

## TRI-PARTY AGREEMENT

THIS AGREEMENT, entered into by and between BRADY POINT PRESERVE, LLC (hereinafter referred to as "Developer"), and COMPASS BANK, (hereinafter referred to as "Lender") and Nassau County, Florida (hereinafter referred to as "County").

### WITNESSETH:

WHEREAS, Developer is the fee simple owner of certain real property located in Nassau County, Florida, more particularly described in Exhibit "A" attached hereto (hereinafter referred to as the "Subject Property"); and

WHEREAS, Developer has, as a condition precedent to the approval by the County of two (2) plats within a certain subdivision generally known as Brady Point Preserve, covenanted and agreed with the County to construct roads, streets, drainage facilities, sewer lines, water distribution, electricity and other improvements (hereinafter collectively referred to as the "Improvements") based upon development plans and specifications pertaining to said subdivision (hereinafter collectively referred to as the "Specifications") prepared by Hill, Boring, Dunn & Associates, Inc. under Project No. 0205-280, being dated July \_\_, 2003, and being on file with the County Engineer; and

WHEREAS, Developer has obtained a loan from the Lender for the purpose of developing and improving the Subject Property by the installation of the Improvements; and

WHEREAS, the County requires assurance of completion of the Improvements with respect to the Subject Property as contemplated by the Specifications; and

WHEREAS, the County is authorized by County rules and regulations, to regulate such development; and

WHEREAS, the Developer as part of its compliance with the rules and regulations of the County desires to enter into this Agreement; and

WHEREAS, it is the purpose of this Agreement to set forth clearly the understanding and agreement of the parties with respect to the foregoing matters.

NOW THEREFORE, in consideration of the premises hereof and the covenants contained hereafter, the parties do agree as follows:

1. Developer represents and Lender acknowledges as follows:

(a) That the cost of completing the construction and installing the Improvements is One Million Three Hundred Forty Thousand Dollars (\$1,340,000.00), as shown on the engineer's letter attached hereto as Exhibit "B", times 1.15 per Nassau County regulations for a County approved cost of One Million Five Hundred and Forty One Thousand and no Dollars (\$1,541,000). Such \$1,541,000 hereinafter referred to as the "Cost of Improvements");

(b) That Developer has entered into a contract with Braddock Construction, Inc. and Florida Power and Light for Electricity only (hereinafter collectively referred to as the "Contractor") for the construction and installation of the Improvements on or before June 1, 2005 (copies of which accompany and are made a part hereof as Exhibit "C"); provided, however, this completion date contained in that contract shall not operate to extend the "Completion Date" as the term is defined in the Development Loan Agreement, as defined below.

(c) That the Improvements will be completed on or before 180 days; and

(d) That the loan described hereinbefore includes an amount equal to the Cost of Improvements for such construction and installation of the Improvements, which sum shall be held by said Lender pursuant to this Agreement and released only in accordance with paragraph 2 hereof.

2. The Lender hereby agrees that, so long as there is no default under the Amended and Restated Acquisition and Development Loan Agreement dated January 30, 2004 ("Development Loan Agreement"), entered into between Developer and Lender (a copy of which accompanies and is made a part hereof as Exhibit "D"), the Lender hereby agrees it will disburse to Developer the Cost of Improvements for the construction and installation of the Improvements only on the following terms and conditions:

(a) Disbursement shall be made by the Lender to the Developer based upon written requests therefore submitted with certificates from Developer's engineer as to the percentage of work completed to date of request for disbursement, the percentage of work remaining to be done and the cost of said remaining work.

(b) The Engineer's certificate shall also state that work to date of request has been completed in accordance with Specifications and in compliance with pertinent requirements of the County.

3. The Lender and the County acknowledge that the Developer's contract with Contractor provides for a holdback of ten percent (10%) on the amount of each partial payment to be made under the terms of said contract. The parties hereto agree that nothing contained in this Agreement shall obligate Developer to pay Contractor said ten percent (10%) holdback prior to completion of the Improvements.

4. In the event that the Developer fails to complete the Improvements within the time prescribed, or defaults under the Development Loan Agreement and fails to correct or cure said default within thirty (30) days, the County agrees to cause all of the Improvements to be completed, in which case the Lender shall be obligated to pay (irrespective of any default on the part of the Developer or any cause of action or defense the lender may have against the Developer or irrespective of any claim, potential claim or cause of action of Contractor or any subcontractors) the actual cost of said work to the County, as certified by the County not to exceed the Cost of the Improvements. Provided, however, the County shall not exercise this election to cause the Improvements to be completed until it has first notified the Lender of the County's intention to do so, and allowed the Lender the first option to cause the Improvements to

be completed. In the event that the Lender does not agree within thirty (30) days to itself cause the Improvements to be completed in accordance with all provisions of this Agreement, then in such event the County agrees to do so, with the cost of said work to be paid as set forth herein. The "cost of said work" shall include all claims, costs, expenses, construction engineering and inspection services, damages injury or loss, including engineering, legal and contingent costs which the County may sustain on account of the failure of the Developer to perform in accordance with the Specifications within the time specified. It is expressly understood that the County, in completing any of the work involved, has the right, in its sole discretion, to have said work done by others, and is not in any manner committed to complete the work involved by or through its own agencies or employees. Disbursements shall be made by the Lender as work progresses based on the percentage of work completed with a 10% retainage as certified by the County and by the Lender's Inspecting Engineer (who shall have a construction industry background) with the most conservative percentage controlling. The Lender shall, upon certification and demand by the County under the provisions of this paragraph disburse the monies within three (3) working days after the date of certification and demand hereunder by the County and disbursements by Lender pursuant to this paragraph shall constitute advances under the Note and Mortgage, as defined in the Development Loan Agreement. In the event that the undisbursed funds are not sufficient to pay for the cost of completing all or part of the Improvements, the Lender shall advance additional funds for the completion of the Improvements not to exceed an amount equal to the Cost of Improvements and the Developer hereby agrees to indemnify and hold the County and the Lender harmless, and to fund all costs exceeding the Cost of Improvements, including reasonable attorney's fees incurred in the collection of any sums due under this Agreement.

