

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director/(954) 797-1101
Prepared by Annie Feng, Planner II

SUBJECT: Resolution - Developers Agreement
DA 6-2-04, Long Lake Ranches Plat III, GL Homes, 3201 Hiatus Road/Generally located on the west side of Hiatus Road and south of SW 26 Street

AFFECTED DISTRICT: District 3

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, G.L. HOMES OF DAVIE ASSOCIATES III, LTD. AND HIATUS ROAD, LLC, FOR THE GRANT OF AN TEMPORARY EASEMENT BY GL HOMES TO THE TOWN AND HIATUS ROAD, LLC; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF:

G.L. Homes is required to make certain off-site improvements to Hiatus Road related to the development of Long Lake Ranches. In order to complete such improvements, a portion of the right-of-way must be closed and the traffic on the Hiatus Road has to be temporarily relocated on the private property owned by G.L. Homes during the construction period.

The agreement grants the Town a temporary easement to allow public access unto the G.L. Homes' property. Hiatus Road, LLC is also granted a temporary easement to construct and temporarily install a portion of Hiatus Road across the subject property. Upon the completion of certain improvements to Hiatus Road, it is stated that the Agreement and the temporary easement shall extinguish and the grantees to the Agreement shall restore the property to its original condition.

PREVIOUS ACTIONS: None

CONCURRENCES: None

FISCAL IMPACT: None

RECOMMENDATION: Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachments: Resolution, and Regional Road Concurrency Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, G.L. HOMES OF DAVIE ASSOCIATES III, LTD. AND HIATUS ROAD, LLC, FOR THE GRANT OF AN TEMPORARY EASEMENT BY GL HOMES TO THE TOWN AND HIATUS ROAD, LLC; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, G.L. Homes of Davie Associates IV, LTD. is required to making certain off-site improvements to Hiatus Road related to the development of Long Lake Ranches; and

WHEREAS, a portion of the right-of-way must be closed and the traffic on the Hiatus Road has to be temporarily relocated on the private property owned by G.L. Homes during the construction period; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby authorize the Mayor and Town Administrator to enter into an Agreement, attached hereto as Exhibit "A", between G.L. Homes of Davie Associates IV, LTD., Hiatus Road, LLC, and the Town of Davie, whereby a temporary easement is granted to the Town to allow public access unto the G.L. Homes' property.

SECTION 2. Upon the completion of certain improvements to Hiatus Road, the Agreement and the temporary easement shall extinguish and the grantees to the Agreement shall restore the property to its original condition.

SECTION 3. The Town Administrator and Town Attorney are authorized to make and accept non-substantive revisions to the agreement in order for the agreement to be in final, recordable form.

SECTION 4. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2004.

MAYOR/COUNCILMEMBER

Attest:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2004.

DA 6-2-04
04-353

Return to: (enclose self-addressed stamped envelope)

Name: Mark F. Grant, Esq.

Address:
P.O. Box 1900
Fort Lauderdale, Florida 33302

This Instrument Prepared by:
Mark F. Grant, Esq.
Ruden, McClosky, Smith
Schuster & Russell, P.A.
200 East Broward Boulevard
15th Floor
Fort Lauderdale, Florida 33301

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SPACE ABOVE THIS LINE FOR PROCESSING DATA

TEMPORARY EASEMENT AGREEMENT

THIS TEMPORARY EASEMENT AGREEMENT (the "Agreement") is made and given as of the _____ day of _____ 2004, by G.L. HOMES OF DAVIE ASSOCIATES III, LTD., a Florida limited partnership, having an address at 1401 University Drive, Suite 200, Coral Springs, Florida 33071 (the "Grantor"), to and in favor of the TOWN OF DAVIE, a municipal corporation organized under the laws of the State of Florida, having its principal place of business at 6591 Orange Drive, Davie, Florida 33314 (the "Town"), and HIATUS ROAD, LLC, a Florida limited liability company, having an address at 1401 University Drive, Suite 200, Coral Springs, Florida 33071 (the "LLC"). The Town and the LLC are sometimes referred to herein collectively as the Grantees, and Grantor and Grantee are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, Grantor is the owner of that certain real property located in Broward County, Florida, more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Grantor Property"); and

WHEREAS, the Grantor Property is adjacent to a portion of Hiatus Road, a publicly dedicated roadway owned and maintained by the Town; and

WHEREAS, LLC causing to be made certain improvements to the existing Hiatus Road (the "Hiatus Road Improvements"), and in order to complete such Hiatus Road Improvements, a portion of Hiatus Road must be temporarily relocated to a portion of the Grantor Property; and

WHEREAS, the Grantees seek to temporarily relocate a portion of Hiatus Road (the "Relocated Segment") over and across that portion of the Grantor Property more particularly described in Exhibit "B" attached hereto and made a part hereof (the "Easement Area"), and in that regard, the Grantees have requested that Grantor grant to Grantees a temporary, non-exclusive easement on and across the Easement Area for the "Easement Purposes" (as hereinafter defined) until the Hiatus Road Improvements have been completed and/or open for use by the public as a public roadway.

