exhibit "A"</b>	<b>Legal Description of the Property</b>
<b>Exhibit "B"</b>	<b>Project Site Plan</b>
<b>Exhibit "B-1"</b>	<b>Developer Representations</b>
<b>Exhibit "C"</b>	<b>New Clubhouse Real Property</b>
<b>Exhibit "C-1"</b>	<b>Recreation Association Real Property</b>
<b>Exhibit "C-2"</b>	<b>Recreation Campus &amp; Maintenance Facility Plan</b>
<b>Exhibit "D"</b>	<b>Temporary Management Agreement</b>
<b>Exhibit "E-1"</b>	<b>Amended and Restated Articles</b>
<b>Exhibit "E-2"</b>	<b>Amended and Restated Bylaws</b>
<b>Exhibit "F"</b>	<b>Receipt of Payment, Release and Amendment to Declaration of Restrictive Covenants</b>
<b>Exhibit "G"</b>	<b>Access Easement</b>
<b>Exhibit "G-1"</b>	<b>Plat Dedication Agreement</b>
<b>Exhibit "H"</b>	<b>Construction Easement Agreement</b>
<b>Exhibit "I"</b>	<b>Letter of Support from Recreation Association</b>
<b>Exhibit "J"</b>	<b>Escrow Agreement</b>
<b>Exhibit "K"</b>	<b>Recreation Campus Use, Exclusive Management and Easement Agreement</b>

**EXHIBIT A**

**[Legal Description of the Property]**

The land referred to herein below is situated in the County of Palm Beach, State of Florida, and is described as follows:

**PARCEL 1:**

Certain lands in the West Half (W1/2) of Section 11 Township 46 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:

Tract G-1 of Plat II VILADELRAY, according to the Plat thereof, recorded in Plats Book 30, at Page 77, of the Public Records of Palm Beach County, Florida, less and except the East 148 feet of the South 123 feet thereof.

**AND THE FOLLOWING DESCRIBED PREMISES:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida being more particularly described as follows:

Beginning at the Northwest corner of Tract G-1, as shown on a Plat entitled "A PLANNED UNIT DEVELOPMENT, PLAT II, VILADELRAY, Palm Beach County, Florida", recorded in Plat Book 30, Pages 77, 78 and 79, of the Public Records of Palm Beach County, Florida; thence along the following numbered courses:

1. South 16° 59' 11" West, along the Westerly line of Tract G-1; a distance of 45.69 feet to a point of curvature; thence.....
2. Southerly, along the arc of a 535.00 foot radius curve, concave Easterly, whose long chord runs South 11° 33' 19" West, an arc distance of 101.42 feet to a point; thence.....
3. South 88° 17' 22" West, 59.03 feet to a point; thence.....
4. North 00° 28' 16" West, 134.28 feet to a point in the Southerly right-of-way line of Lake Worth Drainage District Canal L-31; thence.....
5. North 89° 31' 44" East along said right-of-way 10.51 feet to a point of curvature; thence.....
6. Easterly, along the arc of a 365.00 foot radius curve, concave Northerly, whose chord bears North 82° 55' 54" East, an arc distance of 84.05 feet to the Point of Beginning.

**PARCEL 2:**

Certain lands in the West Half (W1/2) of Section 11, Township 46 South, Range 42 East, Palm Beach, County, Florida, more particularly described as follows.

Tract G of Plat II VILLADELRAY, according to the Plat thereof, recorded in Plat Book 30, Page 77, Public Records of Palm Beach County, Florida.

**PARCEL 3:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Begin at a point 5.00 feet Westerly from the Southwest corner (as measured along the arc of a curve) of Section 10, VILLADELRAY on the South boundary of Section 11, VILLADELRAY, as both are shown and recorded in Plat Book 36, Pages 19, 20, 21 and 22, of the Public Records of Palm Beach County, Florida, run (bearings cited herein are in the meridian of said Villadelray Sections 10 and 11) by the following numbered courses:

(Courses 1 through 11 are on the South boundary of aforementioned Villadelray Section 10 and the West boundary of Villadelray, Sections 8 and 9, as said Sections 8 and 9, are recorded in Plat Book 34, Pages 173 through 175)

1. Said Point of Beginning being on the arc of a curve, concave Northerly, having a radius of 1909.16 feet and a central angle of  $1^{\circ} 23' 57''$ ; thence.....
2. From the Point of Beginning run along the arc of said curve and the South boundary of Villadelray Section 10 in an Easterly direction a distance of 46.57 feet to the Point of Tangency of said curve; thence.....
3. Continue North  $86^{\circ} 39' 20''$  East, along said South boundary of Villadelray Section 10, a distance of 524.93 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 180.00 feet and a central angle of  $85^{\circ} 00' 00''$ ; thence.....
4. Run along the arc of said curve in a Southeasterly direction, a distance of 267.04 feet, to a Point of compound curve, concave Easterly, having a radius of 509.73 feet and a central angle of  $39^{\circ} 35' 03''$ ; thence.....
5. Run along the arc of said curve in a Southwesterly direction, a distance of 352.16 feet to the Point of Tangency; thence.....
6. South  $31^{\circ} 14' 23''$  West, a distance of 40.32 feet to the Point of Curvature of a curve concave Easterly, having a radius of 405.00 feet and a central angle of  $55^{\circ} 20' 03''$ ;



thence.....

7. Run along the arc of said curve, a distance of 391.13 feet to the Point of Tangency of said curve; thence.....

8. South  $24^{\circ} 05' 40''$  East, a distance of 235.99 feet to the Point of Curvature of a curve concave Westerly, having a radius of 510.00 feet and a central angle of  $56^{\circ} 45' 00''$ ; thence.....

9. Run along the arc of said curve in a Southerly direction, a distance of 505.14 feet to the Point of Tangency of said curve; thence.....

10. South  $32^{\circ} 39' 20''$  West, a distance of 19.22 feet to a point on the Northerly Right-of-Way of Lake Worth Drainage District Canal L-31 as recorded in Official Record Book 2218, Page 1150, Public Records of Palm Beach County, Florida; thence.....

(Courses 11 through 22 being on the North Right-of-Way of said L-31 Canal)

11. North  $57^{\circ} 20' 40''$  West, a distance of 85.00 feet; thence.....

12. South  $32^{\circ} 39' 20''$  West, 585.50 feet to the Point of Curvature of a curve concave Northwesterly, having a radius of 71.00 feet and a central angle of  $68^{\circ} 00' 00''$ ; thence.....

13. Run along the arc of said curve in a Westerly direction, a distance of 84.26 feet to the Point of Tangency of said curve; thence.....

14. North  $79^{\circ} 20' 40''$  West, a distance of 318.00 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of  $40^{\circ} 00' 00''$ ; thence.....

15. Run along the arc of said curve in a Northwesterly direction, a distance of 49.57 feet to the Point of Tangency of said curve; thence.....

16. North  $39^{\circ} 20' 40''$  West, a distance of 113.48 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 140.00 feet and a central angle of  $58^{\circ} 53' 01''$ ; thence.....

17. Run along the arc of said curve in a Westerly direction, a distance of 143.88 feet to the Point of Tangency of said curve; thence.....

18. South  $81^{\circ} 46' 19''$  West, a distance of 445.07 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of  $67^{\circ} 00' 00''$ ; thence.....

19. Run along the arc of said curve in a Northwesterly direction, a distance of 83.03 feet to the Point of Tangency of said curve; thence.....

20. North N 31° 13' 41" West, 248.41 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 85.00 feet and a central angle of 79° 14' 35"; thence.....
21. Run along the arc of said curve in a Westerly direction, a distance of 117.56 feet to the Point of Tangency of said curve; thence.....
22. South 69° 31' 44" West, a distance of 96.66 feet to a point on the arc of a curve concave Westerly, having a radius of 595.00 feet and a central angle of 24° 26' 59"; thence.....
23. From a tangent bearing of North 11° 23' 27" East, run along the arc of said curve, a distance of 253.90 feet to a Point of Reverse Curvature of a curve concave Easterly, having a radius of 770.00 feet and a central angle of 12° 37' 03"; thence.....
24. Run along the arc of said curve in a Northerly direction, a distance of 169.57 feet to the Point of Tangency of said curve; thence.....
25. North 0° 26' 28" West, a distance of 238.00 feet to the Point of Curvature of a curve concave Easterly having a radius of 2056.88 feet and a central angle of 5° 30' 00"; thence.....
26. Run along the arc of said curve in a Northerly direction, a distance of 197.45 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1115.47 feet and a central angle of 11° 00' 00"; thence.....
27. Run along the arc of said curve, a distance of 214.16 feet to the Point of Tangency of said curve; thence.....
28. North 5° 56' 28" West, a distance of 141.14 feet to the Point of Curvature of a curve concave Easterly, having a radius of 1210.03 feet and a central angle of 8° 00' 00"; thence.....
29. Run along the arc of said curve in a Northerly direction, a distance of 168.95 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1311.74 feet and a central angle of 7° 07' 48"; thence.....
30. Run along the arc of said curve in a Northerly direction, a distance of 163.24 feet to a Point of Reverse Curvature of a curve concave Southeasterly, having a radius of 25.00 feet and a central angle of 88° 27' 34"; thence.....
31. Run along the arc of said curve in a Northeasterly direction, a distance of 38.60 feet to a Point of Reverse Curvature of a curve concave Northwesterly, having a radius of 2094.56 feet and a central angle of 3° 47' 43", said point also being on the South boundary of Villadelray, Section 11, as recorded in Plat Book 36, Pages 19, 20, 21 and 22; thence.....
32. Run along the arc of said curve in an Easterly direction, a distance of 138.74 feet to the

**Point of Tangency of said curve; thence.....**

**33. North 79° 35' 35" East, a distance of 419.76 feet to the Point of Curvature of a curve concave Southerly, having a radius of 1000.00 feet and a central angle of 17° 52' 30"; thence.....**

**34. Run along the arc of said curve in an Easterly direction, a distance of 311.98 feet to a Point of Reverse Curvature of a curve concave Northerly, having a radius of 1909.16 feet and a central angle of 7° 54' 52"; thence.....**

**35. Run along the arc of said arc in an Easterly direction, a distance of 263.72 feet to a point on the arc of a curve concave Easterly, having a radius of 216.22 feet and a central angle of 49° 28' 12"; thence.....**

**36. From a tangent bearing of South 01° 09' 18" East, run along the arc of said curve, a distance of 186.69 feet to the Point of Tangency of said curve; thence.....**

**37. Run South 50° 37' 21" East, a distance of 42.78 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 80.00 feet and a central angle of 16° 56' 51"; thence.....**

**38. Run along the arc of said curve in a Southeasterly direction, a distance of 23.66 feet; thence.....**

**39. North 85° 03' 53" West, a distance of 158.72 feet; thence.....**

**40. South 80° 06' 36" West, a distance of 331.32 feet; thence.....**

**41. South 79° 40' 42" West, a distance of 101.25 feet; thence.....**

**42. South 76° 47' 58" West, a distance of 259.83 feet; thence.....**

**43. South 60° 55' 51" West, a distance of 260.00 feet; thence.....**

**44. South 14° 05' 33" West, a distant of 152.99 feet; thence.....**

**45. South 16° 51' 25" East, a distance of 103.00 feet; thence.....**

**46. South 45° 51' 25" East, a distance of 23.00 feet; thence.....**

**47. South 18° 51' 25" East, a distance of 187.84 feet; thence.....**

**48. South 32° 27' 14" West, a distance of 30.46 feet; thence.....**

**49. South 20° 20' 16" East, a distance of 169.54 feet; thence.....**

50. South 69° 21' 11" East, a distance of 92.47 feet; thence.....
51. North 66° 36' 14" East, a distance of 219.65 feet; thence.....
52. North 49° 24' 54" East, a distance of 362.58 feet; thence.....
53. North 12° 28' 36" East, a distance of 19.73 feet; thence.....
54. North 52° 53' 48" East, a distance of 71.02 feet; thence.....
55. North 60° 29' 30" East, a distance of 77.53 feet; thence.....
56. North 87° 32' 08" East, a distance of 46.40 feet; thence.....
57. North 64° 50' 10" East, a distance of 166.63 feet; thence.....
58. North 30° 02' 28" East, a distance of 192.83 feet; thence.....
59. North 89° 12' 55" East, a distance of 280.00 feet; thence.....
60. North 71° 04' 31" East, a distance of 37.00 feet; thence.....
61. North 00° 03' 00" West, a distance of 242.41 feet; thence.....
62. South 89° 57' 25" West, a distance of 299.88 feet to a point on the arc of a curve concave Southwesterly, having a radius of 130.00 feet and a central angle of 22° 53' 50"; thence.....
63. From a tangent of North 27° 43' 43" West, run along the arc of said curve in a Northwesterly direction, a distance of 51.95 feet to the Point of Tangency of said curve; thence.....
64. Run North 50° 37' 21" West, a distance of 42.78 feet to the Point of Curvature of curve, concave Northeasterly, having a radius of 166.22 feet and a central angle of 49° 28' 59"; thence.....
65. Run along the arc of said curve in a Northerly direction, a distance of 143.55 feet to the Point of Beginning.

**TOGETHER WITH THE FOLLOWING EASEMENT AND ACCESS RIGHTS:**

**EASEMENT PARCEL 1:**

An easement for ingress and egress for the benefit of Parcel 1 (and appurtenant 15' easement area) and Parcel 3 over the L-31 Canal as more particularly described in that certain Easement dated March 22, 1980, from Lake Worth Drainage District to High Point

**Golf Course, Inc., recorded in O.R. Book 3696, Page 663, as assigned by virtue of Quit Claim Assignment of Easements recorded in O.R. Book 22131, Page 835, of the Public Records of Palm Beach County, Florida.**

**EASEMENT PARCEL 2:**

**Non-Exclusive 15 foot easement for ingress and egress (Path) and Non-Exclusive Easement for parking areas and for ingress and egress for the benefit of Tract G-1, (Less and Except the East 148 feet of the South 123 feet thereof), as recorded in Plat Book 30, Page 77, of the Public Records of Palm Beach County, Florida, as created by that certain instrument dated May 20, 1976, filed May 28, 1976, in O.R. Book 2544, Page 1888, as assigned in O.R. Book 3700, Page 1706, as amended in O.R. Book 5986, Page 822, as further assigned by virtue of Quit Claim Assignment of Easements recorded in O.R. Book 22131, Page 835, of the Public Records of Palm Beach County, Florida.**

NOT A CERTIFIED COPY

Exhibit "B"

[Project Site Plan]



## **Exhibit "B-1"**

### **[Developer Representations]**

- Unit types will be limited to Single Family, Townhomes and Condominiums in the form of Coach Homes only (no full-time rental apartments and no commercial uses)
- New homes will be limited to one and two stories only
- The Project shall be developed as a "55-plus" age-restricted community comprised primarily of residents that are fifty (55) years of age and older in compliance with the Fair Housing Amendments Act, 42 U.S.C. §3601 et seq. (1988), as amended, the exemption set out in 42 U.S.C. §3607(b)(2)(C) and the regulations promulgated thereunder, and Chapter 760, Florida Statutes (2017) as amended from time to time.
- New homes will only be built within Pods A, B and C as shown on the concept plan (Exhibit B)
- No more than 436 new homes will be constructed
- All remaining open space area will be restricted from future development
- Landscape and/or Lake buffers will be provided along the perimeter of the development parcels separating all new homes from existing homes
- A trail system surrounded by landscaping and gardens will be incorporated into the new development for use by existing and future residents
- A new clubhouse and amenity campus will be constructed for use by existing and future residents that will include, but not be limited to, tennis, pickle ball, bocce, fitness center, swimming pools, café, hot tub, yoga room, multi-purpose room, billiards room, card rooms and administrative areas.
- Subject to applicable governmental approvals, all lakes within the project will utilize fountains, bubblers or some feature so water doesn't stagnate
- Use of the clubhouse and amenities during construction shall be in accordance with the Development Agreement and Temporary Management Agreement.
- Vehicle Access to the new community will be limited to Via Delray only
- Recreation fees will be guaranteed at their current rate through turnover in accordance with the Development Agreement
- Process plans through Palm Beach County and other government agencies, as applicable, that seek to improve existing infrastructure and drainage systems
- Unit construction, other than models, intended to be on a presale basis

***If there is a conflict between any term or provision provided in this Exhibit "B-1" and the Development Agreement, the language within the body of the Development Agreement shall govern.***



**Exhibit "C"**

**[New Clubhouse Real Property]**

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

CERTAIN LANDS IN THE WEST HALF (W1/2) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "G-1" OF PLAT II VILADELRAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA, LESS AND EXCEPT THE EAST 148 FEET OF THE SOUTH 123 FEET THEREOF.

TOGETHER WITH:

A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT G-1, AS SHOWN ON A PLAT ENTITLED "A PLANNED UNIT DEVELOPMENT, PLAT II, VILADELRAY, PALM BEACH COUNTY, FLORIDA", AS RECORDED IN PLAT BOOK 30, PAGES 77, 78 AND 79, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG THE FOLLOWING NUMBERED COURSES:

1. SOUTH  $16^{\circ} 59' 11''$  WEST, ALONG THE WESTERLY LINE OF TRACT G-1; A DISTANCE OF 45.69 FEET TO A POINT OF CURVATURE; THENCE. ....
2. SOUTHERLY, ALONG THE ARC OF A 535.00 FOOT RADIUS CURVE, CONCAVE EASTERLY, WHOSE LONG CHORD RUNS SOUTH  $11^{\circ} 33' 19''$  WEST, AN ARC DISTANCE OF 101.42 FEET TO A POINT; THENCE. ....
3. SOUTH  $88^{\circ} 17' 22''$  WEST, 59.03 FEET TO A POINT; THENCE. ....
4. NORTH  $00^{\circ} 28' 16''$  WEST, 134.28 FEET TO A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL L-31; THENCE. ....
5. NORTH  $89^{\circ} 31' 44''$  EAST ALONG SAID RIGHT-OF-WAY 10.56 FEET TO A POINT OF CURVATURE; THENCE. ....
6. EASTERLY, ALONG THE ARC OF A 365.00 FOOT RADIUS CURVE, CONCAVE NORTHERLY, WHOSE CHORD BEARS NORTH  $82^{\circ} 55' 42''$  EAST, AN ARC DISTANCE OF 84.01 FEET TO THE POINT OF BEGINNING.



**Exhibit "C-1"**

**[Recreation Association Real Property]**

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

CERTAIN LANDS IN THE WEST HALF (W1/2) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "F" OF PLAT II VILADELWAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA;

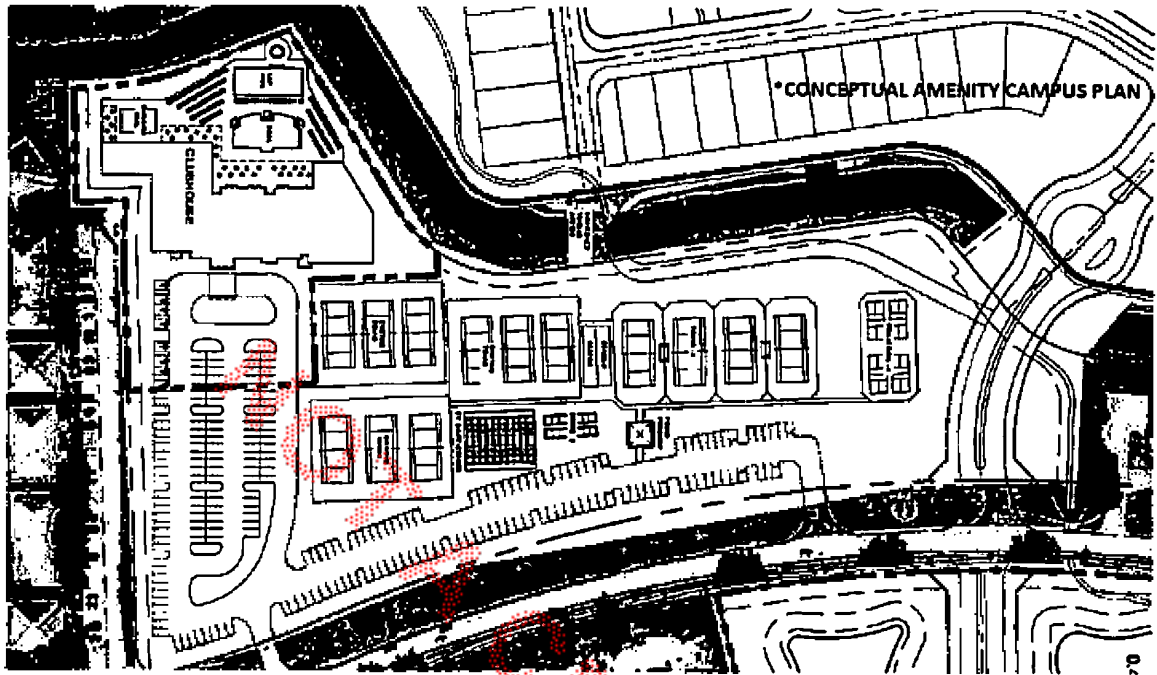
TOGETHER WITH:

THE EAST 148 FEET OF THE SOUTH 123 FEET OF TRACT "G-1" OF PLAT II VILADELWAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA.

NOT A CERTIFIED COPY

**Exhibit "C-2"**

**[Recreation Campus & Maintenance Facility Plan]**



**Exhibit "D"**

**[Temporary Management Agreement]**

**[ATTACHED ON THE FOLLOWING 22 PAGES]**

NOT A CERTIFIED COPY

### TEMPORARY MANAGEMENT AGREEMENT

THIS TEMPORARY AND MANAGEMENT AGREEMENT (this "**Agreement**") is made and entered into this 16<sup>th</sup> day of April, 2019, by and between 13FH PALM BEACH, LP, a Delaware limited partnership, and its successors and assigns ("**13th Floor**") and PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation ("**Recreation Association**"). 13th Floor and the Recreation Association shall sometimes be referred to as the "**Parties**."

### RECITALS

A. 13th Floor is or will be the record title owner of the real property legally described on Exhibit A attached hereto (the "**Project**") and the real legally property described on Exhibit A-1 attached hereto (the "**New Clubhouse Parcel**").

B. The Recreation Association is the record title owner of the real property legally described on Exhibit B attached hereto (the "**Recreation Association Parcel**"). The Recreation Association has the authority to contract for the management and operation of facilities on its property.

C. Concurrent with the construction of residential units within the Project, 13th Floor will construct, at its own expense, a new amenity area, which will include a new clubhouse (the "**New Clubhouse**"), new amenities, and certain of the pre-existing amenities and facilities which 13th Floor will renovate (collectively, the "**Recreation Campus**"). The Recreation Campus will be constructed partially on the New Clubhouse Parcel and partially on the Recreation Association Parcel. The Recreation Campus is defined to include the "Committed Facilities," as defined below.

D. The Recreation Association and 13th Floor entered into that certain Development Agreement (the "**Development Agreement**") whereby the parties to the Development Agreement agreed to enter into this Agreement and to provide for the management of the Recreation Campus, use rights for the Recreation Campus and fees associated with the management and use of the Recreation Campus during the period prior to "Turnover" as defined in the Development Agreement.

NOW, THEREFORE, in consideration of the terms, covenants and conditions contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, 13th Floor and the Recreation Association agree to the following terms which shall be binding on the parties and their successors and assigns:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference. All initially capitalized terms not defined herein shall have the meanings set forth in the Development Agreement.

2. **Recreation Campus Features.** 13th Floor hereby agrees that it shall be committed to construct, at minimum, the following: one (1) resort-style pool of a larger size than the existing pool with a separate lap area, one (1) shallow kids pool, one (1) hot tub of a larger size than the existing hot tub, one (1) cafe, one (1) library, one (1) fitness center, an administrative area with at least four (4) separate administrative office spaces with conference rooms, one (1) multi-purpose office for resident use, a billiards room, one (1) renovated shuffleboard area with a minimum of ten (10) lighted shuffleboard courts, a multi-purpose room

with a minimum capacity of five hundred (500) persons to include a stage and dressing rooms, separate catering kitchen and server preparation area, card rooms with a minimum capacity of 180 persons, landscape entrance features at entrances to the Recreation Campus that include monument signage and decorative landscaping at the main entrance to the new clubhouse building, four (4) new lighted tennis courts and nine (9) renovated tennis courts with lighting, four (4) pickle ball and two (2) bocce ball courts and a separate maintenance building with a portable generator of a size and specification sufficient to service the separate maintenance building (the "Central Maintenance Facility"), collectively referred to as the ("Committed Facilities"). The pools shall be constructed in accordance with Palm Beach County's code requirements. In addition to the above, the clubhouse shall be equipped with a separate maintenance area that includes storage for We Care equipment and an emergency generator. On or before the Termination Date (as defined below), 13th Floor shall assign, set over and transfer to the Recreation Association all of 13th Floor's right, title and interest in, to and under any guaranties and warranties in effect as of the Termination Date with respect to any portion of the Recreation Campus, or the personal property located therein, if and only to the extent the same are assignable and may be assigned or quitclaimed by 13th Floor without expense to the Recreation Association. There shall be no change to the Committed Facilities to be constructed by 13th Floor unless the Recreation Association consents to any such change. In the event 13th Floor desires to change the Committed Facilities, 13th Floor shall submit a formal written request to the Recreation Association detailing the proposed change along with plans and specifications showing the proposed Recreation Campus and any other documentation reasonably requested by the Recreation Association in order to evaluate the proposed change to the Committed Facilities. Upon receipt of a request for any change to the Committed Facilities, the Recreation Association shall have thirty (30) days to respond to 13th Floor with either a grant of approval of the proposed change or denial of such proposed change, as determined by the Recreation Association. In the event 13th Floor requests the Recreation Association's approval of any such deviation and the Recreation Association fails to respond to such request within thirty (30) days after receipt of same, the Recreation Association shall be deemed to have denied such deviation. If the Recreation Association approves of a change to the Committed Facilities in writing, no amendment to this Agreement shall be required.

3. Use and Access.

(a) Management and Operations Committee. In order to formulate the reasonable rules and regulations governing the use of the Recreation Campus (the "Rules and Regulations") and provide an opportunity for the Recreation Association and 13th Floor to reach consensus on matters concerning the management and operations of the Recreation Campus, 13th Floor and the Recreation Association will form a committee to be comprised of two representatives from 13th Floor and two representatives from the Recreation Association (the "Management and Operations Committee"). The Management and Operations Committee shall meet bi-monthly to discuss any required amendments to the Rules and Regulations, violations of the Rules and Regulations or issues relating to the management of the Recreation Campus. In addition, either party may request a special meeting of the Management and Operations Committee to be convened at any time to discuss an imminent matter of importance to the party.

(b) Use Rights. Subject to the terms and conditions set forth in this Agreement, 13th Floor hereby grants the members of the Number 1 Condominium Association – Palm Greens at Villa Del Ray, Inc., a Florida not for profit corporation ("Palm Greens 1") and the members of the Number 2 Condominium Association – Palm Greens at Villa Del Ray, Inc., a Florida not for profit corporation ("Palm Greens 2", collectively with Palm Greens 1, the

**"Condominium Associations")** (such members and their authorized guests or lessees, as applicable, are collectively referred to herein as **"Authorized Users"**) an irrevocable, non-assignable and non-exclusive license and right to access the Recreation Campus and use the Recreation Campus in common with the members of the Delray Trails Association (as defined in the Development Agreement) and such members' authorized guests. During such time as a residential unit is leased, the record title owner(s) of such residential unit shall not enjoy the use privileges of the Recreation Campus as Authorized Users and the lessee of such residential unit shall be the Authorized User. The use rights granted to Authorized Users herein shall be effective as of the Effective Date (as defined below) until the Termination Date (as defined below). The Recreation Association agrees and acknowledges that the use rights granted herein are for access to and use of the Recreation Campus in common with members of the Delray Trails Association and shall be subject to the Rules and Regulations implemented by 13th Floor subject to the prior advice and consent of the Management and Operations Committee from time to time.

(c) Notwithstanding anything herein to the contrary, the Recreation Association shall pay to 13th Floor an **"Amenities Use Fee"** in the amount of Fifty Nine and No/100 Dollars (\$59.00) per month per household/residential unit for each respective member of the Condominium Associations, until the Termination Date. The amount of the Amenities Use Fee shall not increase prior to the Termination Date. The Recreation Association will collect the Amenities Use Fees from the Condominium Associations and remit same to 13th Floor on a monthly basis. 13th Floor shall have no obligation or liability to collect the Amenities Use Fees from Authorized Users. The Recreation Association shall make the full monthly payment of the Amenities Use Fees on behalf of the members of the Condominium Associations in advance on a monthly basis, no later than the last day of the month preceding the month for which such payment is made. The Recreation Association and Authorized Users may not waive or otherwise escape liability for Amenities Use Fees by non-use or the waiver of the right to use the Recreation Campus or abandonment of a home. If any Amenities Use Fees are not paid by the due date, 13th Floor shall provide the Recreation Association with notice of such nonpayment and demand for payment via certified mail return receipt requested. In the event that payment is not rendered within fifteen (15) days of the delivery of the notice, interest shall be due on all amounts payable to 13th Floor in an amount equal to the maximum rate allowable by law, per annum, beginning from the due date until paid in full. 13th Floor may, at any time thereafter, bring an action at law or in equity against the Recreation Association for payment of the Amenities Use Fee(s) owed to 13th Floor plus any damages incurred in connection with the Recreation Association's failure to pay, including attorneys' fees and paraprofessional fees, at all levels of proceedings, including appeals, collection and bankruptcy. Further, if the Recreation Association fails to pay the Amenities Use Fees to 13th Floor within seven (7) days after the due date, 13th Floor may suspend the Authorized Users' (including all authorized guests of Authorized Users) rights to access and use the Recreation Campus until all Amenities Use Fees and charges are paid current and/or the default is cured. 13th Floor shall not be required to bring any such action if it believes that the best interests of 13th Floor would not be served by doing so. 13th Floor shall have all of the remedies provided herein and any others provided by law and equity and such remedies shall be cumulative.

4. **Use of Recreation Campus.** The use rights granted herein to Authorized Users are at all times subject to the following terms, conditions, reservations and limitations:

(a) Prior to an Authorized User's access or use of the Recreation Campus, to the extent permitted by law, the members of the Recreation Association shall provide to 13th Floor, or its designated agent, their names address(es), and contact information. In the event an



Authorized User is no longer a member in "good standing" with either of the Condominium Associations, in the sole determination of the Condominium Association to which the Authorized User belongs the Recreation Association shall promptly notify 13th Floor regarding same. The use rights granted herein shall entitle each Authorized User the right to use the Recreation Campus in accordance with the terms and conditions of this Agreement. For purposes of this Agreement, "good standing" shall mean a member has remained in compliance with any and all rules and regulations promulgated by his or her respective Condominium Association in that Condominium Association's sole discretion.

(b) Prior to an Authorized User's access or use of the Recreation Campus, the Authorized User must provide to 13th Floor, or its designated agent, an executed "Amenities Use Agreement" in the form prepared by 13th Floor with the prior advice and consent of the Management and Operations Committee. No Authorized User may access or use the Recreation Campus unless and until 13th Floor, or its designated agent, has received such Authorized User's executed Amenities Use Agreement. Upon providing the documentation required by this Section 4, the Authorized User shall be provided with two keys, cards, fobs or any other instruments utilized to provide access to the Recreation Campus. The failure of an Authorized User to execute the Amenities Use Agreement shall not abate or reduce the amount of the Amenities Use Fee to be submitted by the Recreation Association to 13th Floor under this Agreement.

(b) Authorized Users, including their authorized guests, shall at all times abide by this Agreement and the Rules and Regulations adopted by 13th Floor with the prior advice and consent of the Management and Operations Committee for the use of the Recreation Campus, including the standard hours of operation (which may change from time to time with reasonable notice);

(c) Authorized Users shall have access to the public areas of the Recreation Campus as permitted by 13th Floor, but shall not have access to those areas of the Recreation Campus not intended for public use including, without limitation, any administrative offices, equipment rooms, maintenance rooms, kitchen areas, and marketing areas or sales offices; and

(d) The Recreation Association and Authorized Users acknowledge the use rights granted herein are subject to each Authorized User being at all times a member in "good standing" with their respective Condominium Association (unless such Authorized User is a guest or lessee, in which event the member of the respective Condominium Association responsible for such guest or lessee must be in "good standing" with such respective Condominium Association, in the sole discretion of the Condominium Association). If such member is not, at any time during the term of this Agreement, a member in "good standing" in the sole opinion of its respective Condominium Association, the use rights with respect to such Authorized User shall automatically expire and the Authorized User shall thereafter be precluded from accessing and using the Recreation Campus until such time as the member is reinstated as a member in "good standing" with its respective Condominium Association. The failure of an Authorized User to be a member in "good standing" with its respective Condominium Association shall not abate or reduce the amount of the Amenities Use Fee due from the Recreation Association to 13th Floor under this Agreement.

5. **Management of Recreation Campus.** Except with respect to the Central Maintenance Facility depicted on **Exhibit C**, attached hereto, 13th Floor has the exclusive right to operate and manage the Recreation Campus until the Termination Date, subject to the prior advice and consent from the Management and Operations Committee regarding the

development and implementation of Rules and Regulations until the Termination Date. The Central Maintenance Facility shall be exclusively under the management and control of the Recreation Association at such time as a certificate of occupancy for the Central Maintenance Facility is issued by the applicable governmental authority; provided, however, the remainder of the Recreation Campus shall be solely under the legal supervision and operational control of 13th Floor until the Termination Date, at which time, subject to the terms and conditions of this Agreement, 13th Floor shall convey record title to the New Clubhouse Parcel to the Recreation Association and the Recreation Association shall accept such conveyance. Upon such conveyance to the Recreation Association, all rights and obligations of 13th Floor under this Agreement shall terminate and the Recreation Association shall be solely responsible for the operation, management and maintenance of the Recreation Campus thereafter. Notwithstanding anything contained herein to the contrary, 13th Floor shall employ a professional management company for management of the Recreation Campus. Upon execution of this Agreement, the Management and Operations Committee shall convene a meeting to discuss professional management company candidates; provided, however, 13th Floor has the exclusive right to select the professional management company. The selected professional management company shall be responsible for the day to day operational management of the Recreation Campus. The Management and Operations Committee shall have the right to suggest termination of the professional management company; however, 13th Floor shall have the right to terminate the professional management company with prior consent of the Management and Operations Committee at a scheduled meeting. The Management and Operations Committee shall be required to meet to discuss the termination within 5 days of any party requesting the scheduling of the meeting. In the event that the Parties cannot reach a consensus on the termination of the professional management company, the Parties shall avail themselves of the conflict resolution procedures specified in Paragraph 9. The Parties acknowledge and agree that during the term of this Agreement, 13th Floor shall manage the Recreation Campus and the Recreation Campus shall not be considered "common area" or "common elements" the Recreation Association, the Delray Trails Association or the Condominium Associations.

6. **Manager's Duties to Recreation Association.** 13th Floor shall be obligated to keep the Recreation Association reasonably informed regarding the state of construction of the Recreation Campus and management and operation thereof. The Management and Operations Committee shall meet bi-monthly at the clubhouse to provide a "management report" and discuss the operation and management of the Recreation Campus, including updates regarding budgets, performance of any third party management company or vendor or other outside professionals, expected closures of the amenities facilities, violations or changes to rules and regulations and other relevant matters. Further, the Recreation Association shall have the right to review all books and records specifically pertaining to operation and management of the Recreation Campus upon forty-eight (48) hours prior notice to 13th Floor. In the event 13th Floor engages any professional management company or any third-party commercial vendor for any purpose on an ongoing basis or through a contractual arrangement lasting for more than one month (for example, any operator of concessions, fitness center or other facility within the Recreation Campus), 13th Floor shall promptly notify the Recreation Association regarding same; provided, however, any professional management company or any third-party commercial vendor engaged by 13th Floor shall be engaged pursuant to a vendor contract which requires such engagement to terminate no later than the Turnover (as defined in the Development Agreement). Prior to 13<sup>th</sup> Floor engaging a professional management company or third-party commercial vendor to provide services that necessitates close interaction between Authorized Users and the professional management company or third-party vendor (for example, any operator of concessions, fitness center or other facility), the Management and



Operations Committee shall convene a meeting to discuss professional management company or third-party vendor candidates; provided, however, 13th Floor has the exclusive right to select the professional management company or third-party vendor. In the event 13th Floor desires to suspend any Authorized User from using the Recreation Campus for any reason, except for the failure to pay the Amenities Use Fee, but including violations of the Rules and Regulations and/or the Amenities Use Agreement, then 13th Floor shall immediately notify the Management and Operations Committee of the desire to suspend such Authorized User and the reason for same. Upon such notification, the Management and Operations Committee shall meet to determine the merits of the suspension and to determine whether the suspension should be implemented and the period of time for such suspension. In the event that the Parties cannot reach a consensus on the implementation of the suspension at the meeting, the Parties shall avail themselves of the conflict resolution procedures specified in Paragraph 9. Notwithstanding anything to the contrary contained, 13th Floor shall notify the Association at least sixty (60) days in advance of when that "Turnover" (as defined in the Development Agreement) of the Delray Trails Association is scheduled to occur.

7. **Protection of Recreation Campus.** The rights granted herein are at all times subject to the following terms, conditions, reservations and limitations:

(a) 13th Floor reserves the right to require Authorized Users to take reasonable protective measures when using the Recreation Campus, as 13th Floor may determine necessary to ensure the preservation and protection of the Recreation Campus and all improvements, furniture, fixtures and equipment therein;

(b) 13th Floor further reserves the right to remove or cause to be removed from the Recreation Campus any person or persons deemed obnoxious or objectionable by 13th Floor in its reasonable discretion, including without limitation, the reasonable belief that said person may be causing a disturbance in or around the Recreation Campus or damage to the Recreation Campus, including all improvements, furniture, fixtures and equipment therein; and

(c) Authorized Users, and any other persons entitled to use the Recreation Campus pursuant to this Agreement, shall:

i. use the Recreation Campus for lawful purposes only and shall not conduct or participate in any unlawful activity in or around the Recreation Campus. The conduct of any unlawful activity by Authorized Users that is reported to 13th Floor or its agents shall subject the user to immediate termination of the use rights and the benefits, rights and privileges extended by this Agreement;

ii. keep the Recreation Campus clean and safe from damage;

iii. not use fire, flammable or combustible materials, or pyrotechnics of any kind in or around the Recreation Campus. No person shall bring to or use in or around the Recreation Campus any decorative or other materials prohibited by any local or State ordinance or law;

iv. not injure, mark or deface in any manner the Recreation Campus or any equipment, furniture or fixtures contained in or around the Recreation Campus, and shall not cause or permit anything to be done whereby the

Recreation Campus, or the furniture, fixtures or equipment therein, shall be in any manner damaged, marred or defaced;

v. not drive or permit to be driven nails, hooks, tacks or screws into any part of the Recreation Campus, or the furniture, fixtures or equipment therein;

vi. not attach any signs or posters or paint or tape any glass or building or wall surface by any means, including duct tape or masking tape;

vii. not bring or permit to be brought or kept in or on the Recreation Campus, any inflammable, combustible or explosive fluid, material, chemical or substance, or cause or permit any odors or cooking or other processes, or any unusual or other objectionable odors to permeate in or emanate from the Recreation Campus; and

viii. not post or place any advertising or other matter or media in or around the Recreation Campus without the prior written approval of 13th Floor.

8. **Access Cards; Membership Documentation.** In the event any access cards or other access control devices (each, an "Access Card") are required for access to the Recreation Campus, 13th Floor shall issue two (2) Access Cards to each member of the Condominium Associations unless the member's Condominium Association has advised 13th Floor that the member is not in good standing, so long as 13th Floor has received such member's complete and executed Amenities Use Agreement. 13th Floor may reasonably establish policies, limits and charges with regard to the issuance of additional, renewal or replacement Access Cards. Notwithstanding anything to the contrary contained herein, the right of a member of the Condominium Associations to an Access Card is based upon compliance with this Agreement and is subject to the terms of this Agreement.

9. **Damage to or Within the Recreation Campus.** The Amenities and Use Agreement shall provide that in the event there is any damage or alteration to the Recreation Campus or any improvements, furniture, fixtures or equipment contained therein, which is caused by an Authorized User, that the Authorized User causing such damage or alteration to the Recreation Campus shall promptly pay to 13th Floor, on demand, such sums needed to fully restore the Recreation Campus or any improvements, furniture, fixtures and equipment therein. Upon such Authorized User's failure to pay any such sums as are required pursuant to the Amenities and Use Agreement, 13th Floor may temporarily suspend such Authorized User's rights to access and use the Recreation Campus without the consent of the Management and Operations Committee; provided, however, 13th Floor shall immediately notify the Management and Operations Committee of the Authorized User's temporary suspension and the reason for same. Upon such notification, the Management and Operations Committee shall meet within five (5) business days to determine the merits of the suspension and to determine whether the suspension should continue and the period of time for such suspension or whether the suspension should be lifted. In the event that the Parties cannot reach a consensus on the implementation of the suspension at the meeting, the Parties shall avail themselves of the conflict resolution procedures specified in Paragraph 9. 13th Floor shall have all of the remedies provided herein and any others provided by law or equity and such remedies shall be cumulative.