5. The parties hereto agree that in seeking to enforce any of its rights under the provisions of this paragraph, the County shall be entitled to specific performance on the part of the Lender, who hereby waives its right to object to the appropriateness or legal or equitable sufficiency of said remedy.

6. The Lender agrees to promptly notify the County in the event of any default by the Developer under the Development Loan Agreement, said notification to include a description of the default and the date, or dates, on which said default occurred. In the event of any default under the Development Loan Agreement which is not cured by the Developer within thirty (30) days after the occurrence of such default, the County may exercise all rights hereunder, including those rights set forth in paragraph 4.

7. Developer shall cause JEA to assume the maintenance of the water and sewer facilities. The Developer shall cause the homeowners association for Brady Point to maintain the roads and drainage facilities. FPL will maintain the electrical facilities. The Developer shall pay County's construction, engineering and inspection fees on an hourly basis which will be due for inspections and monitoring services during the term of this Agreement.

8. Any notice required to be given or documents required to be delivered by the terms of this Agreement shall be deemed properly given or delivered if hand delivered, or if mailed to the proper party or parties by United States Mail, return receipt requested, at the following addresses:

DEVELOPER:

BRADY POINT PRESERVE, LLC  
c/o Amelia Island Company  
P.O. Box 3000  
Amelia Island, FL 32084

AND

Foley & Lardner LLP  
One Independent Drive, Suite 1300  
Jacksonville, FL 32202-5017  
Attn: Emerson M. Lotzia, Esquire

LENDER:

COMPASS BANK  
10060 Skinner Lake Drive  
Jacksonville, FL 32246  
Attn: Philip R. Webb

AND

Rogers Towers  
1301 Riverplace Blvd., Suite 1500  
Jacksonville, FL 32207  
Attn: Christine T. Adams, Esquire

COUNTY:

Nassau County, Florida  
c/o Mr. Mike Mullin  
191 Nassau Place  
Yulee, FL 32097

9. In any litigation resulting from or in relation to this Agreement, the prevailing party shall recover its reasonable attorney's fees and court costs at both the trial and appellate level.

10. This Agreement shall be binding on the parties hereto, their heirs' personal representatives, successors and assigns.

**[The remainder of this page is blank intentionally;  
the signature page(s) follow.]**

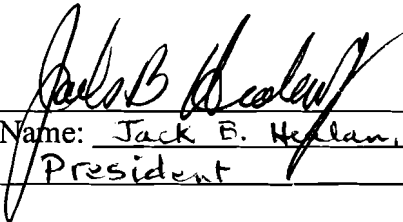
11. Time is of the essence in the performance of any of the obligations or covenants as herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Tri-Party Agreement this 8th day of December, 2004.

BRADY POINT PRESERVE LLC,  
a Florida limited liability company

By: BRADY POINT COMPANY LLC,  
a Florida limited liability company, its  
Manager

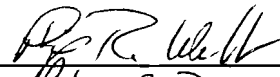
By: AMELIA ISLAND COMPANY,  
a Delaware corporation, its Sole Member

By:   
Print Name: Jack B. Heelan, Jr.  
Its: President

(CORPORATE SEAL)

“DEVELOPER”


COMPASS BANK, an Alabama corporation

By:   
Printed Name: PHILIP R. WEBB  
Its: VICE PRESIDENT

(CORPORATE SEAL)

“LENDER”

BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

By:   
Its: Floyd L. Vanzant  
Its: Chairman

ATTEST:

*J. M. Oxley, Jr. Clerk*  
*By Bradley DC*

J. M. "CHIP" OXLEY, JR.

Its: Ex-Officio Clerk

Approved as to form by the  
Nassau County Attorney:

*Michael S. Mullin*

MICHAEL S. MULLIN

EXHIBIT "A"

PARCEL A (153.25 ac± - February 18, 2003)