NOW, THEREFORE, in consideration of Ten and No/100 (\$10.00) Dollars, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. Recitations. The foregoing recitations are true and correct and are incorporated herein.
2. Grant of Easement. Grantor hereby grants to Grantees a temporary, non-exclusive easement over and across the Easement Area for the Easement Purposes until the Hiatus Road

Improvements have been completed and/or open for use by the public as a public roadway. For purposes of this Agreement, the term "Easement Purposes" shall mean: (a) with respect to LLC (together with its contractors and agents), the right to construct and temporarily install the Relocated Segment on and across the Easement Area; and (b) with respect to the Town, the right: (i) of the general public to use the Relocated Segment for vehicular and pedestrian travel purposes, and (ii) of the Town to utilize and enforce its police powers with respect to the general public's use of the Relocated Segment for vehicular and pedestrian travel purposes.

3. Duration. This Agreement shall continue and remain in full force and effect until the date on which the Hiatus Road Improvements have been completed and/or open for use by the public as a public roadway. Upon the completion of the Hiatus Road Improvements and/or their being open for use by the public as a public roadway: (a) this Agreement, and the rights granted herein, shall automatically self-terminate and extinguish (except for and other than those provisions that expressly survive termination) without the need to record any formal termination of this Agreement in the Public Records of Broward County, Florida; and (b) the LLC shall promptly remove the Relocated Segment (together with any related improvements) from the Easement Area and restore the Easement Area to substantially the same condition in which it existed immediately prior to the installation of the Relocated Segment. Notwithstanding that this Agreement shall automatically self-terminate and extinguish upon (except for and other than those provisions that expressly survive termination) the completion of the Hiatus Road Improvements, Grantees will, promptly upon the request of Grantor, execute and deliver to Grantor a "Termination of Temporary Easement Agreement", in recordable form, wherein Grantees acknowledge that this Agreement, and the rights granted herein, have terminated and are no longer of any force or effect, and Grantor shall have the unconditional right to record the same in the Public Records of Broward County, Florida.

4. Reservation of Right. Grantor hereby reserves the right to continue to use the Grantor Property and Easement Area for any use and purpose which is not inconsistent with and does not interfere in any material respect with the rights granted herein including, without limitation, the granting of additional easements and constructing other improvements on the Grantor Property and/or Easement Area.

5. Indemnification.

A. LLC shall indemnify, defend and save Grantor (together with its affiliates, partners, officers, directors, agents, and employees) harmless from and against any and all claims, causes of action, damages, personal injuries and/or deaths, liabilities, liens, encumbrances, losses, costs and expenses (including, but not limited to, attorneys' fees and costs at all trial and appellate level proceedings) arising out of, caused by or in any way resulting from: (a) the use of the Easement Area by LLC; and/or (b) any of the Easement Purposes caused by LLC. This paragraph shall survive the termination of this Agreement.

B. The Town shall indemnify, defend and save Grantor (together with its affiliates, partners, officers, directors, agents, and employees) harmless from and against any and all claims, causes of action, damages, personal injuries and/or deaths, liabilities, liens, encumbrances, losses, costs and expenses (including, but not limited to, attorneys' fees and costs at all trial and appellate level proceedings) arising out of, caused by or in any way resulting from: (a) the use of the Easement Area by the Town; and/or (b) any of the Easement Purposes caused by the Town. This paragraph shall survive the termination of this Agreement.

6. Insurance.

A. The Town shall carry, keep and maintain at all times comprehensive general public liability insurance in an amount not less than Five Hundred Thousand and No/100 (\$500,000) Dollars per occurrence as to damage to property and/or personal injury or death. The policy of insurance shall name Grantor as an additional named insured, shall not be subject to cancellation or modification on less than thirty (30) days prior written notice to Grantor, and shall be with a company, on such terms, and

in such form all as reasonably acceptable to Grantor. Promptly upon the request of Grantor, the Town shall furnish Grantor with a certificate of insurance that meets the requirements of this paragraph.

B. LLC shall carry, keep and maintain at all times comprehensive general public liability insurance in an amount acceptable to Grantor.