10. **Conflict Resolution.** In the event of a dispute between members of the Management and Operations Committee or a failure of the Management and Operations Committee to reach consensus on any matter, the aggrieved party shall notify the other party in writing, setting forth the nature of and reason for the dispute. The Parties shall, within 5 days, meet in an attempt to resolve the dispute. If the Parties fail to meet and/or the dispute is not resolved in the meeting, within 15-days from the date of the meeting, either party may submit in writing, notification that the party is filing a request for binding arbitration. In the event that neither party submits a notification for binding arbitration, the dispute shall be deemed waived. If a party submits the notification, the Parties shall consult in an attempt to select an arbitrator to conduct a mandatory arbitration proceeding. If the Parties are unable to agree upon an arbitrator within 30 days, either party shall request that an arbitrator be appointed according to the then prevailing procedures of the American Arbitration Association. The prevailing party to the arbitration shall be entitled to its reasonable costs and attorney fees.

11. **Indemnification and Waiver.**

(a) 13th Floor shall not be liable for damages sustained by Authorized Users, including any guests or invitees, resulting from such person's use of the Recreation Campus, whether such damages be to persons or property, resulting from any accident or occurrence in or about the Recreation Campus, or resulting directly or indirectly from any act or neglect of any third party. The Amenities Use Agreement shall provide that the Authorized Users release of 13th Floor from any liability or responsibility to the Recreation Association or such person (or anyone claiming through or under such person or the Recreation Association by way of subrogation or otherwise) for any injury, loss or damage to property, whether or not such property is actually insured against any such loss or damage, except if such injury, loss or damage shall have been caused by the intentional conduct or gross negligence of 13th Floor or its agents or employees.

(b) 13th Floor hereby indemnifies and holds the Recreation Association harmless from all costs, expenses, claims, injury or damage incurred by a the Recreation Association and directly related to, or resulting from, an Authorized User's use of the Recreation Campus, unless such damage results from an Authorized User's negligence or willful misconduct or the negligence or willful misconduct of the Recreation Association's employees, members, agents or contractors.

12. **Insurance.** At all times during the term of this Agreement, 13<sup>th</sup> Floor shall maintain or cause to be maintained in full force and effect comprehensive general liability insurance, including personal injury liability insurance of at least \$1,000,000 per claim and \$2,000,000 in the aggregate for bodily injury and property damage including products and completed operations and personal and advertising injury, with a financially responsible insurance company or companies licensed in the State of Florida. Such insurance shall name the Associations as an additional insured.

13. **Exhibits.** This Agreement consists of the following exhibits, which are attached hereto and by this reference made a part of this Agreement:

- (a) **Exhibit A** – Legal Description for the Project;
- (b) **Exhibit A-1** – Legal Description for New Clubhouse Parcel;
- (c) **Exhibit B** – Legal Description for Recreation Association Parcel; and

(d) **Exhibit C – Depiction of the Central Maintenance Facility.**

14. **Agreement Suspension.** In the event impossibility or impracticability of performance is incurred by 13th Floor (as reasonably determined by 13th Floor) because the Recreation Campus or any part thereof is destroyed, damaged or rendered unfit for occupancy or the Recreation Campus become "unavailable" (as defined below) then this Agreement shall be suspended, notice of such suspension shall be promptly sent to the Recreation Association, and there shall be no further liability or obligation of either party under this Agreement during such period of suspension, except for those obligations that survive this Agreement. For purposes of this Section, the term "unavailable" means, as reasonably determined by 13th Floor, remodeling or construction work affecting the use of the Recreation Campus, natural disaster, strike, civil disorder, terrorist activities, curtailment of transportation facilities, health epidemic, Acts of God, war, government regulations or order (such as a declaration of a "High" or "Severe" risk of terrorist attack issued by the U.S. Department of Homeland Security) or any other comparable condition, making it inadvisable, illegal, impractical or impossible for 13th Floor to perform its obligations hereunder.

15. **Effective Date; Term and Termination of this Agreement.** This Agreement shall commence upon the issuance of a certificate of occupancy for the New Clubhouse (the "**Effective Date**") and shall be effective until the date that "Turnover" (as defined in the Development Agreement) of the Delray Trails Association occurs (the "**Termination Date**"), unless sooner terminated by both Parties in a signed written instrument. In addition, in the event of the commencement of a bankruptcy proceeding by 13th Floor (a "**Bankruptcy Event**"), this Agreement shall automatically terminate, including without limitation the use rights provided herein, notice of such termination shall be promptly sent to the Recreation Association, and there shall be no further liability or obligation of either party under this Agreement thereafter, except for those obligations that survive this Agreement. Upon such Bankruptcy Event, the Recreation Association Parcel shall no longer be under the legal supervision and operational control of 13th Floor, and the legal supervision and operational control of the Recreation Association Parcel shall revert back to the Recreation Association; provided, however, the New Clubhouse Parcel shall remain under the exclusive possession and control of 13th Floor.

16. **Limitations Upon Use of Recreation Campus.** Subject to the limitations set forth within any other provision of this Agreement, 13th Floor shall have the following rights with respect to the Recreation Campus:

(a) To take such steps and actions as are reasonably necessary to protect the Recreation Campus and to regulate parking and traffic at the Recreation Campus;

(b) To temporarily suspend an Authorized User's right to use the Recreation Campus for a reasonable period during or after any infraction of this Agreement and/or the Amenities Use Agreement and for the period during which such Authorized User's Amenities Use Fee remains unpaid to the Recreation Association and past due, in which event the Recreation Association shall promptly notify 13th Floor of such Authorized User's failure to pay the Amenities Use Fee and 13th Floor shall have the right, in its discretion and without waiving any other remedy under this Agreement, to temporarily suspend such Authorized User's right to access and use the Recreation Campus without the consent of the Management and Operations Committee; provided, however, 13th Floor shall immediately notify the Management and Operations Committee of the Authorized User's temporary suspension and the reason for same. Upon such notification, the Management and Operations Committee shall meet to



determine the merits of the suspension and to determine whether the suspension should continue and the period of time for such suspension or whether the suspension should be lifted. In the event that the Parties cannot reach a consensus on the implementation of the suspension at the meeting, the Parties shall avail themselves of the conflict resolution procedures specified in Paragraph 9;

(c) To lease, assign or otherwise transfer the operating rights to, and any and all profits from, any restaurant, snack bar, cabana, sundry shop, fitness center or other facility within the Recreation Campus;

(d) To temporarily close or restrict access to all or certain portions of the Recreation Campus for reasonable periods of time to conduct maintenance in 13th Floor's reasonable discretion and upon reasonable notice to the Recreation Association and the Authorized Users; provided, however, 13th Floor shall diligently perform such maintenance in a timely manner to minimize the temporary closure or restricted access to the Recreation Campus.

(e) To take such actions which, in 13th Floor's reasonable discretion, are necessary or desirable to facilitate development construction, sales, and marketing of the Project, including the right to use the Recreation Campus to conduct sales and promotional activities and to allow access to prospective purchasers of homes within the Project; and

(f) To take all other actions with respect to operation, management and control of the Recreation Campus deemed necessary by 13th Floor in its reasonable discretion.

**17. Miscellaneous.**

(a) This Agreement may not be amended or modified in any respect, nor may any covenant, agreement, condition, requirement, provision or obligation contained herein be waived, except in writing signed by all Parties.

(b) In the event the Recreation Association believes that 13th Floor shall have failed in any respect to meet 13th Floor's obligations under this Agreement or has failed to comply with any obligations under law, the Recreation Association shall give written notice to 13th Floor detailing the alleged failure. After such notice is received by 13th Floor, 13th Floor shall have thirty (30) days to cure the alleged failure. Once the Recreation Association has given written notice to 13th Floor pursuant to this Section, the Recreation Association shall be obligated to permit 13th Floor and its agents to perform all reasonable actions and make all repairs/replacements deemed necessary by 13th Floor to respond to such notice within thirty (30) days. Except with respect to the non-payment of Amenities Use Fees, in the event 13th Floor believes the Recreation Association shall have failed in any respect to meet the Recreation Association's obligations under this Agreement or has failed to comply with any obligations under law, 13th Floor shall give written notice to the Recreation Association detailing the alleged failure. After such notice is received by the Recreation Association, the Recreation Association shall have thirty (30) days to cure the alleged failure.

(d) In the event of any litigation, including appellate proceedings, arising out of or under this Agreement, the prevailing party in such litigation shall be entitled to recover such party's reasonable out-of-pocket costs and reasonable attorneys' fees.

(c) This Agreement and the interpretation and enforcement thereof shall be governed by and construed in accordance with the laws of the State of Florida. The venue of any litigation arising out of this Agreement shall be Palm Beach County, Florida.

(e) The paragraph headings herein contained are inserted for convenience of reference only and shall not be deemed to be a part of this Agreement; the paragraph headings shall be ignored in construing and interpreting this Agreement. The fact that one of the Parties to this Agreement may be deemed to have drafted or structured any provision of this Agreement shall not be considered in construing or interpreting any particular provision of this Agreement, either in favor of or against such party.

(f) This Agreement constitutes the entire understanding and agreement between the Parties hereto with respect to the subject matter hereof and supersedes any and all prior or contemporaneous agreements, whether written or oral. No covenants, agreements, terms, provisions, undertakings, statements, representations or warranties, whether written or oral, made or executed by any party hereto or any employee or agent thereof, shall be binding upon any party hereto unless specifically set forth in this Agreement or in subsequent amendments executed by the Parties.

(g) This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement, or the application thereof, to any person or circumstance shall for any reason and to any extent be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the maximum extent possible.

(h) Timely payment of the sums due and performance of the other obligations hereunder, at the times stated, shall be of the essence.

**[SIGNATURES APPEAR ON FOLLOWING PAGES]**

IN WITNESS WHEREOF, 13th Floor has executed this Agreement as follows:

**13FH PALM BEACH, LP**, a Delaware  
limited partnership and/or its Permitted  
Assigns

By: \_\_\_\_\_

Its: \_\_\_\_\_


Name: Michael Nunziata

Date of Execution: 2/19/19

[SIGNATURE APPEARS ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Palm Greens At Villa Del Ray Recreation Condominium Association, Inc. has executed this Agreement as follows:

**Palm Greens At Villa Del Ray Recreation  
Condominium Association, Inc., a Florida  
not for profit corporation**

By:   
Its: President  
Name: Thomas T. A. Harch  
Date of Execution: 4/16/19

NOT A CERTIFIED COPY



**Exhibit A**

**Legal Description for the Project**

**PARCEL 1:**

Certain lands in the West Half (W1/2) of Section 11 Township 46 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:

Tract G-1 of Plat II VILADELRAY, according to the Plat thereof, recorded in Plats Book 30, at Page 77, of the Public Records of Palm Beach County, Florida, less and except the East 148 feet of the South 123 feet thereof.

**AND THE FOLLOWING DESCRIBED PREMISES:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida being more particularly described as follows:

Beginning at the Northwest corner of Tract G-1, as shown on a Plat entitled "A PLANNED UNIT DEVELOPMENT, PLAT II, VILADELRAY, Palm Beach County, Florida", recorded in Plat Book 30, Pages 77, 78 and 79, of the Public Records of Palm Beach County, Florida; thence along the following numbered courses:

1. South 16° 59' 11" West, along the Westerly line of Tract G-1; a distance of 45.69 feet to a point of curvature; thence.....
2. Southerly, along the arc of a 535.00 foot radius curve, concave Easterly, whose long chord runs South 11° 33' 19" West, an arc distance of 101.42 feet to a point; thence.....
3. South 88° 17' 22" West, 59.03 feet to a point; thence.....
4. North 00° 28' 16" West, 134.28 feet to a point in the Southerly right-of-way line of Lake Worth Drainage District Canal L-31; thence.....
5. North 89° 31' 44" East along said right-of-way 10.51 feet to a point of curvature; thence.....
6. Easterly, along the arc of a 365.00 foot radius curve, concave Northerly, whose chord bears North 82° 55' 54" East, an arc distance of 84.05 feet to the Point of Beginning.

**PARCEL 2:**

Certain lands in the West Half (W1/2) of Section 11, Township 46 South, Range 42 East, Palm Beach, County, Florida, more particularly described as follows.

Tract G of Plat II VILADELRAY, according to the Plat thereof, recorded in Plat Book 30, Page 77, Public Records of Palm Beach County, Florida.

**PARCEL 3:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Begin at a point 5.00 feet Westerly from the Southwest corner (as measured along the arc of a curve) of Section 10, VILLADELRAY on the South boundary of Section 11, VILLADELRAY, as both are shown and recorded in Plat Book 36, Pages 19, 20, 21 and 22, of the Public Records of Palm Beach County, Florida, run (bearings cited herein are in the meridian of said Villadelray Sections 10 and 11) by the following numbered courses:

(Courses 1 through 11 are on the South boundary of aforementioned Villadelray Section 10 and the West boundary of Villadelray, Sections 8 and 9, as said Sections 8 and 9, are recorded in Plat Book 34, Pages 173 through 175)

1. Said Point of Beginning being on the arc of a curve, concave Northerly, having a radius of 1909.16 feet and a central angle of  $1^{\circ} 23' 57''$ ; thence.....
2. From the Point of Beginning run along the arc of said curve and the South boundary of Villadelray Section 10 in an Easterly direction a distance of 46.57 feet to the Point of Tangency of said curve; thence.....
3. Continue North  $86^{\circ} 39' 20''$  East, along said South boundary of Villadelray Section 10, a distance of 524.93 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 180.00 feet and a central angle of  $85^{\circ} 00' 00''$ ; thence.....
4. Run along the arc of said curve in a Southeasterly direction, a distance of 267.04 feet, to a Point of compound curve, concave Easterly, having a radius of 509.73 feet and a central angle of  $39^{\circ} 35' 03''$ ; thence.....
5. Run along the arc of said curve in a Southwesterly direction, a distance of 352.16 feet to the Point of Tangency; thence.....
6. South  $31^{\circ} 14' 23''$  West, a distance of 40.32 feet to the Point of Curvature of a curve concave Easterly, having a radius of 405.00 feet and a central angle of  $55^{\circ} 20' 03''$ ; thence.....
7. Run along the arc of said curve, a distance of 391.13 feet to the Point of Tangency of said curve; thence.....
8. South  $24^{\circ} 05' 40''$  East, a distance of 235.99 feet to the Point of Curvature of a curve concave Westerly, having a radius of 510.00 feet and a central angle of  $56^{\circ} 45' 00''$ ; thence.....
9. Run along the arc of said curve in a Southerly direction, a distance of 505.14 feet to the Point of Tangency of said curve; thence.....

10. South 32° 39' 20" West, a distance of 19.22 feet to a point on the Northerly Right-of-Way of Lake Worth Drainage District Canal L-31 as recorded in Official Record Book 2218, Page 1150, Public Records of Palm Beach County, Florida; thence.....

(Courses 11 through 22 being on the North Right-of-Way of said L-31 Canal)

11. North 57° 20' 40" West, a distance of 85.00 feet; thence.....

12. South 32° 39' 20" West, 585.50 feet to the Point of Curvature of a curve concave Northwesterly, having a radius of 71.00 feet and a central angle of 68° 00' 00"; thence.....

13. Run along the arc of said curve in a Westerly direction, a distance of 84.26 feet to the Point of Tangency of said curve; thence.....

14. North 79° 20' 40" West, a distance of 318.00 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of 40° 00' 00"; thence.....

15. Run along the arc of said curve in a Northwesterly direction, a distance of 49.57 feet to the Point of Tangency of said curve; thence.....

16. North 39° 20' 40" West, a distance of 113.48 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 140.00 feet and a central angle of 58° 53' 01"; thence.....

17. Run along the arc of said curve in a Westerly direction, a distance of 143.88 feet to the Point of Tangency of said curve; thence.....

18. South 81° 46' 19" West, a distance of 445.07 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of 67° 00' 00"; thence.....

19. Run along the arc of said curve in a Northwesterly direction, a distance of 83.03 feet to the Point of Tangency of said curve; thence.....

20. North N 31° 13' 41" West, 248.41 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 85.00 feet and a central angle of 79° 14' 35"; thence.....

21. Run along the arc of said curve in a Westerly direction, a distance of 117.56 feet to the Point of Tangency of said curve; thence.....

22. South 69° 31' 44" West, a distance of 96.66 feet to a point on the arc of a curve concave Westerly, having a radius of 595.00 feet and a central angle of 24° 26' 59"; thence.....

23. From a tangent bearing of North 11° 23' 27" East, run along the arc of said curve, a distance of 253.90 feet to a Point of Reverse Curvature of a curve concave Easterly, having a radius of 770.00 feet and a central angle of 12° 37' 03"; thence.....

24. Run along the arc of said curve in a Northerly direction, a distance of 169.57 feet to the Point of Tangency of said curve; thence.....
25. North 0° 26' 28" West, a distance of 238.00 feet to the Point of Curvature of a curve concave Easterly having a radius of 2056.88 feet and a central angle of 5° 30' 00"; thence.....
26. Run along the arc of said curve in a Northerly direction, a distance of 197.45 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1115.47 feet and a central angle of 11° 00' 00"; thence.....
27. Run along the arc of said curve, a distance of 214.16 feet to the Point of Tangency of said curve; thence.....
28. North 5° 56' 28" West, a distance of 141.14 feet to the Point of Curvature of a curve concave Easterly, having a radius of 1210.03 feet and a central angle of 8° 00' 00"; thence.....
29. Run along the arc of said curve in a Northerly direction, a distance of 168.95 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1311.74 feet and a central angle of 7° 07' 48"; thence.....
30. Run along the arc of said curve in a Northerly direction, a distance of 163.24 feet to a Point of Reverse Curvature of a curve concave Southeasterly, having a radius of 25.00 feet and a central angle of 88° 27' 34"; thence.....
31. Run along the arc of said curve in a Northeasterly direction, a distance of 38.60 feet to a Point of Reverse Curvature of a curve concave Northwesterly, having a radius of 2094.56 feet and a central angle of 3° 47' 43", said point also being on the South boundary of Villadelray, Section 11, as recorded in Plat Book 36, Pages 19, 20, 21 and 22; thence.....
32. Run along the arc of said curve in an Easterly direction, a distance of 138.74 feet to the Point of Tangency of said curve; thence.....
33. North 79° 35' 35" East, a distance of 419.76 feet to the Point of Curvature of a curve concave Southerly, having a radius of 1000.00 feet and a central angle of 17° 52' 30"; thence.....
34. Run along the arc of said curve in an Easterly direction, a distance of 311.98 feet to a Point of Reverse Curvature of a curve concave Northerly, having a radius of 1909.16 feet and a central angle of 7° 54' 52"; thence.....
35. Run along the arc of said arc in an Easterly direction, a distance of 263.72 feet to a point on the arc of a curve concave Easterly, having a radius of 216.22 feet and a central angle of 49° 28' 12"; thence.....

36. From a tangent bearing of South 01° 09' 18" East, run along the arc of said curve, a distance of 186.69 feet to the Point of Tangency of said curve; thence.....
37. Run South 50° 37' 21" East, a distance of 42.78 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 80.00 feet and a central angle of 16° 56' 51"; thence.....
38. Run along the arc of said curve in a Southeasterly direction, a distance of 23.66 feet; thence.....
39. North 85° 03' 53" West, a distance of 158.72 feet; thence.....
40. South 80° 06' 36" West, a distance of 331.32 feet; thence.....
41. South 79° 40' 42" West, a distance of 101.25 feet; thence.....
42. South 76° 47' 58" West, a distance of 259.83 feet; thence.....
43. South 60° 55' 51" West, a distance of 260.00 feet; thence.....
44. South 14° 05' 33" West, a distant of 152.99 feet; thence.....
45. South 16° 51' 25" East, a distance of 103.00 feet; thence.....
46. South 45° 51' 25" East, a distance of 23.00 feet; thence.....
47. South 18° 51' 25" East, a distance of 187.84 feet; thence.....
48. South 32° 27' 14" West, a distance of 30.46 feet; thence.....
49. South 20° 20' 16" East, a distance of 169.54 feet; thence.....
50. South 69° 21' 11" East, a distance of 92.47 feet; thence.....
51. North 66° 36' 14" East, a distance of 219.65 feet; thence.....
52. North 49° 24' 54" East, a distance of 362.58 feet; thence.....
53. North 12° 28' 36" East, a distance of 19.73 feet; thence.....
54. North 52° 53' 48" East, a distance of 71.02 feet; thence.....
55. North 60° 29' 30" East, a distance of 77.53 feet; thence.....
56. North 87° 32' 08" East, a distance of 46.40 feet; thence.....
57. North 64° 50' 10" East, a distance of 166.63 feet; thence.....
58. North 30° 02' 28" East, a distance of 192.83 feet; thence.....
59. North 89° 12' 55" East, a distance of 280.00 feet; thence.....

60. North  $71^{\circ} 04' 31''$  East, a distance of 37.00 feet; thence.....
61. North  $00^{\circ} 03' 00''$  West, a distance of 242.41 feet; thence.....
62. South  $89^{\circ} 57' 25''$  West, a distance of 299.88 feet to a point on the arc of a curve concave Southwesterly, having a radius of 130.00 feet and a central angle of  $22^{\circ} 53' 50''$ ; thence.....
63. From a tangent of North  $27^{\circ} 43' 43''$  West, run along the arc of said curve in a Northwesterly direction, a distance of 51.95 feet to the Point of Tangency of said curve; thence.....
64. Run North  $50^{\circ} 37' 21''$  West, a distance of 42.78 feet to the Point of Curvature of curve, concave Northeasterly, having a radius of 166.22 feet and a central angle of  $49^{\circ} 28' 59''$ ; thence.....
65. Run along the arc of said curve in a Northerly direction, a distance of 143.55 feet to the Point of Beginning.

**Exhibit A-1**

**Legal Description for New Clubhouse Parcel**

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

CERTAIN LANDS IN THE WEST HALF (W1/2) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "G-1" OF PLAT II VILADELWAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA, LESS AND EXCEPT THE EAST 148 FEET OF THE SOUTH 123 FEET THEREOF.

TOGETHER WITH:

A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT G-1, AS SHOWN ON A PLAT ENTITLED "A PLANNED UNIT DEVELOPMENT, PLAT II, VILADELWAY, PALM BEACH COUNTY, FLORIDA", AS RECORDED IN PLAT BOOK 30, PAGES 77, 78 AND 79, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG THE FOLLOWING NUMBERED COURSES:

1. SOUTH 16° 59' 11" WEST, ALONG THE WESTERLY LINE OF TRACT G-1; A DISTANCE OF 45.69 FEET TO A POINT OF CURVATURE; THENCE. . . .
2. SOUTHERLY, ALONG THE ARC OF A 535.00 FOOT RADIUS CURVE, CONCAVE EASTERLY, WHOSE LONG CHORD RUNS SOUTH 11° 33' 19" WEST, AN ARC DISTANCE OF 101.42 FEET TO A POINT; THENCE. . . .
3. SOUTH 88° 17' 22" WEST, 59.03 FEET TO A POINT; THENCE. . . .
4. NORTH 00° 28' 16" WEST, 134.28 FEET TO A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL L-31; THENCE. . . .
5. NORTH 89° 31' 44" EAST ALONG SAID RIGHT-OF-WAY 10.56 FEET TO A POINT OF CURVATURE; THENCE. . . .
6. EASTERLY, ALONG THE ARC OF A 365.00 FOOT RADIUS CURVE, CONCAVE NORTHERLY, WHOSE CHORD BEARS NORTH 82° 55' 42" EAST, AN ARC DISTANCE OF 84.01 FEET TO THE POINT OF BEGINNING.



**Exhibit B**

**Legal Description for Recreation Association Parcel**

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

CERTAIN LANDS IN THE WEST HALF (W1/2) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "F" OF PLAT II VILADELWAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA;

TOGETHER WITH:

THE EAST 148 FEET OF THE SOUTH 123 FEET OF TRACT "G-1" OF PLAT II VILADELWAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA.



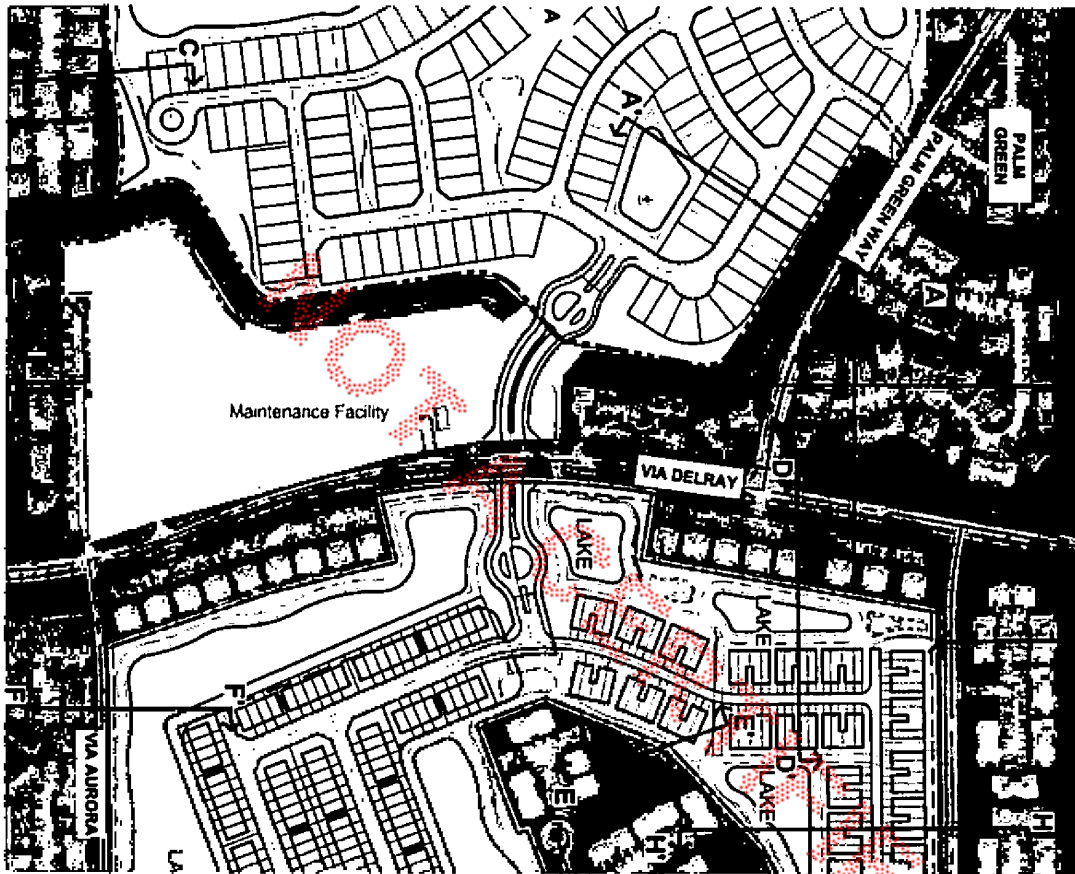
**Exhibit C**

**Depiction of the Central Maintenance Facility**

**[ATTACHED]**

NOT A CERTIFIED COPY

DEPICTION OF CENTRAL MAINTENANCE FACILITY LOCATION



**Exhibit "E-1"**

**[Amended and Restated Articles]**

**[ATTACHED ON FOLLOWING PAGES]**

NOT A CERTIFIED COPY

AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF  
PALM GREENS AT VILLA Del RAY RECREATION ASSOCIATION, INC.

The undersigned by these Articles associate themselves for the purpose of forming a corporation not for profit, under Chapter 617, Florida States, and certify as follows:

ARTICLE I  
NAME

The name of the corporation will be PALM GREENS at VILLA del RAY RECREATION ASSOCIATION, INC. For convenience, the corporation will be referred to in this instrument as the "Association."

ARTICLE II

(2.1) The purpose for which the Association is organized is to provide an entity for the purpose of administering the areas owned or controlled by it, for the benefit of the Associations known as Number 1 Condominium Association - Palm Greens at Villa Del Ray, Inc.; Number 2 Condominium Association - Palm Greens at Villa Del Ray, Inc.; and Delray Trails at Palm Greens, Inc. ("Member Association(s)") and such Member Associations' residents.

(2.2) Delray Trails at Palm Greens, Inc. (the "Delray Trails Association") shall become a "Member Association" effective upon the occurrence of each of the following (i) its formation as evidenced by the filing of Articles of Incorporation with the Florida Secretary of State, (ii) the transfer of control from 13FH Palm Beach, LP, a Delaware limited partnership, its successors and assigns ("13<sup>th</sup> Floor"), to the non-developer members of the Delray Trails Association in accordance with Section 720.307, Florida Statutes, and (iii) the conveyance of the real property legally described on Exhibit A, attached hereto and incorporated herein by this reference, to the Association from 13<sup>th</sup> Floor, its successors and assigns.

(2.3) The Association will make no distributions of income to its members, directors or officers.

### **ARTICLE III POWERS**

The powers of the Association will include and be governed by the following provisions:

(3.1) The Association will have all of the common law and statutory powers of a corporation not for profit that are not in conflict with the terms of these Articles.

(3.2) The Association will have all the powers set forth in these Articles and the Bylaws of the Association, including but not limited to the following:

(a) To make and collect assessments against members to defray costs, expenses and losses of the properties owned by it.

(b) To use the proceeds of assessments in the exercise of its powers and duties.

(c) To maintain, repair, replace and operate all areas controlled or owned by it.

(d) To purchase insurance for the protection of the Association.

(e) To reconstruct improvements after casualty and to further improve the areas owned or controlled by it.

(f) To make and amend reasonable regulations respecting the use of the areas owned or controlled by it.

(g) To enforce by legal means the provisions of these Articles, the By-Laws of the Association, and the regulations for use of the areas owned or controlled by it.

(h) To contract for the management and operation of its areas; and to thereby delegate all powers and duties of the Association, except as are specifically required to have approval of the Board of Directors or the membership of the Association.

(i) To lease such portions of the Association property as are susceptible to separate management and operation.

(j) To accept title to real property to be held for the benefit of the Member Associations and others.

(k) To make and grant easements over, under, upon, within or through all of the Association property.

(3.3) All funds shall be held and used for Recreation Association Expenses, as that term is defined in the Bylaws (hereinafter "Recreation Association Expenses") in accordance with the provisions of these Articles of Incorporation and the By-Laws of the Association.

(3.4) The powers of the Association will be subject to and will be exercised in accordance with the provisions of these Articles and the By-Laws of the Association.

#### ARTICLE IV MEMBERS

(4.1) Subject to Section 2.2 above, the members of the Association will consist of its Member Associations organized under the laws of the State of Florida, namely, the Number 1 Condominium Association-Palm Greens at Via Del Ray, Inc. (hereinafter "Number 1 Association"), Number 2 Condominium Association-Palm Greens at Villa Del Ray, Inc. (hereafter "Number 2 Association") and the Delray Trails Association, as those entities are described in the Bylaws.

(4.2) Each Member Association shall be entitled to three (3) representatives, who shall serve on the Board of Directors of the Association. Each representative shall be selected in accordance with the governing documents of their Member Association, and shall be the voting members of the Association whenever a vote of the members is necessary. Notwithstanding the foregoing, the Delray Trails Association shall only be entitled to appoint three (3) representatives to the Board of Directors of the Association upon the Delray Trails Association becoming a Member Association as provided in Section 2.2 above.

(4.3) Each Member Association representative shall be a Director of the Association and shall have one vote.

#### ARTICLE V DIRECTORS

(5.1) The affairs of the Association will be managed by a board consisting of the Directors.

(5.2) Directors may be removed and vacancies on the Board of Directors will be filled in the manner provided by the governing documents of the Member Associations.

## ARTICLE VI OFFICERS

The affairs of the Association will be administered by the officers designated in the By-Laws of the Association. Said officers will be elected by the Board of Directors as provided in the Bylaws of the Association and will serve at the pleasure of the Board of Directors.

## ARTICLE VII INDEMNIFICATION

Every Director, officer or committee member of the Association will be indemnified by the Association against all expenses and liabilities including counsel fees, reasonably incurred by or imposed upon him/her in connection with any proceedings or any settlement or any proceeding to which he/she may be a party or in which he/she may become involved by reason of his/her being or having been a Director, officer or committee member at the time such expenses are incurred, except when the Director(s), officer(s) or committee member(s) is adjudged guilty of gross negligence or willful misfeasance or malfeasance in the performance of his/her duties. Provided that in the event of a settlement the indemnification will apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification will be in addition to and not exclusive of all other rights to which such Director, officer or committee member may be entitled.

## ARTICLE VIII BY-LAWS

The first By-Laws of the Association will be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided in the By-Laws.

**ARTICLE IX  
AMENDMENTS TO ARTICLES OF INCORPORATION**

Amendments to these Articles of Incorporation will be proposed and adopted in the following manner:

(9.1) Notice of the subject matter of a proposed amendment will be included in the notice of any meeting at which a proposed amendment is considered.

(9.2) A resolution for the adoption of a proposed amendment may be proposed by three (3) Directors. Directors not present in person or by proxy at the meeting considering the amendment may express their approval in writing, providing such approval is delivered to the secretary prior to the meeting. Approval of any amendment shall be as follows:

(1) Approval by a majority of the Board of Directors of the Recreation Association present and voting at a meeting, or in writing delivered to the Secretary prior to the meeting, in order to consider the proposed amendment;

(2) Approval by a majority of the Board of Directors of each Member Association, present and voting at a meeting called to consider the proposed amendment. Each Member Association Board shall have not more than sixty (60) days to act upon the proposed amendment. Any such Member Association Board's failure to act within this time shall be deemed to constitute acceptance of the proposed amendment; and

(3) Approval by two thirds (2/3) of the combined voting interests of each Member Association present and voting, in person or by proxy, at duly called meetings of each Member Association, called in accordance with the requirements of such Member Association's governing documents. The intent of this Section is to require that each Member Association call a meeting of its membership to vote on such amendments, but that the Association shall only be obligated to obtain the affirmative approval of two thirds (2/3) of the combined voting interests from all such Member Associations, voting in person or by proxy, at such duly called meetings. Where such a vote of the combined voting interests is taken pursuant to this Section, a proxy shall be required to be provided to the members of each Member Association who are not able to attend such meeting in person.



(9.3) Notwithstanding anything herein to the contrary, Sections 2.2, 4.1, 4.2, and this Section 9.3 shall not be amended without the prior written consent of 13<sup>th</sup> Floor, its successors and assigns and, upon its formation as evidenced by the filing of Articles of Incorporation with the Florida Secretary of State, the prior written consent of the Delray Trails Association.

(9.4) A copy of each amendment will be filed with the Secretary of State, State of Florida.

## ARTICLE X

### RECREATION CAMPUS USE, EXCLUSIVE MANAGEMENT AND EASEMENT AGREEMENT, VALIDITY AND CONFLICTS

(10.1) A Recreation Campus Use, Exclusive Management and Easement Agreement ("Agreement") is attached to these Articles of Incorporation as Exhibit B. In the event that any provision of these Articles of Incorporation relating to the Delray Trails Association being a Member Association is challenged by the filing of a lawsuit against 13<sup>th</sup> Floor, the Association, or any other party, and such lawsuit results in a temporary injunction being issued restricting, impeding or preventing the Delray Trails Association from becoming a Member Association of the Association, then Delray Trails Association shall no longer become a Member Association of the Association, and the Agreement shall, in that event, and only in that event, become effective and binding against the parties to the Agreement; provided, however, in the event that such lawsuit is finally adjudicated by a court of competent jurisdiction, including all appeals, and such adjudication results in Delray Trails Association being a Member Association of the Recreation Association, then in that event, and only in that event, the Agreement shall automatically terminate and the Delray Trails Association shall revert back to being a Member Association. In the event that such lawsuit is finally adjudicated by a court of competent jurisdiction, including all appeals, and such adjudication results in Delray Trails Association not being a Member Association of the Recreation Association, then the Delray Trails Association shall no longer become a Member Association of the Association, and the Agreement shall, in that event, and only in that event, become effective and binding against the parties to the Agreement.

(10.2) The invalidity in whole or in part of any section, subsection, sentence, clause, phrase or word, or other provision of these Articles, as same may be amended from time to time, shall not affect the validity of the remaining portions hereof which shall remain in full force and effect.

(10.3) In the event of a conflict between these Articles, the Bylaws of the Recreation Association, and the attached Agreement (only if and when such Agreement becomes effective pursuant to Section 10.1 hereof), these Articles shall control over the Bylaws and Agreement, and the Bylaws shall control over the Agreement.

#### ARTICLE XI

This Amended and Restated Articles of Incorporation shall take effect upon the filing of these Amended and Restated Articles of Incorporation with the Department of State, Tallahassee, Florida.

#### ARTICLE XII

The Term of the Association will be perpetual.

#### ARTICLE XIII

#### SUBSCRIBERS

The names and addresses of the subscribers of the Association's original Articles of Incorporation are as follows:

Henry E. Yusem

1415 East Route 70  
Cherry Hill Plaza  
Cherry Hill, New Jersey 08034

Donald B. Stiller

P. O. Box 1739  
Delray Beach, Florida 33444

Nancy L. Miller

P. O. Box 1739  
Delray Beach, Florida 33444

**ACCEPTANCE BY REGISTERED AGENT**

Having been named registered agent to accept service of process for the above-named corporation, I hereby accept to act in this capacity and agree to comply with the provisions of Chapter 48.019, Florida Statutes.

[WHO IS THE REGISTERED AGENT – THEY ARE REQUIRED TO SIGN]

NOT A CERTIFIED COPY

**Exhibit A**  
**Legal Description of Clubhouse Parcel**

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

CERTAIN LANDS IN THE WEST HALF (W1/2) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "G-1" OF PLAT II VILADELRAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA, LESS AND EXCEPT THE EAST 148 FEET OF THE SOUTH 123 FEET THEREOF.

TOGETHER WITH:

A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT G-1, AS SHOWN ON A PLAT ENTITLED "A PLANNED UNIT DEVELOPMENT, PLAT II, VILADELRAY, PALM BEACH COUNTY, FLORIDA", AS RECORDED IN PLAT BOOK 30, PAGES 77, 78 AND 79, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG THE FOLLOWING NUMBERED COURSES:

1. SOUTH 16° 59' 11" WEST, ALONG THE WESTERLY LINE OF TRACT G-1; A DISTANCE OF 45.69 FEET TO A POINT OF CURVATURE; THENCE . . . .
2. SOUTHERLY, ALONG THE ARC OF A 535.00 FOOT RADIUS CURVE, CONCAVE EASTERLY, WHOSE LONG CHORD RUNS SOUTH 11° 33' 19" WEST, AN ARC DISTANCE OF 101.42 FEET TO A POINT; THENCE. . . .
3. SOUTH 88° 17' 22" WEST, 59.03 FEET TO A POINT; THENCE. . . .
4. NORTH 00° 28' 16" WEST, 134.28 FEET TO A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL L-31; THENCE. . . .
5. NORTH 89° 31' 44" EAST ALONG SAID RIGHT-OF-WAY 10.56 FEET TO A POINT OF CURVATURE; THENCE. . . .
6. EASTERLY, ALONG THE ARC OF A 365.00 FOOT RADIUS CURVE, CONCAVE NORTHERLY, WHOSE CHORD BEARS NORTH 82° 55' 42" EAST, AN ARC DISTANCE OF 84.01 FEET TO THE POINT OF BEGINNING.

**Exhibit B**

**[Recreation Campus Use, Exclusive Management and Easement Agreement]**

**[ATTACHED ON FOLLOWING 18 PAGES]**

NOT A CERTIFIED COPY

**PREPARED BY AND RETURN TO:**

Christian F. O'Ryan, Esq.  
Stearns Weaver Miller Weissler  
Alhadeff & Sitterson, P.A.  
401 East Jackson Street, Suite 2100  
Tampa, Florida 33602

Space above this line for recorder's use only

**RECREATION CAMPUS USE, EXCLUSIVE MANAGEMENT  
AND EASEMENT AGREEMENT**

THIS RECREATION CAMPUS USE, EXCLUSIVE MANAGEMENT, AND EASEMENT AGREEMENT (this "**Agreement**") is made and entered into as of the Effective Date (as defined herein), by and between 13<sup>th</sup> FLOOR, LP, a Delaware limited partnership, and its successors and assigns ("**13<sup>th</sup> Floor**") and PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation (the "**Recreation Association**"). 13<sup>th</sup> Floor and the Recreation Association are collectively referred to herein as the "Parties."