A PORTION OF THE "D. FERNANDEZ GRANT", SECTIONS 38 AND 41, TOWNSHIP 2 NORTH, RANGE 28 EAST, NASSAU COUNTY, FLORIDA, AND A PORTION OF THE "WILLIAM BERRIE GRANT", SECTION 40, TOWNSHIP 2 NORTH, RANGE 28 EAST, NASSAU COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 38; THENCE NORTH 00°31'49" WEST, ALONG THE WEST LINE OF SAID SECTION 38, A DISTANCE OF 2387.0 FEET; THENCE SOUTH 73°50'00" EAST A DISTANCE OF 192.08 FEET TO THE EASTERLY LINE OF LANDS DESCRIBED IN THAT CERTAIN DOCUMENT TITLED "CONSENT FINAL JUDGEMENT ESTABLISHING BOUNDARIES" SIGNED ON DECEMBER 27, 1996, IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT, IN AND FOR NASSAU COUNTY, FLORIDA, BEARING A CASE NO. 96-128-CA, RECORDED IN OFFICIAL RECORD BOOK 781, PAGE 267, OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA, HEREINAFTER REFERED TO AS "AGREED BOUNDARY LINE" AND THE POINT OF BEGINNING; THENCE SOUTH 02°44'21" EAST, ALONG SAID "AGREED BOUNDARY LINE", A DISTANCE OF 199.70 FEET; THENCE ALONG THE SOUTHERLY LINE OF A PARCEL OF LAND KNOWN AS TRACT "A" AS DESCRIBED IN THAT CERTAIN DEED RECORDED IN OFFICIAL RECORD BOOK 852, PAGE 1176, OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA, THE FOLLOWING NINE COURSES: (1) SOUTH 76°01'31" EAST A DISTANCE OF 145.41 FEET; (2) SOUTH 73°04'20" EAST A DISTANCE OF 176.34 FEET; (3) SOUTH 70°27'29" EAST A DISTANCE OF 186.81 FEET; (4) SOUTH 72°47'54" EAST A DISTANCE OF 321.28 FEET; (5) SOUTH 70°38'51" EAST A DISTANCE OF 185.08 FEET; (6) SOUTH 68°48'37" EAST A DISTANCE OF 219.99 FEET; (7) SOUTH 68°23'00" EAST A DISTANCE OF 116.31 FEET; (8) SOUTH 66°08'26" EAST A DISTANCE OF 192.41 FEET; (9) SOUTH 83°07'41" EAST A DISTANCE OF 288.66 FEET TO THE LANDS OF BERLEY GEIGER; THENCE ALONG THE PERIMETER OF SAID LANDS OF BERLEY GEIGER THE FOLLOWING FOUR COURSES: (1) NORTH 00°43'12" EAST A DISTANCE OF 230.56 FEET; (2) SOUTH 70°41'00" EAST A DISTANCE OF 792.00 FEET; (3) SOUTH 65°30'00" EAST A DISTANCE OF 140.01 FEET; (4) SOUTH 24°30'00" WEST A DISTANCE OF 178.69 FEET; THENCE ALONG THE SOUTHERLY LINE OF A PARCEL OF LAND KNOWN AS TRACT "C" AS DESCRIBED IN THAT CERTAIN DEED RECORDED IN OFFICIAL RECORD BOOK 852, PAGE 1176, OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA, THE FOLLOWING SIX COURSES: (1) SOUTH 60°18'48" EAST A DISTANCE OF 120.20 FEET; (2) SOUTH 59°02'34" EAST A DISTANCE OF 175.24 FEET; (3) SOUTH 60°50'17" EAST A DISTANCE OF 82.46 FEET; (4) SOUTH 66°28'26" EAST A DISTANCE OF 192.74 FEET; (5) SOUTH 69°58'51" EAST A DISTANCE OF 50.82 FEET; (6) NORTH 75°34'11" EAST A DISTANCE OF 123.82 FEET TO A FOUND 1/2 INCH IRON ROD WITH PLASTIC CAP

MARKED "LB-6756" AND THE SOUTHEASTERLY CORNER OF TRACT "C" AS DESCRIBED IN SAID OFFICIAL RECORD BOOK 852, PAGE 1176 AND A POINT HEREINAFTER REFERED TO AS POINT "A";

THENCE RETURN TO THE POINT OF BEGINNING AND RUN ALONG THE ABOVE REFERENCED "AGREED BOUNDARY LINE" THE FOLLOWING NINE COURSES: (1) NORTH 02°44'21" WEST A DISTANCE OF 276.69 FEET; (2) NORTH 00°45'03" WEST A DISTANCE OF 185.09 FEET; (3) NORTH 02°29'33" EAST A DISTANCE OF 180.02 FEET; (4) NORTH 03°45'06" EAST A DISTANCE OF 180.15 FEET; (5) NORTH 03°57'07" EAST A DISTANCE OF 180.18 FEET; (6) NORTH 02°24'30" EAST A DISTANCE OF 18.74 FEET; (7) NORTH 05°11'50" WEST A DISTANCE OF 219.01 FEET; (8) NORTH 09°50'14" EAST A DISTANCE OF 129.61 FEET; (9) NORTH 01°30'19" EAST A DISTANCE OF 125.15 FEET TO AN OLD GRANITE STONE; THENCE SOUTH 87°22'54" WEST A DISTANCE OF 304.19 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF LITTLE BERRY LANE AS NOW LAID OUT AND IN USE; THENCE ALONG THE EASTERLY RIGHT-OF-WAY LINE OF LITTLE BERRY LANE AS NOW LAID OUT AND IN USE THE FOLLOWING FIVE COURSES: (1) NORTH 05°49'18" WEST A DISTANCE OF 328.54 FEET; (2) NORTH 12°26'01" WEST A DISTANCE OF 211.41 FEET; (3) NORTH 15°11'36" WEST A DISTANCE OF 414.07 FEET; (4) NORTH 21°04'12" WEST A DISTANCE OF 236.80 FEET; (5) NORTH 19°44'40" WEST A DISTANCE OF 588.30 FEET TO THE SOUTHERLY LINE OF LANDS DESCRIBED IN OFFICIAL RECORD BOOK 877, PAGE 1120 AND CORRECTED IN OFFICIAL RECORD BOOK 952, PAGE 1666, OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA; THENCE NORTH 74°25'16" EAST, ALONG LAST SAID SOUTHERLY LINE, A DISTANCE OF 192.36 FEET TO THE SOUTHWEST CORNER OF LANDS DESCRIBED IN OFFICIAL RECORD BOOK 1059, PAGE 301, OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA; THENCE ALONG THE PERIMETER OF LAST SAID LANDS THE FOLLOWING TWO COURSES: (1) NORTH 19°50'16" WEST A DISTANCE OF 172.83 FEET; (2) NORTH 69°47'32" EAST A DISTANCE OF 47.47 FEET; THENCE NORTH 14°28'55" WEST A DISTANCE OF 37.42 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF THE OLD FERNANDINA - YULEE ROAD; THENCE NORTH 86°34'07" EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 197.37 FEET TO A 3/4 INCH IRON ROD WITH PLASTIC CAP MARKED "RLS 1558"; THENCE CONTINUE NORTH 86°34'07" EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 48.99 FEET; THENCE ALONG THE EASTERLY PERIMETER OF THE SUBJECT PROPERTY OF CONVEYANCE THE FOLLOWING (68) COURSES; (1) SOUTH 05°58'35" WEST A DISTANCE OF 108.12 FEET; (2) SOUTH 03°10'06" WEST A DISTANCE OF 103.94 FEET; (3) SOUTH 35°03'50" EAST A DISTANCE OF 122.82 FEET; (4) NORTH 55°05'13" EAST A DISTANCE OF 62.47 FEET; (5) NORTH 76°36'05" EAST A DISTANCE OF 73.89 FEET; (6) NORTH 50°35'05" EAST A DISTANCE OF 114.66 FEET; (7) SOUTH 25°48'05" WEST A DISTANCE OF 208.34 FEET; (8) SOUTH 22°23'57" EAST A DISTANCE OF 175.79 FEET; (9) SOUTH 44°35'52" EAST A DISTANCE OF 79.97 FEET; (10) NORTH 66°44'22" EAST A DISTANCE OF 195.04 FEET; (11) SOUTH 48°16'05" EAST