7. Miscellaneous. This Agreement shall be construed in accordance with the laws of the State of Florida. This Agreement shall be recorded amongst the public records of Broward County, Florida. The provisions of this Agreement may be enforced by all appropriate actions at law and in equity with the prevailing Party in any such action being entitled to reimbursement from the non-prevailing Party of all reasonable attorneys' fees and costs (at all trial and appellate level proceedings). This Agreement shall be governed by and enforced and construed under the laws of the State of Florida. Venue for all actions shall be in Broward County, Florida. This Agreement shall be binding upon the Parties, and shall inure to and be binding upon their respective successors and/or assigns. Except as otherwise provided in paragraph 3 above, this Agreement may not be amended, modified or terminated except by a recorded instrument signed by the Parties. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement, and all prior agreements and/or understandings, whether oral or written, are merged herein. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one (1) and the same Agreement. No provision contained in this Agreement shall be construed to be a waiver by the Town of sovereign immunity pursuant to Florida law, nor shall any provision contained in this Agreement be construed to grant any rights to any person not a party to or expressly identified herein. In the event any provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or re-construed as such authority determines, and the remainder of this Agreement shall be and remain in full force and effect.

[SIGNATURES FOLLOW ON NEXT PAGE]

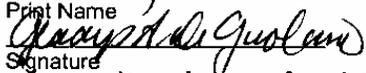
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

WITNESSES:

GRANTOR:

G.L. HOMES OF DAVIE ASSOCIATES III, LTD., a Florida limited partnership

By: G.L. HOMES OF DAVIE III CORPORATION, a Florida corporation, its general partner


Signature
Kelly LILLIAN
Print Name

Signature
GLADYS A. DIGIROLAMO
Print Name

By:  V.P.
Name: ALAN FANT
Title: VICE PRESIDENT

GRANTEES:

TOWN OF DAVIE, a municipal corporation organized under the laws of the State of Florida

Signature

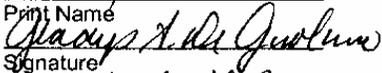
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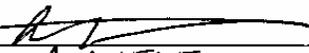
Signature

Print Name

By: _____
Name: _____
Title: _____

HIATUS ROAD, LLC, a Florida limited liability company


Signature
Kelly LILLIAN
Print Name

Signature
GLADYS A. DIGIROLAMO
Print Name

By: 
Name: ALAN FANT
Title: VICE PRESIDENT

STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, the foregoing instrument was acknowledged before me by Alan Mann, the Vice-President of _____ of G.L. HOMES OF DAVIE III CORPORATION, a Florida corporation, the general partner of G.L. HOMES OF DAVIE ASSOCIATES III, LTD., a Florida limited partnership, freely and voluntarily under authority duly vested in him/her by said corporation and partnership. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 10 day of June, 2004.

Terry Lillian
Notary Public
Terry Lillian
Typed, printed or stamped name of Notary

My Commission Expires:
STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)



I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, the foregoing instrument was acknowledged before me by _____, the _____ of the TOWN OF DAVIE, a municipal corporation organized under the laws of the State of Florida, freely and voluntarily under authority duly vested in him/her by said municipal corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2004.

Notary Public

Typed, printed or stamped name of Notary

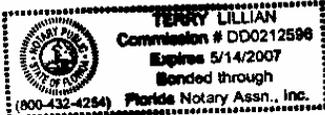
My Commission Expires:
STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, the foregoing instrument was acknowledged before me by Alan Mann, the Vice-President of _____ of HIATUS ROAD, LLC, a Florida limited liability company, freely and voluntarily under authority duly vested in him/her by said company. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 10 day of June, 2004.

Terry Lillian
Notary Public
Terry Lillian
Typed, printed or stamped name of Notary

My Commission Expires:
STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)