**RECITALS**

A. 13<sup>th</sup> Floor is or will be the record title owner of the real property legally described on **Exhibit A** attached hereto (the "**Project**") and the real property legally described on **Exhibit A-1** attached hereto (the "**New Clubhouse Parcel**"). 13<sup>th</sup> Floor will create a homeowners' association for the Project, in accordance with Chapter 720, Florida Statutes, to be named "The Delray Trails Homeowners Association," or a similarly descriptive name (the "**Delray Trails Association**").

B. The Recreation Association is the record title owner of the real property legally described on **Exhibit B** attached hereto (the "**Recreation Association Parcel**"). The Recreation Association has the authority to contract for the management and operation of facilities on the Recreation Association Parcel.

C. Concurrent with the construction of residential units within the Project, 13<sup>th</sup> Floor will construct, at its own expense, a new amenity area, which will include a new clubhouse (the "**New Clubhouse**"), new amenities, and certain of the pre-existing amenities and facilities which 13<sup>th</sup> Floor will renovate (collectively, the "**Recreation Campus**"). The Recreation Campus will be constructed partially on the New Clubhouse Parcel and partially on the Recreation Association Parcel.

D. The Recreation Association and 13<sup>th</sup> Floor entered into that certain Development Agreement (the "**Development Agreement**") whereby the parties to the Development Agreement agreed to enter into this Agreement, which shall become effective only (i) in the event that any provision of the Recreation Association's Amended

and Restated Articles of Incorporation (the "**Amended and Restated Articles**") relating to the Delray Trails Association being a "Member Association" is challenged by the filing of a lawsuit against 13<sup>th</sup> Floor, the Recreation Association, or any other party, and such lawsuit results in a temporary injunction being issued restricting, impeding or preventing the Delray Trails Association from becoming a Member Association of the Recreation Association, and/or in the event that such lawsuit is finally adjudicated by a court of competent jurisdiction, including all appeals, and such adjudication results in Delray Trails Association not being a "Member Association" of the Recreation Association (the "**Trigger Event**"), and (ii) upon the transfer of control of the Delray Trails Association to the non-developer members of the Delray Trails Association, in accordance with Section 720.307, Florida Statutes (2018) (the "**Turnover**"). Notwithstanding the occurrence of the Trigger Event, in the event any lawsuit challenging the Delray Trails Association's status as a "Member Association" is finally adjudicated by a court of competent jurisdiction, including all appeals, and such adjudication results in Delray Trails Association being a Member Association of the Recreation Association, then in that event, and only in that event, this Agreement shall automatically terminate and the Delray Trails Association shall revert back to being a Member Association of the Recreation Association.

E. Only upon the occurrence of the Trigger Event and after the Turnover, and subject to the terms of the Agreement and the Development Agreement, 13<sup>th</sup> Floor and the Recreation Association desire to (i) reserve on behalf of, and grant to, 13<sup>th</sup> Floor and its successors in title and assigns, including the Delray Trails Association and its members, a perpetual access and use easement granting 13<sup>th</sup> Floor and its successors in title and assigns, the irrevocable right to use the Recreation Campus, and (ii) irrevocably delegate to the Recreation Association the exclusive right to operate and manage the Recreation Campus during the term of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises as hereinafter expressed, Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

1. **Recitals**. The above recitals are true and correct and are incorporated herein by this reference.

2. **Grant of Easement**. 13<sup>th</sup> Floor hereby reserves for itself and on behalf of the Delray Trails Association, and the Recreation Association hereby grants to 13<sup>th</sup> Floor and the Delray Trails Association, and to the members of the Delray Trails Association, their successors in title, and each of their guests, tenants and invitees (the "**Authorized Users**"), a perpetual non-exclusive easement for access and use of the Recreation Campus in common with the Recreation Association and its "Member Associations," and their individual constituent members subject to the provisions of this Agreement. Such easement includes the right of pedestrian and vehicular ingress and egress over the Recreation Campus to the extent necessary for the use and enjoyment of the Recreation Campus by the Authorized Users. This easement also includes the Authorized Users'



right to park unattended vehicles within the Recreation Campus, but only in those areas designated as parking areas by the Recreation Association.

3. Recreation Campus Exclusive Management; Allocation of Costs.

A. Exclusive Management. Subject to the terms of this Agreement, management, operation, and maintenance of the Recreation Campus shall be under the complete supervision and control of the Recreation Association. 13<sup>th</sup> Floor hereby irrevocably delegates the exclusive right to operate and manage the New Clubhouse and agrees and acknowledges the Recreation Association has the exclusive right to operate and manage the Recreation Campus, including the New Clubhouse, as of the Effective Date. The Parties acknowledge and agree that as of the Effective Date of this Agreement, the Recreation Association shall exclusively manage the Recreation Campus, and the Recreation Campus shall not be under the supervision or control of 13<sup>th</sup> Floor or the Delray Trails Association. The use of the Recreation Campus by Authorized Users shall be subject to rules and regulations enacted by the Recreation Association as may be amended from time to time. In the event that Delray Trails fails to provide timely payment of fees, dues or assessments invoiced to it by Recreation Association, Authorized Users' rights to access and utilize the Recreation Campus shall be immediately suspended.

B. Recreation Campus Costs; Allocation of Costs. The expenses incurred by the Recreation Association related to the operation and management of the Recreation Campus shall include the costs and expenses of operation, maintenance, management, repair, and replacement of the Recreation Campus, as such costs and expenses are reasonably determined by the Board of Directors of the Recreation Association (collectively, the "Recreation Campus Costs"). The Recreation Campus Costs may include any reasonable costs for deferred maintenance and/or reserves for replacement of any portion of the Recreation Campus, all as determined by the Board of Directors of the Recreation Association in its reasonable discretion. The Delray Trails Association shall be responsible for one-third (1/3) of the Recreation Campus Costs. The remaining two-thirds (2/3's) of the Recreation Campus Costs shall be paid by the Recreation Association in accordance with its Amended and Restated Articles of Incorporation and Amended and Restated Bylaws.

C. Recreation Campus Budget. Within thirty (30) days of the Effective Date, the Recreation Association shall deliver to the Delray Trails Association a budget for Recreational Campus Costs (the "Recreation Campus Budget"); provided, however, the Delray Trails Association shall have no right to disapprove the initial Recreation Campus Budget. Each year, the Recreation Association shall deliver to the Delray Trails Association an updated Recreation Campus Budget for the following fiscal year by November 1<sup>st</sup> of each calendar year. If no proposed Recreation Campus Budget is presented by the Recreation Association to the Delray Trails Association by November 1<sup>st</sup> in any year, the previous year's



Recreation Campus Budget shall be deemed adopted. The proposed Recreation Campus Budget, as presented by the Recreation Association to the Delray Trails Association shall not increase by more than ten percent (10%) over the previous year's Recreation Campus Budget, except as otherwise provided in accordance with the Recreation Association's Amended and Restated Articles of Incorporation and Amended and Restated Bylaws.

D. Due Dates/Collection. The Delray Trails Association shall pay the Recreation Association its share of the Recreation Campus Costs by the first (1<sup>st</sup>) day of each month during the applicable fiscal year. If such payment is not made when due, and such failure continues for a period of ten (10) days after delivery of notice of such failure to pay, the Recreation Association shall have the rights and remedies set forth herein, at law and/or in equity, in connection with such failure to pay.

E. Non-recurring Costs. The Parties agree and acknowledge that in addition to the budgeted Recreation Campus Costs, costs may be incurred in connection with the Recreation Campus for specific purposes of a nonrecurring nature that were not accounted for in the Recreation Campus Budget. The Recreation Association is hereby authorized to levy special assessments, from time to time, to pay for such costs, which such special assessments shall be payable at such time or time(s) as determined by the Recreation Association; provided, however, a special assessment may not exceed One Hundred Thousand Dollars (\$100,000.00) for a single project if such special assessment is approved by the majority of Recreation Association Board without a vote of the owners of the Member Associations in accordance with the Recreation Association's Amended and Restated Articles of Incorporation and Amended and Restated Bylaws. In the event that a special assessment exceeds One Hundred Thousand Dollars (\$100,000.00) for a single project, such special assessment shall be approved by vote of the owners of Member Associations in accordance with the procedures set forth within the Recreation Association's Amended and Restated Articles of Incorporation and Amended and Restated Bylaws. The Delray Trails Association shall be responsible for one-third (1/3) of any such special assessment. The remaining two-thirds (2/3's) of any such special assessment shall be paid by the Recreation Association in accordance with its Amended and Restated Articles of Incorporation and Amended and Restated Bylaws.

4. Rules and Regulations: Imposition of Fines. The Recreation Association is authorized to make and amend rules and regulations governing the operation and use of the Recreation Campus (the "Rules and Regulations"). Authorized Users shall be bound by the Rules and Regulations. Further, the Recreation Association shall be entitled to impose fines upon Authorized Users and/or suspend Authorized Users right to use the Recreation Campus for violations of any of the Rules and Regulations. Although Authorized Users are not members of the Recreation Association, any default by Authorized Users with respect to the Rules and Regulations shall be addressed in the

manner provided in Article VIII and IX of the Recreation Association's Amended and Restated Bylaws adopted as of the Effective Date.

5. Authority of Delray Trails Association's Board of Directors. Except when a vote of the membership of the Delray Trails Association is specifically required by applicable law or by the governing documents of the Delray Trails Association, all decisions of the Delray Trails Association required hereunder may be made by a majority of the Board of Directors of the Delray Trails Association. The Delray Trails Association and its members shall be bound by such decisions of the Delray Trails Association's Board of Directors.

6. Enforcement. In the event of a breach of this Agreement by any Party, the defaulting party shall have seven (7) business days after receipt of written notice from the non-defaulting party to cure such default, or if any such event of default is of a nature that it cannot be completely cured within such period, then within a reasonably longer period of time as may be necessary to cure the default, but in no event more than thirty (30) days. Subject to the cure period granted in the preceding sentence, in the event of an uncured default by either party, the non-defaulting party shall have the right to seek any such rights and remedies available to such non-defaulting party at law or in equity, including but not limited to the right of specific performance and injunctive relief.

7. Attorneys' Fees. The prevailing party in any litigation involving this Agreement shall be entitled to recover from the non-prevailing party all attorneys' fees, paralegal fees and costs and expenses incurred in connection with such litigation, including all costs of appeal or otherwise, including reasonable attorneys' fees and paralegal fees in the enforcement of this Agreement.

8. Not a Public Dedication. Nothing contained herein shall be deemed to be a gift or dedication of any portion of the Recreation Campus to the general public or for general public purposes whatsoever, it being the intention that this Agreement shall be strictly limited to and for the purposes herein expressed.

9. Severability. If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid and unenforceable, the remainder of this Agreement and the application of such terms or provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term or provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

10. Covenants Running With the Land. The provisions, agreements, rights, powers, covenants, conditions and obligations contained in this Agreement shall be binding upon the Parties and each of their successors and assigns, and all other persons acquiring any interest in any property described herein or any portion thereof, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the owners of such properties and their respective heirs, successors (by merger, consolidation or

otherwise) and assigns. All of the provisions of this Agreement shall constitute covenants running with the land pursuant to Florida law.

11. Binding Effect; Termination. This Agreement shall run with and bind the land and shall inure to the benefit of and be enforceable by the Parties and their respective legal successors and assigns, for a term of twenty-five (25) years from the Effective Date, after which time this Agreement shall be automatically extended for successive periods of ten (10) years unless prior to the end of such twenty-five (25) year period, or each successive ten (10) year period, an instrument signed by the Parties agreeing to terminate this Agreement has been duly executed and recorded in the Public Records of Palm Beach County. Upon the legal formation of the Delray Trails Association, as evidenced by the filing of Articles of Incorporation for such entity with the Florida Department of State, the Delray Trails Association shall be considered a "Party" hereunder. Notwithstanding anything contained herein to the contrary, upon its formation, the Delray Trails Association shall be automatically designated as the "Party" for the Project and not the individual record title owner(s) of any portion thereof. In such event, except as specifically otherwise provided, the rights and obligations of 13<sup>th</sup> Floor under this Agreement shall be automatically assumed by the Delray Trails Association and 13<sup>th</sup> Floor shall no longer have any rights or obligations hereunder. In no event will any individual third-party record title owner(s) of subdivided lots or homes within the Project be responsible for any of the obligations set forth herein, nor shall any lien be placed upon such lots or homes. However, in the event that Delray Trails Association fails to timely pay any dues, fees or assessments invoiced by the Recreation Association, all rights and benefits provided within this Agreement to Authorized Users, including members of Delray Trails Association or owners of lots or homes within Delray Trails shall cease and such Authorized Users shall no longer have access to utilize the Recreation Campus until such breach has been cured.

12. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida. Venue with respect to any litigation shall be Palm Beach County, Florida.

13. No Waiver. No waiver of any of the provisions of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

14. Reliance. The Parties each represent that they have relied upon, or had the opportunity to rely upon, the advice of an attorney of their own choice, have completely read the terms of this Agreement, and fully understand and voluntarily accept the terms set forth herein. THE PARTIES ARE RELYING UPON EACH OTHER CONFIRMING IN ADVANCE THAT THIS AGREEMENT IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO EACH PARTY. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EITHER PARTY FROM TAKING THE POSITION THAT ANY PROVISION OF THIS AGREEMENT IS INVALID IN ANY RESPECT.

15. **Authority.** The Parties each represent and warrant they have lawful right, power, authority and capacity to bind themselves to the terms of this Agreement. The execution and delivery of this Agreement does not (i) violate or conflict with the organizational documents of either Party, or (ii) breach the provisions of, or constitute a default under, any contract, agreement, instrument or obligation to which either Party is bound.

16. **Effective Date; Counterparts.** The "**Effective Date**" of this Agreement shall be upon the Turnover but only if the Trigger Event shall have occurred. This Agreement may be executed in any number of counterparts, each of which when executed and delivered, shall constitute an original, and such counterparts together shall constitute one and the same instrument. Signature and acknowledgement pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document.

[Signatures on the Following Page]

IN WITNESS WHEREOF, 13<sup>th</sup> Floor has caused its authorized representative to execute this Recreation Campus Use, Exclusive Management, and Easement Agreement as of the day and year written below.

WITNESSES:

"13<sup>TH</sup> FLOOR"

13FH PALM BEACH, LP, a Delaware limited partnership

Janet L. Trump  
Print Name: Janet L. Trump

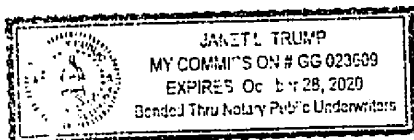
Jamilet Arana  
Print Name: Jamilet Arana

By: [Signature]  
Name: Michael Nunziata  
Title: Authorized Representative  
Date: 2/19/19

(Seal)

STATE OF FLORIDA                    )  
COUNTY OF BROWARD            )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of February, 2019, by Michael Nunziata, as Authorized Representative of 13FH PALM BEACH, LP, a Delaware limited partnership. Said person is personally known to me or has produced \_\_\_\_\_ as identification.



Janet L. Trump  
Print Name: Janet L. Trump  
Notary Public, State of Florida  
Commission No.: EE846915  
My Commission Expires: 10/28/2020

[Signatures Continue on the Following Page]

IN WITNESS WHEREOF, the Recreation Association has caused its authorized representative to execute this Recreation Campus Use, Exclusive Management, and Easement Agreement as of the day and year written below.

WITNESSES:

"RECREATION ASSOCIATION"

PALM GREENS AT VILLA DEL RAY  
RECREATION CONDOMINIUM ASSOCIATION,  
INC., a Florida not for profit corporation



Print Name: Andre Backe



Print Name: Susan P. Herman

By: Thomas T. Aldrich

Name: Thomas T. Aldrich

Title: President

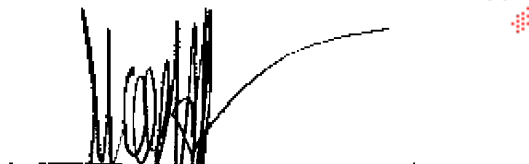
Date: 4/16/19

(Corporate Seal)

STATE OF FLORIDA                    )  
COUNTY OF PALM BEACH        )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of April, 2019, by THOMAS ALDRICH, as President of PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation. Said person is personally known to me or has produced \_\_\_\_\_ as identification.



  
Print Name: MONIQUE HUNT  
Notary Public, State of Florida

Commission No.: GG 164675  
My Commission Expires: 12/08/21

NOT A CERTIFIED COPY



**Exhibit A**

**Legal Description – Project [6 pages total]**

**PARCEL 1:**

Certain lands in the West Half (W1/2) of Section 11 Township 46 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:

Tract G-1 of Plat II VILADELRAY, according to the Plat thereof, recorded in Plats Book 30, at Page 77, of the Public Records of Palm Beach County, Florida, less and except the East 148 feet of the South 123 feet thereof.

**AND THE FOLLOWING DESCRIBED PREMISES:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida being more particularly described as follows:

Beginning at the Northwest corner of Tract G-1, as shown on a Plat entitled "A PLANNED UNIT DEVELOPMENT, PLAT II, VILADELRAY, Palm Beach County, Florida", recorded in Plat Book 30, Pages 77, 78 and 79, of the Public Records of Palm Beach County, Florida; thence along the following numbered courses:

1. South 16° 59' 11" West, along the Westerly line of Tract G-1; a distance of 45.69 feet to a point of curvature; thence.....
2. Southerly, along the arc of a 535.00 foot radius curve, concave Easterly, whose long chord runs South 11° 33' 19" West, an arc distance of 101.42 feet to a point; thence.....
3. South 88° 17' 22" West, 59.03 feet to a point; thence.....
4. North 00° 28' 16" West, 134.28 feet to a point in the Southerly right-of-way line of Lake Worth Drainage District Canal L-31; thence.....
5. North 89° 31' 44" East along said right-of-way 10.51 feet to a point of curvature; thence.....
6. Easterly, along the arc of a 365.00 foot radius curve, concave Northerly, whose chord bears North 82° 55' 54" East, an arc distance of 84.05 feet to the Point of Beginning.

**PARCEL 2:**

Certain lands in the West Half (W1/2) of Section 11, Township 46 South, Range 42 East, Palm Beach, County, Florida, more particularly described as follows.

Tract G of Plat II VILADELRAY, according to the Plat thereof, recorded in Plat Book 30, Page 77, Public Records of Palm Beach County, Florida.



**PARCEL 3:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Begin at a point 5.00 feet Westerly from the Southwest corner (as measured along the arc of a curve) of Section 10, VILADELWAY on the South boundary of Section 11, VILADELWAY, as both are shown and recorded in Plat Book 36, Pages 19, 20, 21 and 22, of the Public Records of Palm Beach County, Florida, run (bearings cited herein are in the meridian of said Villadelray Sections 10 and 11) by the following numbered courses:

(Courses 1 through 11 are on the South boundary of aforementioned Villadelray Section 10 and the West boundary of Villadelray, Sections 8 and 9, as said Sections 8 and 9, are recorded in Plat Book 34, Pages 173 through 175)

1. Said Point of Beginning being on the arc of a curve, concave Northerly, having a radius of 1909.16 feet and a central angle of  $1^{\circ} 23' 57''$ ; thence.....
2. From the Point of Beginning run along the arc of said curve and the South boundary of Villadelray Section 10 in an Easterly direction a distance of 46.57 feet to the Point of Tangency of said curve; thence.....
3. Continue North  $86^{\circ} 39' 20''$  East, along said South boundary of Villadelray Section 10, a distance of 524.93 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 180.00 feet and a central angle of  $85^{\circ} 00' 00''$ ; thence.....
4. Run along the arc of said curve in a Southeasterly direction, a distance of 267.04 feet, to a Point of compound curve, concave Easterly, having a radius of 509.73 feet and a central angle of  $39^{\circ} 35' 03''$ ; thence.....
5. Run along the arc of said curve in a Southwesterly direction, a distance of 352.16 feet to the Point of Tangency; thence.....
6. South  $31^{\circ} 14' 23''$  West, a distance of 40.32 feet to the Point of Curvature of a curve concave Easterly, having a radius of 405.00 feet and a central angle of  $55^{\circ} 20' 03''$ ; thence.....
7. Run along the arc of said curve, a distance of 391.13 feet to the Point of Tangency of said curve; thence.....
8. South  $24^{\circ} 05' 40''$  East, a distance of 235.99 feet to the Point of Curvature of a curve concave Westerly, having a radius of 510.00 feet and a central angle of  $56^{\circ} 45' 00''$ ; thence.....
9. Run along the arc of said curve in a Southerly direction, a distance of 505.14 feet to the Point of Tangency of said curve; thence.....

10. South  $32^{\circ} 39' 20''$  West, a distance of 19.22 feet to a point on the Northerly Right-of-Way of Lake Worth Drainage District Canal L-31 as recorded in Official Record Book 2218, Page 1150, Public Records of Palm Beach County, Florida; thence.....

(Courses 11 through 22 being on the North Right-of-Way of said L-31 Canal)

11. North  $57^{\circ} 20' 40''$  West, a distance of 85.00 feet; thence.....

12. South  $32^{\circ} 39' 20''$  West, 585.50 feet to the Point of Curvature of a curve concave Northwesterly, having a radius of 71.00 feet and a central angle of  $68^{\circ} 00' 00''$ ; thence.....

13. Run along the arc of said curve in a Westerly direction, a distance of 84.26 feet to the Point of Tangency of said curve; thence.....

14. North  $79^{\circ} 20' 40''$  West, a distance of 318.00 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of  $40^{\circ} 00' 00''$ ; thence.....

15. Run along the arc of said curve in a Northwesterly direction, a distance of 49.57 feet to the Point of Tangency of said curve; thence.....

16. North  $39^{\circ} 20' 40''$  West, a distance of 113.48 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 140.00 feet and a central angle of  $58^{\circ} 53' 01''$ ; thence.....

17. Run along the arc of said curve in a Westerly direction, a distance of 143.88 feet to the Point of Tangency of said curve; thence.....

18. South  $81^{\circ} 46' 19''$  West, a distance of 445.07 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of  $67^{\circ} 00' 00''$ ; thence.....

19. Run along the arc of said curve in a Northwesterly direction, a distance of 83.03 feet to the Point of Tangency of said curve; thence.....

20. North N  $31^{\circ} 13' 41''$  West, 248.41 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 85.00 feet and a central angle of  $79^{\circ} 14' 35''$ ; thence.....

21. Run along the arc of said curve in a Westerly direction, a distance of 117.56 feet to the Point of Tangency of said curve; thence.....

22. South  $69^{\circ} 31' 44''$  West, a distance of 96.66 feet to a point on the arc of a curve concave Westerly, having a radius of 595.00 feet and a central angle of  $24^{\circ} 26' 59''$ ; thence.....

23. From a tangent bearing of North  $11^{\circ} 23' 27''$  East, run along the arc of said curve, a distance of 253.90 feet to a Point of Reverse Curvature of a curve concave Easterly, having a radius of 770.00 feet and a central angle of  $12^{\circ} 37' 03''$ ; thence.....

24. Run along the arc of said curve in a Northerly direction, a distance of 169.57 feet to the Point of Tangency of said curve; thence.....

25. North  $0^{\circ} 26' 28''$  West, a distance of 238.00 feet to the Point of Curvature of a curve concave Easterly having a radius of 2056.88 feet and a central angle of  $5^{\circ} 30' 00''$ ; thence.....

26. Run along the arc of said curve in a Northerly direction, a distance of 197.45 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1115.47 feet and a central angle of  $11^{\circ} 00' 00''$ ; thence.....

27. Run along the arc of said curve, a distance of 214.16 feet to the Point of Tangency of said curve; thence.....

28. North  $5^{\circ} 56' 28''$  West, a distance of 141.14 feet to the Point of Curvature of a curve concave Easterly, having a radius of 1210.03 feet and a central angle of  $8^{\circ} 00' 00''$ ; thence.....

29. Run along the arc of said curve in a Northerly direction, a distance of 168.95 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1311.74 feet and a central angle of  $7^{\circ} 07' 48''$ ; thence.....

30. Run along the arc of said curve in a Northerly direction, a distance of 163.24 feet to a Point of Reverse Curvature of a curve concave Southeasterly, having a radius of 25.00 feet and a central angle of  $88^{\circ} 27' 34''$ ; thence.....

31. Run along the arc of said curve in a Northeasterly direction, a distance of 38.60 feet to a Point of Reverse Curvature of a curve concave Northwesterly, having a radius of 2094.56 feet and a central angle of  $3^{\circ} 47' 43''$ , said point also being on the South boundary of Villadelray, Section 11, as recorded in Plat Book 36, Pages 19, 20, 21 and 22; thence.....

32. Run along the arc of said curve in an Easterly direction, a distance of 138.74 feet to the Point of Tangency of said curve; thence.....

33. North  $79^{\circ} 35' 35''$  East, a distance of 419.76 feet to the Point of Curvature of a curve concave Southerly, having a radius of 1000.00 feet and a central angle of  $17^{\circ} 52' 30''$ ; thence.....

34. Run along the arc of said curve in an Easterly direction, a distance of 311.98 feet to a Point of Reverse Curvature of a curve concave Northerly, having a radius of 1909.16 feet and a central angle of  $7^{\circ} 54' 52''$ ; thence.....

35. Run along the arc of said arc in an Easterly direction, a distance of 263.72 feet to a point on the arc of a curve concave Easterly, having a radius of 216.22 feet and a central angle of  $49^{\circ} 28' 12''$ ; thence.....

36. From a tangent bearing of South  $01^{\circ} 09' 18''$  East, run along the arc of said curve, a distance of 186.69 feet to the Point of Tangency of said curve; thence.....

37. Run South 50° 37' 21" East, a distance of 42.78 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 80.00 feet and a central angle of 16° 56' 51"; thence.....
38. Run along the arc of said curve in a Southeasterly direction, a distance of 23.66 feet; thence.....
39. North 85° 03' 53" West, a distance of 158.72 feet; thence.....
40. South 80° 06' 36" West, a distance of 331.32 feet; thence.....
41. South 79° 40' 42" West, a distance of 101.25 feet; thence.....
42. South 76° 47' 58" West, a distance of 259.83 feet; thence.....
43. South 60° 55' 51" West, a distance of 260.00 feet; thence.....
44. South 14° 05' 33" West, a distance of 152.99 feet; thence.....
45. South 16° 51' 25" East, a distance of 103.00 feet; thence.....
46. South 45° 51' 25" East, a distance of 23.00 feet; thence.....
47. South 18° 51' 25" East, a distance of 187.84 feet; thence.....
48. South 32° 27' 14" West, a distance of 30.46 feet; thence.....
49. South 20° 20' 16" East, a distance of 169.54 feet; thence.....
50. South 69° 21' 11" East, a distance of 92.47 feet; thence.....
51. North 66° 36' 14" East, a distance of 219.65 feet; thence.....
52. North 49° 24' 54" East, a distance of 362.58 feet; thence.....
53. North 12° 28' 36" East, a distance of 19.73 feet; thence.....
54. North 52° 53' 48" East, a distance of 71.02 feet; thence.....
55. North 60° 29' 30" East, a distance of 77.53 feet; thence.....
56. North 87° 32' 08" East, a distance of 46.40 feet; thence.....
57. North 64° 50' 10" East, a distance of 166.63 feet; thence.....
58. North 30° 02' 28" East, a distance of 192.83 feet; thence.....
59. North 89° 12' 55" East, a distance of 280.00 feet; thence.....
60. North 71° 04' 31" East, a distance of 37.00 feet; thence.....
61. North 00° 03' 00" West, a distance of 242.41 feet; thence.....

**62. South  $89^{\circ} 57' 25''$  West, a distance of 299.88 feet to a point on the arc of a curve concave Southwesterly, having a radius of 130.00 feet and a central angle of  $22^{\circ} 53' 50''$ ; thence.....**

**63. From a tangent of North  $27^{\circ} 43' 43''$  West, run along the arc of said curve in a Northwesterly direction, a distance of 51.95 feet to the Point of Tangency of said curve; thence.....**

**64. Run North  $50^{\circ} 37' 21''$  West, a distance of 42.78 feet to the Point of Curvature of curve, concave Northeasterly, having a radius of 166.22 feet and a central angle of  $49^{\circ} 28' 59''$ ; thence.....**

**65. Run along the arc of said curve in a Northerly direction, a distance of 143.55 feet to the Point of Beginning.**

NOT A CERTIFIED COPY

**Exhibit A-1**

**Legal Description – New Clubhouse Parcel**

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

CERTAIN LANDS IN THE WEST HALF (W1/2) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "G-1" OF PLAT II VILADELRAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA, LESS AND EXCEPT THE EAST 148 FEET OF THE SOUTH 123 FEET THEREOF.

TOGETHER WITH:

A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT G-1, AS SHOWN ON A PLAT ENTITLED "A PLANNED UNIT DEVELOPMENT, PLAT II, VILADELRAY, PALM BEACH COUNTY, FLORIDA", AS RECORDED IN PLAT BOOK 30, PAGES 77, 78 AND 79, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG THE FOLLOWING NUMBERED COURSES:

1. SOUTH 16° 59' 11" WEST, ALONG THE WESTERLY LINE OF TRACT G-1; A DISTANCE OF 45.69 FEET TO A POINT OF CURVATURE; THENCE. . . .
2. SOUTHERLY, ALONG THE ARC OF A 535.00 FOOT RADIUS CURVE, CONCAVE EASTERLY, WHOSE LONG CHORD RUNS SOUTH 11° 33' 19" WEST, AN ARC DISTANCE OF 101.42 FEET TO A POINT; THENCE. . . .
3. SOUTH 88° 17' 22" WEST, 59.03 FEET TO A POINT; THENCE. . . .
4. NORTH 00° 28' 16" WEST, 134.28 FEET TO A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL L-31; THENCE. . . .
5. NORTH 89° 31' 44" EAST ALONG SAID RIGHT-OF-WAY 10.56 FEET TO A POINT OF CURVATURE; THENCE. . . .
6. EASTERLY, ALONG THE ARC OF A 365.00 FOOT RADIUS CURVE, CONCAVE NORTHERLY, WHOSE CHORD BEARS NORTH 82° 55' 42" EAST, AN ARC DISTANCE OF 84.01 FEET TO THE POINT OF BEGINNING.

**Exhibit B**

**Legal Description – Recreation Association Parcel**

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

CERTAIN LANDS IN THE WEST HALF (W1/2) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "F" OF PLAT II VILADELWAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA:

TOGETHER WITH:

THE EAST 148 FEET OF THE SOUTH 123 FEET OF TRACT "G-1" OF PLAT II VILADELWAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA.

**Exhibit "E-2"**

**[Amended and Restated Bylaws]**

**[ATTACHED ON FOLLOWING PAGES]**

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**PALM GREENS at VILLA DEL RAY RECREATION ASSOCIATION, INC.**

**AMENDED AND RESTATED BYLAWS**

**ARTICLE I - IDENTITY**

These Amended and Restated Bylaws (the "Bylaws") were adopted on \_\_\_\_\_, at \_\_\_\_\_, by a vote of not less than majority vote of the Board of Directors of Palm Greens at Villa Del Rey Recreation Condominium Association, Inc., and a majority of the voting interests of the Number 1 Condominium Association-Palm Greens at Villa Del Ray, Inc. and the Number 2 Condominium Association-Palm Greens at Villa Del Ray, Inc. These Amended and Restated Bylaws shall become effective only upon the conveyance of the real property legally described in Schedule A, attached hereto, from 13FH PALM BEACH, LP, a Delaware limited partnership, or its successors and assigns ("13th Floor") to the Recreation Association as evidenced by a deed from 13<sup>th</sup> Floor to the Recreation Association duly recorded in the Palm Beach County Public Records (the "Conveyance"). Immediately upon and simultaneously with the Conveyance, these Bylaws shall become effective and shall govern the operation of the Palm Greens at Villa Del Ray Recreation Association, Inc., hereinafter called the "Recreation Association."

The Recreation Association is a not-for-profit corporation organized and existing for the purpose of operating and managing the Facilities (as defined below) and for such other purposes provided herein. Each Residential Association (as defined below), and their respective members, shall be entitled to use and enjoyment of the Facilities, subject to the Documents (as defined herein).

**ARTICLE II - DEFINITIONS**

As used in these Bylaws, and all amendments thereof, unless the context otherwise requires, the following definitions shall prevail:

A. "Recreation Association" means the Association named at the beginning of this document, a non-profit corporation organized under the laws of the State of Florida, being the entity responsible for the operation and maintenance of the Facilities (as defined below).

B. **"Facilities"** means and refers to all real property owned or controlled by the Recreation Association and the improvements, equipment and personal property located thereon. The term Facilities includes, without limitation, the real property legally described on Schedule A attached hereto.

C. **"Residential Association"** means a non-profit corporation organized under the laws of the State of Florida which is responsible for the representation of the interests of its members in their use of Recreation Association Facilities.

The Residential Associations shall be comprised of the following:

(1) Number 1 Condominium Association-Palm Greens at Villa Del Ray, Inc. formed under a Declaration of Condominium, dated November 12, 1973, and as amended from time to time (the "Number 1 Residential Association");

(2) Number 2 Condominium Association-Palm Greens at Villa Del Ray, Inc. formed under a Declaration of Condominium, dated September 19, 1980, and as amended from time to time (the "Number 2 Residential Association"); and

(3) Delray Trails at Palm Greens, Inc. formed in accordance with Chapters 617 and 720, Florida Statutes (the "Delray Trails Residential Association"), for the purpose of managing the operations of the residential community generally referred to as "Delray Trails at Palm Greens".

D. **"Member Association"** means a Residential Association which is a member of the Recreation Association. The Recreation Association's Member Associations are the following:

(1) Number 1 Condominium Association-Palm Greens at Villa Del Ray, Inc. formed under a Declaration of Condominium, dated November 12, 1973, and as amended from time to time, (the "Number 1 Residential Association");

(2) Number 2 Condominium Association-Palm Greens at Villa Del Ray, Inc. formed under a Declaration of Condominium, dated September 19, 1980, and as amended from time to time (the "Number 2 Residential Association"); and

(3) Delray Trails at Palm Greens, Inc. formed in accordance with Chapters 617 and 720, Florida Statutes (the "Delray Trails Residential Association"), for the purpose of managing the operations of the residential community generally referred to as "Delray Trails at Palm Greens".

E. **"Recreation Association Expenses"** means those expenses for which the Residential Associations are liable to the Recreation Association, including but not limited to taxes, insurance, maintenance and repairs.

F. **"Recreation Association Annual Budget Assessment"** means the funds required for the payment of Recreation Association Expenses which are assessed against the Residential Associations at the beginning of each fiscal year in accordance with the Recreation Associations' approved annual budget.

G. **"Recreation Association Special Assessment"** means the funds required by the Recreation Association for the payment of the Recreation Association Expenses which are assessed against the Residential Associations at any time other than the beginning of the fiscal year.

H. **"Member Association Representative"** means a person elected or otherwise designated by a Member Association in accordance with the Member Association's Bylaws to represent the Member Association on the Board of Directors of the Recreation Association.

I. **"Documents"** means the Articles of Incorporation, these Bylaws and the Rules and Regulations of the Recreation Association, all as amended from time to time.

J. **"Owner"** means the owner or owners of a residential unit within the Number 1 Residential Association or the Number 2 Residential Association, or the owner or owners of a lot or residential unit within the residential community that is managed by the Delray Trails Residential Association.

### **ARTICLE III – MEMBERSHIP, REPRESENTATION AND VOTING**

**SECTION 1. Membership in Recreation Association.** Membership in the Recreation Association shall be limited to the Number 1 Residential Association, the Number 2 Residential Association and the Delray Trails Residential Association, in their corporate capacities.

**SECTION 2. Representation of Member Associations.** Each Member Association will be represented by three (3) persons (each a "Representative"). Each Representative shall serve as a Director of the Recreation Association.

**SECTION 3. Selection of Member Association Representatives.** The respective Bylaws of each Member Association shall determine the procedure for the election and/or designation of its Representatives, and their terms. A person who is a member of or who has a legal or beneficial interest in a membership of more than one Residential Association may not serve as a Representative.

**SECTION 4. Representative's Term.** The period of each Representative's service shall extend until the Representative's term expires, or until the Representative resigns, or is removed or disqualified in the manner provided in Sections 6 or 7 of this Article.

**SECTION 5. Compensation.** No compensation shall be paid to the Representatives.

**SECTION 6. Resignation and Disqualification of Member Association Representative.**

A. A Representative may resign at any time by sending a written notice of such resignation to the Secretary of the Recreation Association, and/or to the Secretary of his/her Member Association. Such resignation shall take effect upon receipt by either Secretary.

B. The termination of a Representative's membership in a Member Association shall automatically constitute a resignation, as of the date of such termination.

C. Should the Treasurer of a Member Association, at the Direction of such Association's Board of Directors, notify the Recreation Association Secretary in writing that a Representative of the Member Association is more than thirty (30) days delinquent in the payment of an assessment due the Member Association, said delinquency shall then automatically constitute a disqualification and resignation of the Member Association's Representative, as of the date that said written notice is received.

**SECTION 7. Removal of Member Association Representatives.** A Member Association's Representative may be removed, with or without cause, at a meeting of the Recreation Association's Board of Directors by the affirmative vote of seventy five percent (75%) of the Directors who cast a vote; or by the Member Association acting in accordance with its Bylaws.

**SECTION 8. Vacancies.** A Representative vacancy will be filled by the affected Member Association in accordance with its Bylaws.

#### **ARTICLE IV – FUNCTIONS, POWERS AND DUTIES OF BOARD OF DIRECTORS**

**SECTION 1. Establishment of Board of Directors.** The Representatives of the Member Associations shall be the Directors of the Recreation Association (“Directors”) and shall comprise its Board of Directors. The affairs of the Recreation Association shall be governed by its Board of Directors.

**SECTION 2. Quorum and Electronic Participation.** The presence in person of a majority of the Directors at a meeting of the Board of Directors shall constitute a quorum. The Directors shall permit any or all Directors to conduct, participate in and vote at any meeting through the use of any means of communication by which all Directors participating may simultaneously hear each other during the meeting, including, but not limited to, speakerphone, or any other electronic or telecommunications device or system. Directors participating in a meeting by such means are deemed to be present in person at such meeting.

**SECTION 3. Voting.** Each Director shall have one (1) vote. A majority of the votes cast at a meeting having a quorum shall decide any question, except as otherwise provided in Article III, Section 7 of these Bylaws which governs the removal of a Representative. Proxies shall not be used by the Directors to cast their votes.

**SECTION 4. Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Recreation Association, and may do all such acts and things as are not by law, the Association’s Articles of Incorporation, or these Bylaws, directed to be exercised and done by others. The powers of the Board of Directors shall specifically include, but shall not be limited to the following:

A. To exercise all powers specifically set forth in these Bylaws and all powers incidental thereto.

B. To fix and determine from time to time, the sum or sums necessary and adequate for Recreation Association Expenses. Recreation Association Expenses shall include those necessary for the operation, maintenance, repair, or replacement of Recreation Association Facilities, the costs of carrying out the powers and duties of the Recreation Association, all insurance premiums and expenses related thereto, including fire insurance and extended coverage, and any other expenses designated as Recreation Association Expenses from time to time by the Board of Directors of the Recreation Association. The Board of Directors is specifically empowered, on behalf of the Recreation Association, to make and collect assessments from the Residential Associations in accordance with Section 5 of this Article, and to lease, maintain, repair, and replace the Facilities.

C. To employ, dismiss, and control the personnel necessary for the maintenance and operation of the Facilities, including the right and power to employ attorneys, accountants, contractors, and other professionals, as the need arises.

D. To make and amend Rules and Regulations governing the details of the operation, use, maintenance, management, and control of the Facilities.

E. To contract for the management of the Facilities and to designate to such contractor all of the powers and duties of the Recreation Association, except those which may be required by these Bylaws to have the approval of the Board of Directors; and to contract for the management of operation of portions of the Facilities susceptible to separate management or operation, and to lease or concession such portions.

F. To further improve the Facilities, and to purchase or lease realty, improvements thereon and items of furniture, furnishings, fixtures, and equipment, and to acquire and enter into agreements to accept and hold title to and maintain same.

G. To elect Officers and to designate one or more committees, which, to the extent provided in the resolution designating said committee, shall have the powers of the Board of Directors in the management of the business and affairs of the Recreation Association. Each Committee shall consist of at least one (1) Director of the Recreation Association. The committee or committees shall have members as may be determined from time to time by the Committee Chairperson, and said committee(s) shall keep regular minutes of their proceedings and report same to the Board of Directors as required.

H. To provide for the security of the Facilities under the jurisdiction of the Recreation Association; to promulgate rules and regulations pertaining to the issuance of identification cards, swipe cards and keys for the Facilities, including establishing reasonable fees and/or deposits for such items.

I. In accordance with adopted rules and regulations, to charge fees for guests and invitees who use Recreation Association Facilities.