A DISTANCE OF 154.60 FEET; (12) SOUTH 30°17'41" EAST A DISTANCE OF 289.08 FEET; (13) SOUTH 42°13'31" EAST A DISTANCE OF 118.43 FEET; (14) SOUTH 11°20'48" EAST A DISTANCE OF 360.51 FEET; (15) SOUTH 05°58'16" EAST A DISTANCE OF 140.88 FEET; (16) SOUTH 05°36'01" WEST A DISTANCE OF 277.13 FEET; (17) SOUTH 00°14'27" WEST A DISTANCE OF 147.55 FEET; (18) SOUTH 32°14'35" EAST A DISTANCE OF 116.49 FEET; (19) SOUTH 63°29'59" EAST A DISTANCE OF 55.31 FEET; (20) SOUTH 24°43'17" EAST A DISTANCE OF 53.69 FEET; (21) SOUTH 28°54'40" EAST A DISTANCE OF 57.23 FEET; (22) SOUTH 53°18'56" EAST A DISTANCE OF 66.90 FEET; (23) SOUTH 01°36'48" WEST A DISTANCE OF 122.77 FEET; (24) SOUTH 37°56'14" EAST A DISTANCE OF 99.29 FEET; (25) NORTH 82°53'46" EAST A DISTANCE OF 124.44 FEET; (26) SOUTH 17°37'58" EAST A DISTANCE OF 124.79 FEET; (27) SOUTH 26°14'05" EAST A DISTANCE OF 102.85 FEET; (28) SOUTH 32°20'30" EAST A DISTANCE OF 150.37 FEET; (29) SOUTH 63°00'11" EAST A DISTANCE OF 60.96 FEET; (30) SOUTH 43°22'23" WEST A DISTANCE OF 45.07 FEET; (31) SOUTH 08°54'29" EAST A DISTANCE OF 235.48 FEET; (32) SOUTH 66°22'07" EAST A DISTANCE OF 130.92 FEET; (33) NORTH 84°06'17" EAST A DISTANCE OF 93.26 FEET; (34) NORTH 00°05'51" EAST A DISTANCE OF 195.88 FEET; (35) NORTH 27°40'57" WEST A DISTANCE OF 104.77 FEET; (36) NORTH 22°21'01" EAST A DISTANCE OF 71.45 FEET; (37) NORTH 33°51'46" WEST A DISTANCE OF 47.67 FEET; (38) NORTH 06°11'57" WEST A DISTANCE OF 105.93 FEET; (39) NORTH 02°34'52" EAST A DISTANCE OF 95.86 FEET; (40) SOUTH 59°54'50" EAST A DISTANCE OF 178.67 FEET; (41) SOUTH 39°54'18" EAST A DISTANCE OF 121.89 FEET; (42) SOUTH 85°49'30" EAST A DISTANCE OF 150.43 FEET; (43) NORTH 61°45'57" EAST A DISTANCE OF 115.50 FEET; (44) NORTH 35°49'02" EAST A DISTANCE OF 171.36 FEET; (45) SOUTH 74°18'01" EAST A DISTANCE OF 242.10 FEET; (46) SOUTH 66°01'38" EAST A DISTANCE OF 342.67 FEET; (47) SOUTH 52°14'05" EAST A DISTANCE OF 281.30 FEET; (48) SOUTH 69°12'06" EAST A DISTANCE OF 156.25 FEET; (49) SOUTH 45°20'57" EAST A DISTANCE OF 183.22 FEET; (50) SOUTH 11°31'07" EAST A DISTANCE OF 73.36 FEET; (51) SOUTH 52°32'04" EAST A DISTANCE OF 125.04 FEET; (52) SOUTH 17°58'29" EAST A DISTANCE OF 98.57 FEET; (53) SOUTH 00°04'03" EAST A DISTANCE OF 273.44 FEET; (54) SOUTH 18°11'55" EAST A DISTANCE OF 191.75 FEET; (55) SOUTH 41°00'24" EAST A DISTANCE OF 163.82 FEET; (56) SOUTH 18°39'15" EAST A DISTANCE OF 125.06 FEET; (57) SOUTH 25°05'49" WEST A DISTANCE OF 100.90 FEET; (58) SOUTH 47°12'23" WEST A DISTANCE OF 73.16 FEET; (59) SOUTH 47°09'14" WEST A DISTANCE OF 82.41 FEET; (60) SOUTH 63°06'06" EAST A DISTANCE OF 59.80 FEET; (61) SOUTH 03°31'31" EAST A DISTANCE OF 46.04 FEET; (62) SOUTH 19°08'22" EAST A DISTANCE OF 98.10 FEET; (63) NORTH 55°17'55" EAST A DISTANCE OF 64.56 FEET; (64) SOUTH 51°36'20" EAST A DISTANCE OF 39.14 FEET; (65) SOUTH 17°01'30" WEST A DISTANCE OF 124.53 FEET; (66) SOUTH 17°43'02" WEST A DISTANCE OF 149.01 FEET; (67) NORTH 88°22'26" WEST A DISTANCE OF 35.43 FEET; (68) SOUTH 60°12'39" WEST A DISTANCE OF 42.30 FEET TO THE NORTHEAST CORNER OF TRACT "C" AS DESCRIBED IN OFFICIAL RECORD BOOK 852, PAGE 1176

INSTR # 200305769  
OR BK 01116 PG 1132

OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA; THENCE SOUTH  
22°56'41" EAST, ALONG THE EASTERLY LINE OF LAST SAID LANDS, A DISTANCE OF  
193.57 FEET TO ABOVE REFERENCED POINT "A" AND THE CLOSE OF THIS  
DESCRIPTION.