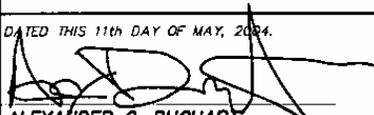
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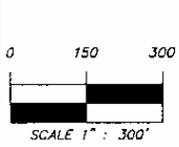
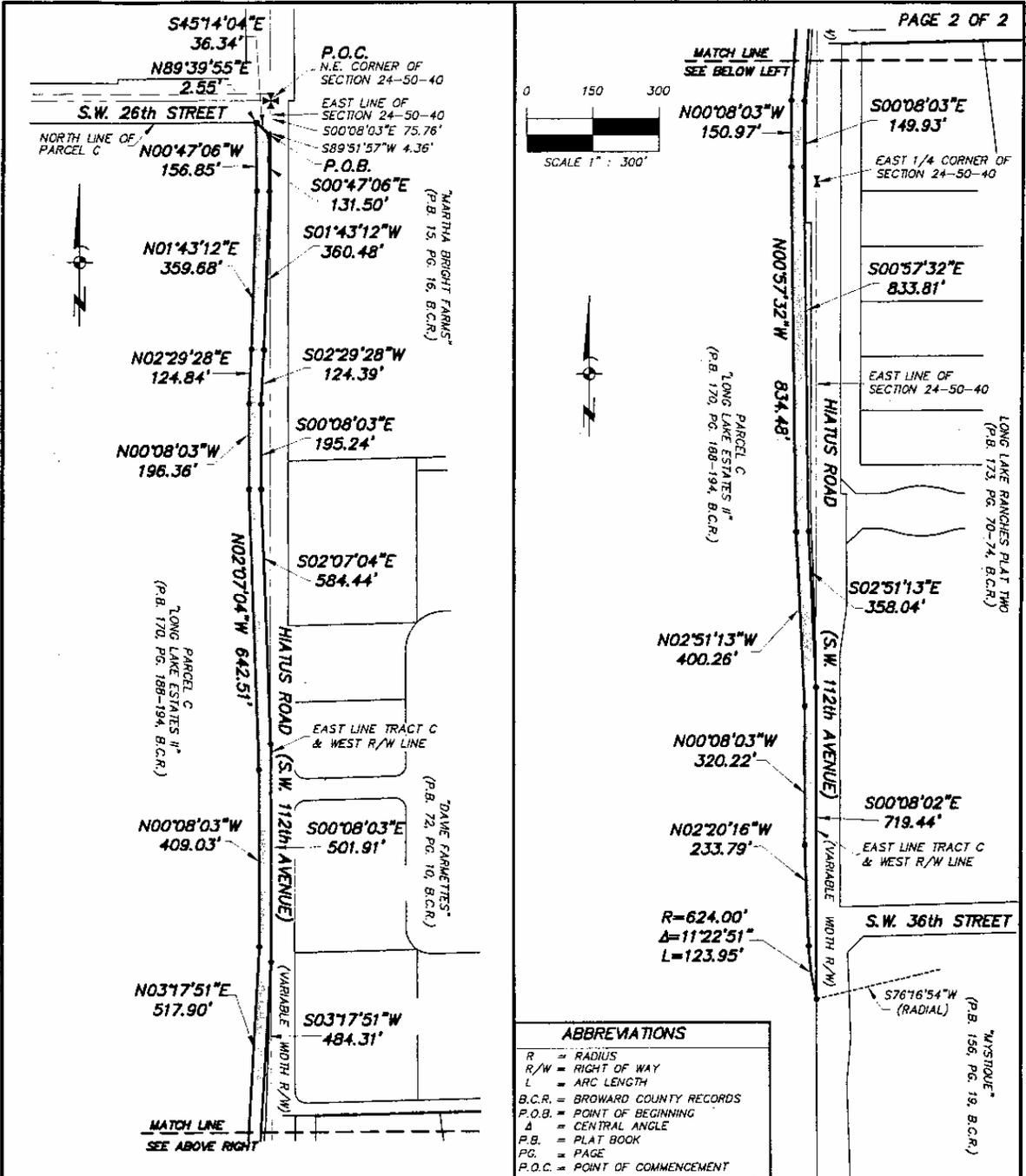
TEMPORARY CONSTRUCTION EASEMENT