J. In accordance with the procedures set forth in Article IX of these Bylaws, to impose fines upon Owners and/or suspend any person's use or enter on Recreation Association Facilities, for violations of any of the provisions of the Recreation Association's Articles of Incorporation, Bylaws, or Rules and Regulations.

## **ARTICLE V – MEETINGS OF THE BOARD OF DIRECTORS**

### **SECTION 1. Annual and Other Meetings of Board of Directors.**

A. An annual meeting of the Recreation Association's Board of Directors shall be held on the first Monday of the week following the Member Associations' annual elections of their Representatives. If that Monday is a legal holiday, the Recreation Association Board's annual meeting shall be held on the next succeeding Monday.

B. The Recreation Association Board's annual meeting will be conducted for the purpose of electing Officers of its Board, and for transacting any other business authorized to be transacted.

C. Other meetings of the Board of Directors for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President of the Board of Directors of the Recreation Association or, in the President's absence, by the Vice-President.

D. A Meeting of the Directors shall also be called by the President or Secretary upon the written request of at least three (3) Representatives, which request shall state the purpose of the proposed meeting.

E. Business transacted at all meetings shall be confined to the objects stated in the notice thereof.

### **SECTION 2. Notices of Meetings.**

A. Notice of all meetings shall be issued by the Secretary of the Board of Directors, and shall state the place, time and purpose of the meeting.

B. Notice of the following Board meetings shall be given to the Recreation Associations Directors and the Residential Associations at least fourteen (14) days in advance of such meetings:

- (i) annual meeting,
- (ii) budget meetings (with respect to annual budget and special assessments)
- (iii) meetings to consider amendments to the Recreation Association's Articles of Incorporation and/or By-Laws.

Notice of all other Board meetings shall be given to the Recreation Association's Directors and the Member Associations at least five (5) days in advance of such meetings.



C. Notices to the Recreation Association's Directors may be delivered by hand, Fax or e-mail. Notices to Residential Associations and Member Associations shall be directed to the Secretaries of such Association and hand delivered to the Offices of the such Associations as they appear on the books of the Recreation Association, unless the notice is issued on a weekend, holiday or after a Residential Association's or Member Association's office hours, in which case the notice may be delivered by email to the President and Secretary of the such Association.

D. Before or at any meeting, a Recreation Association Director may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Director at a meeting shall constitute waiver of notice. Notice of a meeting may also be waived by a Member Association or Residential Association by providing a written statement that the Association waives its rights to notice and such written waiver shall be deemed the equivalent to providing notice to said Association.

E. Whenever a Residential Association or Member Association is required to be afforded notice of a meeting the members of such association shall have the right to attend such meeting.

**SECTION 3. Waiver of Meetings and Actions Taken on Written Consent.** A meeting which may be conducted on five (5) days' notice may be dispensed with if not less than a majority of the Directors who would have been entitled to vote upon the action if such meeting were noticed and held shall consent in writing, or by Fax or email, to such action being taken. Notice of any action taken by written consent pursuant to this section shall be given to all Directors and the Member Associations in the manner provided for by Section 2 C of this Article.

**SECTION 4. Adjourned Meeting.** If a meeting cannot be conducted because a quorum of Directors is not present, the meeting may be adjourned from time to time until a quorum is present.

## **ARTICLE VI - OFFICERS**

**SECTION 1. Elective Officers.** The Board of Directors shall elect Directors to serve as the Principal Officers of the Recreation Association. The Principal Officers shall be a President, a Vice-President, a Secretary, and a Treasurer. A Director may not hold more than one of the aforementioned Offices.



**SECTION 2. Election.** The Officers of the Recreation Association referenced in Section 1 of this Article shall be elected by the Board of Directors at the Recreation Association's annual meeting.

**SECTION 3. Appointed Officers.** The Board may appoint Assistant Secretaries and Assistant Treasurers, and such other Officers at such times as the Board deems necessary.

**SECTION 4. Compensation.** No compensation will be paid to Officers of the Recreation Association.

**SECTION 5. The President.** The President shall preside at all meetings of the Board of Directors. The President shall have executive powers and general supervision over the affairs of the Recreation Association and other Officers. The President shall sign all written contracts and perform all the duties incident to the President's Office and which may be delegated to the President from time to time by the Board of Directors. The President shall appoint the Chairperson of all committees designated by the Board of Directors. No person may be President of the Association for more than three (3) consecutive years.

**SECTION 6. The Vice President.** The Vice President shall perform all of the duties of the President in the President's absence, and such other duties as may be required of the Vice President from time to time by the Board of Directors. The Vice President shall also be an ex-officio member of all committees.

**SECTION 7. The Secretary.** The Secretary shall issue notices of all meetings of the Board of Directors and shall attend and keep the minutes of the same. The Secretary shall have charge of the Recreation Association books, records, and papers, except those kept by the Treasurer. An Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

**SECTION 8. The Treasurer.**

A. The Treasurer shall have custody of the Recreation Association's funds and securities, and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Recreation Association. The Treasurer shall deposit all monies and other valuable effects in the name of and to the credit of the Recreation Association in such depositories as may be designated from time to time by the Board of Directors of the Recreation Association.

B. The Treasurer shall disburse the funds of the Recreation Association as may be ordered by the Board of Directors in accordance with these By-Laws, making proper

vouchers for such disbursements. The Treasurer shall render to the President and the Board of Directors, at the regular meetings of the Board, or whenever they may require it, an account of all of his/her transactions as Treasurer and of the financial condition of the Recreation Association.

C. The Treasurer shall collect the assessments from the Residential Associations and shall promptly report on the status of collections and of all delinquencies to the Board of Directors of the Recreation Association.

D. An Assistant Treasurer shall perform the duties of the Treasurer when the Treasurer is absent.

**SECTION 9. Vacancies.** Officers serve at the pleasure of the Board and may be removed by the Board at any time, with or without cause. The Board shall elect a Director to serve out the one (1) year term of an Officer who resigns, is removed, or is unable to serve in his or her capacity as an Officer.

#### **ARTICLE VII – FINANCES**

**SECTION 1. Depositories.** The funds of the Recreation Association shall be deposited in such banks and depositories as may be determined by the Board of Directors from time to time, upon resolutions approved by the Board of Directors, and shall be withdrawn only upon checks and demands for money signed by such Officer or Officers of the Recreation Association as may be designated by said Board of Directors. Obligations of the Recreation Association shall be signed by at least two (2) Officers of the Recreation Association.

**SECTION 2. Fidelity Bonds.** The Treasurer and all Officers who are authorized to sign checks, and all Officers and employees of the Recreation Association, and any contractor handling or responsible for Recreation Association funds, shall be bonded in such amount as may be determined by the Board of Directors. The premiums on such bonds shall be paid by the Recreation Association. The bonds shall be in an amount sufficient to equal the monies an individual handles or has control of via a signatory or a bank account or other depository account.

**SECTION 3. Fiscal Year.** The fiscal year of the Recreation Association shall begin on the first day of January of each year; provided however, that the Board of directors is expressly authorized to change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed by the Internal Revenue Code of the United States of America, or at such time as the Board of Directors deems it advisable.

**SECTION 4. Annual Budget and Special Assessments.**

A. The Board of Directors shall adopt a budget for each fiscal year that shall include the estimated funds required to defray the Recreation Association's Expenses and to provide and maintain funds to cover current expenses, and which shall include all receipts and expenditures within the year for which the budget is made, including a reasonable allowance for: contingencies and working funds, (except expenditures chargeable to reserves, to additional improvements, or to operations); reserve for deferred maintenance which shall occur less frequently than annually, reserve for replacement, which shall include funds for repair or replacement required because of damage, depreciation or obsolescence; betterments, which shall include the funds to be used for capital expenditures or additional improvements or additional personal property.

B. A majority of the Board of Directors, meeting and voting at budget meetings, may approve:

(1) an annual budget which does not exceed 10% of the total amount of the prior year's budgeted amount;

(2) a special assessment not exceeding One Hundred Thousand Dollars for a single project.

C. Annual budgets and special assessments in excess of the limits set forth in paragraph B of this section shall require the following approvals:

(1) Approval by a majority of the Board of Directors of the Recreation Association present and voting at a budget meeting; and

(2) Approval by a majority of the Boards of Directors of at least two Member Associations, present and voting at meetings called to consider the proposed expenditure. Each Member Association Board will have not more than sixty (60) days to act upon the proposed expenditure. Any such Member Association Board's failure to act within this time shall be deemed to constitute its acceptance of the proposed expenditure(s); and

(3) Approval by two thirds (2/3) of the combined Owners present and voting, in person or by proxy, at duly called meetings of each Residential Association, called in

accordance with the requirements of such Associations' governing documents. The intent of this Section is to require each Residential Association to call a meeting of its membership to vote on any such matters, but that the Recreation Association shall only be obligated to obtain the affirmative approval of two thirds (2/3) of the Owners, combined, from all such residential associations, voting in person or by proxy, at such duly called meetings. Where such a vote of the combined Owners is taken pursuant to this Section, a proxy shall be required to be provided to the Owners who do not attend such meetings in person.

**SECTION 5. Allocation and Collection of Assessments.**

A. Funds for the payments of the Recreation Association's approved annual budget and approved special assessments shall be assessed against each Residential Association in proportions computed as follows:

(1) One-third (1/3) of the Recreation Association's approved annual budget and approved special assessments shall be assessed against the Delray Trails Residential Association.

(2) The portion of the Recreation Association's approved annual budget and approved special assessments that are not assessed against the Delray Trails Residential Association in accordance with subdivision A.(1) of this Section, shall be assessed against the Number 1 Residential Association and the Number 2 Residential Association based upon the following formula:

(a) The Number 1 Residential Association shall pay 48.822% (684/1401) of the Recreation Association's expenses that are not assessed against the Delray Trails Residential Association.

(b) The Number 2 Residential Association shall pay 51.178% (717/1401) of the Recreation Associations expenses that are not assessed against Delray Trails Residential Association.

B. Annual assessments shall be payable by the Residential Associations monthly in advance and shall be due on the first day of each month in advance.

C. Special Assessments shall be payable in the manner determined by the Recreation Association's Board of Directors.

D. When the amount of any assessment has been determined, the Treasurer of the Recreation Association shall mail or present to the Treasurer of each Residential Association a statement of said Residential Association's assessment, and

upon request, the Treasurer of the Recreation Association shall give a receipt for each payment made to the Recreation Association.

E. Should a Court determine pursuant to the process set forth in Article VIII that a Residential Association has defaulted in the payment of an assessment, that Residential Association's authority to levy assessments against its members and/or Owners and to collect such assessments shall, upon the Request of the Recreation Association, be deemed to be assigned to the Recreation Association to the extent of the amount that is due the Recreation Association. Upon such assignment the Recreation Association may then levy and collect the assessment that it is owed directly from said members and/or Owners.

#### **SECTION 6. Application of Payments.**

A. All sums collected by the Recreation Association from assessments shall be divided into several funds as determined by the Board of Directors of the Recreation Association.

B. Special assessment payments by Residential Associations shall only be applied to the purpose or purposes for which such assessments were levied, and any excess special assessment payments shall be refunded to the Residential Associations in accordance with the proportions that are set forth in section 5 of this article. All other assessment payments by Residential Associations shall be applied or refunded in such manner and amounts as the Board of Directors determines in its sole discretion.

**SECTION 7. Acceleration of Assessment Installments upon Default.** If a Residential Association shall be in default in the payment of an installment upon any assessment, the Board of Directors may accelerate the remaining monthly installments for the fiscal year upon notice thereof to the Residential Association, and thereupon, the unpaid balance of the assessment shall become due upon the date stated in the notice, but not less than fifteen (15) days after delivery of or the mailing of such notice to the Residential Association.

### **ARTICLE VIII - RESIDENTIAL ASSOCIATION COMPLIANCE AND DEFAULT**

#### **SECTION 1. Violations.**

A. In the event of a violation by a Residential Association of any of the provisions of the Recreation Association Documents, the Recreation Association by direction of its Board of Directors may notify the Residential Association by written notice of said breach, transmitted by mail, and if such violation shall continue for a period of thirty (30) days from the date of the notice, the Recreation Association, through its Board of Directors, shall have

the right to treat such violation as an intentional and inexcusable and material breach of the Documents, and the Recreation Association may then, at its option, initiate any or all of the following actions:

1. An action at law to recover damages on behalf of the Recreation Association and/or the other Member Associations.
2. An action in equity to enforce performance on the part of the Residential Association.
3. An action in equity for such other equitable relief as may be appropriate under the circumstances, including injunctive relief.

B. A Residential Association may request that the Recreation Association issue a notice of violation, and if such a notice has been issued and the violation has not been not cured within 30 days, a request that the Recreation Association initiate any of the forgoing actions at law or in equity. Any such request must be made in writing, signed by the President of the Residential Association making the request and submitted to the Recreation Association Board, with copies to the other Residential Associations' Boards. The Recreation Association shall have thirty (30) days to act on such requests. The failure on the part of the Recreation Association to proceed as requested within thirty (30) days of the Recreation Association Board's receipt of the request shall authorize any Residential Association to bring an action in equity or suit at law on account of the alleged violation.

C. Upon a finding by the Court that the violation occurred, the Residential Association that committed the violation shall reimburse the petitioning association(s) for the reasonable attorney's fees which were incurred in bringing the successful action(s).

**SECTION 2. Costs and Attorney's fees.** In any proceeding arising because of an alleged default by a Residential Association, the prevailing party shall be entitled to recover the cost of the proceeding and such reasonable attorneys' fees as may be determined by the court.

**SECTION 3. No Waiver of Rights.** The failure of the Recreation Association or of a Residential Association to enforce any right, provision, covenant, or condition of the Recreation Association's Documents shall not constitute a waiver of the right of the Recreation Association or Residential Association to enforce such right, provision, covenant or condition in the future.

**SECTION 4. No Election of Remedies.** All rights, remedies and privileges granted to the Recreation Association or a Residential Association, pursuant to any terms, provisions, covenants or conditions of the Recreation Association's Documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same



from exercising such other and additional rights, remedies or privileges, as may be granted to such other party by the Documents, or at law, or in equity.

**SECTION 5. Conflicts.** In the event there exists a conflict between the Recreation Association Documents and a Residential Association's governing documents, the provisions of the Recreation Association Documents shall control.

#### **ARTICLE IX – PENALTIES FOR VIOLATIONS BY USERS OF RECREATION ASSOCIATION FACILITIES**

**SECTION 1. Authority.** The Board of Directors, when acting in accordance with applicable Florida Statutes, may impose fines on any Owner, and/or suspend an Owner's and other persons' use of Recreation Association Facilities, for any violations by the Owner or the Owner's tenant(s), and/or their family members, agents or guests, of:

- A. these By-Laws;
- B. the Rules and Regulations of the Recreation Association;
- C. violations of law arising from the Owners or such other persons' use of Recreation Association Facilities.

**SECTION 2. Owner and User Liability.** An Owner is responsible for the actions of the Owner's tenants and family, agents or guests. As such, each and every violation shall be the responsibility of and attributed to the Owner regardless of whether the offending party is, in fact, the Owner or the Owner's tenants, or their family, agents or guests. Any fine imposed hereunder shall be imposed upon the Owner. Any suspension imposed hereunder may be imposed upon the Owner, as well as the violator.

**SECTION 3. Written Notice.** No penalty shall be imposed against an Owner or the Owner's tenants, or their family, agents or guests for violations unless and until the Owner has been given written notice of the violation and an opportunity to be heard. The notice must be sent certified mail with a return receipt requested to the mailing address that the Owner has provided to the Recreation Association. If no mailing address has been provided by the Owner, the Recreation Association shall send the notice to the address of the Owner's unit or lot within a Residential Association. If the Owner has provided the Recreation Association with an email address, a copy of the notice shall also be sent to that email address.

The notice must contain the following information.

- A. The Owner responsible for the violations.
- B. The nature of the violation and the names of the violators, if known.
- C. The maximum amount of the fine or maximum length of time of suspension for violation of the particular provision of the Documents and/or law.
- D. The date, time and place of a meeting of a Hearing Committee selected by the Board, at which meeting the Committee shall determine whether the Owner (for himself/herself, guest, invitee, family, patron, or lessee) is guilty of the violation, and report its finding to the Board.

**SECTION 4. Record Keeping.** The Recreation Association shall maintain a file of all notices issued and findings of the Hearing Committee in order that a record of offenses and offenders be kept.

**SECTION 5. Hearing before the Hearing Committee.**

A. The accused Owner and violator shall be given the opportunity to be heard before the Hearing Committee in order to present defenses and reasons as to why a violation did not occur. After the hearing has been concluded the Committee shall vote as to whether a violation was committed, and shall notify the Board of Directors of the Committee's vote.

B. Failure of the Owner and/or the violator to appear at the scheduled Committee hearing to present defenses to the violation charge will result in the automatic vote by the Committee that the Owner is in violation.

**SECTION 6. Penalties.** The Board shall promptly notify the Owner of the outcome of the Committee vote. If a majority of the Committee voted in the affirmative, the Board of Directors shall then afford the Owner the opportunity to be heard as to whether and to what extent a penalty or penalties should be assessed by the Board. The Board shall then set the penalty or penalties in accordance with Section 9 of this Article and shall promptly notify the Owner of its determination. The Owner shall notify the violator of any suspension of the violator.

**SECTION 7. Collection.** Once a fine is determined to be owing, same shall be paid to the Recreation Association by the Owner within 5 days unless the date for payment is extended by the Recreation Association's Board. Should the Owner fail to tender payment, the fine shall be collectible as follows:

A. The Recreation Association shall have the right to maintain a personal action against the Owner in question, and shall be entitled to recover interest at the rate of eighteen percent (18%) per annum, and costs and attorney's fees.



B. So long as not prohibited by Florida Statutes as amended from time to time, the fine and interest thereon shall also become a charge against the Owner in question which shall be levied against the Owner by the appropriate Residential Association upon the Request of the Recreation Association Board of Directors and, upon collection by the Residential Association, paid over to Recreation Association.

**SECTION 8. Remedies.** The fine system may be invoked independently of or concurrently with any other remedies provided for in the Articles of Incorporation, these Bylaws and Florida Law. As such, the fine system is not a condition precedent to the Recreation Association's pursuit of other remedies available to it, as set forth in the Documents or under the law.

**SECTION 9. Schedule of Fines and Suspensions.**

A. Penalties for violations which occur on or after the effective date of these restated Bylaws shall not exceed the following:

	Fine	Suspension
First Violation	\$25	3 days
Second Violation	\$50	5 days
Third Violation	\$100	10 days
Each Succeeding Violation	\$100	10 days

B. The number of violations shall be cumulative without regard to the nature of the violation. The Recreation Association Board of Directors shall take the nature of the violations and the amount of time between violations into consideration in determining the type and amount of a penalty that the Board will impose for a new violation.

C. A suspension of a person's use of Recreation Association Facilities shall ordinarily only be applied to the amenity and/or location where the violation occurred.

**ARTICLE X – INSURANCE**

**SECTION 1. Liability and Property Damage.** The Board of Directors of the Recreation Association shall obtain public liability and property damage insurance covering all the Facilities, and insuring the Recreation Association in such amounts and providing such coverage as the Board of Directors of the Recreation Association, may determine from time to time, provided the minimum amount of coverage shall be \$100,000/\$300,000/\$10,000.

Premiums for the payment of such insurance shall be paid by the Board of Directors of the Recreation Association, and such premiums shall be charged as Recreation Association Expenses.

**SECTION 2. Workman's Compensation Policy.** The Board of Directors of the Recreation Association shall obtain a workmen's Compensation insurance policy as required by law.

**SECTION 3. Other Insurance.** Such other insurance shall be obtained by the Board of Directors of the Recreation Association which the Board shall determine to be desirable.

#### **ARTICLE XI- AMENDMENTS TO THE BY-LAWS**

The Bylaws may be altered, amended or added to as follows:

**SECTION 1. Notice of Recreation Association Board Meeting.** Notice of the Board of Directors' meeting shall contain a statement of the proposed Amendment, and shall be given to the Recreation Associations' Board Members and the Residential Associations not less than fourteen (14) days in advance of the meeting, in the manner provided for by Article VI, Section 2C of these By-Laws.

**SECTION 2. Approval of Amendments.** Amendments shall be approved in the following manner:

(1) Approval by a majority of the Board of Directors of the Recreation Association present and voting at its meeting, or in writing delivered to the Secretary prior to its meeting; and

(2) Approval by a majority of the Board of Directors of not less than two Member Associations, present and voting at meetings called to consider the proposed amendment. Each Member Association Board will have not more than sixty (60) days to act upon the proposed amendment. Any such Member Association Board's failure to act within this time shall be deemed to constitute its acceptance of the proposed amendment; and

(3) Approval by two thirds (2/3) of the combined Owners present and voting, in person or by proxy, at duly called meetings of each Residential Association, called in accordance with the requirements of such Associations' governing documents. The intent of this Section is to require each Residential Association to call a meeting of its membership to vote on any such matters, but that the Recreation Association shall only be obligated to obtain the affirmative approval of two thirds (2/3) of the Owners, combined, from all such Residential Associations, voting in person or by proxy, at such duly called meetings. Where

such a vote of the combined Owners is taken pursuant to this Section, a proxy shall be required to be provided to the Owners who do not attend such meetings in person.

#### **ARTICLE XII – INDEMNIFICATION**

The Recreation Association shall indemnify every Representative and his/her heirs, executors, and administrators against all loss, cost and expenses, reasonably incurred by him/her in connection with any action, suit or proceeding to which he/she may be made a party by reason of being or having been a Director or Officer of the Recreation Association including reasonable attorneys' fees, except as to matters wherein the Representative shall be finally adjudged in such action, suit or proceeding to be liable for or guilty of gross negligence or willful misconduct. The foregoing rights shall be in addition to and not inclusive of all rights to which such Representative may be entitled.

#### **ARTICLE XIII - LIMITATIONS OF LIABILITY**

Notwithstanding the duty of the Recreation Association to maintain and repair the Facilities, the Recreation Association shall not be liable for injury or damage caused by a latent condition in the property nor for injury or damage caused by the elements, or by Owners and tenants, and their guests and invitees.

#### **ARTICLE XIV - PARLIAMENTARY RULES**

Roberts Rules of Order (latest edition) shall govern the conduct of Recreation Association meetings when not in conflict with these Bylaws.

#### **ARTICLE XV - Validity and Conflicts**

(15.1) The invalidity in whole or in part of any section, subsection, sentence, clause, phrase or word, or other provision of these Bylaws, as same may be amended from time to time, shall not affect the validity of the remaining portions hereof which shall remain in full force and effect.

(15.2) In the event of a conflict between these Bylaws, and the Articles of the Recreation Association and/or the Rules and Regulation of the Recreation Association, these Articles shall control over the Bylaws, and the Bylaws shall control over the Rules and Regulations.

(15.3) In the event of a conflict between the Recreation Association's documents and the documents of a Residential Association, the documents of the Recreation Association shall control.

**CERTIFICATE OF ADOPTION**

I, \_\_\_\_\_, do hereby certify that:

I am the duly elected and acting President of PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit (the "Recreation Association"); and

The foregoing Amended and Restated By-Laws were adopted at a duly called meeting of the Members of the Recreation Association on the \_\_\_\_ day of \_\_\_\_\_, 2018.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Recreation Association this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_, President

## **Schedule A to Amended and Restated Bylaws**

### **Legal Description of New Clubhouse Parcel**

CERTAIN LANDS IN THE WEST HALF (W1/2) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "G-1" OF PLAT II VILADELWAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA, LESS AND EXCEPT THE EAST 148 FEET OF THE SOUTH 123 FEET THEREOF.

TOGETHER WITH:

A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT G-1, AS SHOWN ON A PLAT ENTITLED "A PLANNED UNIT DEVELOPMENT, PLAT II, VILADELWAY, PALM BEACH COUNTY, FLORIDA", AS RECORDED IN PLAT BOOK 30, PAGES 77, 78 AND 79, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG THE FOLLOWING NUMBERED COURSES:

1. SOUTH 16° 59' 11" WEST, ALONG THE WESTERLY LINE OF TRACT G-1; A DISTANCE OF 45.69 FEET TO A POINT OF CURVATURE; THENCE. . . .
2. SOUTHERLY, ALONG THE ARC OF A 535.00 FOOT RADIUS CURVE, CONCAVE EASTERLY, WHOSE LONG CHORD RUNS SOUTH 11° 33' 19" WEST, AN ARC DISTANCE OF 101.42 FEET TO A POINT; THENCE. . . .
3. SOUTH 88° 17' 22" WEST, 59.03 FEET TO A POINT; THENCE. . . .
4. NORTH 00° 28' 16" WEST, 134.28 FEET TO A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL L-31; THENCE. . . .
5. NORTH 89° 31' 44" EAST ALONG SAID RIGHT-OF-WAY 10.56 FEET TO A POINT OF CURVATURE; THENCE. . . .
6. EASTERLY, ALONG THE ARC OF A 365.00 FOOT RADIUS CURVE, CONCAVE NORTHERLY, WHOSE CHORD BEARS NORTH 82° 55' 42" EAST, AN ARC DISTANCE OF 84.01 FEET TO THE POINT OF BEGINNING.

**Exhibit "F"**

**[Receipt of Payment, Release and Amendment to  
Declaration of Restrictive Covenants]**

**[ATTACHED ON FOLLOWING 6 PAGES]**

NOT A CERTIFIED COPY

**PREPARED BY AND RETURN TO:**

Christian F. O'Ryan, Esq.  
Stearns Weaver Miller Weissler  
Alhadeff & Sitterson, P.A.  
401 East Jackson Street, Suite 2100  
Tampa, Florida 33602

-----SPACE ABOVE THIS LINE RESERVED FOR RECORDING DATA-----

**RECEIPT OF PAYMENT, RELEASE AND AMENDMENT TO  
DEVELOPMENT AGREEMENT**

THIS RECEIPT OF PAYMENT, RELEASE AND AMENDMENT TO DEVELOPMENT AGREEMENT (this "**Release**") is entered into as of this 16<sup>th</sup> day of April, 2019, by PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation ("**Recreation Association**"), NUMBER 1 CONDOMINIUM ASSOCIATION – PALM GREENS AT VILLA DEL RAY, INC., a Florida not-for-profit corporation ("**Palm Greens 1**"), and NUMBER 2 CONDOMINIUM ASSOCIATION – PALM GREENS AT VILLA DEL RAY, INC., a Florida not-for-profit corporation ("**Palm Greens 2**"), and is given in favor of 13FH PALM BEACH, LP, a Delaware limited partnership, its successors and assigns ("**13<sup>th</sup> Floor**"). The Recreation Association, Palm Greens 1 and Palm Greens 2 shall collectively be referred herein as "**Associations**."

**RECITALS:**

A. The Associations and 13<sup>th</sup> Floor are parties to that certain Development Agreement for Delray Trails at Palm Greens and the Palm Greens at Villa Del Ray Recreation Condominium Association, Inc., recorded in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of Palm Beach County, Florida (the "**Development Agreement**").

B. Section 7.a. of the Development Agreement references certain payment that 13<sup>th</sup> Floor was obligated to make to the Associations (collectively, the "**Impact Mitigation Payment**"), which, upon payment of same, the parties agreed to execute, deliver and record this Release to delete said Section 7.a.

C. 13<sup>th</sup> Floor has complied with all requirements under Section 7.a. of the Development Agreement and has made complete payment of the Impact Mitigation Payment to the Associations.

NOW, therefore, in consideration of 13<sup>th</sup> Floor making the Impact Mitigation Payment and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Associations and 13<sup>th</sup> Floor agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.

2. Receipt of Impact Mitigation Payment. The Associations acknowledge payment in full of the Impact Mitigation Payment and hereby fully release 13<sup>th</sup> Floor from any and all obligations with respect to the Impact Mitigation Payment.

3. Amendment to Development Agreement. The Development Agreement is amended and revised to delete Section 7.a. thereof.

4. Ratification. Except as to specifically set forth in this Release, the Development Agreement is ratified and confirmed as written.

5. Counterparts. This Release may be executed in several counterparts, each of which shall be deemed an original, but all constituting only one agreement. The parties further acknowledge and agree that signatures of the parties hereto on copies of this Release transmitted as a file in PDF format via email shall be deemed originals for all purposes hereunder, and shall be binding upon the parties hereto.

6. Recordation and Effective Date. This Release shall be recorded in the Public Records of Palm Beach County, Florida by 13<sup>th</sup> Floor in accordance with the timeframes and conditions established in the Development Agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]



IN WITNESS WHEREOF, 13<sup>th</sup> Floor has executed this Release as follows:

**WITNESSES:**

**13FH PALM BEACH, LP, a Delaware  
limited partnership**

Janet L. Trump  
Print Name: Janet L. Trump

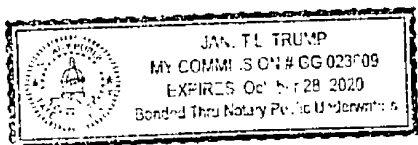
Janet L. Trump  
Print Name: Janet L. Trump

By: [Signature]  
Print Name: Michael Nunziata  
Title: Authorized Representative

[Company Seal]

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) SS.

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of February, 2019, by Michael Nunziata as Authorized Representative of 13FH PALM BEACH, LP, a Delaware limited partnership, on behalf of the partnership, who is personally known to me or who has produced \_\_\_\_\_ as identification.



Notary Public

Print Name

My commission expires: 10/28/2020

[SIGNATURES CONTINUE ON THE NEXT PAGE]

IN WITNESS WHEREOF, Palm Greens At Villa Del Ray Recreation  
Condominium Association, Inc. has executed this Release as follows:

**WITNESSES:**

**PALM GREENS AT VILLA DEL RAY  
RECREATION CONDOMINIUM  
ASSOCIATION, INC.,** a Florida not-for-  
profit corporation

*[Signature]*  
Print Name: Eugene P. Herman

By: *[Signature]*  
Print Name: Thomas A. Zorich  
Title: PRESIDENT

*[Signature]*  
Print Name: Andrew P. [unclear]

[Corporate Seal]

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

The foregoing instrument was acknowledged before me this 16<sup>TH</sup> day of April, 2019, by THOMAS AZORICH as PRESIDENT of PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation, who acknowledges that he/she executes the foregoing on behalf of the corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.

*[Signature]*  
Notary Public  
Print Name: MONIQUE HUNT  
My commission expires: 12/05/21

[SIGNATURES CONTINUE ON THE NEXT PAGE]

IN WITNESS WHEREOF, Number 1 Condominium Association – Palm Greens  
at Villa Del Ray, Inc., has executed this Release as follows:

Witnesses:

NUMBER 1 CONDOMINIUM  
ASSOCIATION – PALM GREENS AT  
VILLA DEL RAY, INC., a Florida not  
for profit corporation

[Signature]  
Print Name: Andee P. [unclear]  
[Signature]  
Print Name: Susan Sherman

By: [Signature]  
Print Name: MARILYN DIECKMANN  
Title: PRESIDENT

[Corporate Seal]

STATE OF FLORIDA )

) SS.

COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me this 16<sup>TH</sup> day of  
APRIL, 2019, by MARILYN DIECKMANN as PRESIDENT of NUMBER 1  
CONDOMINIUM ASSOCIATION – PALM GREENS AT VILLA DEL RAY, INC., a Florida  
not-for-profit corporation, on behalf of the corporation, who is personally known to me or  
who has produced \_\_\_\_\_ as identification.



Notary Public

Print Name

My commission expires: 12/08/21

[SIGNATURES CONTINUE ON THE NEXT PAGE]

IN WITNESS WHEREOF, Number 2 Condominium Association – Palm Greens at Villa Del Ray, Inc., has executed this Release as follows:

Witnesses:

NUMBER 2 CONDOMINIUM  
ASSOCIATION – PALM GREENS AT  
VILLA DEL RAY, INC., a Florida not  
for profit corporation

[Signature]  
Print Name: Andrea P. [unclear]

By: [Signature]  
Print Name: Susan K. Herman  
Title: President

[Signature]  
Print Name: Thomas T. Alberch

[Corporate Seal]

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) SS.

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of April, 2019, by Susan Herman as PRESIDENT of NUMBER 2 CONDOMINIUM ASSOCIATION – PALM GREENS AT VILLA DEL RAY, INC., a Florida not-for-profit corporation, on behalf of the corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.

[Signature]  
Notary Public MONIQUE HUNT  
Print Name  
My commission expires: 12/08/21



**Exhibit "G"**

**[Access Easement]**

**[ATTACHED ON FOLLOWING 12 PAGES]**

NOT A CERTIFIED COPY

**PREPARED BY AND RETURN TO:**

Christian F. O'Ryan, Esq.  
Stearns Weaver Miller Weissler  
Alhadeff & Sitterson, P.A.  
401 East Jackson Street, Suite 2100  
Tampa, Florida 33602

\_\_\_\_\_  
SPACE ABOVE THIS LINE RESERVED FOR RECORDING DATA

**ACCESS EASEMENT**

AA THIS ACCESS EASEMENT (this "**Easement**") is granted this 16<sup>th</sup> day of April, 2019, by PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation (the "**Grantor**"), to and for the benefit of 13FH PALM BEACH, LP, a Delaware limited partnership, its successors and assigns (the "**Grantee**")

**RECITALS**

A. Grantor is the record title owner of the portion of that certain parcel of real property situated in Palm Beach County, Florida, being more particularly described on **Exhibit A**, attached hereto and incorporated herein by this reference (the "**Easement Area**").

B. Grantee is or will be the record title owner of certain property situated in Palm Beach County, Florida, being more particularly described on **Exhibit B**, attached hereto and incorporated herein by this reference ("**Grantee's Property**").

C. Grantor desires to grant Grantee, and Grantee is willing to accept, a perpetual ingress and egress access easement over, across, under, upon and through the Easement Area for the purposes more particularly set forth hereinbelow.

D. It is Grantor and Grantee's mutual intent that the aforementioned access easement make direct contact with the public right-of-way known as "Via Delray" so that the Grantee's Property has access through the Easement Area to the public right of way known as Via Delray.

NOW, THEREFORE, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee do hereby covenant, stipulate and agree as follows:

1. **Recitals**. The foregoing Recitals are true and correct and form a material part of this Easement upon which the parties have relied.

2. **Grant of Easement**. Grantor hereby creates, grants, declares and conveys to Grantee, its successors and assigns and its designated users, for the benefit of, and to run with, the Grantee's Property, a perpetual exclusive easement (the "**Easement**") for access, ingress and egress of and by vehicles, bicycles and pedestrians in, on, over, across, upon, under, and through the Easement Area at all times for the purpose of access to Grantee's Property from Via Delray. Further, the foregoing grant of Easement shall include the right for Grantee, and its

successors and assigns, to construct, install and maintain certain paved roadways, driveways, sidewalks, and related access improvements intended to be constructed on the Easement Area for the purpose of providing for pedestrian and vehicular access from, to and between the Grantee's Property and Via Delray (such improvements are collectively referred to herein as the "Access Roadway"). The Access Roadway shall be designed, permitted and constructed by Grantee, at its sole cost and expense and at such time as determined by Grantee, in its sole discretion. Further, Grantee shall have the right to install traffic control devices, entrance features, gated access, landscaping, lighting and other related improvements within the Easement Area at Grantee's sole discretion. Grantor acknowledges that construction vehicles and trucks will use the Access Roadway in connection with the development of Grantee's Property. Grantee hereby indemnifies and holds Grantor harmless from any and all costs, expenses, claims or damage to the Access Roadway or the Easement Area caused by the negligence of Grantee when using the Access Roadway or negligent usage of the Access Roadway by any assigns, invitees, contractors, subcontractors, agents or tenants of Grantee or purchasers of homes within the Grantee's Property, including such home purchasers, guests or invitees. Similarly, Grantor hereby indemnifies and holds Grantee harmless from all costs, expenses, claims or damage to the Access Roadway or the Easement Area caused by Grantor's use of the Access Roadway, Grantor's ownership of the Easement Area, or the usage of the Access Roadway by any assigns, invitees or agents of Grantor.

3. **Maintenance of Easement Area.** Grantor does hereby grant, bargain, sell and convey unto Grantee, its successors and assigns, for the benefit of, and to run with, the Grantee's Property, a perpetual easement over, under and across the Easement Area to perform maintenance, repair and restoration work to the Easement Area and improvements, facilities and apparatus therein, including the trimming of trees, limbs and brush that may periodically encroach or grow onto the Easement Area, all without charge to Grantor or its successors or assigns. Grantee, at Grantee's sole cost and expense, shall operate, maintain, repair, and replace the Access Roadway within the Easement Area.

4. **No Obstruction of Easement Area.** Grantor hereby covenants and agrees, on behalf of itself and its successors or assigns, that it shall not impede, hinder or in any way obstruct ingress, egress or access of Grantee and its successors, assigns and designees to the Easement Area.

5. **Exclusive Easement.** This Easement is exclusive and the Grantor shall no longer have any right to use the Easement Area for any purpose whatsoever.

6. **Covenants Running With The Land.** This Easement and all conditions, obligations and covenants set forth herein are intended to be and shall be construed as covenants running with the land, binding the land described in Exhibit A and inuring to the benefit of Grantee, its successors, assigns and designees.

7. **Successors and Assigns.** The Easement shall be binding upon and inure to the benefit of the parties specified herein, their respective legal representatives, successors and assigns, and the benefit and burdens hereof shall run with the Easement Area in perpetuity. Without limitation of the foregoing, upon Grantee's formation of any property owners' association or homeowners' association for the Grantee's Property, all rights and obligations of Grantee set forth herein shall be automatically transferred to such property owners' association or homeowners' association and the Grantee shall no longer have any rights or obligations hereunder, except as a member of such property owners' association or homeowners' association. In the event the Grantee's Property is subdivided, all subdivided lots, tracts or

parcels within the Grantee's Property shall benefit from the rights and easements granted herein.

8. **Governing Law.** This Easement shall be governed by and construed under the Laws of the State of Florida.

9. **Construction.** The captions and headings in this Easement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein.

10. **Entire Agreement.** This Easement constitutes the entire agreement of the parties with respect to the subject matter hereof, and may not be modified or amended except by a written instrument equal in dignity herewith and executed by the parties to be bound thereby.

11. **Invalid Provision.** If any provision of this Easement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Easement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Easement, and the remaining provisions of this Easement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Easement. This Easement shall not be construed more strongly against either party as the parties have negotiated the terms of this Easement.

12. **Counterparts.** This Easement may be executed in counterparts. It shall be sufficient if the signatures of the persons required to bind any party, appear on one or more of such counterparts. All counterparts shall collectively constitute a single agreement.

[SIGNATURES APPEAR ON FOLLOWING PAGES]



IN WITNESS WHEREOF, undersigned has caused this Access Easement to be executed and effective as of the date first written above.

WITNESSES:

"GRANTOR"

PALM GREENS AT VILLA DEL RAY  
RECREATION CONDOMINIUM  
ASSOCIATION, INC., a Florida not-for-profit corporation

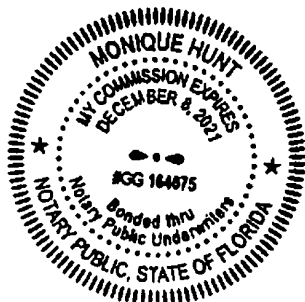
[Signature]  
Print Name: Andee Baker  
[Signature]  
Print Name: Evaon E. Burman

By: [Signature]  
Print Name: THOMAS T. ALDERICH  
Title: PRESIDENT

[Corporate Seal]

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) SS.

The foregoing instrument was acknowledged before me this 11<sup>TH</sup> day of April, 2019, by THOMAS ALDERICH as PRESIDENT of PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation, who acknowledges that he/she executes the foregoing on behalf of the corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.



[Signature]  
Notary Public  
Print Name: MONIQUE HUNT  
My commission expires: 12/08/21

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned has caused this Access Easement to be executed and effective as of the date first written above.

WITNESSES:

"GRANTEE"

13FH PALM BEACH, LP, a Delaware limited partnership and/or its successors and assigns

Janet L. Trump  
Print Name: Janet L. Trump

Jamile Arana  
Print Name: Jamile Arana

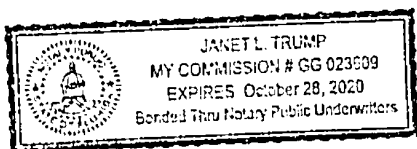
By: Michael Nunziata  
Print Name: Michael Nunziata  
Title: Authorized Representative  
[Company Seal]

STATE OF FLORIDA )

) SS.

COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of February, 2019, by Michael Nunziata as Authorized Representative of 13FH PALM BEACH, LP, a Delaware limited partnership, on behalf of the partnership, who is personally known to me or who has produced \_\_\_\_\_ as identification.