**EXHIBIT B**  
**ENGINEER'S LETTER**

Hill, Boring, Gunn & Associates, Inc.  
Letter dated December 1, 2004

**Hill, Boring, Dunn and Associates, Inc.****CIVIL ENGINEERS/LAND PLANNERS**

December 1, 2004

Mr. Jose' R. Deliz, P.E.-Director  
Nassau County  
Engineering Services  
213 Nassau Place  
Yulee, FL. 32097

Re: Brady Point Preserve  
Infrastructure Cost To Complete  
Engineer's Project No. 0205-280-6

Dear Mr. Deliz:

On behalf of Brady Point Preserve, LLC this letter is written to outline infrastructure cost to complete on the above referenced project. Said cost to complete to be used for the three party contract being used in lieu of a bond.

## Schedule of Values:

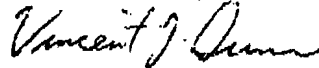
Braddock Contract Amount	\$2,111,018.00
Complete to Date	\$ 942,625.00
Balance to Complete	\$1,168,393.00
Estimated Cost increase for entry road revision	\$ 131,607.00
Florida Power & Light underground	\$ 40,000.00

---

Total \$1,340,000.00

I have attached a copy of the latest pay request and schedule of values for your use in reviewing this request. Thank you for your help in this matter. If you have any questions or need additional information please call.

Sincerely,

**HILL, BORING, DUNN & ASSOCIATES, INC.**

Vincent J. Dunn, P.E.  
Executive Vice President

cc: Mr. Lovick Suddath  
VJD/bem

ation and Certificate For Payment -- page 2

Client: BRADY POINT PRESERVE LLC  
 (Contractor): BRADDOCK CONSTRUCTION, INC.  
 Project: BRADY POINT PRESERVE

Application No: 5 Date: 10/29/04 Period To: 10/29/04  
 Contractor's Job Number: 7357  
 Architect's Project No:

Item Number	Description	Scheduled Value	Work Completed		Materials Presently Stored	Completed and Stored to Date	%	Balance to Finish	Retention	Memo
			Previous Application	This Period						
11	CLEARING & EARTHWORK	246,115.00	159,178.00	35,252.85	0.00	194,430.85	79.00	51,684.15	19,443.09	
12	ROADWAYS	500,287.00	0.00	0.00	0.00	0.00	0.00	500,287.00	0.00	
03	GRASSING & MULCHING	16,044.00	0.00	0.00	0.00	0.00	0.00	16,044.00	0.00	
04	SODDING	12,000.00	0.00	0.00	0.00	0.00	0.00	12,000.00	0.00	
05	STORM DRAINAGE SYSTEM	333,260.00	122,996.57	126,948.43	24,323.70	274,268.70	82.30	58,991.30	27,426.87	
06	SANITARY SEWER SYSTEM	441,360.00	111,233.62	135,927.98	28,294.80	275,456.40	62.41	165,903.60	27,545.64	
07	WATER DISTRIBUTION SYSTEM	223,080.00	17,434.00	0.00	762.70	18,196.70	8.16	204,883.30	1,819.67	
08	SEWAGE PUMP STATION	260,000.00	88,000.00	13,400.00	0.00	101,400.00	39.00	158,600.00	10,140.00	
CO01	CLEARING THRU JULY 3	21,172.00	21,172.00	0.00	0.00	21,172.00	100.00	0.00	2,117.20	
CO02	DEMOB WETWELL CREW	3,500.00	3,500.00	0.00	0.00	3,500.00	100.00	0.00	350.00	
CO03	CONTINUE PUMPING (8/24-31)	16,200.00	16,200.00	0.00	0.00	16,200.00	100.00	0.00	1,620.00	
CO04	LAMBERT CREW (8/26 & 8/27)	4,200.00	4,200.00	0.00	0.00	4,200.00	100.00	0.00	420.00	
CO05	EARTHWORK DUMP TRUCKING	5,000.00	5,000.00	0.00	0.00	5,000.00	100.00	0.00	500.00	
CO06	COMPLETE CLEARING	15,000.00	7,500.00	7,500.00	0.00	15,000.00	100.00	0.00	1,500.00	
CO07	PUMPING (9/1 & 9/2)	5,400.00	5,400.00	0.00	0.00	5,400.00	100.00	0.00	540.00	
CO08	LAMBERT CREW (8/30-9/2)	8,400.00	8,400.00	0.00	0.00	8,400.00	100.00	0.00	840.00	
<b>Application Total</b>		<b>2,111,018.00</b>	<b>570,214.19</b>	<b>319,029.26</b>	<b>53,381.20</b>	<b>942,624.65</b>	<b>44.65</b>	<b>1,168,393.35</b>	<b>94,262.47</b>	

FROM :

FAX NO. :