AN EASEMENT LYING OVER AND ACROSS A PORTION OF PARCEL C, "LONG LAKE ESTATES II", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 170, PAGES 188 THROUGH 194, (INCLUSIVE), OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 24, TOWNSHIP 50 SOUTH, RANGE 40 EAST;
 THENCE ALONG THE EAST LINE OF SAID SECTION 24, SOUTH 00°08'03" EAST, 75.76 FEET;
 THENCE SOUTH 89°51'57" WEST, 4.36 FEET TO THE POINT OF BEGINNING;
 THENCE SOUTH 00°47'06" EAST, 131.50 FEET;
 THENCE SOUTH 01°43'12" WEST, 360.48 FEET;
 THENCE SOUTH 02°29'28" WEST, 124.39 FEET;
 THENCE SOUTH 00°08'03" EAST, 195.24 FEET;
 THENCE SOUTH 02°07'04" EAST, 584.44 FEET TO AN INTERSECTION WITH THE EAST LINE OF SECTION 24, THE EAST LINE OF SAID PARCEL C AND THE WEST RIGHT-OF-WAY LINE OF HIATUS ROAD;
 THENCE ALONG SAID LINE, SOUTH 00°08'03" EAST, 501.91 FEET;
 THENCE SOUTH 03°17'51" WEST, 484.31 FEET;
 THENCE SOUTH 00°08'03" EAST, 149.93 FEET;
 THENCE SOUTH 00°57'32" EAST, 833.81 FEET;
 THENCE SOUTH 02°51'13" EAST, 358.04 FEET TO AN INTERSECTION WITH SAID EAST LINE OF SECTION 24, THE EAST LINE OF PARCEL C AND THE WEST RIGHT-OF-WAY LINE OF HIATUS ROAD;
 THENCE ALONG SAID LINE, SOUTH 00°08'02" EAST, 719.44 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE, (A RADIAL LINE THROUGH SAID POINT BEARS SOUTH 76°16'54" WEST);
 THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE BEING CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 624.00 FEET, A CENTRAL ANGLE OF 11°22'51", AN ARC DISTANCE OF 123.95 FEET;
 THENCE TANGENT TO SAID CURVE NORTH 02°20'16" WEST, 233.79 FEET;
 THENCE NORTH 00°08'03" WEST, 320.22 FEET;
 THENCE NORTH 02°51'13" WEST, 400.26 FEET;
 THENCE NORTH 00°57'32" WEST, 834.48 FEET;
 THENCE NORTH 00°08'03" WEST, 150.97 FEET;
 THENCE NORTH 03°17'51" EAST, 517.90 FEET;
 THENCE NORTH 00°08'03" WEST, 409.03 FEET;
 THENCE NORTH 02°07'04" WEST, 642.51 FEET;
 THENCE NORTH 00°08'03" WEST, 196.36 FEET;
 THENCE NORTH 02°29'28" EAST, 124.84 FEET;
 THENCE NORTH 01°43'12" EAST, 359.68 FEET;
 THENCE NORTH 00°47'06" WEST, 156.85 FEET TO AN INTERSECTION WITH THE NORTH LINE OF SAID PARCEL C;
 THENCE ALONG SAID LINE, NORTH 89°39'55" EAST, 2.55 FEET;
 THENCE ALONG SAID LINE, SOUTH 45°14'04" EAST, 36.34 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA AND CONTAINING 2.745 ACRES, (119,551 SQUARE FEET), MORE OR LESS.

ABBREVIATIONS				SKETCH AND DESCRIPTION	
B.C.R. = BROWARD COUNTY RECORDS	R = RADIUS	LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD BY SUNTECH ENGINEERING, INC. THIS SKETCH DOES NOT REPRESENT A BOUNDARY SURVEY NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF SECTION 24-50-40, BEARING SOUTH 00°08'03" EAST, AS SHOWN HEREON. DATED THIS 11th DAY OF MAY, 2004.  ALEXANDER G. DUCHART PROFESSIONAL SURVEYOR & MAPPER STATE OF FLORIDA REGISTRATION No. 5998			
P.O.B. = POINT OF BEGINNING	C = CENTERLINE				
Δ = CENTRAL ANGLE	O.R.B. = OFFICIAL RECORDS BOOK				
P.B. = PLAT BOOK	R/W = RIGHT OF WAY				
P.C. = PAGE	L = ARC LENGTH				
P.O.C. = POINT OF COMMENCEMENT	(P) = PER RECORDED PLAT				
05-11-04	REVISED AUGMENT	V.V.	A.D.		
DATE	REVISION	BY	CHK.		
 Sun-Tech Engineering, Inc. Engineering - Surveying - Planning Certificate of Authorization Number LB 7019				03-2649SK2.DWG JOB No.: 03-2649	
1600 West Oakland Park Boulevard Phone (954) 777-3123 Ft. Lauderdale, FL 33311 Fax (954) 777-3114					



ABBREVIATIONS

- R = RADIUS
- R/W = RIGHT OF WAY
- L = ARC LENGTH
- B.C.R. = BROWARD COUNTY RECORDS
- P.O.B. = POINT OF BEGINNING
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- P.B. = PLAT BOOK
- PG. = PAGE
- P.O.C. = POINT OF COMMENCEMENT

SUN TECH Sun-Tech Engineering, Inc.
 Engineering - Surveying - Planning
 Certificate of Authorization Number LB 7019
 1600 West Oakland Park Boulevard Phone (954) 777-3123
 Ft. Lauderdale, FL 33311 Fax (954) 777-3114

DATED THIS 11th DAY OF MAY, 2004.

ALEXANDER G. DUCHARY
 PROFESSIONAL SURVEYOR & MAPPER
 STATE OF FLORIDA REGISTRATION No. 5998
 JOB No.: 03-2649

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