Janet L. Trump  
Notary Public Janet L. Trump  
Print Name  
My commission expires: 10/28/2020

**Exhibit A**

**Legal Description of Easement Area**

BEGINNING AT THE SOUTHEAST CORNER OF TRACT "F", PLAT II VILADELRAY AS RECORDED IN PLAT BOOK 30, PAGE 77 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID POINT ALSO BEING A POINT ON A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 2008.17 FEET FROM WHICH A RADIAL LINE BEARS SOUTH 02°34'37" WEST; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID TRACT "F" AND THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 6°23'29", A DISTANCE OF 224.02 FEET; THENCE, DEPARTING SAID SOUTH LINE, NORTH 43°04'22" EAST, A DISTANCE OF 55.37 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 359.99 FEET FROM WHICH A RADIAL LINE BEARS NORTH 88°59'08" EAST; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 35°27'23", A DISTANCE OF 222.77 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID TRACT "F"; THENCE, ALONG SAID NORTH LINE, SOUTH 39°43'53" EAST, A DISTANCE OF 58.78 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 156.00 FEET; THENCE, CONTINUING ALONG SAID NORTH LINE, SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 40°00'00", A DISTANCE OF 108.91 FEET TO THE NORTHEAST CORNER OF SAID TRACT "F"; THENCE, ALONG THE EAST LINE OF SAID TRACT "F", SOUTH 02°34'37" WEST, A DISTANCE OF 149.16 FEET TO THE POINT OF BEGINNING.

CONTAINING 35,512 SQUARE FEET OR 0.8152 ACRES, MORE OR LESS.

**Exhibit B**

**Legal Description of Grantee's Property**

**PARCEL 1:**

Certain lands in the West Half (W1/2) of Section 11 Township 46 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:

Tract G-1 of Plat II VILADELRAY, according to the Plat thereof, recorded in Plats Book 30, at Page 77, of the Public Records of Palm Beach County, Florida, less and except the East 148 feet of the South 123 feet thereof.

**AND THE FOLLOWING DESCRIBED PREMISES:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida being more particularly described as follows:

Beginning at the Northwest corner of Tract G-1, as shown on a Plat entitled "A PLANNED UNIT DEVELOPMENT, PLAT II, VILADELRAY, Palm Beach County, Florida", recorded in Plat Book 30, Pages 77, 78 and 79, of the Public Records of Palm Beach County, Florida; thence along the following numbered courses:

1. South 16° 59' 11" West, along the Westerly line of Tract G-1; a distance of 45.69 feet to a point of curvature; thence.....
2. Southerly, along the arc of a 535.00 foot radius curve, concave Easterly, whose long chord runs South 11° 33' 19" West, an arc distance of 101.42 feet to a point; thence.....
3. South 88° 17' 22" West, 59.03 feet to a point; thence.....
4. North 00° 28' 16" West, 134.28 feet to a point in the Southerly right-of-way line of Lake Worth Drainage District Canal L-31; thence.....
5. North 89° 31' 44" East along said right-of-way 10.51 feet to a point of curvature; thence.....
6. Easterly, along the arc of a 365.00 foot radius curve, concave Northerly, whose chord bears North 82° 55' 54" East, an arc distance of 84.05 feet to the Point of Beginning.

**PARCEL 2:**

Certain lands in the West Half (W1/2) of Section 11, Township 46 South, Range 42 East, Palm Beach, County, Florida, more particularly described as follows.

Tract G of Plat II VILADELRAY, according to the Plat thereof, recorded in Plat Book 30, Page 77, Public Records of Palm Beach County, Florida.

**PARCEL 3:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Begin at a point 5.00 feet Westerly from the Southwest corner (as measured along the arc of a curve) of Section 10, VILLADELRAY on the South boundary of Section 11, VILLADELRAY, as both are shown and recorded in Plat Book 36, Pages 19, 20, 21 and 22, of the Public Records of Palm Beach County, Florida, run (bearings cited herein are in the meridian of said Villadelray Sections 10 and 11) by the following numbered courses:

(Courses 1 through 11 are on the South boundary of aforementioned Villadelray Section 10 and the West boundary of Villadelray, Sections 8 and 9, as said Sections 8 and 9, are recorded in Plat Book 34, Pages 173 through 175)

1. Said Point of Beginning being on the arc of a curve, concave Northerly, having a radius of 1909.16 feet and a central angle of  $1^{\circ} 23' 57''$ ; thence.....
2. From the Point of Beginning run along the arc of said curve and the South boundary of Villadelray Section 10 in an Easterly direction a distance of 46.57 feet to the Point of Tangency of said curve; thence.....
3. Continue North  $86^{\circ} 39' 20''$  East, along said South boundary of Villadelray Section 10, a distance of 524.93 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 180.00 feet and a central angle of  $85^{\circ} 00' 00''$ ; thence.....
4. Run along the arc of said curve in a Southeasterly direction, a distance of 267.04 feet, to a Point of compound curve, concave Easterly, having a radius of 509.73 feet and a central angle of  $39^{\circ} 35' 03''$ ; thence.....
5. Run along the arc of said curve in a Southwesterly direction, a distance of 352.16 feet to the Point of Tangency; thence.....
6. South  $31^{\circ} 14' 23''$  West, a distance of 40.32 feet to the Point of Curvature of a curve concave Easterly, having a radius of 405.00 feet and a central angle of  $55^{\circ} 20' 03''$ ; thence.....
7. Run along the arc of said curve, a distance of 391.13 feet to the Point of Tangency of said curve; thence.....
8. South  $24^{\circ} 05' 40''$  East, a distance of 235.99 feet to the Point of Curvature of a curve concave Westerly, having a radius of 510.00 feet and a central angle of  $56^{\circ} 45' 00''$ ; thence.....
9. Run along the arc of said curve in a Southerly direction, a distance of 505.14 feet to the Point of Tangency of said curve; thence.....

10. South 32° 39' 20" West, a distance of 19.22 feet to a point on the Northerly Right-of-Way of Lake Worth Drainage District Canal L-31 as recorded in Official Record Book 2218, Page 1150, Public Records of Palm Beach County, Florida; thence.....

(Courses 11 through 22 being on the North Right-of-Way of said L-31 Canal)

11. North 57° 20' 40" West, a distance of 85.00 feet; thence.....

12. South 32° 39' 20" West, 585.50 feet to the Point of Curvature of a curve concave Northwesterly, having a radius of 71.00 feet and a central angle of 68° 00' 00"; thence.....

13. Run along the arc of said curve in a Westerly direction, a distance of 84.26 feet to the Point of Tangency of said curve; thence.....

14. North 79° 20' 40" West, a distance of 318.00 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of 40° 00' 00"; thence.....

15. Run along the arc of said curve in a Northwesterly direction, a distance of 49.57 feet to the Point of Tangency of said curve; thence.....

16. North 39° 20' 40" West, a distance of 113.48 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 140.00 feet and a central angle of 58° 53' 01"; thence.....

17. Run along the arc of said curve in a Westerly direction, a distance of 143.88 feet to the Point of Tangency of said curve; thence.....

18. South 81° 46' 19" West, a distance of 445.07 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of 67° 00' 00" thence.....

19. Run along the arc of said curve in a Northwesterly direction, a distance of 83.03 feet to the Point of Tangency of said curve; thence.....

20. North N 31° 13' 41" West, 248.41 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 85.00 feet and a central angle of 79° 14' 35"; thence.....

21. Run along the arc of said curve in a Westerly direction, a distance of 117.56 feet to the Point of Tangency of said curve; thence.....

22. South 69° 31' 44" West, a distance of 96.66 feet to a point on the arc of a curve concave Westerly, having a radius of 595.00 feet and a central angle of 24° 26' 59"; thence.....

23. From a tangent bearing of North 11° 23' 27" East, run along the arc of said curve, a distance of 253.90 feet to a Point of Reverse Curvature of a curve concave Easterly, having a radius of 770.00 feet and a central angle of 12° 37' 03"; thence.....

24. Run along the arc of said curve in a Northerly direction, a distance of 169.57 feet to the Point of Tangency of said curve; thence.....

25. North  $0^{\circ} 26' 28''$  West, a distance of 238.00 feet to the Point of Curvature of a curve concave Easterly having a radius of 2056.88 feet and a central angle of  $5^{\circ} 30' 00''$ ; thence.....
26. Run along the arc of said curve in a Northerly direction, a distance of 197.45 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1115.47 feet and a central angle of  $11^{\circ} 00' 00''$ ; thence.....
27. Run along the arc of said curve, a distance of 214.16 feet to the Point of Tangency of said curve; thence.....
28. North  $5^{\circ} 56' 28''$  West, a distance of 141.14 feet to the Point of Curvature of a curve concave Easterly, having a radius of 1210.03 feet and a central angle of  $8^{\circ} 00' 00''$ ; thence.....
29. Run along the arc of said curve in a Northerly direction, a distance of 168.95 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1311.74 feet and a central angle of  $7^{\circ} 07' 48''$ ; thence.....
30. Run along the arc of said curve in a Northerly direction, a distance of 163.24 feet to a Point of Reverse Curvature of a curve concave Southeasterly, having a radius of 25.00 feet and a central angle of  $88^{\circ} 27' 34''$ ; thence.....
31. Run along the arc of said curve in a Northeasterly direction, a distance of 38.60 feet to a Point of Reverse Curvature of a curve concave Northwesterly, having a radius of 2094.56 feet and a central angle of  $3^{\circ} 47' 43''$ , said point also being on the South boundary of Villadelray, Section 11, as recorded in Plat Book 36, Pages 19, 20, 21 and 22; thence.....
32. Run along the arc of said curve in an Easterly direction, a distance of 138.74 feet to the Point of Tangency of said curve; thence.....
33. North  $79^{\circ} 35' 35''$  East, a distance of 419.76 feet to the Point of Curvature of a curve concave Southerly, having a radius of 1000.00 feet and a central angle of  $17^{\circ} 52' 30''$ ; thence.....
34. Run along the arc of said curve in an Easterly direction, a distance of 311.98 feet to a Point of Reverse Curvature of a curve concave Northerly, having a radius of 1909.16 feet and a central angle of  $7^{\circ} 54' 52''$ ; thence.....
35. Run along the arc of said arc in an Easterly direction, a distance of 263.72 feet to a point on the arc of a curve concave Easterly, having a radius of 216.22 feet and a central angle of  $49^{\circ} 28' 12''$ ; thence.....
36. From a tangent bearing of South  $01^{\circ} 09' 18''$  East, run along the arc of said curve, a distance of 186.69 feet to the Point of Tangency of said curve; thence.....
37. Run South  $50^{\circ} 37' 21''$  East, a distance of 42.78 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 80.00 feet and a central angle of  $16^{\circ} 56' 51''$ ; thence.....



38. Run along the arc of said curve in a Southeasterly direction, a distance of 23.66 feet; thence.....
39. North 85° 03' 53" West, a distance of 158.72 feet; thence.....
40. South 80° 06' 36" West, a distance of 331.32 feet; thence.....
41. South 79° 40' 42" West, a distance of 101.25 feet; thence.....
42. South 76° 47' 58" West, a distance of 259.83 feet; thence.....
43. South 60° 55' 51" West, a distance of 260.00 feet; thence.....
44. South 14° 05' 33" West, a distant of 152.99 feet; thence.....
45. South 16° 51' 25" East, a distance of 103.00 feet; thence.....
46. South 45° 51' 25" East, a distance of 23.00 feet; thence.....
47. South 18° 51' 25" East, a distance of 187.84 feet; thence.....
48. South 32° 27' 14" West, a distance of 30.46 feet; thence.....
49. South 20° 20' 16" East, a distance of 169.54 feet; thence.....
50. South 69° 21' 11" East, a distance of 92.47 feet; thence.....
51. North 66° 36' 14" East, a distance of 219.65 feet; thence.....
52. North 49° 24' 54" East, a distance of 362.58 feet; thence.....
53. North 12° 28' 36" East, a distance of 19.73 feet; thence.....
54. North 52° 53' 48" East, a distance of 71.02 feet; thence.....
55. North 60° 29' 30" East, a distance of 77.53 feet; thence.....
56. North 87° 32' 08" East, a distance of 46.40 feet; thence.....
57. North 64° 50' 10" East, a distance of 166.63 feet; thence.....
58. North 30° 02' 28" East, a distance of 192.83 feet; thence.....
59. North 89° 12' 55" East, a distance of 280.00 feet; thence.....
60. North 71° 04' 31" East, a distance of 37.00 feet; thence.....
61. North 00° 03' 00" West, a distance of 242.41 feet; thence.....
62. South 89° 57' 25" West, a distance of 299.88 feet to a point on the arc of a curve concave Southwesterly, having a radius of 130.00 feet and a central angle of 22° 53' 50"; thence.....

#6512196 v2



**63. From a tangent of North 27° 43' 43" West, run along the arc of said curve in a Northwesterly direction, a distance of 51.95 feet to the Point of Tangency of said curve; thence.....**

**64. Run North 50° 37' 21" West, a distance of 42.78 feet to the Point of Curvature of curve, concave Northeasterly, having a radius of 166.22 feet and a central angle of 49° 28' 59"; thence.....**

**65. Run along the arc of said curve in a Northerly direction, a distance of 143.55 feet to the Point of Beginning.**

NOT A CERTIFIED COPY

**Exhibit "G-1"**

**[Plat Dedication Agreement]**

**[ATTACHED ON FOLLOWING 13 PAGES]**

NOT A CERTIFIED COPY

**PREPARED BY AND RETURN TO:**

Christian F. O'Ryan, Esq.  
Stearns Weaver Miller Weissler  
Alhadeff & Sitterson, P.A.  
401 East Jackson Street, Suite 2100  
Tampa, Florida 33602

\_\_\_\_\_  
SPACE ABOVE THIS LINE RESERVED FOR RECORDING DATA

**PLAT DEDICATION AGREEMENT**

This PLAT DEDICATION AGREEMENT (this "**Agreement**"), is made and entered into this 16<sup>th</sup> day of April, 2019 ("**Effective Date**"), between PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation ("**Recreation Association**") and 13FH PALM BEACH, LP, a Delaware limited partnership, and its successors and assigns ("**13<sup>th</sup> Floor**").

**RECITALS:**

A. Recreation Association is the record title owner of the real property legally described on **Exhibit A** attached hereto and made a part hereof (the "**Easement Property**") and the record title owner of the real property legally described on **Exhibit B** attached hereto and made a part hereof (the "**Recreation Association Parcel**").

B. 13<sup>th</sup> Floor is or will be the record title owner of certain real property adjacent to the Easement Property and the Recreational Association Parcel, as legally described on **Exhibit C** attached hereto and made a part hereof (the "**Project**").

C. The Recreation Association and 13<sup>th</sup> Floor have entered into that certain Development Agreement dated on or about the Effective Date hereof (the "**Development Agreement**") whereby the Recreation Association agreed to enter into this Agreement.

D. The parties have agreed that the Recreation Association shall execute and join the plat for the Project (the "**Plat**"), which (i) shall include the dedication of an exclusive easement over the Easement Property as a platted right-of-way for the benefit of 13<sup>th</sup> Floor and the Delray Trails Association (as defined in the Development Agreement) and its members, and (ii) shall include the dedication of the Recreation Association Parcel as recreational property for the use and benefit of the Recreation Association and its members and the Delray Trails Association and its members.<sup>1</sup>

<sup>1</sup> For clarification, the clubhouse building will be located on property owned by 13<sup>th</sup> Floor within the to be created recreation pod of the Plat and will be restricted to recreation use for the benefit of the Recreation Association and its members and the Delray Trails Association and its members.

NOW, THEREFORE, for Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Recreation Association and 13<sup>th</sup> Floor hereby agree as follows:

1. Recitals. The Recitals set forth above are true and correct and incorporated herein by this reference.

2. Agreement to Execute and Join the Plat. The Recreation Association hereby agrees that it shall execute the Plat, and cause the holders of any and all mortgages encumbering the Easement Property and Recreation Association Parcel to timely execute and authorize the recordation of the Plat, in order to (i) properly dedicate the easement over the Easement Property as a platted right-of-way for the benefit of 13<sup>th</sup> Floor and the Delray Trails Association and its members, and (ii) properly dedicate the Recreation Association Parcel as recreational property for the use and benefit of the Recreation Association, and its members and the Delray Trails Association and its members. The Recreation Association shall execute the Plat, and cause the execution of the Plat by any mortgage holders, by no later than five (5) days of a request for such execution by 13<sup>th</sup> Floor.

3. Restrictive Use. The Plat shall include a note restricting use of the Recreation Association Parcel to recreation uses, as specified within this Agreement and the Development Agreement.

4. Covenants Running with the Land/Termination. The terms, conditions, rights and obligations set forth in this Agreement shall run with the title to the Easement Property and Recreation Association Parcel. Accordingly, this Agreement shall be recorded in the Palm Beach County Public Records. This Agreement shall terminate and be of no further force and effect upon the recordation of the Plat in the Palm Beach County Public Records.

5. Enforcement. The provisions of this Agreement may be enforced by all appropriate actions at law and in equity by the parties. In the event of any dispute, litigation or other proceeding between the parties hereto to enforce any of the provisions of this Agreement or any right of any party hereunder, each party to such dispute, litigation or other proceeding shall pay its own costs and expenses, including reasonable attorneys' fees, incurred at trial, on appeal, and in any arbitration, administrative or other proceedings, all of which may be included in and as a part of the judgment rendered in such litigation.

6. Counterparts. This Agreement may be executed in any number of counterparts and by the separate parties hereto in separate counterparts, each of which when taken together shall be deemed to be one and the same instrument.

7. Construction. The section headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation hereof. The parties to this Agreement have participated fully in the negotiation of this Agreement, and accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto. In construing this Agreement, the singular shall be held to include the plural, the plural shall be held to include the singular, and reference to any particular gender shall be held to include every other and all genders.

8. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Florida, without regard to its principles of conflicts of law.

9. Exhibits. All Exhibits attached to this Agreement are incorporated in, and made a part of, this Agreement.

10. Amendments. This Agreement may not be amended, modified or terminated except by written agreement of the party against whom is sought enforcement of the amendment, modification or termination. Further, no amendment, modification or termination shall be effective unless recorded in the Palm Beach County Public Records.

11. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings and arrangements, both oral and written, between the parties with respect thereto.

(SIGNATURES APPEAR ON FOLLOWING PAGES)

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed and effective as of the date first written above.

**WITNESSES:**

**"Recreation Association"**

PALM GREENS AT VILLA DEL RAY  
RECREATION CONDOMINIUM  
ASSOCIATION, INC., a Florida not-for-profit  
corporation

[Signature]  
Print Name: Andrea Porter

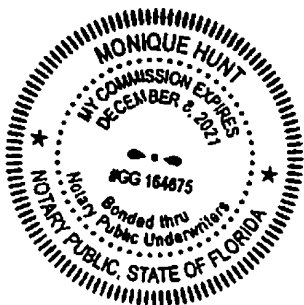
[Signature]  
Print Name: Susan R. Herman

By: [Signature]  
Print Name: THOMAS T. ALDRICH  
Title: PRESIDENT

[Corporate Seal]

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) SS.

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of APRIL, 2019, by THOMAS ALDRICH as PRESIDENT of PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation, who acknowledges that he/she executes the foregoing on behalf of the corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.



[Signature]  
Notary Public  
Print Name: MONIQUE HUNT  
My commission expires: 12/08/21

[SIGNATURES CONTINUE ON THE NEXT PAGE]

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed and effective as of the date first written above.

WITNESSES:

Janet L. Trump  
Print Name: Janet L. Trump  
Jamilet Arana  
Print Name: Jamilet Arana

"13th Floor"

13FH PALM BEACH, LP, a Delaware limited partnership, and/or its successors and assigns

By: Michael Nunziata  
Print Name: Michael Nunziata  
Title: Authorized Representative  
[Company Seal]

STATE OF FLORIDA )

COUNTY OF PALM BEACH )

SS.

The foregoing instrument was acknowledged before me this 19th day of February, 2019, by Michael Nunziata as Authorized Representative of 13FH PALM BEACH, LP, a Delaware limited partnership, on behalf of the partnership, who is personally known to me or who has produced as identification.



Janet L. Trump  
Notary Public  
Janet L. Trump  
Print Name  
My commission expires: 10/28/2020

**EXHIBIT "A"**

**THE EASEMENT PROPERTY**

BEGINNING AT THE SOUTHEAST CORNER OF TRACT "F", PLAT II VILADELWAY AS RECORDED IN PLAT BOOK 30, PAGE 77 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID POINT ALSO BEING A POINT ON A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 2008.17 FEET FROM WHICH A RADIAL LINE BEARS SOUTH 02°34'37" WEST; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID TRACT "F" AND THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 6°23'29", A DISTANCE OF 224.02 FEET; THENCE, DEPARTING SAID SOUTH LINE, NORTH 43°04'22" EAST, A DISTANCE OF 55.37 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 359.99 FEET FROM WHICH A RADIAL LINE BEARS NORTH 88°59'08" EAST; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 35°27'23", A DISTANCE OF 222.77 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID TRACT "F"; THENCE, ALONG SAID NORTH LINE, SOUTH 39°43'53" EAST, A DISTANCE OF 58.78 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 156.00 FEET; THENCE, CONTINUING ALONG SAID NORTH LINE, SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 40°00'00", A DISTANCE OF 108.91 FEET TO THE NORTHEAST CORNER OF SAID TRACT "F"; THENCE, ALONG THE EAST LINE OF SAID TRACT "F", SOUTH 02°34'37" WEST, A DISTANCE OF 149.16 FEET TO THE POINT OF BEGINNING.

CONTAINING 35,512 SQUARE FEET OR 0.8152 ACRES, MORE OR LESS.



**EXHIBIT "B"**

**THE RECREATION ASSOCIATION PARCEL**

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

CERTAIN LANDS IN THE WEST HALF (W1/2) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "F" OF PLAT II VILLADELRAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA;

TOGETHER WITH:

THE EAST 148 FEET OF THE SOUTH 123 FEET OF TRACT "G-1" OF PLAT II VILLADELRAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA.

**EXHIBIT "C"**

**THE PROJECT**

**PARCEL 1:**

Certain lands in the West Half (W1/2) of Section 11 Township 46 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:

Tract G-1 of Plat II VILADELRAY, according to the Plat thereof, recorded in Plats Book 30, at Page 77, of the Public Records of Palm Beach County, Florida, less and except the East 148 feet of the South 123 feet thereof.

**AND THE FOLLOWING DESCRIBED PREMISES:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida being more particularly described as follows:

Beginning at the Northwest corner of Tract G-1, as shown on a Plat entitled "A PLANNED UNIT DEVELOPMENT, PLAT II, VILADELRAY, Palm Beach County, Florida", recorded in Plat Book 30, Pages 77, 78 and 79, of the Public Records of Palm Beach County, Florida; thence along the following numbered courses:

1. South 16° 59' 11" West, along the Westerly line of Tract G-1; a distance of 45.69 feet to a point of curvature; thence.....
2. Southerly, along the arc of a 535.00 foot radius curve, concave Easterly, whose long chord runs South 11° 33' 19" West, an arc distance of 101.42 feet to a point; thence.....
3. South 88° 17' 22" West, 59.03 feet to a point; thence.....
4. North 00° 28' 16" West, 134.28 feet to a point in the Southerly right-of-way line of Lake Worth Drainage District Canal L-31; thence.....
5. North 89° 31' 44" East along said right-of-way 10.51 feet to a point of curvature; thence.....
6. Easterly, along the arc of a 365.00 foot radius curve, concave Northerly, whose chord bears North 82° 55' 54" East, an arc distance of 84.05 feet to the Point of Beginning.

**PARCEL 2:**

Certain lands in the West Half (W1/2) of Section 11, Township 46 South, Range 42 East, Palm Beach, County, Florida, more particularly described as follows.

Tract G of Plat II VILADELRAY, according to the Plat thereof, recorded in Plat Book 30, Page 77, Public Records of Palm Beach County, Florida.

**PARCEL 3:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Begin at a point 5.00 feet Westerly from the Southwest corner (as measured along the arc of a curve) of Section 10, VILLADELRAY on the South boundary of Section 11, VILLADELRAY, as both are shown and recorded in Plat Book 36, Pages 19, 20, 21 and 22, of the Public Records of Palm Beach County, Florida, run (bearings cited herein are in the meridian of said Villadelray Sections 10 and 11) by the following numbered courses:

(Courses 1 through 11 are on the South boundary of aforementioned Villadelray Section 10 and the West boundary of Villadelray, Sections 8 and 9, as said Sections 8 and 9, are recorded in Plat Book 34, Pages 173 through 175)

1. Said Point of Beginning being on the arc of a curve, concave Northerly, having a radius of 1909.16 feet and a central angle of  $1^{\circ} 23' 57''$ ; thence.....
2. From the Point of Beginning run along the arc of said curve and the South boundary of Villadelray Section 10 in an Easterly direction a distance of 46.57 feet to the Point of Tangency of said curve; thence.....
3. Continue North  $86^{\circ} 39' 20''$  East, along said South boundary of Villadelray Section 10, a distance of 524.93 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 180.00 feet and a central angle of  $85^{\circ} 00' 00''$ ; thence.....
4. Run along the arc of said curve in a Southeasterly direction, a distance of 267.04 feet, to a Point of compound curve, concave Easterly, having a radius of 509.73 feet and a central angle of  $39^{\circ} 35' 03''$ ; thence.....
5. Run along the arc of said curve in a Southwesterly direction, a distance of 352.16 feet to the Point of Tangency; thence.....
6. South  $31^{\circ} 14' 23''$  West, a distance of 40.32 feet to the Point of Curvature of a curve concave Easterly, having a radius of 405.00 feet and a central angle of  $55^{\circ} 20' 03''$ ; thence.....
7. Run along the arc of said curve, a distance of 391.13 feet to the Point of Tangency of said curve; thence.....
8. South  $24^{\circ} 05' 40''$  East, a distance of 235.99 feet to the Point of Curvature of a curve concave Westerly, having a radius of 510.00 feet and a central angle of  $56^{\circ} 45' 00''$ ; thence.....
9. Run along the arc of said curve in a Southerly direction, a distance of 505.14 feet to the Point of Tangency of said curve; thence.....

10. South 32° 39' 20" West, a distance of 19.22 feet to a point on the Northerly Right-of-Way of Lake Worth Drainage District Canal L-31 as recorded in Official Record Book 2218, Page 1150, Public Records of Palm Beach County, Florida; thence.....

(Courses 11 through 22 being on the North Right-of-Way of said L-31 Canal)

11. North 57° 20' 40" West, a distance of 85.00 feet; thence.....

12. South 32° 39' 20" West, 585.50 feet to the Point of Curvature of a curve concave Northwesterly, having a radius of 71.00 feet and a central angle of 68° 00' 00"; thence.....

13. Run along the arc of said curve in a Westerly direction, a distance of 84.26 feet to the Point of Tangency of said curve; thence.....

14. North 79° 20' 40" West, a distance of 318.00 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of 40° 00' 00"; thence.....

15. Run along the arc of said curve in a Northwesterly direction, a distance of 49.57 feet to the Point of Tangency of said curve; thence.....

16. North 39° 20' 40" West, a distance of 113.48 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 140.00 feet and a central angle of 58° 53' 01"; thence.....

17. Run along the arc of said curve in a Westerly direction, a distance of 143.88 feet to the Point of Tangency of said curve; thence.....

18. South 81° 46' 19" West, a distance of 445.07 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of 67° 00' 00"; thence.....

19. Run along the arc of said curve in a Northwesterly direction, a distance of 83.03 feet to the Point of Tangency of said curve; thence.....

20. North N 31° 13' 41" West, 248.41 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 85.00 feet and a central angle of 79° 14' 35"; thence.....

21. Run along the arc of said curve in a Westerly direction, a distance of 117.56 feet to the Point of Tangency of said curve; thence.....

22. South 69° 31' 44" West, a distance of 96.66 feet to a point on the arc of a curve concave Westerly, having a radius of 595.00 feet and a central angle of 24° 26' 59"; thence.....

23. From a tangent bearing of North 11° 23' 27" East, run along the arc of said curve, a distance of 253.90 feet to a Point of Reverse Curvature of a curve concave Easterly, having a radius of 770.00 feet and a central angle of 12° 37' 03"; thence.....

24. Run along the arc of said curve in a Northerly direction, a distance of 169.57 feet to the Point of Tangency of said curve; thence.....

25. North 0° 26' 28" West, a distance of 238.00 feet to the Point of Curvature of a curve concave Easterly having a radius of 2056.88 feet and a central angle of 5° 30' 00"; thence.....

26. Run along the arc of said curve in a Northerly direction, a distance of 197.45 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1115.47 feet and a central angle of 11° 00' 00"; thence.....

27. Run along the arc of said curve, a distance of 214.16 feet to the Point of Tangency of said curve; thence.....

28. North 5° 56' 28" West, a distance of 141.14 feet to the Point of Curvature of a curve concave Easterly, having a radius of 1210.03 feet and a central angle of 8° 00' 00"; thence.....

29. Run along the arc of said curve in a Northerly direction, a distance of 168.95 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1311.74 feet and a central angle of 7° 07' 48"; thence.....

30. Run along the arc of said curve in a Northerly direction, a distance of 163.24 feet to a Point of Reverse Curvature of a curve concave Southeasterly, having a radius of 25.00 feet and a central angle of 88° 27' 34"; thence.....

31. Run along the arc of said curve in a Northeasterly direction, a distance of 38.60 feet to a Point of Reverse Curvature of a curve concave Northwesterly, having a radius of 2094.56 feet and a central angle of 3° 47' 43", said point also being on the South boundary of Villadelray, Section 11, as recorded in Plat Book 36, Pages 19, 20, 21 and 22; thence.....

32. Run along the arc of said curve in an Easterly direction, a distance of 138.74 feet to the Point of Tangency of said curve; thence.....

33. North 79° 35' 35" East, a distance of 419.76 feet to the Point of Curvature of a curve concave Southerly, having a radius of 1000.00 feet and a central angle of 17° 52' 30"; thence.....

34. Run along the arc of said curve in an Easterly direction, a distance of 311.98 feet to a Point of Reverse Curvature of a curve concave Northerly, having a radius of 1909.16 feet and a central angle of 7° 54' 52"; thence.....

35. Run along the arc of said arc in an Easterly direction, a distance of 263.72 feet to a point on the arc of a curve concave Easterly, having a radius of 216.22 feet and a central angle of 49° 28' 12"; thence.....

36. From a tangent bearing of South 01° 09' 18" East, run along the arc of said curve, a distance of 186.69 feet to the Point of Tangency of said curve; thence.....

37. Run South 50° 37' 21" East, a distance of 42.78 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 80.00 feet and a central angle of 16° 56' 51"; thence.....
38. Run along the arc of said curve in a Southeasterly direction, a distance of 23.66 feet; thence.....
39. North 85° 03' 53" West, a distance of 158.72 feet; thence.....
40. South 80° 06' 36" West, a distance of 331.32 feet; thence.....
41. South 79° 40' 42" West, a distance of 101.25 feet; thence.....
42. South 76° 47' 58" West, a distance of 259.83 feet; thence.....
43. South 60° 55' 51" West, a distance of 260.00 feet; thence.....
44. South 14° 05' 33" West, a distant of 152.99 feet; thence.....
45. South 16° 51' 25" East, a distance of 103.00 feet; thence.....
46. South 45° 51' 25" East, a distance of 23.00 feet; thence.....
47. South 18° 51' 25" East, a distance of 187.84 feet; thence.....
48. South 32° 27' 14" West, a distance of 30.46 feet; thence.....
49. South 20° 20' 16" East, a distance of 169.54 feet; thence.....
50. South 69° 21' 11" East, a distance of 92.47 feet; thence.....
51. North 66° 36' 14" East, a distance of 219.65 feet; thence.....
52. North 49° 24' 54" East, a distance of 362.58 feet; thence.....
53. North 12° 28' 36" East, a distance of 19.73 feet; thence.....
54. North 52° 53' 48" East, a distance of 71.02 feet; thence.....
55. North 60° 29' 30" East, a distance of 77.53 feet; thence.....
56. North 87° 32' 08" East, a distance of 46.40 feet; thence.....
57. North 64° 50' 10" East, a distance of 166.63 feet; thence.....
58. North 30° 02' 28" East, a distance of 192.83 feet; thence.....
59. North 89° 12' 55" East, a distance of 280.00 feet; thence.....
60. North 71° 04' 31" East, a distance of 37.00 feet; thence.....
61. North 00° 03' 00" West, a distance of 242.41 feet; thence.....

**62. South  $89^{\circ} 57' 25''$  West, a distance of 299.88 feet to a point on the arc of a curve concave Southwesterly, having a radius of 130.00 feet and a central angle of  $22^{\circ} 53' 50''$ ; thence.....**

**63. From a tangent of North  $27^{\circ} 43' 43''$  West, run along the arc of said curve in a Northwesterly direction, a distance of 51.95 feet to the Point of Tangency of said curve; thence.....**

**64. Run North  $50^{\circ} 37' 21''$  West, a distance of 42.78 feet to the Point of Curvature of curve, concave Northeasterly, having a radius of 166.22 feet and a central angle of  $49^{\circ} 28' 59''$ ; thence.....**

**65. Run along the arc of said curve in a Northerly direction, a distance of 143.55 feet to the Point of Beginning.**

NOT A CERTIFIED COPY

**Exhibit "H"**

**[Construction Easement Agreement]**

**[ATTACHED ON FOLLOWING 18 PAGES]**

NOT A CERTIFIED COPY



**PREPARED BY AND RETURN TO:**

Christian F. O'Ryan, Esq.  
Stearns Weaver Miller Weissler  
Alhadeff & Sitterson, P.A.  
401 East Jackson Street, Suite 2100  
Tampa, Florida 33602

\_\_\_\_\_  
SPACE ABOVE THIS LINE RESERVED FOR RECORDING DATA

**CONSTRUCTION EASEMENT AGREEMENT**

THIS CONSTRUCTION EASEMENT AGREEMENT (this "**Agreement**") is made and entered into as of April 16<sup>th</sup>, 2019, by and between PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation ("**Grantor**") and 13FH PALM BEACH, LP, a Delaware limited partnership, and its successors and assigns ("**Grantee**"). Grantor and Grantee are herein collectively referred to as the "**Parties**".

**WITNESSETH:**

A. Grantor is the record title owner of the real property legally described on **Exhibit A** attached hereto (the "**Recreation Association Parcel**") and the real property legally described on **Exhibit A-1** attached hereto (the "**Access Easement Area**").

B. Grantee is or will be the record title owner of the real property legally described on **Exhibit B** attached hereto (the "**Project**") and is the record title owner of the real property legally described on **Exhibit B-1** attached hereto (the "**New Clubhouse Parcel**").

C. Concurrent with the construction of residential units within the Project, Grantee will construct, at its own expense, a new amenity area, which will include a new clubhouse (the "**New Clubhouse**"), new amenities, and certain of the pre-existing amenities which Grantee will renovate (collectively, the "**Recreation Campus**"). The Recreation Campus will be constructed partially on the New Clubhouse Parcel and partially on the Recreation Association Parcel. The Recreation Campus will include at minimum: one (1) resort-style pool of a larger size than the existing pool with a separate lap area, one (1) shallow kids pool, one (1) hot tub of a larger size than the existing hot tub, one (1) cafe, one (1) library, one (1) fitness center, an administrative area with at least four (4) separate administrative office spaces with conference rooms, one (1) multi-purpose office for resident use, a billiards room, one (1) renovated shuffleboard area with a minimum of ten (10) lighted shuffleboard courts, a multi-purpose room with a minimum capacity of five hundred (500) persons to include a stage and dressing rooms, separate catering kitchen and server preparation area, card rooms with a minimum capacity of 180 persons, landscape entrance features at entrances to the Recreation Campus that include monument signage and decorative landscaping at the main

entrance to the new clubhouse building, four (4) new lighted tennis courts and nine (9) renovated tennis courts with lighting, four (4) pickle ball and two (2) bocce ball courts and a separate maintenance building with a portable generator of a size and specification sufficient to service the separate maintenance building (the "Central Maintenance Facility"), collectively referred to as the ("Committed Facilities"). The pools shall be constructed in accordance with Palm Beach County's code requirements. In addition to the above, the clubhouse shall be equipped with a separate maintenance area that includes storage for We Care equipment and an emergency generator.

D. Concurrent with the construction of residential units within the Project, Grantee will construct, at its own expense, certain paved roadways, driveways, sidewalks, and related access improvements over and upon the Access Easement Area for the purpose of providing for pedestrian and vehicular access from, to and between the Project and the public right-of-way known as "Via Delray" so that the Project has access through the Access Easement Area to Via Delray (such improvements are collectively referred to herein as the "Access Roadway").

E. Grantor and Grantee entered into that certain Development Agreement dated on or about the same date as this Agreement (the "Development Agreement"), whereby the Parties agreed to enter into this Agreement to grant Grantee and its agents and contractors the right to engage in construction activities on the Recreation Association Parcel and Access Easement Area, including renovation to the existing amenities and construction of the Recreation Campus and construction of the Access Roadway.

F. Grantor desires to grant and convey to Grantee a temporary construction easement over, under and across the Recreation Association Parcel to permit Grantee to construct the Recreation Campus, subject to the terms and provisions as set forth herein.

G. Grantor desires to grant and convey to Grantee a temporary construction easement over, under and across the Access Easement Area to permit Grantee to construct the Access Roadway, subject to the terms and provisions as set forth herein.

**NOW THEREFORE**, in consideration of the premises hereof and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Recitals; Defined Terms.** The above recitals are hereby incorporated herein as if fully set forth in this Agreement. All initially capitalized terms not defined herein shall have the meanings set forth in the Development Agreement.

2. **Grant of Construction Easements.** Grantor hereby grants, bargains and conveys to Grantee the following easements (collectively, the "Easements"):

a. **Construction Easement for Recreation Campus.** Grantor hereby grants, bargains and conveys to Grantee and in favor of Grantee, its successors

and assigns, an irrevocable temporary access and exclusive construction easement (the "**Recreation Campus Construction Easement**") over, across, under and through the Recreation Association Parcel to permit Grantee and Grantee's invitees, employees, agents, contractors and subcontractors to construct the Recreation Campus on the Recreation Association Parcel, including grading, installing utilities and irrigation lines, paving, landscaping, renovation and/or demolition of certain pre-existing amenities and the right to trim, cut or remove trees to the extent necessary to construct the Recreation Campus. The Recreation Campus Construction Easement shall automatically terminate on the date that Grantee's construction of the Recreation Campus is complete in all respects as determined by Grantee in Grantee's reasonable discretion. Grantor acknowledges that construction vehicles and trucks will use the Recreation Association Parcel in connection with the construction of the Recreation Campus. The Recreation Association Parcel and the Recreation Campus Construction Easement may be used for the placement of permanent utilities, including but not limited to, underground electrical, water, sewer, telephone, and cable lines as well as natural gas and fuel lines, which may be for the exclusive use of the Recreation Campus or the Project. To the extent any such utilities are installed within the Recreation Association Parcel, a permanent easement in favor of Grantee and its successors and assigns shall be deemed to automatically exist where such utilities are actually located, for the perpetual operation, use, repair and replacement of such utilities.

b. **Construction Easement for Access Roadway.** Grantor hereby grants, bargains and conveys to Grantee and in favor of Grantee, its successors and assigns, an irrevocable, permanent easement (the "**Roadway Construction Easement**") over, across, under and through the Access Easement Area to permit Grantee and Grantee's invitees, employees, agents, contractors and subcontractors to construct the Access Roadway, including without limitation, construction of driveways, roadways, walkways, sidewalks, curb cuts and points of entry which Grantee shall, at its sole discretion and in accordance with Palm Beach County requirements, deem necessary in order to provide vehicular and pedestrian access, ingress and egress to and from the Project and the public right-of-way known as "Via Delray." The Roadway Construction Easement shall automatically terminate on the date that Grantee's construction of the Access Roadway is complete in all respects as determined by Grantee in Grantee's reasonable discretion. The Roadway Construction Easement shall include the right to trim or cut or remove trees within the Access Easement Area to the extent necessary to construct the Access Roadway. Specifically, Grantor acknowledges that construction vehicles and trucks may use the Access Easement Area as determined by Grantee in connection with its construction of the Access Roadway and development of the Project. The Access Easement Area and the Roadway Construction Easement may be used for the placement of permanent utilities, including but not limited to, underground electrical, water, sewer, telephone, and cable lines as well as natural gas and fuel lines, which may be for the exclusive use of the Project. To the extent any such utilities are installed within the Access Easement Area, a permanent easement in favor of

Grantee and its successors and assigns shall be deemed to automatically exist where such utilities are actually located, for the perpetual operation, use, repair and replacement of such utilities.