Dec. 02 2004 02:30PM P4

Application and Certificate For Payment

To: BRADY POINT PRESERVE LLC P.O. BOX 3000 AMELIA ISLAND, FL 32035-3000	Project: BRADY POINT PRESERVE NASSAU COUNTY 200 LITTLE BERRY LANE FERNANDINA BEACH,	Application No: 5 Date: 10/29/04 Period To: 10/29/04 Architect's Project No: Contract Date:
From: BRADDOCK CONSTRUCTION, INC. (Contractor): 1147 S. FIRST AVENUE P.O. BOX 51328 JACKSONVILLE, FL 32250	Contractor Job Number: 7367 Via (Architect): Contract For:	
Phone: 904 247-2302		

Contractor's Application For Payment

Change Order Summary	Additions	Deductions
Change orders approved in previous months by owner	78,872.00	
Change orders approved this month		
<b>Totals</b>		
<b>Net change by change orders</b>	<b>78,872.00</b>	

Original contract sum	2,032,146.00
Net change by change orders	78,872.00
Contract sum to date	2,111,018.00
Total completed and stored to date	942,624.65
Retainage	
10.0% of completed work	88,924.35
10.0% of stored material	5,338.12
Total retainage	94,262.47
Total earned less retainage	848,362.18
Less previous certificates of payment	513,192.77
Current sales tax	
0.00% of taxable amount	0.00
Current sales tax	0.00
Current payment due	<b>335,169.41</b>
Balance to finish, including retainage	1,262,655.82

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information, and belief the work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

By: [Signature] Date: 10/29/04  
 State of: Florida County of: Duval  
 Subscribed and sworn to before me this 30th day of October 2004 (year). Notary public: [Signature]  
 My commission expires 7/12/05



Architect's Certificate for Payment

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the Amount Certified.

Amount Certified: \$ 335,169.41

By: [Signature] Date: 11-18-04

This Certification is not negotiable. The Amount Certified is payable only to the Contractor named herein. Issuance, payment, and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

FROM :

FAX NO. :

Dec. 02 2004 02:30PM P3

**EXHIBIT C**  
**CONSTRUCTION CONTRACT**

1. Braddock Construction.
2. Florida Power & Light.

AIA DOCUMENT A107-1997

**Abbreviated Standard Form of Agreement Between Owner and Contractor for Construction Projects of Limited Scope where the basis of payment is a STIPULATED SUM**

AGREEMENT made as of the 5th day of May in the year 2004  
*(In words, indicate day, month and year)*

BETWEEN the Owner:  
*(Name, address and other information)*

Brady Point Preserve, LLC  
P.O. Box 3000  
Amelia Island, FL 32035-3000

and the Contractor:  
*(Name, address and other information)*

Braddock Construction Inc  
1147 1st Avenue South  
Jacksonville Beach, FL 32250

the Project is:  
*(Name and location)*

Brady Point Preserve  
Nassau County, Florida

Engineer  
the ~~ARCHITECT~~ is:  
*(Name, address and other information)*

Hill, Boring, Dunn & Associates, Inc  
1950 Belfort Parkway, Suite 1600  
Jacksonville, FL 32256

The Owner and Contractor agree as follows.

This document includes abbreviated General Conditions and should not be used with other general conditions.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document has been approved and endorsed by The Associated General Contractors of America.



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292



**ARTICLE 1 THE WORK OF THIS CONTRACT**

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

clearing, grading, sewer, storm drain, water and paving

**ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

2.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

*(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)*

2.2 The Contract Time shall be measured from the date of commencement.

2.3 The Contractor shall achieve Substantial Completion of the entire Work not later than 270 days from the date of commencement, or as follows:

*(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Contract Documents, insert any requirements for earlier Substantial Completion of certain portions of the Work.)*

Substantial completion is 270 days from Notice to Proceed, not including time for underground utilities by others.

, subject to adjustments of this Contract Time as provided in the Contract Documents.

*(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)*

**ARTICLE 3 CONTRACT SUM**

3.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be \$2,032,146.00 (two million, thirty two thousand, one hundred and forty six dollars 00/100), subject to additions and deletions as provided in the Contract Documents.



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

3.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner: See Attachment "C".  
(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

3.3 Unit prices, if any, are as follows:

See Attachment "A" Schedule of Values

#### ARTICLE 4 PAYMENTS

##### 4.1 PROGRESS PAYMENTS

4.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

4.1.2 Provided that an Application for Payment is received by the Architect not later than the 30th day of a month, the Owner shall make payment to the Contractor not later than the 20th day of the following month. If an Application for Payment is received by the Architect after the date fixed above, payment shall be made by the Owner not later than n/a days after the Architect receives the Application for Payment.

Retainage shall be 10%



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

4.1.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.  
(Insert rate of interest agreed upon, if any.)

N/A

*(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

4.2 FINAL PAYMENT

4.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- 1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Paragraph 17.2, and to satisfy other requirements, if any, which extend beyond final payment; and
- 2 a final Certificate for Payment has been issued by the Architect.

4.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

ARTICLE 5 ENUMERATION OF CONTRACT DOCUMENTS

5.1 The Contract Documents are listed in Article 6 and, except for Modifications issued after execution of this Agreement, are enumerated as follows:

5.1.1 The Agreement is this executed 1997 edition of the Abbreviated Standard Form of Agreement Between Owner and Contractor, AIA Document A107-1997.

5.1.2 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated \_\_\_\_\_, and are as follows:

Document	Title	Pages
----------	-------	-------

N/A



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

5.1.3 The Specifications are those contained in the Project Manual dated as in Subparagraph 5.1.2, and are as follows:  
*(Either list the Specifications here or refer to an exhibit attached to this Agreement.)*

Section	Title	Pages
	N/A	

5.1.4 The Drawings are as follows, and are dated July 2003 unless a different date is shown below:  
*(Either list the Drawings here or refer to an exhibit attached to this Agreement.)*

Number	Title	Pages
1	Cover Sheet	1
2	Index	1
3	Pre-Development Drainage Plan	1
4	Post Development Drainage Plan	1
5	Master Development Plan	1
6-13	Geometry Plans	8
14-22	Paving & Drainage Plans	9
23-30	Water & Sewer Plans	8
31-33	Roadway & Sewer Profiles	44

5.1.5 The Addenda, if any, are as follows:

Number	Date	Pages
1	4-6-04	1
34-35	Paving & Drainage Details	2
36	Water & Sewer Details	1
37-38	Pump Station Plans & Details	2
39-40	Pump Station Details	2

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 5.

5.1.6 Other documents, if any, forming part of the Contract Documents are as follows:  
*(List any additional documents which are intended to form part of the Contract Documents.)*

See Attachment "B" Bid Proposal



© 1997 AIA®  
 AIA DOCUMENT A107-1997  
 ABBREVIATED OWNER-  
 CONTRACTOR AGREEMENT

The American Institute  
 of Architects  
 1735 New York Avenue, N.W.  
 Washington, D.C. 20006-5292

## GENERAL CONDITIONS

### ARTICLE 6 GENERAL PROVISIONS

#### 6.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement with Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

#### 6.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Contractor, (2) between the Owner and a Subcontractor or sub-subcontractor, (3) between the Owner and Architect or (4) between any persons or entities other than the Owner and Contractor.

#### 6.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

#### 6.4 EXECUTION OF THE CONTRACT

Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

#### 6.5 OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

The Drawings, Specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service through which the Work to be executed by the Contractor is described. The Contractor may retain one record set. Neither the Contractor nor any Subcontractor, sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect or the Architect's consultants, and unless otherwise indicated the Architect and the Architect's consultants shall be deemed the authors of them and will retain all common law, statutory and other reserved rights, in addition to the copyrights. All copies of them, except the Contractor's record set, shall be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants. The Contractor, Subcontractors,



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

sub-subcontractors and material or equipment suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' copyrights or other reserved rights.

#### ARTICLE 7 OWNER

##### 7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

7.1.1 The Owner shall furnish and pay for surveys and a legal description of the site.

7.1.2 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

7.1.3 ~~Except for permits and fees which are the responsibility of the Contractor under the Contract Documents,~~ the Owner shall secure and pay for other necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.

##### 7.2 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

##### 7.3 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Owner, after 10 days' written notice to the Contractor and without prejudice to any other remedy the Owner may have, may make good such deficiencies and may deduct the reasonable cost thereof, including Owner's expenses and compensation for the Architect's services made necessary thereby, from the payment then or thereafter due the Contractor.

#### ARTICLE 8 CONTRACTOR

##### 8.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

8.1.1 Since the Contract Documents are complementary, before starting each portion of the Work, the Contractor shall carefully study and compare the various Drawings and other Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Subparagraph 7.1.1, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions or inconsistencies in the Contract Documents; however, any errors, omissions or inconsistencies discovered by the Contractor shall be reported promptly to the Architect as a request for information in such form as the Architect may require.



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

8.1.2 Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Architect, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents.

#### 8.2 SUPERVISION AND CONSTRUCTION PROCEDURES

8.2.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall be fully and solely responsible for the jobsite safety thereof unless the Contractor gives timely written notice to the Owner and Architect that such means, methods, techniques, sequences or procedures may not be safe.

8.2.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

#### 8.3 LABOR AND MATERIALS

8.3.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

8.3.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

8.3.3 The Contractor shall deliver, handle, store and install materials in accordance with manufacturers' instructions.

8.3.4 The Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order.

#### 8.4 WARRANTY

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

#### 8.5 TAXES

The Contractor shall pay sales, consumer, use and other similar taxes which are legally enacted when bids are received or negotiations concluded.



© 1997, AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

8.6 PERMITS, FEES AND NOTICES

8.6.1 Unless otherwise provided in the Contract Documents, the ~~Contractor~~ <sup>Owner</sup> shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.

8.6.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work. The Contractor shall promptly notify the Architect and Owner if the Drawings and Specifications are observed by the Contractor to be at variance therewith. If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect and Owner, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

8.7 SUBMITTALS

8.7.1 The Contractor shall review for compliance with the Contract Documents, approve in writing and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness. The Work shall be in accordance with approved submittals.

8.7.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

8.8 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

8.9 CUTTING AND PATCHING

The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

8.10 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material.

8.11 ROYALTIES, PATENTS AND COPYRIGHTS

The Contractor shall pay all royalties and license fees; shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof; but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect, unless the Contractor has reason to believe that there is an infringement of patent or copyright and fails to promptly furnish such information to the Architect.

8.12 ACCESS TO WORK

The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.,  
Washington, D.C. 20006-5292



### 8.13 INDEMNIFICATION

8.13.1 To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by Project Management Protective Liability insurance purchased by the Contractor in accordance with Paragraph 16.3, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 8.13.

8.13.2 In claims against any person or entity indemnified under this Paragraph 8.13 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Subparagraph 8.13.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts; disability benefit acts or other employee benefit acts.

### ARTICLE 9 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

9.1 The Architect will provide administration of the Contract and will be an Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Paragraph 17.2.

9.2 The Architect, as a representative of the Owner, will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Subparagraph 8.2.1.

9.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

9.4 Based on the Architect's evaluations of the Work and of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

9.5 The Architect will have authority to reject Work that does not conform to the Contract Documents.



© 1997, AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

9.6 The Architect will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

9.7 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect will make initial decisions on all claims, disputes and other matters in question between the Owner and Contractor but will not be liable for results of any interpretations or decisions so rendered in good faith.