3. **Indemnification.** Grantee hereby indemnifies and holds Grantor harmless from all costs, expenses, claims, injury or damage to persons or the Recreation Association Parcel caused by the Grantee's exercise of its rights under the Easement or its construction activities conducted on the Recreation Association Parcel, or usage of the Recreation Association Parcel by Grantee's invitees, contractors, subcontractors or agents or tenants, unless such damage results from the Recreation Association's negligence or willful misconduct or the negligence or willful misconduct of the Recreation Association's employees, members, agents or contractors. Notwithstanding anything contained herein to the contrary, the foregoing indemnification shall automatically terminate upon the termination of both Recreation Campus Construction Easement and the Roadway Construction Easement.

4. **Insurance.** In connection with the rights granted by Grantor to Grantee hereunder, Grantee agrees to maintain or cause to be maintained in full force and effect comprehensive general liability insurance, including personal injury liability insurance, with a financially responsible insurance company or companies licensed in the State of Florida. Such insurance shall provide for aggregate coverage of not less than Two Million Dollars (\$2,000,000.00) for public liability and property damage, naming Grantor as an additional insured. Said policy shall provide for at least thirty (30) days' notice to the Recreation Association of non-payment of premiums or cancellation.

5. **Use by Grantor; Restriction of Clubhouse Closure.** The Parties acknowledge and agree that certain portions of the Recreation Association Parcel, including the existing amenities, will be temporarily closed and not available for use by the Grantor or other authorized users during periods of construction activities conducted by Grantee. Except as expressly set forth herein and notwithstanding anything to the contrary, Grantor reserves the right to utilize portions of the Recreation Association Parcel that are open to Grantor and other authorized users so long as (i) such portions are safe to use as determined by Grantee in Grantee's reasonable discretion, and (ii) such use does not adversely interfere with Grantee's construction of the Recreation Campus. Notwithstanding anything in this Agreement to the contrary, in no event shall the existing clubhouse located on the Recreation Association Parcel be closed and unavailable for use by the Grantor and other authorized users unless and until the New Clubhouse is open and available for use by the Grantor and other authorized users.

6. **Permitting and Construction.** Grantee shall be responsible for any and all planning, engineering and permitting costs related to construction of the Recreation Campus or the Access Roadway. Grantee shall obtain all permits and governmental approvals to construct the Recreation Campus and Access Roadway, and Grantor hereby agrees to timely join in, consent to and execute any such permits, applications or other documents as are necessary to construct the Recreation Campus or Access Roadway or as requested by any governmental authority having jurisdiction over the

Recreation Association Parcel or the Access Roadway. During the term of this Agreement, Grantee shall have the right to obtain, modify, amend and terminate any permits, licenses and easements affecting the Recreation Association Parcel and the Access Easement Area in connection with Grantee's construction of the Recreation Campus and Access Roadway. To the extent legally required, Grantor shall be deemed to have granted to Grantee an irrevocable power of attorney, coupled with an interest, for the purposes herein expressed, including, without limitation, the right to submit applications for any permits or other governmental approvals in Grantee's name. Grantee shall perform all construction in a good and workmanlike manner, in accordance with standard construction practices, and in material compliance with all applicable federal, state and local laws, statutes, ordinances, codes, rules, regulations, and orders, including, without limitation, all applicable ordinances, permits and approvals. Grantee shall use commercially reasonable efforts to maintain the Recreation Association Parcel and Access Easement Area in an orderly condition in accordance with generally accepted industry standards throughout construction. Grantee shall be liable for any damage to any existing utility or drainage lines caused by Grantee's construction activities and will promptly restore same.

7. **Attorneys' Fees**. If legal proceedings are commenced against any party to enforce any term of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs incurred incidental thereto, including, without limitation, fees and costs incurred in appellate proceedings and in bankruptcy from the non-prevailing party.

8. **Notices**. Except as otherwise provided herein, all notices and other communications provided for hereunder shall be in writing and sent by certified mail return receipt requested, by overnight mail delivery with proof of delivery, or by hand delivery, and shall be deemed effective if mailed, when deposited in a United States Postal Service mailbox with postage prepaid, if by overnight mail delivery when deposited with the overnight mail delivery company with postage prepaid, or if hand delivered when personally handed to the Party to whom the notice or other communication is addressed. The Parties' representatives for notice purposes are:

Grantor: Palm Greens at Villa Del Ray Recreation  
Condominium Association, Inc.  
5801 Via Delray  
Delray Beach, FL 33484

With a copy to: Andre S. Parke  
Sachs Sax Caplan P.L.  
6111 Broken Sound Parkway NW  
Suite 200  
Boca Raton, FL 33487

Grantee: 13FH PALM BEACH, LP  
848 Brickell Avenue, PH1



Miami, FL 33131

With a copy to:

Scott Backman  
Dunay, Miskel & Backman, LLP  
14 SE 4 Street, Suite 36  
Boca Raton, FL 33432

9. **Successors and Assigns.** This Agreement shall inure to the benefit of, and be binding upon, the Parties and their respective heirs, personal representatives, successors and assigns.

10. **Default.** Neither party shall be held in default of any provision of this Agreement unless and until the putative non-defaulting party gives notice in writing to the putative defaulting party of the alleged default and thirty (30) days to cure the alleged default. In the event of a default under this Agreement, the non-defaulting party shall have all remedies available at law and equity, including specific performance.

11. **Covenants Running With Land.** The benefits and burdens of each covenant set forth in this Agreement shall run with the title to the Property and the Recreation Association Parcel and shall bind or benefit the record title owners thereof, their respective successors, successors-in-title, and assigns.

12. **Not a Public Dedication.** Nothing contained herein shall be deemed to be a gift or dedication of any portion of the Recreation Association Parcel or the Access Easement Area, to the general public or for general public purposes whatsoever, it being the intention that this Agreement shall be strictly limited to and for the purposes herein expressed.

13. **Amendments.** This Agreement may not be amended, waived, or modified, except by an instrument in writing executed by Grantee and Grantor (or their respective successors and/or assigns) which written document shall be recorded in the Public Records of Palm Beach County, Florida. No failure of either party to exercise any power or to insist upon strict compliance with any obligation specified herein, and no custom, practice or course of dealing at variance with the terms hereof, shall constitute a waiver of such party's rights to demand exact compliance with the terms hereof.

14. **Recordation and Effective Date.** This Agreement shall be recorded in the Public Records of Palm Beach County, Florida and shall be effective upon such recording.

15. **Third Party Beneficiaries.** This Agreement is for the sole benefit of the Parties and their respective successors and assigns, and nothing herein, express or implied, shall give or be construed to give to any person or entity, other than the Parties hereto, any legal or equitable rights hereunder.

16. **Entire Agreement.** This Agreement contains the entire agreement and understanding between the Parties as to the subject matter herein.

17. **Severability.** The invalidity or unenforceability of any provision or portion of this Agreement will not affect the validity of the remainder of this Agreement. If any provision of this Agreement is determined to be invalid or unenforceable, the Parties will negotiate in good faith to agree upon substitute provisions to carry out the purpose and intent of the invalid or unenforceable provision.

18. **Joint Preparation.** Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties or the other.

19. **Applicable Law; Jurisdiction; Venue.** This Agreement, and the rights and obligations of the Parties hereunder, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Palm Beach County, Florida. If any provision of this Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

20. **Headings.** Captions and section headings contained in this Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provision hereof.

21. **Counterpart Execution.** This Agreement may be executed in counterparts, each of which shall constitute an original, but all taken together shall constitute one and the same instrument.

22. **Further Assurances.** Each of the Parties agree to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Agreement, the Parties hereby declare their intention to cooperate with each other in effectuating the terms of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.


(SIGNATURES ON FOLLOWING PAGE)

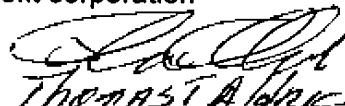
IN WITNESS WHEREOF, the undersigned has caused this Construction Easement Agreement to be executed and effective as of the date first written above.

**WITNESSES:**

**"GRANTOR"**

PALM GREENS AT VILLA DEL RAY  
RECREATION CONDOMINIUM  
ASSOCIATION, INC., a Florida not-  
for-profit corporation

  
Print Name: Susan E. Herman

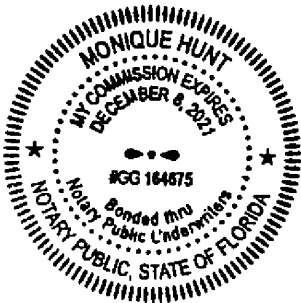
By:   
Print Name: \_\_\_\_\_  
Title: President

  
Print Name: Susan E. Herman

[Corporate Seal]

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

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of April, 2019, by THOMAS ALDRICH as PRESIDENT of PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation, who acknowledges that he/she executes the foregoing on behalf of the corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.



Notary Public

Print Name

My commission expires: 12/08/21

  
MONIQUE HUNT

[SIGNATURES CONTINUE ON THE NEXT PAGE]



IN WITNESS WHEREOF, the undersigned has caused this Construction Easement Agreement to be executed and effective as of the date first written above.

WITNESSES:

"GRANTEE"

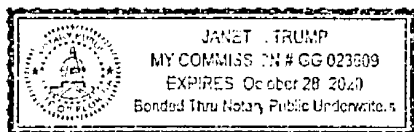
13FH PALM BEACH, LP, a Delaware limited partnership, and/or its successors and assigns

Janet L. Trump  
Print Name: Janet L. Trump  
Janet  
Print Name: Janet Arana

By: [Signature]  
Print Name: Michael Nunziata  
Title: Authorized Representative  
[Company Seal]

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) SS.

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of February, 2019, by Michael Nunziata as Authorized Representative of 13FH PALM BEACH, LP, a Delaware limited partnership, on behalf of the partnership, who is personally known to me or who has produced \_\_\_\_\_ as identification.



Janet L. Trump  
Notary Public  
Janet L. Trump  
Print Name  
My commission expires: 10/28/2020

**EXHIBIT A**

**Recreation Association Parcel**

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

CERTAIN LANDS IN THE WEST HALF (W1/2) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "F" OF PLAT II VILADELRAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA;

TOGETHER WITH:

THE EAST 148 FEET OF THE SOUTH 123 FEET OF TRACT "G-1" OF PLAT II VILADELRAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA.

**EXHIBIT A-1**

**Access Easement Area**

BEGINNING AT THE SOUTHEAST CORNER OF TRACT "F", PLAT II VILADELWAY AS RECORDED IN PLAT BOOK 30, PAGE 77 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID POINT ALSO BEING A POINT ON A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 2008.17 FEET FROM WHICH A RADIAL LINE BEARS SOUTH 02°34'37" WEST; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID TRACT "F" AND THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 6°23'29", A DISTANCE OF 224.02 FEET; THENCE, DEPARTING SAID SOUTH LINE, NORTH 43°04'22" EAST, A DISTANCE OF 55.37 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 359.99 FEET FROM WHICH A RADIAL LINE BEARS NORTH 88°59'08" EAST; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 35°27'23", A DISTANCE OF 222.77 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID TRACT "F"; THENCE, ALONG SAID NORTH LINE, SOUTH 39°43'53" EAST, A DISTANCE OF 58.78 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 156.00 FEET; THENCE, CONTINUING ALONG SAID NORTH LINE, SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 40°00'00", A DISTANCE OF 108.91 FEET TO THE NORTHEAST CORNER OF SAID TRACT "F"; THENCE, ALONG THE EAST LINE OF SAID TRACT "F", SOUTH 02°34'37" WEST, A DISTANCE OF 149.16 FEET TO THE POINT OF BEGINNING.

CONTAINING 35,512 SQUARE FEET OR 0.8152 ACRES, MORE OR LESS.

**EXHIBIT B**  
**Legal Description for the Project**

**PARCEL 1:**

Certain lands in the West Half (W1/2) of Section 11 Township 46 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:

Tract G-1 of Plat II VILLADELRAY, according to the Plat thereof, recorded in Plats Book 30, at Page 77, of the Public Records of Palm Beach County, Florida, less and except the East 148 feet of the South 123 feet thereof.

**AND THE FOLLOWING DESCRIBED PREMISES:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida being more particularly described as follows:

Beginning at the Northwest corner of Tract G-1, as shown on a Plat entitled "A PLANNED UNIT DEVELOPMENT, PLAT II, VILLADELRAY, Palm Beach County, Florida", recorded in Plat Book 30, Pages 77, 78 and 79, of the Public Records of Palm Beach County, Florida; thence along the following numbered courses:

1. South 16° 59' 11" West, along the Westerly line of Tract G-1; a distance of 45.69 feet to a point of curvature; thence.....
2. Southerly, along the arc of a 535.00 foot radius curve, concave Easterly, whose long chord runs South 11° 33' 19" West, an arc distance of 101.42 feet to a point; thence.....
3. South 88° 17' 22" West, 59.03 feet to a point; thence.....
4. North 00° 28' 16" West, 134.28 feet to a point in the Southerly right-of-way line of Lake Worth Drainage District Canal L-31; thence.....
5. North 89° 31' 44" East along said right-of-way 10.51 feet to a point of curvature; thence.....
6. Easterly, along the arc of a 365.00 foot radius curve, concave Northerly, whose chord bears North 82° 55' 54" East, an arc distance of 84.05 feet to the Point of Beginning.

**PARCEL 2:**

Certain lands in the West Half (W1/2) of Section 11, Township 46 South, Range 42 East, Palm Beach, County, Florida, more particularly described as follows.

Tract G of Plat II VILLADELRAY, according to the Plat thereof, recorded in Plat Book 30, Page 77, Public Records of Palm Beach County, Florida.

**PARCEL 3:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Begin at a point 5.00 feet Westerly from the Southwest corner (as measured along the arc of a curve) of Section 10, VILLADELRAY on the South boundary of Section 11, VILLADELRAY, as both are shown and recorded in Plat Book 36, Pages 19, 20, 21 and 22, of the Public Records of Palm Beach County, Florida, run (bearings cited herein are in the meridian of said Villadelray Sections 10 and 11) by the following numbered courses:

(Courses 1 through 11 are on the South boundary of aforementioned Villadelray Section 10 and the West boundary of Villadelray, Sections 8 and 9, as said Sections 8 and 9, are recorded in Plat Book 34, Pages 173 through 175)

1. Said Point of Beginning being on the arc of a curve, concave Northerly, having a radius of 1909.16 feet and a central angle of  $1^{\circ} 23' 57''$ ; thence.....
2. From the Point of Beginning run along the arc of said curve and the South boundary of Villadelray Section 10 in an Easterly direction a distance of 46.57 feet to the Point of Tangency of said curve; thence.....
3. Continue North  $86^{\circ} 39' 20''$  East, along said South boundary of Villadelray Section 10, a distance of 524.93 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 180.00 feet and a central angle of  $85^{\circ} 00' 00''$ ; thence.....
4. Run along the arc of said curve in a Southeasterly direction, a distance of 267.04 feet, to a Point of compound curve, concave Easterly, having a radius of 509.73 feet and a central angle of  $39^{\circ} 35' 03''$ ; thence.....
5. Run along the arc of said curve in a Southwesterly direction, a distance of 352.16 feet to the Point of Tangency; thence.....
6. South  $31^{\circ} 14' 23''$  West, a distance of 40.32 feet to the Point of Curvature of a curve concave Easterly, having a radius of 405.00 feet and a central angle of  $55^{\circ} 20' 03''$ ; thence.....
7. Run along the arc of said curve, a distance of 391.13 feet to the Point of Tangency of said curve; thence.....
8. South  $24^{\circ} 05' 40''$  East, a distance of 235.99 feet to the Point of Curvature of a curve concave Westerly, having a radius of 510.00 feet and a central angle of  $56^{\circ} 45' 00''$ ; thence.....
9. Run along the arc of said curve in a Southerly direction, a distance of 505.14 feet to the Point of Tangency of said curve; thence.....

10. South 32° 39' 20" West, a distance of 19.22 feet to a point on the Northerly Right-of-Way of Lake Worth Drainage District Canal L-31 as recorded in Official Record Book 2218, Page 1150, Public Records of Palm Beach County, Florida; thence.....

(Courses 11 through 22 being on the North Right-of-Way of said L-31 Canal)

11. North 57° 20' 40" West, a distance of 85.00 feet; thence.....

12. South 32° 39' 20" West, 585.50 feet to the Point of Curvature of a curve concave Northwesterly, having a radius of 71.00 feet and a central angle of 68° 00' 00"; thence.....

13. Run along the arc of said curve in a Westerly direction, a distance of 84.26 feet to the Point of Tangency of said curve; thence.....

14. North 79° 20' 40" West, a distance of 318.00 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of 40° 00' 00"; thence.....

15. Run along the arc of said curve in a Northwesterly direction, a distance of 49.57 feet to the Point of Tangency of said curve; thence.....

16. North 39° 20' 40" West, a distance of 113.48 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 140.00 feet and a central angle of 58° 53' 01"; thence.....

17. Run along the arc of said curve in a Westerly direction, a distance of 143.88 feet to the Point of Tangency of said curve; thence.....

18. South 81° 46' 19" West, a distance of 445.07 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of 67° 00' 00"; thence.....

19. Run along the arc of said curve in a Northwesterly direction, a distance of 83.03 feet to the Point of Tangency of said curve; thence.....

20. North N 31° 13' 41" West, 248.41 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 85.00 feet and a central angle of 79° 14' 35"; thence.....

21. Run along the arc of said curve in a Westerly direction, a distance of 117.56 feet to the Point of Tangency of said curve; thence.....

22. South 69° 31' 44" West, a distance of 96.66 feet to a point on the arc of a curve concave Westerly, having a radius of 595.00 feet and a central angle of 24° 26' 59"; thence.....

23. From a tangent bearing of North 11° 23' 27" East, run along the arc of said curve, a distance of 253.90 feet to a Point of Reverse Curvature of a curve concave Easterly, having a radius of 770.00 feet and a central angle of 12° 37' 03"; thence.....

24. Run along the arc of said curve in a Northerly direction, a distance of 169.57 feet to the Point of Tangency of said curve; thence.....

25. North 0° 26' 28" West, a distance of 238.00 feet to the Point of Curvature of a curve concave Easterly having a radius of 2056.88 feet and a central angle of 5° 30' 00"; thence.....

26. Run along the arc of said curve in a Northerly direction, a distance of 197.45 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1115.47 feet and a central angle of 11° 00' 00"; thence.....

27. Run along the arc of said curve, a distance of 214.16 feet to the Point of Tangency of said curve; thence.....

28. North 5° 56' 28" West, a distance of 141.14 feet to the Point of Curvature of a curve concave Easterly, having a radius of 1210.03 feet and a central angle of 8° 00' 00"; thence.....

29. Run along the arc of said curve in a Northerly direction, a distance of 168.95 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1311.74 feet and a central angle of 7° 07' 48"; thence.....

30. Run along the arc of said curve in a Northerly direction, a distance of 163.24 feet to a Point of Reverse Curvature of a curve concave Southeasterly, having a radius of 25.00 feet and a central angle of 88° 27' 34"; thence.....

31. Run along the arc of said curve in a Northeasterly direction, a distance of 38.60 feet to a Point of Reverse Curvature of a curve concave Northwesterly, having a radius of 2094.56 feet and a central angle of 3° 47' 43", said point also being on the South boundary of Villadelray, Section 11, as recorded in Plat Book 36, Pages 19, 20, 21 and 22; thence.....

32. Run along the arc of said curve in an Easterly direction, a distance of 138.74 feet to the Point of Tangency of said curve; thence.....

33. North 79° 35' 35" East, a distance of 419.76 feet to the Point of Curvature of a curve concave Southerly, having a radius of 1000.00 feet and a central angle of 17° 52' 30"; thence.....

34. Run along the arc of said curve in an Easterly direction, a distance of 311.98 feet to a Point of Reverse Curvature of a curve concave Northerly, having a radius of 1909.16 feet and a central angle of 7° 54' 52"; thence.....

35. Run along the arc of said arc in an Easterly direction, a distance of 263.72 feet to a point on the arc of a curve concave Easterly, having a radius of 216.22 feet and a central angle of 49° 28' 12"; thence.....



36. From a tangent bearing of South 01° 09' 18" East, run along the arc of said curve, a distance of 186.69 feet to the Point of Tangency of said curve; thence.....

37. Run South 50° 37' 21" East, a distance of 42.78 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 80.00 feet and a central angle of 16° 56' 51"; thence.....

38. Run along the arc of said curve in a Southeasterly direction, a distance of 23.66 feet; thence.....

39. North 85° 03' 53" West, a distance of 158.72 feet; thence.....

40. South 80° 06' 36" West, a distance of 331.32 feet; thence.....

41. South 79° 40' 42" West, a distance of 101.25 feet; thence.....

42. South 76° 47' 58" West, a distance of 259.83 feet; thence.....

43. South 60° 55' 51" West, a distance of 260.00 feet; thence.....

44. South 14° 05' 33" West, a distant of 152.99 feet; thence.....

45. South 16° 51' 25" East, a distance of 103.00 feet; thence.....

46. South 45° 51' 25" East, a distance of 23.00 feet; thence.....

47. South 18° 51' 25" East, a distance of 187.84 feet; thence.....

48. South 32° 27' 14" West, a distance of 30.46 feet; thence.....

49. South 20° 20' 16" East, a distance of 169.54 feet; thence.....

50. South 69° 21' 11" East, a distance of 92.47 feet; thence.....

51. North 66° 36' 14" East, a distance of 219.65 feet; thence.....

52. North 49° 24' 54" East, a distance of 362.58 feet; thence.....

53. North 12° 28' 36" East, a distance of 19.73 feet; thence.....

54. North 52° 53' 48" East, a distance of 71.02 feet; thence.....

55. North 60° 29' 30" East, a distance of 77.53 feet; thence.....

56. North 87° 32' 08" East, a distance of 46.40 feet; thence.....

57. North 64° 50' 10" East, a distance of 166.63 feet; thence.....

58. North 30° 02' 28" East, a distance of 192.83 feet; thence.....

59. North 89° 12' 55" East, a distance of 280.00 feet; thence.....



60. North  $71^{\circ} 04' 31''$  East, a distance of 37.00 feet; thence.....
61. North  $00^{\circ} 03' 00''$  West, a distance of 242.41 feet; thence.....
62. South  $89^{\circ} 57' 25''$  West, a distance of 299.88 feet to a point on the arc of a curve concave Southwesterly, having a radius of 130.00 feet and a central angle of  $22^{\circ} 53' 50''$ ; thence.....
63. From a tangent of North  $27^{\circ} 43' 43''$  West, run along the arc of said curve in a Northwesterly direction, a distance of 51.95 feet to the Point of Tangency of said curve; thence.....
64. Run North  $50^{\circ} 37' 21''$  West, a distance of 42.78 feet to the Point of Curvature of curve, concave Northeasterly, having a radius of 166.22 feet and a central angle of  $49^{\circ} 28' 59''$ ; thence.....
65. Run along the arc of said curve in a Northerly direction, a distance of 143.55 feet to the Point of Beginning.

**EXHIBIT B-1**

**Legal Description for the New Clubhouse Parcel**

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

CERTAIN LANDS IN THE WEST HALF (W1/2) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "G-1" OF PLAT II VILADELWAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA, LESS AND EXCEPT THE EAST 148 FEET OF THE SOUTH 123 FEET THEREOF.

TOGETHER WITH:

A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT G-1, AS SHOWN ON A PLAT ENTITLED "A PLANNED UNIT DEVELOPMENT, PLAT II, VILADELWAY, PALM BEACH COUNTY, FLORIDA", AS RECORDED IN PLAT BOOK 30, PAGES 77, 78 AND 79, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG THE FOLLOWING NUMBERED COURSES:

1. SOUTH 16° 59' 11" WEST, ALONG THE WESTERLY LINE OF TRACT G-1; A DISTANCE OF 45.69 FEET TO A POINT OF CURVATURE; THENCE. . . .
2. SOUTHERLY, ALONG THE ARC OF A 535.00 FOOT RADIUS CURVE, CONCAVE EASTERLY, WHOSE LONG CHORD RUNS SOUTH 11° 33' 19" WEST, AN ARC DISTANCE OF 101.42 FEET TO A POINT; THENCE. . . .
3. SOUTH 88° 17' 22" WEST, 59.03 FEET TO A POINT; THENCE. . . .
4. NORTH 00° 28' 16" WEST, 134.28 FEET TO A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL L-31; THENCE. . . .
5. NORTH 89° 31' 44" EAST ALONG SAID RIGHT-OF-WAY 10.56 FEET TO A POINT OF CURVATURE; THENCE. . . .
6. EASTERLY, ALONG THE ARC OF A 365.00 FOOT RADIUS CURVE, CONCAVE NORTHERLY, WHOSE CHORD BEARS NORTH 82° 55' 42" EAST, AN ARC DISTANCE OF 84.01 FEET TO THE POINT OF BEGINNING.

**Exhibit "I"**

**[Letter of Support from Recreation Association]**

**[ATTACHED ON FOLLOWING 3 PAGES]**

NOT A CERTIFIED COPY

[Insert Association Letterhead]

[DATE]

Board of County Commissioners  
Palm Beach County  
301 North Olive Ave., Suite 1201  
West Palm Beach, FL 33401

Dear Mayor and Commissioners:

On June 17, 2017, the Board of Directors of the Palm Greens Condominium 1 Association ("PG 1"), the Palm Greens Condominium 2 Association ("PG 2") and the Palm Greens Recreation Association ("Rec. Association") incorporated the Palm Greens Community Association ("PGCA"). The purpose of the PGCA is *negotiating, dealing and consulting with the owners of and/or developers of the adjacent golf course for the purpose of protecting the values of the Members' residents' homes and quality of life of the residents of the Palm Greens community.* The PGCA is comprised of one individual from each member association. The PGCA by-laws require that the PGCA *submit a report and make a recommendation to the Members as to whether the Members should support a proposed development plan, or other proposal for the use of the Golf Course Property ("Property").*

In mid-2017, the PGCA Board of Directors; Marilyn Dikeman, president, PG 1 Board of Directors; Susan Herman, president, PG 2 Board of Directors and Thomas Aldrich, president, Rec. Association, Board of Directors began discussions with the 13th Floor Homes ("13th Floor") about the potential purchase and development of the Property. 13th Floor's philosophy is to engage those who are impacted by the development of a property in discussions regarding the future use of the property. Since the Property is privately owned and NOT OWNED by the PG community, 13th Floor did not need to negotiate with the PG Community, they just needed to obtain access to the Property. The south side of the Property, which abuts PG 1 is accessible by a public road (Via Flora). However, the north side of the Property which abuts PG 2 is landlocked. Access to this portion of the Property, could be achieved through an easement to, or purchase of, the parcel of property behind the clubhouse owned by the Rec. Association. Since PG 1 and PG 2 are adjacent to and abut both sides of the Property, its residents would be impacted by any development of the Property. Therefore, based on its philosophy, 13th Floor was committed to dealing and negotiating with the PGCA in order to prepare a proposal for the Property, in which the best interest of the entire PG community was considered. Furthermore, PGCA and 13th Floor agreed that 13<sup>th</sup> Floor would take it a step further and get a vote of the unit owners of PG 1 and PG 2 before any development proceeded. The vote would be done in accordance with State Statute.

The PGCA and 13th Floor began discussions/negotiations regarding a development plan that would take into account the concerns of the PG Community and mitigate the impact of its development. Once the initial concept was developed, 13th Floor put the conceptual plan on a website, [www.delraytrails.com](http://www.delraytrails.com) and held a series of meetings with the PG unit owners. 13th Floor then developed a more detailed plan taking into consideration the feedback from the unit owners

and further negotiations with the PGCA. Through "office hours" to answer unit owners questions/concerns individually and ongoing interaction through its website, 13th Floor continued to be responsive to individual unit owners concerns and suggestions. PGCA and 13th Floor also continued to flush out all the details of a comprehensive developer proposal. Once significant outreach to the PG community and negotiations were completed, PGCA and 13th Floor memorialized the legal framework in a developer plan which was a clear delineation of all the agreements reached between PGCA and 13th Floor and backed by legal protections for the PG community.

### **Considerations**

The PGCA took into account several factors in its decision to recommend support of the proposed developer plan. The factors included the following:

- The Golf Course is privately owned.
- Evidence that the property would eventually be developed for residential housing.
- A concern that prohibitive easements and private road access would eventually be overridden by Palm Beach County.
- The fact that PG is an aging community and in the next several years, large assessments would be necessary for replacing the antiquated clubhouse and addressing the major infrastructure needs of the community (irrigation, drainage, pipes in canals, etc.).
- 13th Floor is a developer amenable to working with the PG Community.
- The developer agrees to be legally bound by the developer agreement.
- PGCA and 13th Floor have agreed to a developer plan that is in the best interest of the PG unit owners with incentives to ameliorate the impact on the community.
- The developers agreed to abide by a vote of the unit owners.
- The developer agreed to mitigate construction concerns.
- The developer agreed to build a new Clubhouse with new amenities which should be less expensive to maintain than aging, antiquated facilities.
- Property values should increase since this is what has happened in similar situations to Condominium's adjacent to new developments.

### **Recommendation**

Given the foregoing, the PGCA strongly supports the proposed development of the Property, as agreed to by the PGCA and 13th Floor, and recommends that the County approve the pending development applications.

Please do not hesitate to contact me should you have any questions.

Respectfully submitted,

Marilyn Diekman  
Palm Greens I

**Susan Herman**  
**Palm Greens 2**

**Thomas Aldrich**  
**Recreation Board**

NOT A CERTIFIED COPY

**Exhibit "J"**

**[Escrow Agreement]**

**[ATTACHED ON FOLLOWING PAGES]**

NOT A CERTIFIED COPY

### **ESCROW AGREEMENT**

THIS ESCROW AGREEMENT (this "**Escrow Agreement**") is entered into this 16<sup>th</sup> day of April, 2019 (the "**Effective Date**"), by and among 13FH PALM BEACH, LP, a Delaware limited partnership, its successors and assigns ("**13th Floor**"), PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation ("**Recreation Association**"), NUMBER 1 CONDOMINIUM ASSOCIATION – PALM GREENS AT VILLA DEL RAY, INC., a Florida not for profit corporation ("**Palm Greens 1**"), NUMBER 2 CONDOMINIUM ASSOCIATION – PALM GREENS AT VILLA DEL RAY, INC., a Florida not for profit corporation ("**Palm Greens 2**") and PALM GREENS COMMUNITY ASSOCIATION, INC., a Florida not for profit corporation ("**Community Association**") and the law firm of DUNAY, MISKEL & BACKMAN, LLP ("**Escrow Agent**"). The Recreation Association, Palm Greens 1, Palm Greens 2 and the Community Association shall collectively be referred herein as "**Associations**," 13th Floor and the Associations are sometimes collectively referred to as the "**Parties**."

### **RECITALS:**

A. The Parties and Escrow Agent are entering into this Escrow Agreement to provide for the escrow of (i) a fully executed original of the Development Agreement for Delray Trails at Palm Greens and the Palm Greens at Villa Del Ray Recreation Condominium Association, Inc. (the "**Development Agreement**"), (ii) a fully executed original of the Temporary Use and Management Agreement attached as Exhibit "D" to the Development Agreement (the "**Temporary Management Agreement**"), (iii) a fully executed original of the Recreation Campus Use, Exclusive Management and Easement Agreement attached as Exhibit "K" to the Development Agreement (the "**Shared Facilities Agreement**"), (iv) a fully executed original of the Access Easement attached as Exhibit "G" to the Development Agreement (the "**Access Easement**"), (v) a fully executed original of the Plat Dedication Agreement attached as Exhibit "G-1" to the Development Agreement ("**Plat Dedication Agreement**"), (vi) a fully executed original of the Construction Easement Agreement attached as Exhibit "H" to the Development Agreement ("**Construction Easement Agreement**"), and (vii) a fully executed original of the Receipt of Payment, Release and Amendment to Development Agreement attached as Exhibit "F" to the Development Agreement (the "**Release**"). All of the foregoing are sometimes collectively referred to as the "**Escrowed Documents**" and are to be held and released in accordance with the terms of this Escrow Agreement.

B. Escrow Agent has agreed to act as Escrow Agent hereunder and to hold the Escrowed Documents in escrow and release same, all on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing Recitals and the agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:



1. Recitals; Defined Terms. The above stated Recitals are true and correct and are incorporated herein as if repeated in their entirety. Capitalized terms used herein but not otherwise defined shall have the meanings attributed to such term(s) in the Development Agreement.

2. Appointment of Escrow Agent. The Parties hereby appoint Scott Backman, Esq. of the law firm Dunay, Miskel & Backman, LLP to act as Escrow Agent hereunder, and Escrow Agent agrees to accept the duties of Escrow Agent in accordance with the terms and conditions of this Escrow Agreement.

3. Escrowed Documents. Within two (2) business days of the execution of the Escrowed Documents by the Parties (to the extent applicable), each of the Parties shall deliver to Escrow Agent fully executed originals of the Escrowed Documents, as applicable. Escrow Agent agrees to hold the same in trust and release, record or destroy each in accordance with the terms of this Escrow Agreement.

4. Release and Recording of the Escrowed Documents. Escrow Agent shall hold the Escrowed Documents and shall release and record the Escrowed Documents, if applicable, following Escrow Agent's confirmation of satisfaction of the terms of the Development Agreement or other confirmations as expressly set forth below. Specifically, the Parties agree to notify the Escrow Agent promptly in writing when the conditions for release or recording of the Escrowed Documents have been satisfied under the Development Agreement and the terms and conditions herein. Notwithstanding anything contained herein to the contrary, the Parties agree that Escrow Agent shall cause the following to occur:

i. Upon 13th Floor's closing of the purchase of the "Property" as defined in the Development Agreement, Escrow Agent shall record the Development Agreement in the Public Records of Palm Beach County, Florida;

ii. Upon receiving confirmation from 13th Floor that it has received a certificate of occupancy for the "New Clubhouse" as defined in the Temporary Management Agreement, Escrow Agent shall immediately release to 13th Floor the original Temporary Management Agreement;

iii. Upon confirmation that the terms and conditions outlined in Section 6.d. and 6.f of the Development Agreement and Section 10.1 of the Articles, which are attached as Exhibit E-1 of the Development Agreement, have been satisfied, Escrow Agent shall promptly record the Shared Facilities Agreement in the Public Records of Palm Beach County, Florida;

iv. Upon confirmation that the terms and conditions outlined in Section 8 of the Development Agreement have been satisfied, Escrow Agent shall promptly record (a) the Access Easement and (b) the Plat Dedication Agreement, in the Public Records of Palm Beach County Florida;

v. Upon confirmation that the terms and conditions outlined in Section 9.a. of the Development Agreement have been satisfied, Escrow Agent shall promptly record the Construction Easement Agreement in the Public Records of Palm Beach County, Florida; and

vi. Upon confirmation that the terms and conditions outlined in Section 7.a. of the Development Agreement have been satisfied, Escrow Agent shall promptly record the Release in the Public Records of Palm Beach County, Florida.

5. Term. The term of this Escrow Agreement shall commence on the date the Escrowed Documents are deposited with Escrow Agent and shall remain in full force and effect until Escrow Agent has disbursed the Escrowed Documents in accordance with the terms hereof.

6. Rights and Duties of the Escrow Agent.

a. Reliance; Duties. The Parties agree that Escrow Agent may act in reliance upon any writing or instrument or signature which it believes to be genuine; may assume the validity and accuracy of any statements or assertions contained in such writing or instrument; and, may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so. Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution or validity of any written instructions or certifications delivered to it, nor as to the identity, authority or rights of any person executing the same. The duties of Escrow Agent shall be limited to the safekeeping of the Escrowed Documents and to the release of same in accordance with the provisions hereof. Escrow Agent undertakes to perform only such duties as are expressly set forth herein, and no implied duties or obligations of Escrow Agent shall be implied by virtue of this Escrow Agreement.

b. Legal Counsel; Liability. Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection for any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel. Escrow Agent shall not be liable for any mistakes of fact or error of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct. The Parties agree and acknowledge that they have requested Escrow Agent to act as the escrow agent, despite Escrow Agent's disclosure that the Escrow Agent represents 13th Floor in matters relating to this transaction. The Parties acknowledge and agree that the Escrow Agent has disclosed the Escrow Agent's legal representation of 13th Floor in connection with this transaction and all other Parties waive any objection to the extent that any conflict or potential conflict arises in connection with this Escrow Agreement. Escrow Agent does not believe that its representation of 13th Floor will impair its ability to perform its duties as Escrow Agent pursuant to the terms herein.

c. Interpleader. Notwithstanding any provisions contained herein to the contrary, in the event that Escrow Agent is uncertain as to the proper disposition of the Escrowed Documents, or in the event of a disagreement about the interpretation of this Agreement, or about the rights and obligations of the Parties hereto, or the propriety of any action contemplated by Escrow Agent hereunder, Escrow Agent may, in its sole discretion, file an action in interpleader to resolve said disagreement. Escrow Agent shall be indemnified pursuant to the provisions of Section 7 hereof for all costs and attorneys' fees incurred by it in its capacity as Escrow Agent in connection with any such interpleader action and shall be fully protected in suspending all or part of its activities under this agreement until a final judgment in the interpleader action is resolved.

d. Resignation. Escrow Agent may resign at any time upon the giving of fifteen (15) days' written notice to the Parties. Upon such resignation, the Parties shall jointly appoint a successor escrow agent, who shall assume the duties of Escrow Agent hereunder by supplement hereto. If a successor escrow agent is not appointed within fifteen (15) days after notice of resignation, Escrow Agent may petition any court of competent jurisdiction to name a successor escrow agent.

7. Indemnification of Escrow Agent. Unless and until Escrow Agent is determined by a court of competent jurisdiction to have been guilty of willful misconduct or gross negligence with regard to any of its duties hereunder, the Parties shall indemnify and hold Escrow Agent harmless from any and all claims, liabilities, losses, actions, suits, proceedings at law or in equity, or any other expenses, fees or charges of any nature whatsoever (at all trial and appellate levels), which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Agreement; and in connection therewith shall indemnify Escrow Agent against any and all expenses including attorneys' fees and the costs of defending any action, suit or proceedings or resisting any claim in such capacity.

8. Miscellaneous.

a. Governing Law. This Escrow Agreement is entered into in the State of Florida and the rights and obligations of the Parties hereto shall be governed by, construed and enforced in accordance with the laws of such State.

b. Venue. This Escrow Agreement shall be subject to the exclusive jurisdiction of the courts of Palm Beach County, Florida. The Parties to this Escrow Agreement agree that any breach of any term or condition of this Escrow Agreement shall be deemed to be a breach occurring in the State of Florida by virtue of a failure to perform an act required to be performed in the State of Florida and irrevocably and expressly agree to submit to the jurisdiction of the courts of the State of Florida for the purpose of resolving any disputes among the Parties relating to this Escrow Agreement or the transactions contemplated hereby. The Parties irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Escrow

Agreement, or any judgment entered by any court in respect hereof brought in the State of Florida, and further irrevocably waive any claim that any suit, action or proceeding brought in Palm Beach County, Florida has been brought in an inconvenient forum.

c. Waiver of Jury Trial. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING WITH RESPECT TO THIS ESCROW AGREEMENT. ANY OF THE PARTIES HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS ESCROW AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF SUCH PARTY'S RIGHT TO TRIAL BY JURY.

d. Entire Agreement; Amendment. This Escrow Agreement constitutes the entire agreement of the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, between the Parties hereto with respect to the subject matter hereof. This Escrow Agreement shall not be modified or amended except by an instrument in writing signed by or on behalf of the Parties and Escrow Agent.

e. Notices. Any notice required or desired to be delivered to the Parties and Escrow Agent shall be given in accordance with the notice provisions of the Escrow Agreement, as appropriate. All notices given to Escrow Agent, shall be in writing (by a party or by such party's attorney), and shall be sent by (i) personal delivery, (ii) delivery by a recognized overnight courier, (iii) United States mail, postage prepaid, registered or certified mail, or (iv) email, with delivery by overnight carrier the next business day, unless waived by the receiving Parties, addressed as follows:

If to Escrow Agent:	Scott Backman, Esq. Dunay, Miskel & Backman, LLP 14 SE 4 Street, Suite 36 Boca Raton, FL 33432
Recreation Association:	Palm Greens at Villa Del Ray Recreation Condominium Association, Inc. 5801 Via Delray Delray Beach, FL 33484
Palm Greens 1:	Number 1 Condominium Association – Palm Greens at Villa Del Ray, Inc. 5801 Via Delray Delray Beach, FL 33484
Palm Greens 2:	Number 2 Condominium Association – Palm Greens at Villa Del Ray, Inc. 5801 Via Delray Delray Beach, FL 33484

Community Association: Palm Greens Community Association, Inc.  
5801 Via Delray  
Delray Beach, FL 33484

With a copy to: Andre S. Parke  
Sachs Sax Caplan P.L.  
6111 Broken Sound Parkway NW  
Suite 200  
Boca Raton, FL 33487

13th Floor: 13FH PALM BEACH, LP  
848 Brickell Avenue, PH1  
Miami, FL 33131

With a copy to: Scott Backman  
Dunay, Miskel & Backman, LLP  
14 SE 4 Street, Suite 36  
Boca Raton, FL 33432

Notice by personal delivery or overnight courier shall be effective upon receipt or as of the date of first attempted delivery, and notice by mail shall be effective upon deposit in the United States mail in the manner above described, and notice by email shall be effective upon transmission. Any addressee may, at any time by giving ten (10) days' prior written notice to the other addressees, designate any other address in substitution of the foregoing.

f. Further Assurances. Each of the Parties hereby agrees to take any and all actions and to execute and deliver in a reasonable and prompt manner, at any time and from time to time after the date hereof, such other documents and instruments as may reasonably be required to effectuate the transactions contemplated hereby.

g. Independent Counsel. Each of the Parties hereto have been represented by independent legal counsel and fully understand and recognize the meaning of this Escrow Agreement and each of the provisions hereof.



h. Assignment. Neither this Escrow Agreement nor any rights, interest or obligations hereunder shall be assigned by any Party hereto without the prior written consent of the other Parties hereto.

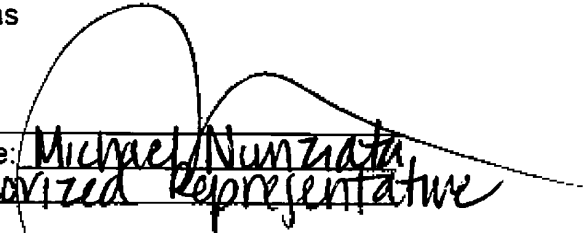
i. Counterparts. This Escrow Agreement may be executed in several counterparts, each of which shall be deemed an original, but all constituting only one agreement. The Parties further acknowledge and agree that signatures of the Parties hereto on copies of this Escrow Agreement transmitted as a file in PDF format via email shall be deemed originals for all purposes hereunder, and shall be binding upon the Parties hereto.

IN WITNESS WHEREOF, 13<sup>th</sup> Floor has executed this Escrow Agreement as follows:

**WITNESSES:**

**13FH PALM BEACH, LP**, a Delaware limited partnership and/or its successors and assigns

  
Print Name: Janet L. Trump  
  
Print Name: Jamilet Arana

By:   
Print Name: Michael Nunziata  
Its: Authorized Representative  
[Company Seal]


SIGNATURES CONTINUE ON THE FOLLOWING PAGES


NOT A CERTIFIED COPY


IN WITNESS WHEREOF, Palm Greens At Villa Del Ray Recreation  
Condominium Association, Inc. has executed this Escrow Agreement as follows:

**WITNESSES:**

**PALM GREENS AT VILLA DEL RAY  
RECREATION CONDOMINIUM  
ASSOCIATION, INC.**, a Florida not for  
profit corporation

  
Print Name: Susan K. Newman

  
Print Name: Andrew Barker

By:   
Print Name: Thomas T. Aldrich  
Its: President

[Corporate Seal]


SIGNATURES CONTINUE ON THE FOLLOWING PAGES




IN WITNESS WHEREOF, Number 1 Condominium Association – Palm Greens  
at Villa Del Ray, Inc., has executed this Escrow Agreement as follows:

**WITNESSES:**

**NUMBER 1 CONDOMINIUM  
ASSOCIATION – PALM GREENS AT  
VILLA DEL RAY, INC., a Florida not for  
profit corporation**

  
Print Name: Susan R. Harman

  
Print Name: Thomas A. Heid

By   
Print Name: Graciela Dickmann  
Its: President

[Corporate Seal]


SIGNATURES CONTINUE ON THE FOLLOWING PAGES




IN WITNESS WHEREOF, Number 2 Condominium Association – Palm Greens  
at Villa Del Ray, Inc., has executed this Escrow Agreement as follows:

**WITNESSES:**

**NUMBER 2 CONDOMINIUM  
ASSOCIATION – PALM GREENS AT  
VILLA DEL RAY, INC., a Florida not for  
profit corporation**

  
Print Name: Andrew Gallo  
Marilyn Diefenbach  
Print Name: Marilyn Diefenbach

By:   
Print Name: Susan B. Herman  
Its: President


[Corporate Seal]

SIGNATURES CONTINUE ON THE FOLLOWING PAGES


IN WITNESS WHEREOF, Palm Greens Community Association, Inc. has executed this Escrow Agreement as follows:

**WITNESSES:**

**PALM GREENS COMMUNITY ASSOCIATION, INC.**, a Florida not for profit corporation

  
Print Name: Susan Nerman

  
Print Name: Susan Nerman


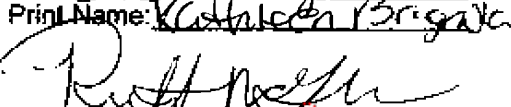
By:   
Print Name: Thomas Albert  
Its: President

[Corporate Seal]

SIGNATURES CONTINUE ON THE FOLLOWING PAGES

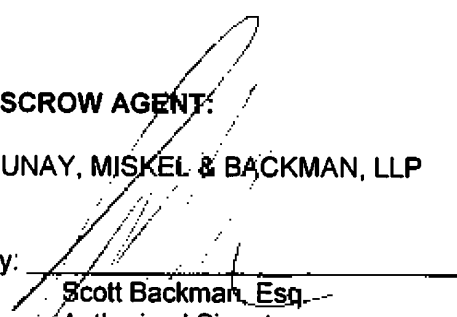
IN WITNESS WHEREOF, the Escrow Agent has executed this Escrow Agreement as follows:

**WITNESSES:**

  
Print Name: Kathleen Brigante  
  
Print Name: Ruth McGlynn

**ESCROW AGENT:**

DUNAY, MISKEL & BACKMAN, LLP

By:   
Scott Backman, Esq.  
Authorized Signatory

NOT A CERTIFIED COPY

**Exhibit "K**

**[Recreation Campus Use, Exclusive Management  
and Easement Agreement]**

**[ATTACHED ON FOLLOWING 18 PAGES]**

NOT A CERTIFIED COPY

**PREPARED BY AND RETURN TO:**

Christian F. O'Ryan, Esq.  
Stearns Weaver Miller Weissler  
Alhadeff & Sitterson, P.A.  
401 East Jackson Street, Suite 2100  
Tampa, Florida 33602

*Space above this line for recorder's use only*

**RECREATION CAMPUS USE, EXCLUSIVE MANAGEMENT  
AND EASEMENT AGREEMENT**

THIS RECREATION CAMPUS USE, EXCLUSIVE MANAGEMENT, AND EASEMENT AGREEMENT (this "**Agreement**") is made and entered into as of the Effective Date (as defined herein), by and between 13<sup>th</sup> FLOOR, LP, a Delaware limited partnership, and its successors and assigns ("**13<sup>th</sup> Floor**") and PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation (the "**Recreation Association**"). 13<sup>th</sup> Floor and the Recreation Association are collectively referred to herein as the "Parties."

**RECITALS**

A. 13<sup>th</sup> Floor is or will be the record title owner of the real property legally described on **Exhibit A** attached hereto (the "**Project**") and the real property legally described on **Exhibit A-1** attached hereto (the "**New Clubhouse Parcel**"). 13<sup>th</sup> Floor will create a homeowners' association for the Project, in accordance with Chapter 720, Florida Statutes, to be named "The Delray Trails Homeowners Association," or a similarly descriptive name (the "**Delray Trails Association**").

B. The Recreation Association is the record title owner of the real property legally described on **Exhibit B** attached hereto (the "**Recreation Association Parcel**"). The Recreation Association has the authority to contract for the management and operation of facilities on the Recreation Association Parcel.

C. Concurrent with the construction of residential units within the Project, 13<sup>th</sup> Floor will construct, at its own expense, a new amenity area, which will include a new clubhouse (the "**New Clubhouse**"), new amenities, and certain of the pre-existing amenities and facilities which 13<sup>th</sup> Floor will renovate (collectively, the "**Recreation Campus**"). The Recreation Campus will be constructed partially on the New Clubhouse Parcel and partially on the Recreation Association Parcel.

D. The Recreation Association and 13<sup>th</sup> Floor entered into that certain Development Agreement (the "**Development Agreement**") whereby the parties to the Development Agreement agreed to enter into this Agreement, which shall become effective only (i) in the event that any provision of the Recreation Association's Amended

and Restated Articles of Incorporation (the "**Amended and Restated Articles**") relating to the Delray Trails Association being a "Member Association" is challenged by the filing of a lawsuit against 13<sup>th</sup> Floor, the Recreation Association, or any other party, and such lawsuit results in a temporary injunction being issued restricting, impeding or preventing the Delray Trails Association from becoming a Member Association of the Recreation Association, and/or in the event that such lawsuit is finally adjudicated by a court of competent jurisdiction, including all appeals, and such adjudication results in Delray Trails Association not being a "Member Association" of the Recreation Association (the "**Trigger Event**"), and (ii) upon the transfer of control of the Delray Trails Association to the non-developer members of the Delray Trails Association, in accordance with Section 720.307, Florida Statutes (2018) (the "**Turnover**"). Notwithstanding the occurrence of the Trigger Event, in the event any lawsuit challenging the Delray Trails Association's status as a "Member Association" is finally adjudicated by a court of competent jurisdiction, including all appeals, and such adjudication results in Delray Trails Association being a Member Association of the Recreation Association, then in that event, and only in that event, this Agreement shall automatically terminate and the Delray Trails Association shall revert back to being a Member Association of the Recreation Association.

E. Only upon the occurrence of the Trigger Event and after the Turnover, and subject to the terms of the Agreement and the Development Agreement, 13<sup>th</sup> Floor and the Recreation Association desire to (i) reserve on behalf of, and grant to, 13<sup>th</sup> Floor and its successors in title and assigns, including the Delray Trails Association and its members, a perpetual access and use easement granting 13<sup>th</sup> Floor and its successors in title and assigns, the irrevocable right to use the Recreation Campus, and (ii) irrevocably delegate to the Recreation Association the exclusive right to operate and manage the Recreation Campus during the term of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises as hereinafter expressed, Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

2. **Grant of Easement.** 13<sup>th</sup> Floor hereby reserves for itself and on behalf of the Delray Trails Association, and the Recreation Association hereby grants to 13<sup>th</sup> Floor and the Delray Trails Association, and to the members of the Delray Trails Association, their successors in title, and each of their guests, tenants and invitees (the "**Authorized Users**"), a perpetual non-exclusive easement for access and use of the Recreation Campus in common with the Recreation Association and its "Member Associations," and their individual constituent members subject to the provisions of this Agreement. Such easement includes the right of pedestrian and vehicular ingress and egress over the Recreation Campus to the extent necessary for the use and enjoyment of the Recreation Campus by the Authorized Users. This easement also includes the Authorized Users'

right to park unattended vehicles within the Recreation Campus, but only in those areas designated as parking areas by the Recreation Association.

3. Recreation Campus Exclusive Management; Allocation of Costs.

A. Exclusive Management. Subject to the terms of this Agreement, management, operation, and maintenance of the Recreation Campus shall be under the complete supervision and control of the Recreation Association. 13<sup>th</sup> Floor hereby irrevocably delegates the exclusive right to operate and manage the New Clubhouse and agrees and acknowledges the Recreation Association has the exclusive right to operate and manage the Recreation Campus, including the New Clubhouse, as of the Effective Date. The Parties acknowledge and agree that as of the Effective Date of this Agreement, the Recreation Association shall exclusively manage the Recreation Campus, and the Recreation Campus shall not be under the supervision or control of 13<sup>th</sup> Floor or the Delray Trails Association. The use of the Recreation Campus by Authorized Users shall be subject to rules and regulations enacted by the Recreation Association as may be amended from time to time. In the event that Delray Trails fails to provide timely payment of fees, dues or assessments invoiced to it by Recreation Association, Authorized Users' rights to access and utilize the Recreation Campus shall be immediately suspended.

B. Recreation Campus Costs; Allocation of Costs. The expenses incurred by the Recreation Association related to the operation and management of the Recreation Campus shall include the costs and expenses of operation, maintenance, management, repair, and replacement of the Recreation Campus, as such costs and expenses are reasonably determined by the Board of Directors of the Recreation Association (collectively, the "Recreation Campus Costs"). The Recreation Campus Costs may include any reasonable costs for deferred maintenance and/or reserves for replacement of any portion of the Recreation Campus, all as determined by the Board of Directors of the Recreation Association in its reasonable discretion. The Delray Trails Association shall be responsible for one-third (1/3) of the Recreation Campus Costs. The remaining two-thirds (2/3's) of the Recreation Campus Costs shall be paid by the Recreation Association in accordance with its Amended and Restated Articles of Incorporation and Amended and Restated Bylaws.

C. Recreation Campus Budget. Within thirty (30) days of the Effective Date, the Recreation Association shall deliver to the Delray Trails Association a budget for Recreational Campus Costs (the "Recreation Campus Budget"). provided, however, the Delray Trails Association shall have no right to disapprove the initial Recreation Campus Budget. Each year, the Recreation Association shall deliver to the Delray Trails Association an updated Recreation Campus Budget for the following fiscal year by November 1<sup>st</sup> of each calendar year. If no proposed Recreation Campus Budget is presented by the Recreation Association to the Delray Trails Association by November 1<sup>st</sup> in any year, the previous year's



Recreation Campus Budget shall be deemed adopted. The proposed Recreation Campus Budget, as presented by the Recreation Association to the Delray Trails Association shall not increase by more than ten percent (10%) over the previous year's Recreation Campus Budget, except as otherwise provided in accordance with the Recreation Association's Amended and Restated Articles of Incorporation and Amended and Restated Bylaws.

D. Due Dates/Collection. The Delray Trails Association shall pay the Recreation Association its share of the Recreation Campus Costs by the first (1<sup>st</sup>) day of each month during the applicable fiscal year. If such payment is not made when due, and such failure continues for a period of ten (10) days after delivery of notice of such failure to pay, the Recreation Association shall have the rights and remedies set forth herein, at law and/or in equity, in connection with such failure to pay.

E. Non-recurring Costs. The Parties agree and acknowledge that in addition to the budgeted Recreation Campus Costs, costs may be incurred in connection with the Recreation Campus for specific purposes of a nonrecurring nature that were not accounted for in the Recreation Campus Budget. The Recreation Association is hereby authorized to levy special assessments, from time to time, to pay for such costs, which such special assessments shall be payable at such time or time(s) as determined by the Recreation Association; provided, however, a special assessment may not exceed One Hundred Thousand Dollars (\$100,000.00) for a single project if such special assessment is approved by the majority of Recreation Association Board without a vote of the owners of the Member Associations in accordance with the Recreation Association's Amended and Restated Articles of Incorporation and Amended and Restated Bylaws. In the event that a special assessment exceeds One Hundred Thousand Dollars (\$100,000.00) for a single project, such special assessment shall be approved by vote of the owners of Member Associations in accordance with the procedures set forth within the Recreation Association's Amended and Restated Articles of Incorporation and Amended and Restated Bylaws. The Delray Trails Association shall be responsible for one-third (1/3) of any such special assessment. The remaining two-thirds (2/3's) of any such special assessment shall be paid by the Recreation Association in accordance with its Amended and Restated Articles of Incorporation and Amended and Restated Bylaws.

4. Rules and Regulations; Imposition of Fines. The Recreation Association is authorized to make and amend rules and regulations governing the operation and use of the Recreation Campus (the "Rules and Regulations"). Authorized Users shall be bound by the Rules and Regulations. Further, the Recreation Association shall be entitled to impose fines upon Authorized Users and/or suspend Authorized Users right to use the Recreation Campus for violations of any of the Rules and Regulations. Although Authorized Users are not members of the Recreation Association, any default by Authorized Users with respect to the Rules and Regulations shall be addressed in the



manner provided in Article VIII and IX of the Recreation Association's Amended and Restated Bylaws adopted as of the Effective Date.

5. Authority of Delray Trails Association's Board of Directors. Except when a vote of the membership of the Delray Trails Association is specifically required by applicable law or by the governing documents of the Delray Trails Association, all decisions of the Delray Trails Association required hereunder may be made by a majority of the Board of Directors of the Delray Trails Association. The Delray Trails Association and its members shall be bound by such decisions of the Delray Trails Association's Board of Directors.

6. Enforcement. In the event of a breach of this Agreement by any Party, the defaulting party shall have seven (7) business days after receipt of written notice from the non-defaulting party to cure such default, or if any such event of default is of a nature that it cannot be completely cured within such period, then within a reasonably longer period of time as may be necessary to cure the default, but in no event more than thirty (30) days. Subject to the cure period granted in the preceding sentence, in the event of an uncured default by either party, the non-defaulting party shall have the right to seek any such rights and remedies available to such non-defaulting party at law or in equity, including but not limited to the right of specific performance and injunctive relief.

7. Attorneys' Fees. The prevailing party in any litigation involving this Agreement shall be entitled to recover from the non-prevailing party all attorneys' fees, paralegal fees and costs and expenses incurred in connection with such litigation, including all costs of appeal or otherwise, including reasonable attorneys' fees and paralegal fees in the enforcement of this Agreement.

8. Not a Public Dedication. Nothing contained herein shall be deemed to be a gift or dedication of any portion of the Recreation Campus to the general public or for general public purposes whatsoever, it being the intention that this Agreement shall be strictly limited to and for the purposes herein expressed.

9. Severability. If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid and unenforceable, the remainder of this Agreement and the application of such terms or provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term or provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

10. Covenants Running With the Land. The provisions, agreements, rights, powers, covenants, conditions and obligations contained in this Agreement shall be binding upon the Parties and each of their successors and assigns, and all other persons acquiring any interest in any property described herein or any portion thereof, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the owners of such properties and their respective heirs, successors (by merger, consolidation or

otherwise) and assigns. All of the provisions of this Agreement shall constitute covenants running with the land pursuant to Florida law.

11. Binding Effect; Termination. This Agreement shall run with and bind the land and shall inure to the benefit of and be enforceable by the Parties and their respective legal successors and assigns, for a term of twenty-five (25) years from the Effective Date, after which time this Agreement shall be automatically extended for successive periods of ten (10) years unless prior to the end of such twenty-five (25) year period, or each successive ten (10) year period, an instrument signed by the Parties agreeing to terminate this Agreement has been duly executed and recorded in the Public Records of Palm Beach County. Upon the legal formation of the Delray Trails Association, as evidenced by the filing of Articles of Incorporation for such entity with the Florida Department of State, the Delray Trails Association shall be considered a "Party" hereunder. Notwithstanding anything contained herein to the contrary, upon its formation, the Delray Trails Association shall be automatically designated as the "Party" for the Project and not the individual record title owner(s) of any portion thereof. In such event, except as specifically otherwise provided, the rights and obligations of 13<sup>th</sup> Floor under this Agreement shall be automatically assumed by the Delray Trails Association and 13<sup>th</sup> Floor shall no longer have any rights or obligations hereunder. In no event will any individual third-party record title owner(s) of subdivided lots or homes within the Project be responsible for any of the obligations set forth herein, nor shall any lien be placed upon such lots or homes. However, in the event that Delray Trails Association fails to timely pay any dues, fees or assessments invoiced by the Recreation Association, all rights and benefits provided within this Agreement to Authorized Users, including members of Delray Trails Association or owners of lots or homes within Delray Trails shall cease and such Authorized Users shall no longer have access to utilize the Recreation Campus until such breach has been cured.

12. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida. Venue with respect to any litigation shall be Palm Beach County, Florida.

13. No Waiver. No waiver of any of the provisions of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

14. Reliance. The Parties each represent that they have relied upon, or had the opportunity to rely upon, the advice of an attorney of their own choice, have completely read the terms of this Agreement, and fully understand and voluntarily accept the terms set forth herein. THE PARTIES ARE RELYING UPON EACH OTHER CONFIRMING IN ADVANCE THAT THIS AGREEMENT IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO EACH PARTY. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EITHER PARTY FROM TAKING THE POSITION THAT ANY PROVISION OF THIS AGREEMENT IS INVALID IN ANY RESPECT.

15. **Authority.** The Parties each represent and warrant they have lawful right, power, authority and capacity to bind themselves to the terms of this Agreement. The execution and delivery of this Agreement does not (i) violate or conflict with the organizational documents of either Party, or (ii) breach the provisions of, or constitute a default under, any contract, agreement, instrument or obligation to which either Party is bound.

16. **Effective Date; Counterparts.** The "**Effective Date**" of this Agreement shall be upon the Turnover but only if the Trigger Event shall have occurred. This Agreement may be executed in any number of counterparts, each of which when executed and delivered, shall constitute an original, and such counterparts together shall constitute one and the same instrument. Signature and acknowledgement pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document.

[Signatures on the Following Page]

IN WITNESS WHEREOF, 13<sup>th</sup> Floor has caused its authorized representative to execute this Recreation Campus Use, Exclusive Management, and Easement Agreement as of the day and year written below.

WITNESSES:

"13<sup>TH</sup> FLOOR"

13FH PALM BEACH, LP, a Delaware limited partnership

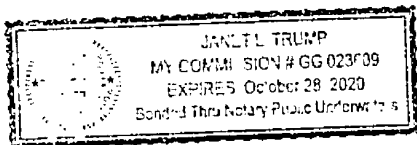
Janet L. Trump  
Print Name: Janet L. Trump  
Janet  
Print Name: Janet L. Trump

By: Michael Nunziata  
Name: Michael Nunziata  
Title: Authorized Representative  
Date: 10/28/2020

(Seal)

STATE OF FLORIDA )  
COUNTY OF BROWARD )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of February, 2019, by Michael Nunziata, as Authorized Representative of 13FH PALM BEACH, LP, a Delaware limited partnership. Said person is personally known to me or has produced \_\_\_\_\_ as identification.



Janet L. Trump  
Print Name: Janet L. Trump  
Notary Public, State of Florida  
Commission No.: EE 8496915  
My Commission Expires: 10/28/2020

[Signatures Continue on the Following Page]

IN WITNESS WHEREOF, the Recreation Association has caused its authorized representative to execute this Recreation Campus Use, Exclusive Management, and Easement Agreement as of the day and year written below.

WITNESSES:

"RECREATION ASSOCIATION"

PALM GREENS AT VILLA DEL RAY  
RECREATION CONDOMINIUM ASSOCIATION,  
INC., a Florida not for profit corporation

Eusan Herman  
Print Name: Eusan Herman

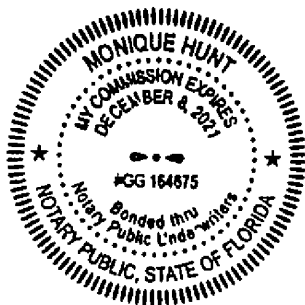
Andre Parks  
Print Name: Andre Parks

By: Thomas T. A. Hrich  
Name: THOMAS T. A. HRICH  
Title: President  
Date: 4/14/19

(Corporate Seal)

STATE OF FLORIDA                    )  
COUNTY OF PALM BEACH        )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of APRIL, 2019, by THOMAS ADRICH, as President of PALM GREENS AT VILLA DEL RAY RECREATION CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation. Said person is personally known to me or has produced \_\_\_\_\_ as identification.



Monique Hunt  
Print Name: MONIQUE HUNT  
Notary Public, State of Florida

Commission No.: GG 164675  
My Commission Expires: 12/08/21

NOT A CERTIFIED COPY

**Exhibit A**

**Legal Description – Project [6 pages total]**

**PARCEL 1:**

Certain lands in the West Half (W1/2) of Section 11 Township 46 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:

Tract G-1 of Plat II VILADELRAY, according to the Plat thereof, recorded in Plats Book 30, at Page 77, of the Public Records of Palm Beach County, Florida, less and except the East 148 feet of the South 123 feet thereof.

**AND THE FOLLOWING DESCRIBED PREMISES:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida being more particularly described as follows:

Beginning at the Northwest corner of Tract G-1, as shown on a Plat entitled "A PLANNED UNIT DEVELOPMENT, PLAT II, VILADELRAY, Palm Beach County, Florida", recorded in Plat Book 30, Pages 77, 78 and 79, of the Public Records of Palm Beach County, Florida; thence along the following numbered courses:

1. South 16° 59' 11" West, along the Westerly line of Tract G-1; a distance of 45.69 feet to a point of curvature; thence.....
2. Southerly, along the arc of a 535.00 foot radius curve, concave Easterly, whose long chord runs South 11° 33' 19" West, an arc distance of 101.42 feet to a point; thence.....
3. South 88° 17' 22" West, 59.03 feet to a point; thence.....
4. North 00° 28' 16" West, 134.28 feet to a point in the Southerly right-of-way line of Lake Worth Drainage District Canal L-31; thence.....
5. North 89° 31' 44" East along said right-of-way 10.51 feet to a point of curvature; thence.....
6. Easterly, along the arc of a 365.00 foot radius curve, concave Northerly, whose chord bears North 82° 55' 54" East, an arc distance of 84.05 feet to the Point of Beginning.

**PARCEL 2:**

Certain lands in the West Half (W1/2) of Section 11, Township 46 South, Range 42 East, Palm Beach, County, Florida, more particularly described as follows.

Tract G of Plat II VILADELRAY, according to the Plat thereof, recorded in Plat Book 30, Page 77, Public Records of Palm Beach County, Florida.



**PARCEL 3:**

A parcel of land situated in the Northwest Quarter (NW1/4) of Section 11, Township 46 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Begin at a point 5.00 feet Westerly from the Southwest corner (as measured along the arc of a curve) of Section 10, VILADELRAY on the South boundary of Section 11, VILADELRAY, as both are shown and recorded in Plat Book 36, Pages 19, 20, 21 and 22, of the Public Records of Palm Beach County, Florida, run (bearings cited herein are in the meridian of said Villadelray Sections 10 and 11) by the following numbered courses:

(Courses 1 through 11 are on the South boundary of aforementioned Villadelray Section 10 and the West boundary of Villadelray, Sections 8 and 9, as said Sections 8 and 9, are recorded in Plat Book 34, Pages 173 through 175)

1. Said Point of Beginning being on the arc of a curve, concave Northerly, having a radius of 1909.16 feet and a central angle of  $1^{\circ} 23' 57''$ ; thence.....
2. From the Point of Beginning run along the arc of said curve and the South boundary of Villadelray Section 10 in an Easterly direction a distance of 46.57 feet to the Point of Tangency of said curve; thence.....
3. Continue North  $86^{\circ} 39' 20''$  East, along said South boundary of Villadelray Section 10, a distance of 524.93 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 180.00 feet and a central angle of  $85^{\circ} 00' 00''$ ; thence.....
4. Run along the arc of said curve in a Southeasterly direction, a distance of 267.04 feet, to a Point of compound curve, concave Easterly, having a radius of 509.73 feet and a central angle of  $39^{\circ} 35' 03''$ ; thence.....
5. Run along the arc of said curve in a Southwesterly direction, a distance of 352.16 feet to the Point of Tangency; thence.....
6. South  $31^{\circ} 14' 23''$  West, a distance of 40.32 feet to the Point of Curvature of a curve concave Easterly, having a radius of 405.00 feet and a central angle of  $55^{\circ} 20' 03''$ ; thence.....
7. Run along the arc of said curve, a distance of 391.13 feet to the Point of Tangency of said curve; thence.....
8. South  $24^{\circ} 05' 40''$  East, a distance of 235.99 feet to the Point of Curvature of a curve concave Westerly, having a radius of 510.00 feet and a central angle of  $56^{\circ} 45' 00''$ ; thence.....
9. Run along the arc of said curve in a Southerly direction, a distance of 505.14 feet to the Point of Tangency of said curve; thence.....



10. South 32° 39' 20" West, a distance of 19.22 feet to a point on the Northerly Right-of-Way of Lake Worth Drainage District Canal L-31 as recorded in Official Record Book 2218, Page 1150, Public Records of Palm Beach County, Florida; thence.....

(Courses 11 through 22 being on the North Right-of-Way of said L-31 Canal)

11. North 57° 20' 40" West, a distance of 85.00 feet; thence.....

12. South 32° 39' 20" West, 585.50 feet to the Point of Curvature of a curve concave Northwesterly, having a radius of 71.00 feet and a central angle of 68° 00' 00"; thence.....

13. Run along the arc of said curve in a Westerly direction, a distance of 84.26 feet to the Point of Tangency of said curve; thence.....

14. North 79° 20' 40" West, a distance of 318.00 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of 40° 00' 00"; thence.....

15. Run along the arc of said curve in a Northwesterly direction, a distance of 49.57 feet to the Point of Tangency of said curve; thence.....

16. North 39° 20' 40" West, a distance of 113.48 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 140.00 feet and a central angle of 58° 53' 01"; thence.....

17. Run along the arc of said curve in a Westerly direction, a distance of 143.88 feet to the Point of Tangency of said curve; thence.....

18. South 81° 46' 19" West, a distance of 445.07 feet to the Point of Curvature of a curve concave Northeasterly, having a radius of 71.00 feet and a central angle of 67° 00' 00"; thence.....

19. Run along the arc of said curve in a Northwesterly direction, a distance of 83.03 feet to the Point of Tangency of said curve; thence.....

20. North N 31° 13' 41" West, 248.41 feet to the Point of Curvature of a curve concave Southwesterly, having a radius of 85.00 feet and a central angle of 79° 14' 35"; thence.....

21. Run along the arc of said curve in a Westerly direction, a distance of 117.56 feet to the Point of Tangency of said curve; thence.....

22. South 69° 31' 44" West, a distance of 96.66 feet to a point on the arc of a curve concave Westerly, having a radius of 595.00 feet and a central angle of 24° 26' 59"; thence.....

23. From a tangent bearing of North 11° 23' 27" East, run along the arc of said curve, a distance of 253.90 feet to a Point of Reverse Curvature of a curve concave Easterly, having a radius of 770.00 feet and a central angle of 12° 37' 03"; thence.....

24. Run along the arc of said curve in a Northerly direction, a distance of 169.57 feet to the Point of Tangency of said curve; thence.....
25. North  $0^{\circ} 26' 28''$  West, a distance of 238.00 feet to the Point of Curvature of a curve concave Easterly having a radius of 2056.88 feet and a central angle of  $5^{\circ} 30' 00''$ ; thence.....
26. Run along the arc of said curve in a Northerly direction, a distance of 197.45 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1115.47 feet and a central angle of  $11^{\circ} 00' 00''$ ; thence.....
27. Run along the arc of said curve, a distance of 214.16 feet to the Point of Tangency of said curve; thence.....
28. North  $5^{\circ} 56' 28''$  West, a distance of 141.14 feet to the Point of Curvature of a curve concave Easterly, having a radius of 1210.03 feet and a central angle of  $8^{\circ} 00' 00''$ ; thence.....
29. Run along the arc of said curve in a Northerly direction, a distance of 168.95 feet to a Point of Reverse Curvature of a curve concave Westerly, having a radius of 1311.74 feet and a central angle of  $7^{\circ} 07' 48''$ ; thence.....
30. Run along the arc of said curve in a Northerly direction, a distance of 163.24 feet to a Point of Reverse Curvature of a curve concave Southeasterly, having a radius of 25.00 feet and a central angle of  $88^{\circ} 27' 34''$ ; thence.....
31. Run along the arc of said curve in a Northeasterly direction, a distance of 38.60 feet to a Point of Reverse Curvature of a curve concave Northwesterly, having a radius of 2094.56 feet and a central angle of  $3^{\circ} 47' 43''$ , said point also being on the South boundary of Villadelray, Section 11, as recorded in Plat Book 36, Pages 19, 20, 21 and 22; thence.....
32. Run along the arc of said curve in an Easterly direction, a distance of 138.74 feet to the Point of Tangency of said curve; thence.....
33. North  $79^{\circ} 35' 35''$  East, a distance of 419.76 feet to the Point of Curvature of a curve concave Southerly, having a radius of 1000.00 feet and a central angle of  $17^{\circ} 52' 30''$ ; thence.....
34. Run along the arc of said curve in an Easterly direction, a distance of 311.98 feet to a Point of Reverse Curvature of a curve concave Northerly, having a radius of 1909.16 feet and a central angle of  $7^{\circ} 54' 52''$ ; thence.....
35. Run along the arc of said arc in an Easterly direction, a distance of 263.72 feet to a point on the arc of a curve concave Easterly, having a radius of 216.22 feet and a central angle of  $49^{\circ} 28' 12''$ ; thence.....
36. From a tangent bearing of South  $01^{\circ} 09' 18''$  East, run along the arc of said curve, a distance of 186.69 feet to the Point of Tangency of said curve; thence.....

37. Run South 50° 37' 21" East, a distance of 42.78 feet to the Point of Curvature of a curve, concave Southwesterly, having a radius of 80.00 feet and a central angle of 16° 56' 51"; thence.....
38. Run along the arc of said curve in a Southeasterly direction, a distance of 23.66 feet; thence.....
39. North 85° 03' 53" West, a distance of 158.72 feet; thence.....
40. South 80° 06' 36" West, a distance of 331.32 feet; thence.....
41. South 79° 40' 42" West, a distance of 101.25 feet; thence.....
42. South 76° 47' 58" West, a distance of 259.83 feet; thence.....
43. South 60° 55' 51" West, a distance of 260.00 feet; thence.....
44. South 14° 05' 33" West, a distance of 152.99 feet; thence.....
45. South 16° 51' 25" East, a distance of 103.00 feet; thence.....
46. South 45° 51' 25" East, a distance of 23.00 feet; thence.....
47. South 18° 51' 25" East, a distance of 187.84 feet; thence.....
48. South 32° 27' 14" West, a distance of 30.46 feet; thence.....
49. South 20° 20' 16" East, a distance of 169.54 feet; thence.....
50. South 69° 21' 11" East, a distance of 92.47 feet; thence.....
51. North 66° 36' 14" East, a distance of 219.65 feet; thence.....
52. North 49° 24' 54" East, a distance of 362.58 feet; thence.....
53. North 12° 28' 36" East, a distance of 19.73 feet; thence.....
54. North 52° 53' 48" East, a distance of 71.02 feet; thence.....
55. North 60° 29' 30" East, a distance of 77.53 feet; thence.....
56. North 87° 32' 08" East, a distance of 46.40 feet; thence.....
57. North 64° 50' 10" East, a distance of 166.63 feet; thence.....
58. North 30° 02' 28" East, a distance of 192.83 feet; thence.....
59. North 89° 12' 55" East, a distance of 280.00 feet; thence.....
60. North 71° 04' 31" East, a distance of 37.00 feet; thence.....
61. North 00° 03' 00" West, a distance of 242.41 feet; thence.....

**62. South  $89^{\circ} 57' 25''$  West, a distance of 299.88 feet to a point on the arc of a curve concave Southwesterly, having a radius of 130.00 feet and a central angle of  $22^{\circ} 53' 50''$ ; thence.....**

**63. From a tangent of North  $27^{\circ} 43' 43''$  West, run along the arc of said curve in a Northwesterly direction, a distance of 51.95 feet to the Point of Tangency of said curve; thence.....**

**64. Run North  $50^{\circ} 37' 21''$  West, a distance of 42.78 feet to the Point of Curvature of curve, concave Northeasterly, having a radius of 166.22 feet and a central angle of  $49^{\circ} 28' 59''$ ; thence.....**

**65. Run along the arc of said curve in a Northerly direction, a distance of 143.55 feet to the Point of Beginning.**

NOT A CERTIFIED COPY

**Exhibit A-1**

**Legal Description – New Clubhouse Parcel**

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

CERTAIN LANDS IN THE WEST HALF (W1/2) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "G-1" OF PLAT II VILADELRAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA, LESS AND EXCEPT THE EAST 148 FEET OF THE SOUTH 123 FEET THEREOF.

TOGETHER WITH:

A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT G-1, AS SHOWN ON A PLAT ENTITLED "A PLANNED UNIT DEVELOPMENT, PLAT II, VILADELRAY, PALM BEACH COUNTY, FLORIDA", AS RECORDED IN PLAT BOOK 30, PAGES 77, 78 AND 79, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG THE FOLLOWING NUMBERED COURSES:

1. SOUTH 16° 59' 11" WEST, ALONG THE WESTERLY LINE OF TRACT G-1; A DISTANCE OF 45.69 FEET TO A POINT OF CURVATURE; THENCE. . . .
2. SOUTHERLY, ALONG THE ARC OF A 535.00 FOOT RADIUS CURVE, CONCAVE EASTERLY, WHOSE LONG CHORD RUNS SOUTH 11° 33' 19" WEST, AN ARC DISTANCE OF 101.42 FEET TO A POINT; THENCE. . . .
3. SOUTH 88° 17' 22" WEST, 59.03 FEET TO A POINT; THENCE. . . .
4. NORTH 00° 28' 16" WEST, 134.28 FEET TO A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL L-31; THENCE. . . .
5. NORTH 89° 31' 44" EAST ALONG SAID RIGHT-OF-WAY 10.56 FEET TO A POINT OF CURVATURE; THENCE. . . .
6. EASTERLY, ALONG THE ARC OF A 365.00 FOOT RADIUS CURVE, CONCAVE NORTHERLY, WHOSE CHORD BEARS NORTH 82° 55' 42" EAST, AN ARC DISTANCE OF 84.01 FEET TO THE POINT OF BEGINNING.

**Exhibit B**

**Legal Description – Recreation Association Parcel**

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

CERTAIN LANDS IN THE WEST HALF (W1/2) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "F" OF PLAT II VILADELRAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA:

TOGETHER WITH:

THE EAST 148 FEET OF THE SOUTH 123 FEET OF TRACT "G-1" OF PLAT II VILADELRAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 77, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA.

## **Exhibit 3**

*Memorandum from 13<sup>th</sup> Floor*



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**DATE:** September 9, 2021

**TO:** Palm Greens Condominium Association

**FROM:** 13<sup>th</sup> Floor Homes

**PROJECT:** Delray Trails

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This memo provides a tentative schedule for the **Permitting, Land Closing and Construction** processes for 13<sup>th</sup> Floor's proposed new community, Delray Trails at Palm Greens. Please keep in mind that the pandemic is making it exceedingly difficult to project schedules at this time. This schedule is subject to change.

Permits / Land Closing / Construction	Start	End
Amenity Area Clearing	Q4 2021	Q4 2021
Demolition of Maintenance Building	Q4 2021	Q1 2022
Plat Recordation	Q4 2021	Q4 2021
Land Development Permit Issued	Q4 2021	Q4 2021
Pod Clearing & Grubbing (Tree Protection / Relocation / Removal)	Q1 2022	Q1 2022
Clubhouse Construction	Q1 2022	Q1 2023
Land Development Activities	Q1 2022	Q4 2022
Home Construction and Sales	Q2 2022	Q1 2026



## **Exhibit 4**

*Deed from 13<sup>th</sup> Floor to AG-EHC*

**THIS INSTRUMENT PREPARED BY**

Peter D. Lopez, Esq.  
Stearns Weaver Miller Weissler  
Alhadeff & Sitterson, P.A.  
2020 Salzedo Street, 6<sup>th</sup> Floor  
Coral Gables, FL 33134

**RECORD AND RETURN TO:**

CalAtlantic National Title Solutions, LLC  
730 N.W. 107<sup>th</sup> Avenue, Suite 400  
Miami, FL 33172  
Attn: Jill Blanco

**Folio Number:**

A portion of 00-42-46-11-06-007-0000

**SPECIAL WARRANTY DEED**

This **SPECIAL WARRANTY DEED** (this "**Deed**") is made as of the 30 day of December, 2021, by **13FH PALM BEACH, LP**, a Delaware limited partnership, whose address is 2850 Tigertail Avenue, Suite 701, Miami, FL 33133 ("**Grantor**"), to **AG EHC II (LEN) MULTI STATE 1, LLC**, a Delaware limited liability company, whose address is c/o Lennar Homes, LLC 8895 N. Military Trail, Suite 101-B, Palm Beach Gardens, FL 33410 ("**Grantee**").

*(Wherever used herein, the terms "Grantor" and "Grantee" shall be deemed to include the parties to this Special Warranty Deed and the successors and assigns of each. The singular shall be deemed to include the plural, and vice versa, where the context so permits.)*

**WITNESSETH:**

**THAT**, for and in consideration of the sum of TEN AND 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor, Grantor hereby grants, bargains, sells, aliens, remises, releases, conveys, and confirms unto Grantee, its successors and/or assigns forever, all that certain real property situate in Palm Beach County, State of Florida, and legally described in **Exhibit "A"** attached hereto and made a part hereof (the "**Property**").

**TOGETHER WITH** all the tenements, hereditaments, and appurtenances thereto belonging or in any way appertaining.

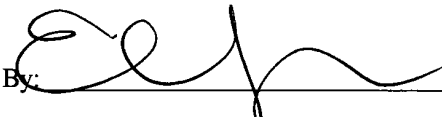
**TO HAVE AND TO HOLD** the same unto Grantee in fee simple forever.

**AND** Grantor hereby covenants with Grantee that (i) the Property is free and clear of all liens and encumbrances except for taxes for the year 2022, and subsequent years, which are not yet due and payable, and those certain matters described in **Exhibit "B"** attached hereto and made a part hereof, provided, that this reference shall not serve to reimpose the same; (ii) Grantor is lawfully seized of the Property in fee simple; (iii) Grantor has good right and lawful authority to sell and convey the Property; and (iv) Grantor fully warrants the title to the Property and will defend the same against the lawful claims of all persons claiming by, through, or under Grantor, but against none other.

SIGNATURE PAGE TO FOLLOW.

IN WITNESS WHEREOF, Grantor has executed this Deed as of the day and year first above written.

Signed, sealed and delivered  
in the presence of:

By:   
Print Name: ELISA SEGUIN

By:   
Print Name: Christine Percz

**13FH PALM BEACH, LP**, a Delaware  
limited partnership

By: **PB MARINA DELRAY GP LLC**, a  
Delaware limited liability company,  
its general partner


By: 

Name: Arnaud Karsenti  
Title: Authorized Representative

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

The foregoing instrument was sworn to, subscribed, and acknowledged before me by means of ☒ physical presence or ☐ online notarization this 29 day of DECEMBER 2021, by Arnaud Karsenti, as Authorized Representative of PB Marina Delray GP LLC, a Delaware limited liability company, the general partner of 13FH Palm Beach, LP, a Delaware limited liability company, a on behalf of the partnership. He/she is personally known to me or presented a driver's license as identification and did not take an oath.

Notary Stamp Seal:  **Elisa Seguin**  
Comm. # GG934923  
Expires: March 24, 2024  
Bonded Thru Aaron Notary

Notary Signature:   
Notary Print: ELISA SEGUIN  
Notary Public, State of FLORIDA  
Commission No.: GG934923

My Commission Expires: MARCH 24, 2024

**EXHIBIT "A" TO SPECIAL WARRANTY DEED**

**LEGAL DESCRIPTION OF THE PROPERTY**

**DESCRIPTION: (POD A)**

**A PARCEL OF LAND SITUATED IN THE NORTHWEST ONE-QUARTER (N.W. 1/4) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE WEST QUARTER (W. 1/4) CORNER OF SAID SECTION 11; THENCE N.88°57'52"E., ALONG THE SOUTH LINE OF THE NORTH ONE-HALF (N. 1/2) OF SAID SECTION 11, A DISTANCE OF 1777.93 FEET; THENCE N.01°02'07"W., A DISTANCE OF 188.71 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT CANAL L-31, AS RECORDED IN OFFICIAL RECORDS BOOK 2218, PAGE 1150 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND THE POINT OF BEGINNING; THE NEXT NINE (9) COURSES BEING ALONG SAID NORTH RIGHT-OF-WAY LINE, AS RECORDED IN SAID OFFICIAL RECORDS BOOK 2218, PAGE 1150 AND OFFICIAL RECORDS BOOK 2218, PAGE 1145 OF SAID PUBLIC RECORDS; THENCE N.79°43'53"W., A DISTANCE OF 317.37 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 71.00 FEET AND A CENTRAL ANGLE OF 40°00'00", A DISTANCE OF 49.57 FEET; THENCE N.39°43'53"W., A DISTANCE OF 113.48 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 140.00 FEET AND A CENTRAL ANGLE OF 58°53'01", A DISTANCE OF 143.88 FEET; THENCE S.81°23'06"W., A DISTANCE OF 445.07 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 71.00 FEET AND A CENTRAL ANGLE OF 67°00'00", A DISTANCE OF 83.03 FEET; THENCE N.31°36'54"W., A DISTANCE OF 248.44 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF 79°14'35", A DISTANCE OF 117.56 FEET; THENCE S.69°08'28"W., A DISTANCE OF 96.75 FEET TO A POINT ON A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 595.00 FEET AND A CENTRAL ANGLE OF 24°26'59", FROM WHICH THE RADIUS POINT BEARS N.78°59'45"W., AND BEING A POINT LOCATED ON THE EAST LINE OF VILADELRAY SECTIONS 15, 16, 17, AND 18, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 41 PAGE 69 THROUGH 72 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THE NEXT EIGHT (8) COURSES BEING ALONG SAID EAST LINE; THENCE ALONG SAID CURVE, A DISTANCE OF 253.90 FEET TO A POINT OF REVERSE CURVATURE TO THE RIGHT HAVING A RADIUS OF 770.00 FEET AND A CENTRAL ANGLE OF 12°37'03"; THENCE ALONG SAID CURVE A DISTANCE OF 169.57 FEET; THENCE N.00°49'41"W., A DISTANCE OF 238.00 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2056.88 FEET AND A CENTRAL ANGLE OF 05°30'00", A DISTANCE OF 197.45 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1115.47 FEET AND A CENTRAL ANGLE OF 11°00'00", A DISTANCE OF 214.15 FEET; THENCE N.06°19'41"W., A DISTANCE OF 141.14 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1210.03 FEET AND A CENTRAL ANGLE OF 08°00'00",**

A DISTANCE OF 168.95 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1311.74 FEET AND A CENTRAL ANGLE OF  $07^{\circ}07'48''$ , A DISTANCE OF 163.24 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG A CURVE TO THE RIGHT, BEING ALONG THE SOUTH LINE OF VILADELRAY-SECTIONS 10 AND 11, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 36 PAGE 19 THROUGH 22 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF  $88^{\circ}27'34''$ , A DISTANCE OF 38.60 FEET; THE NEXT FOUR (4) COURSES BEING ALONG THE SOUTH LINE OF SAID PLAT; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 2094.56 FEET AND A CENTRAL ANGLE OF  $03^{\circ}47'43''$ , A DISTANCE OF 138.74 FEET; THENCE  $N.79^{\circ}12'22''E.$ , A DISTANCE OF 419.76 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1000.00 FEET AND A CENTRAL ANGLE OF  $17^{\circ}52'30''$ , A DISTANCE OF 311.98 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1909.16 FEET AND A CENTRAL ANGLE OF  $07^{\circ}54'51''$ , A DISTANCE OF 263.71 FEET TO A POINT OF NON-TANGENCY ON THE WEST RIGHT-OF-WAY LINE OF PALM GREENS LANE, AS SHOWN ON THE PLAT OF VILADELRAY-SECTIONS 12, 13, AND 14, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 38 PAGE 20 THROUGH 22 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THE NEXT 30 COURSES BEING ALONG THE BOUNDARY OF SAID PLAT; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE, BEING A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 216.22 FEET AND A CENTRAL ANGLE OF  $49^{\circ}28'11''$  FROM WHICH THE RADIUS POINT BEARS  $N.88^{\circ}27'37''E.$ ; THENCE ALONG SAID CURVE, A DISTANCE OF 186.69 FEET; THENCE  $S.51^{\circ}00'34''E.$ , A DISTANCE OF 42.78 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET AND A CENTRAL ANGLE OF  $16^{\circ}57'03''$ , A DISTANCE OF 23.67 FEET TO A POINT OF NON-TANGENCY, FROM WHICH THE RADIUS POINT BEARS  $S.55^{\circ}56'28''W.$ ; THENCE  $N.85^{\circ}27'06''W.$ , A DISTANCE OF 158.73 FEET; THENCE  $S.79^{\circ}43'23''W.$ , A DISTANCE OF 331.32 FEET; THENCE  $S.79^{\circ}17'29''W.$ , A DISTANCE OF 101.25 FEET; THENCE  $S.76^{\circ}24'45''W.$ , A DISTANCE OF 259.83 FEET; THENCE  $S.60^{\circ}32'38''W.$ , A DISTANCE OF 260.00 FEET; THENCE  $S.13^{\circ}42'20''W.$ , A DISTANCE OF 152.99 FEET; THENCE  $S.17^{\circ}14'38''E.$ , A DISTANCE OF 103.00 FEET; THENCE  $S.46^{\circ}14'38''E.$ , A DISTANCE OF 23.00 FEET; THENCE  $S.19^{\circ}14'38''E.$ , A DISTANCE OF 187.84 FEET; THENCE  $S.32^{\circ}04'01''W.$ , A DISTANCE OF 30.46 FEET; THENCE  $S.20^{\circ}43'29''E.$ , A DISTANCE OF 169.54 FEET; THENCE  $S.69^{\circ}44'24''E.$ , A DISTANCE OF 92.47 FEET; THENCE  $N.66^{\circ}13'01''E.$ , A DISTANCE OF 219.65 FEET; THENCE  $N.49^{\circ}01'41''E.$ , A DISTANCE OF 362.58 FEET; THENCE  $N.12^{\circ}05'23''E.$ , A DISTANCE OF 19.73 FEET; THENCE  $N.52^{\circ}30'35''E.$ , A DISTANCE OF 71.02 FEET; THENCE  $N.60^{\circ}06'17''E.$ , A DISTANCE OF 77.53 FEET; THENCE  $N.87^{\circ}08'55''E.$ , A DISTANCE OF 46.40 FEET; THENCE  $N.64^{\circ}26'57''E.$ , A DISTANCE OF 166.63 FEET; THENCE  $N.29^{\circ}39'15''E.$ , A DISTANCE OF 192.83 FEET; THENCE  $N.88^{\circ}49'42''E.$ , A DISTANCE OF 280.00 FEET; THENCE  $N.70^{\circ}41'18''E.$ , A DISTANCE OF 37.00 FEET; THENCE  $N.00^{\circ}26'13''W.$ , A DISTANCE OF 242.41 FEET; THENCE  $S.89^{\circ}34'12''W.$ , A DISTANCE OF 299.88 FEET TO A POINT OF NON-TANGENCY WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF



22°53'50", FROM WHICH THE RADIUS POINT BEARS S.61°53'16"W.; THENCE ALONG SAID CURVE, A DISTANCE OF 51.95 FEET; THENCE N.51°00'34"W., A DISTANCE OF 42.78 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 166.22 FEET AND A CENTRAL ANGLE OF 49°28'59", A DISTANCE OF 143.55 FEET TO A POINT OF NON-TANGENCY WITH A CURVE TO THE LEFT HAVING A RADIUS OF 1909.16 FEET AND A CENTRAL ANGLE OF 01°23'51", FROM WHICH THE RADIUS POINT BEARS N.02°20'02"W.; THENCE ALONG SAID CURVE AND ALONG THE SOUTH LINE OF THE AFOREMENTIONED VILLADELRAY-SECTIONS 10 AND 11, A DISTANCE OF 46.57 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE, N.86°16'07"E., A DISTANCE OF 524.93 FEET TO A POINT OF NON-TANGENCY WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 180.00 FEET AND A CENTRAL ANGLE OF 84°47'10" FROM WHICH THE RADIUS POINT BEARS S.03°36'48"E.; THENCE RIGHT ALONG SAID CURVE AND CONTINUE ALONG SAID SOUTH LINE AND ALONG THE WESTERLY LINE OF VILLADELRAY-SECTIONS 7, 8 AND 9, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34 PAGE 173 THROUGH 175 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 266.36 FEET TO A POINT OF NON-TANGENCY WITH CURVE TO THE RIGHT HAVING A RADIUS OF 509.73 FEET AND A CENTRAL ANGLE OF 39°35'03" FROM WHICH THE RADIUS POINT BEARS S.81°16'08"W.; THENCE ALONG SAID CURVE AND THE SAID WESTERLY LINE, A DISTANCE OF 352.16 FEET; THENCE CONTINUE ALONG SAID WESTERLY LINE S.30°51'11"W., A DISTANCE OF 40.32 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 405.00 FEET AND A CENTRAL ANGLE OF 55°20'03", A DISTANCE OF 391.13 FEET; THENCE S.24°28'52"E., A DISTANCE OF 235.99 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 510.00 FEET AND A CENTRAL ANGLE OF 56°45'00", A DISTANCE OF 505.14 FEET; THENCE S.32°16'08"W., A DISTANCE OF 19.22 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF THE LAKE WORTH DRAINAGE DISTRICT L-31 CANAL, AS RECORDED IN SAID OFFICIAL RECORDS BOOK 2218, PAGE 1150; THENCE N.57°43'53"W. ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 85.00 FEET; THENCE S.32°16'07"W. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID L-31 CANAL, A DISTANCE OF 585.69 FEET TO A POINT OF CURVATURE TO THE RIGHT, HAVING A RADIUS OF 71.00 FEET, A CENTRAL ANGLE OF 68°00'00"; THENCE ALONG THE ARC OF SAID CURVE, AND SAID WESTERLY AND NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 84.26 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA.

DESCRIPTION: (POD B)

A PORTION OF TRACT "G", PLAT II VILLADELRAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGES 77, 78 AND 79 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERN NORTHWEST CORNER OF SAID TRACT "G"; THENCE ON A GRID BEARING ALONG THE NORTH BOUNDARY LINES OF

SAID TRACT "G" THE FOLLOWING FOUR (4) COURSES AND DISTANCES: NORTH 71°09'21" EAST, A DISTANCE OF 413.11 FEET; THENCE NORTH 76°10'36" EAST, A DISTANCE OF 310.00 FEET; THENCE NORTH 13°49'24" WEST, A DISTANCE OF 165.36 FEET TO THE POINT OF CURVE OF A NON-TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES SOUTH 10°11'55" EAST, A RADIAL DISTANCE OF 1,902.17 FEET; THENCE EASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 11°27'38", A DISTANCE OF 380.48 FEET; THENCE ALONG A NON-TANGENT LINE AND LEAVING SAID NORTH BOUNDARY LINE, SOUTH 46°04'29" WEST, A DISTANCE OF 35.48 FEET; THENCE SOUTH 00°43'21" EAST, A DISTANCE OF 70.99 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 60.00 FEET AND A CENTRAL ANGLE OF 46°11'42"; THENCE SOUTHEASTERLY ALONG THE ARC A DISTANCE OF 48.38 FEET TO A POINT OF REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 73.00 FEET AND A CENTRAL ANGLE OF 76°32'01"; THENCE SOUTHERLY ALONG THE ARC, A DISTANCE OF 97.51 FEET TO A POINT OF REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 60.00 FEET AND A CENTRAL ANGLE OF 39°34'56"; THENCE SOUTHERLY ALONG THE ARC, A DISTANCE OF 41.45 FEET; THENCE SOUTH 09°57'59" EAST, A DISTANCE OF 73.04 FEET; THENCE SOUTH 48°51'19" EAST, A DISTANCE OF 31.39 FEET; THENCE SOUTH 07°38'35" EAST, A DISTANCE OF 40.66 FEET; THENCE SOUTH 13°53'35" WEST, A DISTANCE OF 112.01 FEET TO A CORNER ON THE BOUNDARY OF SAID TRACT "G"; THENCE ALONG THE BOUNDARY LINES OF SAID TRACT "G" THE FOLLOWING TWENTY-ONE (21) COURSES AND DISTANCES: SOUTH 69°03'50" WEST, A DISTANCE OF 176.00 FEET; THENCE SOUTH 20°56'10" EAST, A DISTANCE OF 278.21 FEET; THENCE NORTH 69°55'49" EAST, A DISTANCE OF 23.71 FEET; THENCE SOUTH 21°19'20" EAST, A DISTANCE OF 391.14 FEET; THENCE SOUTH 52°35'39" WEST, A DISTANCE OF 109.46 FEET; THENCE SOUTH 35°09'10" WEST, A DISTANCE OF 259.28 FEET; THENCE SOUTH 01°12'11" EAST, A DISTANCE OF 162.19 FEET TO THE POINT OF CURVE OF A NON-TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES SOUTH 13°52'01" EAST, A RADIAL DISTANCE OF 260.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 60°51'02", A DISTANCE OF 276.13 FEET TO A POINT OF REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 460.00 FEET AND A CENTRAL ANGLE OF 31°55'46"; THENCE SOUTHWESTERLY ALONG THE ARC, A DISTANCE OF 256.35 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 47°12'43" WEST, A DISTANCE OF 120.77 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 515.00 FEET AND A CENTRAL ANGLE OF 17°54'51"; THENCE SOUTHWESTERLY ALONG THE ARC A DISTANCE OF 161.02 FEET TO A POINT OF REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 85°45'07"; THENCE WESTERLY ALONG THE ARC, A DISTANCE OF 37.42 FEET TO THE POINT OF TANGENCY; THENCE NORTH 64°57'01" WEST, A DISTANCE OF 3.58 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 375.34 FEET AND A CENTRAL ANGLE OF 22°29'36"; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 147.35 FEET TO A POINT OF REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 210.00 FEET AND A CENTRAL ANGLE OF 130°02'15"; THENCE NORTHERLY ALONG THE ARC, A

DISTANCE OF 476.61 FEET TO THE POINT OF TANGENCY; THENCE NORTH 42°35'38" EAST, A DISTANCE OF 220.00 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 301.00 FEET AND A CENTRAL ANGLE OF 43°00'00"; THENCE NORTHERLY ALONG THE ARC A DISTANCE OF 225.90 FEET TO A POINT OF COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 195.00 FEET AND A CENTRAL ANGLE OF 37°30'00"; THENCE NORTHERLY ALONG THE ARC, A DISTANCE OF 127.63 FEET; THENCE NORTH 37°54'22" WEST, A DISTANCE OF 357.50 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 185.00 FEET AND A CENTRAL ANGLE OF 37°04'41"; THENCE NORTHERLY ALONG THE ARC A DISTANCE OF 119.72 FEET TO THE POINT OF TANGENCY; THENCE NORTH 00°49'41" WEST, A DISTANCE OF 481.62 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 1,670.96 FEET AND A CENTRAL ANGLE OF 03°28'06"; THENCE NORTHERLY ALONG THE ARC A DISTANCE OF 101.15 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

NOT A CERTIFIED COPY



**EXHIBIT "B" TO SPECIAL WARRANTY DEED  
PERMITTED EXCEPTIONS**

1. Taxes for the 2022 and subsequent years.
2. Easement for drainage granted to Yusem Properties of Delray, LTD., a Florida limited partnership, recorded in Official Records Book 3087, Page 968. (POD A)
3. Easement Grant Indemnification Agreement and Agreement to Maintain granted to Number 1 Condominium Association Palm Greens at Villa del Ray, Inc., recorded in Official Records Book 3907, Page 740. (POD B)
4. Easement granted to Florida Power & Light Company recorded in Official Records Book 7017, Page 627. (POD B)
5. Development Agreement for Delray Trails at Palm Greens and The Palm Greens at Villa Del Ray Recreation Condominium Association, Inc. recorded in Official Records Book 31315, Page 810 as affected by Receipt of Payment, Release and Amendment to Development Agreement recorded in Official Records Book 32878, Page 1380.
6. Access Easement recorded in Official Records Book 31321, Page 573. (POB B)
7. Plat Dedication Agreement between Palm Greens at Villa Del Ray Recreation Condominium Association, Inc. and 13FH Palm Beach LP, a Delaware limited partnership recorded in Official Records Book 31321, Page 585.
8. Construction Easement Agreement recorded in Official Records Book 31321, Page 598. (POD A)
9. Restrictive Covenant recorded in Official Records Book 32814, Page 794. (POD A)
10. Easement Deed granted to Lake Worth Drainage District, a Special Taxing District recorded in Official Records Book 32945, Page 1248. (POD A)
11. Memorandum of Agreement recorded in Official Records Book 32913, Page 495.
12. Declaration of Restrictive Covenant Regarding Reduced Road Impact Fees for Age Restricted Communities recorded in Official Records Book 33102, Page 731.
13. Declaration of Restrictive Covenant Regarding School Impact Fees recorded in Official Records Book 33102, Page 745.

## **Exhibit 5**

*Deed from 13<sup>th</sup> Floor to Lennar*

**THIS INSTRUMENT PREPARED BY**

Peter D. Lopez, Esq.  
Stearns Weaver Miller Weissler  
Alhadeff & Sitterson, P.A.  
2020 Salzedo Street, 6<sup>th</sup> Floor  
Coral Gables, FL 33134

**RECORD AND RETURN TO:**

CalAtlantic National Title Solutions, LLC  
730 N.W. 107<sup>th</sup> Avenue, Suite 400  
Miami, FL 33172  
Attn: Jill Blanco

**Folio Number:**

00-42-46-11-06-007-0020

**SPECIAL WARRANTY DEED**

This **SPECIAL WARRANTY DEED** (this "**Deed**") is made as of the 8 day of May, 2023, by **13FH PALM BEACH, LP**, a Delaware limited partnership, whose address is 2850 Tigertail Avenue, Suite 701, Miami, FL 33133 ("**Grantor**"), to **LENNAR HOMES, LLC**, a Florida limited liability company, whose address is 3931 RCA Blvd., Suite 3105, Palm Beach Gardens, FL 33410 ("**Grantee**").

*(Wherever used herein, the terms "Grantor" and "Grantee" shall be deemed to include the parties to this Special Warranty Deed and the successors and assigns of each. The singular shall be deemed to include the plural, and vice versa, where the context so permits.)*

**W I T N E S S E T H :**

**THAT**, for and in consideration of the sum of TEN AND 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor, Grantor hereby grants, bargains, sells, aliens, remises, releases, conveys, and confirms unto Grantee, its successors and/or assigns forever, all that certain real property situate in Palm Beach County, State of Florida, and legally described in **Exhibit "A"** attached hereto and made a part hereof (the "**Property**").

**TOGETHER WITH** all the tenements, hereditaments, and appurtenances thereto belonging or in any way appertaining.

**TO HAVE AND TO HOLD** the same unto Grantee in fee simple forever.

**AND** Grantor hereby covenants with Grantee that (i) the Property is free and clear of all liens and encumbrances except for taxes for the year 2023, and subsequent years, which are not yet due and payable, and those certain matters described in **Exhibit "B"** attached hereto and made a part hereof, provided, that this reference shall not serve to reimpose the same; (ii) Grantor is lawfully seized of the Property in fee simple; (iii) Grantor has good right and lawful authority to sell and convey the Property; and (iv) Grantor fully warrants the title to the Property and will defend the same against the lawful claims of all persons claiming by, through, or under Grantor, but against none other.

Signed, sealed and delivered  
in the presence of:

By: [Signature]

Print Name: JULIANA VARONA

By: [Signature]

Print Name: Christine Perez

**13FH PALM BEACH, LP**, a Delaware  
limited partnership

By: **PB MARINA DELRAY GP LLC**, a  
Delaware limited liability company,  
its general partner

By: [Signature]

Name: Arnaud Karsenti  
Title: Authorized Representative

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

The foregoing instrument was sworn to, subscribed, and acknowledged before me by means of ☒ physical presence or ☐ online notarization this 2 day of May, 2023, by Arnaud Karsenti, as Authorized Representative of PB Marina Delray GP LLC, a Delaware limited liability company, the general partner of 13FH Palm Beach, LP, a Delaware limited liability company, a on behalf of the partnership. He is personally known to me or presented a \_\_\_\_\_ driver's license as identification and did not take an oath.

Notary Stamp/Seal:

Notary Signature: [Signature]  
Notary Print: JULIANA VARONA  
Notary Public, State of Florida  
Commission No.: 377835

My Commission Expires:



**EXHIBIT A**  
**LEGAL DESCRIPTION**

Parcel C, Tracts B2, B4, B5, B6 and Tracts OS14, W7, W8, and W9, of Delray Trails at Villa Delray PUD, according to the plat thereof, as recorded in Plat Book 135, Page 35, of the Public records of Palm Beach County, Florida.

NOT A CERTIFIED COPY

**EXHIBIT "B" TO SPECIAL WARRANTY DEED  
PERMITTED EXCEPTIONS**

1. Taxes for the year 2023 and subsequent years.
2. Development Agreement for Delray Trails at Palm Greens and The Palm Greens at Villa Del Ray Recreation Condominium Association, Inc. recorded in Official Records Book 31315, Page 810 as affected by Receipt of Payment, Release and Amendment to Development Agreement recorded in Official Records Book 32878, Page 1380.
3. Declaration of Restrictive Covenant Regarding Reduced Road Impact Fees for Age Restricted Communities recorded in Official Records Book 33102, Page 731.
4. Declaration of Restrictive Covenant Regarding School Impact Fees recorded in Official Records Book 33102, Page 745.
5. Standard Potable Water and Wastewater Development Agreement (SDA) recorded in Official Records Book 33275, Page 192.
6. Restrictive Covenant recorded in Official Records Book 32814, Page 794.
7. Reservations, restrictions, 10' UE, 20' LME, 20' PDE, 21' PDE, 25' PDE, 28' PDE, 31' PDE, 40' PDE, and LSE, on the plat of Delray Trails at Villa Delray PUD, according to the plat thereof, as recorded in Plat Book 135, Page 35.

## **Exhibit 6**

*Deed from 13th Floor to Lennar  
(New Recreation Clubhouse)*

**THIS INSTRUMENT PREPARED BY**

Peter D. Lopez, Esq.  
Stearns Weaver Miller Weissler  
Alhadeff & Sitterson, P.A.  
2020 Salzedo Street, 6<sup>th</sup> Floor  
Coral Gables, FL 33134

**RECORD AND RETURN TO:**

CalAtlantic National Title Solutions, LLC  
730 N.W. 107<sup>th</sup> Avenue, Suite 400  
Miami, FL 33172  
Attn: Jill Blanco

**Folio Number:**

00-42-46-11-00-000-3010

A portion of 00-42-46-11-06-007-0000

**SPECIAL WARRANTY DEED**

This **SPECIAL WARRANTY DEED** (this "**Deed**") is made as of the 30 day of December, 2021, by **13FH PALM BEACH, LP**, a Delaware limited partnership, whose address is 2850 Tigertail Avenue, Suite 701, Miami, FL 33133 ("**Grantor**"), to **LENNAR HOMES, LLC**, a Florida limited liability company, whose address is 8895 N. Military Trail, Suite 101-B, Palm Beach Gardens, FL 33410 ("**Grantee**").

*(Wherever used herein, the terms "Grantor" and "Grantee" shall be deemed to include the parties to this Special Warranty Deed and the successors and assigns of each. The singular shall be deemed to include the plural, and vice versa, where the context so permits.)*

**WITNESSETH:**

**THAT**, for and in consideration of the sum of TEN AND 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor, Grantor hereby grants, bargains, sells, aliens, remises, releases, conveys, and confirms unto Grantee, its successors and/or assigns forever, all that certain real property situate in Palm Beach County, State of Florida, and legally described in **Exhibit "A"** attached hereto and made a part hereof (the "**Property**").

**TOGETHER WITH** all the tenements, hereditaments, and appurtenances thereto belonging or in any way appertaining.

**TO HAVE AND TO HOLD** the same unto Grantee in fee simple forever.


**AND** Grantor hereby covenants with Grantee that (i) the Property is free and clear of all liens and encumbrances except for taxes for the year 2022, and subsequent years, which are not yet due and payable, and those certain matters described in **Exhibit "B"** attached hereto and made a part hereof, provided, that this reference shall not serve to reimpose the same; (ii) Grantor is lawfully seized of the Property in fee simple; (iii) Grantor has good right and lawful authority to sell and convey the Property; and (iv) Grantor fully warrants the title to the Property and will defend the same against the lawful claims of all persons claiming by, through, or under Grantor, but against none other.

**THIS DEED IS BEING RECORDED AS PART OF THE TRANSACTION CONVEYING ADJACENT PROPERTY ON EVEN DATE HERewith. DOCUMENTARY STAMPS HAVE BEEN PAID ON THE FULL AMOUNT OF THE TRANSACTION CONSIDERATION IN THE AMOUNT OF \$134,316.00 ATTACHED TO THE DEED RECORDED AT \_\_\_ BOOK, \_\_\_ PAGE AND THEREFORE NO CONSIDERATION IS BEING PAID IN CONNECTION WITH THIS DEED AND NO DOCUMENTARY STAMPS ARE DUE OR ATTACHED TO THIS DEED.**



IN WITNESS WHEREOF, Grantor has executed this Deed as of the day and year first above written.

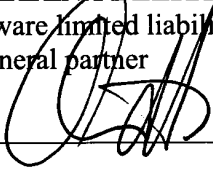
Signed, sealed and delivered  
in the presence of:

By:   
Print Name: ELISA SEGUIN

By:   
Print Name: Christine Perez

**13FH PALM BEACH, LP**, a Delaware  
limited partnership

By: **PB MARINA DELRAY GP LLC**, a  
Delaware limited liability company,  
its general partner

By:   
Name: Arnaud Karsenti  
Title: Authorized Representative

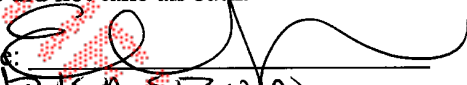
STATE OF FLORIDA )

);SS

COUNTY OF MIAMI DADE )

The foregoing instrument was sworn to, subscribed, and acknowledged before me by means of ☒ physical presence or ☐ online notarization this 29 day of DECEMBER 2021, by Arnaud Karsenti, as Authorized Representative of PB Marina Delray GP LLC, a Delaware limited liability company, the general partner of 13FH Palm Beach, LP, a Delaware limited liability company, a on behalf of the partnership. He/she is personally known to me or presented a \_\_\_\_\_ driver's license as identification and did not take an oath.

Notary Seal:  **Elisa Seguin**  
Comm. # GG934923  
Expires: March 24, 2024  
Bonded Thru Aaron Notary

Notary Signature:   
Notary Print: ELISA SEGUIN  
Notary Public, State of FLORIDA  
Commission No.: GG934923

My Commission Expires: MARCH 24, 2024

**EXHIBIT "A" TO SPECIAL WARRANTY DEED**

**LEGAL DESCRIPTION OF THE PROPERTY**

**DESCRIPTION: (RECREATION POD)**

**A PORTION OF TRACT "G-1", PLAT II VILLADELRAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGES 77, 78 AND 79 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, TOGETHER WITH A PORTION OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:**

**BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT "G-1"; THENCE ON A GRID BEARING ALONG THE BOUNDARY LINES OF SAID TRACT "G-1" THE FOLLOWING THREE (3) COURSES AND DISTANCES: SOUTH 31°36'54" EAST A DISTANCE OF 248.44 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 156.00 FEET AND A CENTRAL ANGLE OF 24°28'28"; THENCE SOUTHEASTERLY ALONG THE ARC A DISTANCE OF 66.64 FEET; THENCE ALONG A NON-TANGENT LINE, SOUTH 02°05'51" EAST A DISTANCE OF 28.14 FEET; THENCE ALONG A LINE 123.00 FEET NORTH OF, AS MEASURED AT RIGHT ANGLES, AND PARALLEL WITH THE SOUTH LINE OF SAID TRACT "G-1", SOUTH 87°54'09" WEST A DISTANCE OF 148.00 FEET; THENCE ALONG A LINE 148.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES, AND PARALLEL WITH THE EAST LINE OF SAID TRACT "G-1", SOUTH 02°05'51" EAST A DISTANCE OF 123.00 FEET; THENCE ALONG THE SOUTH LINE OF SAID TRACT "G-1", SOUTH 87°54'09" WEST A DISTANCE OF 222.00 FEET; THENCE ALONG THE WEST LINES OF SAID TRACT "G-1" THE FOLLOWING TWO (2) COURSES AND DISTANCES: NORTH 02°05'51" WEST A DISTANCE OF 150.00 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 535.00 FEET AND A CENTRAL ANGLE OF 07°50'04"; THENCE NORTHERLY ALONG THE ARC A DISTANCE OF 73.15 FEET; THENCE LEAVING SAID WEST LINE, SOUTH 87°54'09" WEST A DISTANCE OF 59.03 FEET; THENCE NORTH 00°51'29" WEST A DISTANCE OF 134.28 FEET; THENCE NORTH 89°08'31" EAST, A DISTANCE OF 10.43 FEET TO THE WESTERLY PROLONGATION OF THE NORTH LINE OF SAID TRACT "G-1" AND TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 365.00 FEET AND A CENTRAL ANGLE OF 20°00'03"; THENCE EASTERLY ALONG THE ARC A DISTANCE OF 127.41 FEET TO THE POINT OF TANGENCY; THENCE CONTINUE ALONG SAID NORTH LINE OF TRACT "G-1", NORTH 69°08'28" EAST A DISTANCE OF 125.65 FEET TO THE POINT OF BEGINNING.**

**SAID LANDS LYING AND BEING IN PALM BEACH COUNTY, FLORIDA,**

**EXHIBIT "B" TO SPECIAL WARRANTY DEED  
PERMITTED EXCEPTIONS**

1. Taxes for the year 2022 and subsequent years.
2. Easement granted to Florida Power & Light Company recorded in Official Records Book 2390, Page 644.
3. Terms and conditions as set forth in Easements for Parking and for Ingress and Egress recorded in Official Records Book 2544, Page 1888; as assigned by Assignment recorded in Official Records Book 3700, Page 1706; as amended by Amendment to Easement recorded in Official Records Book 5986, Page 822; as further assigned by that certain Quit Claim Assignment of Easements recorded in Official Records Book 22131, Page 835.
4. Easement granted to Florida Power & Light Company recorded in Official Records Book 2609, Page 1311.
5. Development Agreement for Delray Trails at Palm Greens and The Palm Greens at Villa Del Ray Recreation Condominium Association, Inc. recorded in Official Records Book 31315, Page 810 as affected by Receipt of Payment, Release and Amendment to Development Agreement recorded in Official Records Book 32878, Page 1380.
6. Plat Dedication Agreement between Palm Greens at Villa Del Ray Recreation Condominium Association, Inc. and 13FH Palm Beach LP, a Delaware limited partnership recorded in Official Records Book 31321, Page 585.
7. Memorandum of Agreement recorded in Official Records Book 32913, Page 495.

## **Composite Exhibit 7**

## **Composite Exhibit 7(a)**

*Email from Robert Thom*



From: **Rob Thom** <[palmgreenscommunityassociation@gmail.com](mailto:palmgreenscommunityassociation@gmail.com)>  
Date: Fri, Dec 15, 2023, 10:16 AM  
Subject: Grade markers for New Clubhouse Footings  
To:

Progress.

Work began earlier this week in the area of the future clubhouse.

These pictures taken today show excavation activity taking place. The stakes are grade markers for the footings for the building.

Palm Greens Community Association Board of Directors







## **Composite Exhibit 7(b)**

*Pictures of Recreation  
Facilities at Time of Filing*







































## **Composite Exhibit 8**

*Pictures of Development's Current Status*

**Composite Exhibit 8(a)**  
*Pictures of Current New Residences*















































## **Composite Exhibit 8(b)**

*Pictures of Current-Day*

*Recreation Facilities*









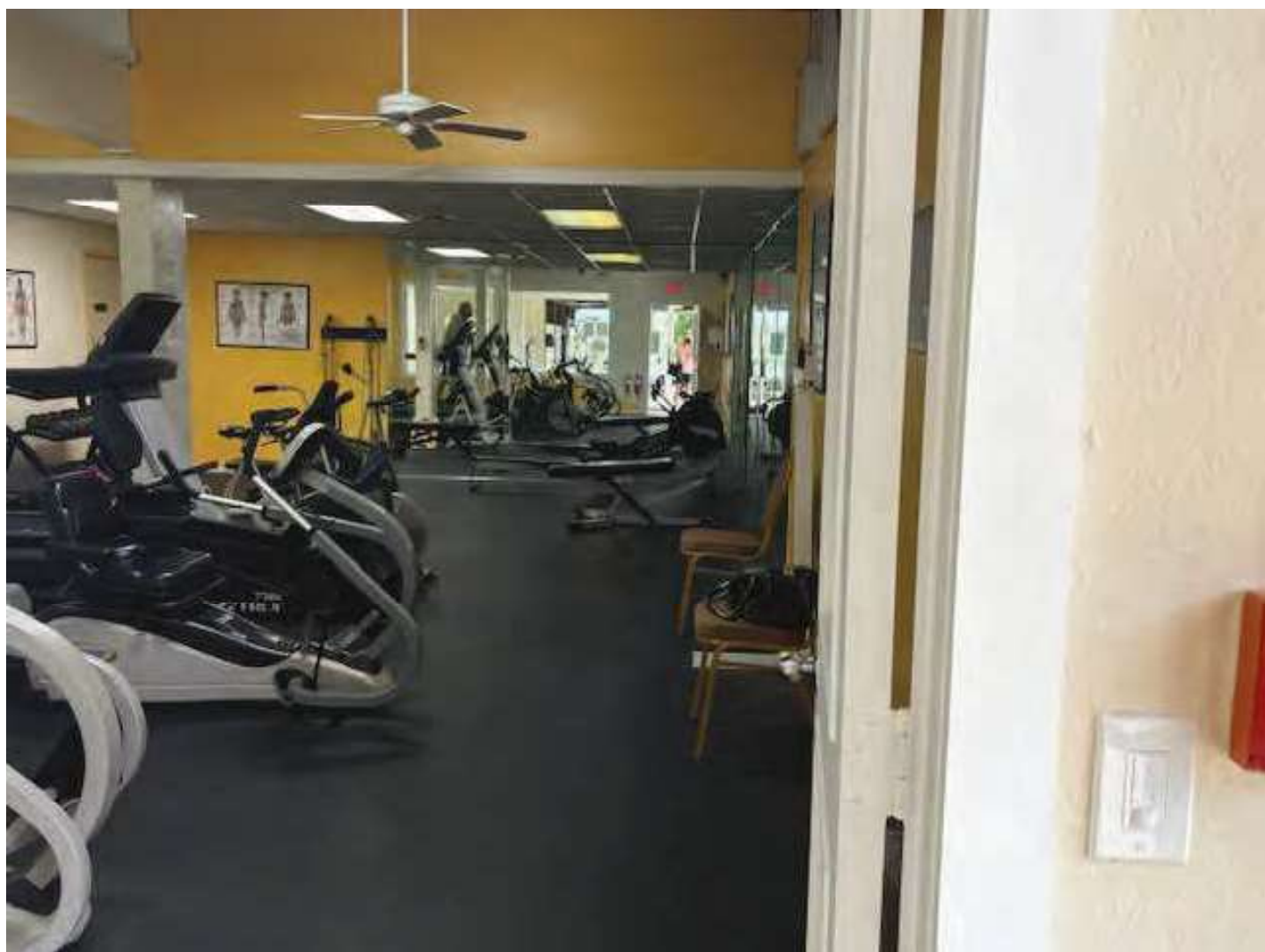


























































































































































## **Exhibit 9**

### *Deed for the Recreation Corporation's Property*



# This Indenture,

(Wherever used herein the terms "first party" and "second party" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

Made this 31st day of March A. D. 1975  
BETWEEN YUSEM PROPERTIES OF DELRAY LIMITED

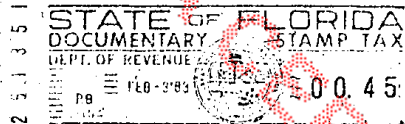
of the County of Palm Beach in the State of Florida party of the first part, and  
PALM GREENS AT VILLA DEL RAY MASTER CONDOMINIUM ASSOCIATION, INC.,  
of the County of Palm Beach in the State of Florida whose post office address is  
13852 Via Flora, Delray Beach, Florida  
party of the second part.

**Witnesseth,** That the said party of the first part, for and in consideration of the sum of  
ONE Dollars,  
to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowl-  
edged, has granted, bargained, and sold to the said party of the second part, its successors  
and assigns forever, the following described land, situate, and being in the County of Palm Beach  
State of Florida to-wit:

Tract F, Plat II, Villadelray, as same is recorded in  
Plat Book 30, at pages 77, 78 and 79, public records  
of Palm Beach County, Florida.

Together with the East 148 feet of the South 123 feet  
of Tract G-1, Plat II Villadelray, as same is recorded  
in Plat Book 30, at pages 77, 78 and 79, public records  
of Palm Beach County, Florida.

Containing 7.858 acres, more or less.



And the said party of the first part does hereby fully warrant the title to said land, and will defend the  
same against the lawful claims of all persons whomsoever.

**In Witness Whereof,** The said party of the first part has hereunto set its  
hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of: YUSEM PROPERTIES OF DELRAY LIMITED  
*[Signature]* Henry H. Yusem General Partner  
*[Signature]*

STATE OF FLORIDA,  
COUNTY OF PALM BEACH

I HEREBY CERTIFY that on this day, before me, an  
officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared  
HENRY H. YUSEM, General Partner of Yusem Properties of Delray Limited

known to be the person described in and who executed the foregoing instrument and he acknowledged  
before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 31st day of  
March A. D. 1975.

FLORIDA  
PUBLIC

This instrument prepared by:  
PAUL C. WILFE  
JONES, PAINE & FOSTER, P. A.  
601 FLAGLER DRIVE COURT  
WEST PALM BEACH, FLORIDA

*[Signature]*  
Notary Public, State of Florida  
at Large

My commission expires: 10-24-76

1983 FEB -3 AM 9:42

83 020079

B3874 P1364

RECORD VERIFIED  
PALM BEACH COUNTY, FLA  
JOHN B. DUNKLE  
CLERK CIRCUIT COURT

RETURN TO: SACHS & WEISS, P.A., Suite 402 Interstate Plaza, 1499 West Palmetto Park Road,  
Boca Raton, Florida 33432