9.8 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

9.9 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

#### 9.10 CLAIMS AND DISPUTES

9.10.1 Claims, disputes and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Architect but excluding those arising under Paragraph 15.2, shall be referred initially to the Architect for decision. Such matters, except those relating to aesthetic effect and except those waived as provided for in Paragraph 9.11 and Subparagraphs 14.5.3 and 14.5.4, shall, after initial decision by the Architect or 30 days after submission of the matter to the Architect, be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party.

9.10.2 If a claim, dispute or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by the Architect, by mediation or by arbitration.

9.10.3 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

9.10.4 Claims, disputes and other matters in question arising out of or relating to the Contract that are not resolved by mediation, except matters relating to aesthetic effect and except those waived as provided for in Paragraph 9.11 and Subparagraphs 14.5.3 and 14.5.4, shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association and shall be made within a reasonable time after the dispute has arisen. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Except by written consent of the person or entity sought to be joined, no arbitration arising out of or relating to the Contract Documents shall include, by consolidation, joinder or in any other manner, any person or entity not a party to the Agreement under which



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

such arbitration arises, unless it is shown at the time the demand for arbitration is filed that (1) such person or entity is substantially involved in a common question of fact or law, (2) the presence of such person or entity is required if complete relief is to be accorded in the arbitration, (3) the interest or responsibility of such person or entity in the matter is not insubstantial, and (4) such person or entity is not the Architect or any of the Architect's employees or consultants. The agreement herein among the parties to the Agreement and any other written agreement to arbitrate referred to herein shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

#### 9.11 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:

1. damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
2. damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 19. Nothing contained in this Paragraph 9.11 shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Contract Documents.

#### ARTICLE 10 SUBCONTRACTORS

10.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site.

10.2 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of the Subcontractors for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor to whom the Owner or Architect has made reasonable and timely objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

10.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by the Contract Documents, assumes toward the Owner and Architect, and (2) allow the Subcontractor the benefit of all rights, remedies and redress afforded to the Contractor by these Contract Documents.

#### ARTICLE 11 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

11.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

of the Project or other construction or operations on the site under conditions of the contract identical or substantially similar to these, including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such claim as provided in Paragraph 9.10.

11.2 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's activities with theirs as required by the Contract Documents.

11.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor.

#### ARTICLE 12 CHANGES IN THE WORK

12.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner, Contractor and Architect, or by written Construction Change Directive signed by the Owner and Architect.

12.2 The cost or credit to the Owner from a change in the Work shall be determined by mutual agreement of the parties or, in the case of a Construction Change Directive, by the Contractor's cost of labor, material, equipment, and reasonable overhead and profit.

12.3 The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

12.4 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be equitably adjusted.

#### ARTICLE 13 TIME

13.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

13.2 The date of Substantial Completion is the date certified by the Architect in accordance with Subparagraph 14.4.2.

13.3 If the Contractor is delayed at any time in the commencement or progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties or any causes beyond the Contractor's control, or by other causes which the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine, subject to the provisions of Paragraph 9.10.



©1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

## ARTICLE 14 PAYMENTS AND COMPLETION

### 14.1 APPLICATIONS FOR PAYMENT

14.1.1 Payments shall be made as provided in Article 4 of this Agreement. Applications for Payment shall be in a form satisfactory to the Architect.

14.1.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

### 14.2 CERTIFICATES FOR PAYMENT

14.2.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Subparagraph 14.2.3.

14.2.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluations of the Work and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

14.2.3 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Subparagraph 14.2.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Subparagraph 14.2.1. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Subparagraph 8.2.2, because of:

1. defective Work not remedied;
2. third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
3. failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
4. reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
5. damage to the Owner or another contractor;



© 1997 AIA®  
AIA DOCUMENT A107:1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

- .6 reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 persistent failure to carry out the Work in accordance with the Contract Documents.

14.2.4 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

#### 14.3 PAYMENTS TO THE CONTRACTOR

14.3.1 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to sub-subcontractors in similar manner.

14.3.2 Neither the Owner nor Architect shall have an obligation to pay or see to the payment of money to a Subcontractor except as may otherwise be required by law.

14.3.3 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

#### 14.4 SUBSTANTIAL COMPLETION

14.4.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

14.4.2 When the Architect determines that the Work or designated portion thereof is substantially complete, the Architect will issue a Certificate of Substantial Completion which shall establish the date of Substantial Completion, establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. Upon the issuance of the Certificate of Substantial Completion, the Architect will submit it to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate.

#### 14.5 FINAL COMPLETION AND FINAL PAYMENT

14.5.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions stated in Subparagraph 14.5.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

14.5.2 Final payment shall not become due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipts in full covering all labor,



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

materials and equipment for which a lien could be filed, or a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including costs and reasonable attorneys' fees.

14.5.3 The making of final payment shall constitute a waiver of claims by the Owner except those arising from:

1. liens, claims, security interests or encumbrances arising out of the Contract and unsettled;
2. failure of the Work to comply with the requirements of the Contract Documents; or
3. terms of special warranties required by the Contract Documents.

14.5.4 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## ARTICLE 15 PROTECTION OF PERSONS AND PROPERTY

### 15.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

1. employees on the Work and other persons who may be affected thereby;
2. the Work and materials and equipment to be incorporated therein; and
3. other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Subparagraphs 15.1.2 and 15.1.3, except for damage or loss attributable to acts or omissions of the Owner or Architect or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 8.13.

### 15.2 HAZARDOUS MATERIALS

15.2.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shutdown, delay and start-up, which adjustments shall be accomplished as provided in Article 12 of this Agreement.

15.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

Subparagraph 15.2.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

15.2.3 If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

#### ARTICLE 16 INSURANCE

16.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located insurance for protection from claims under workers' compensation acts and other employee benefit acts which are applicable, claims for damages because of bodily injury, including death, and claims for damages, other than to the Work itself, to property which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by the Contractor or by a Subcontractor or anyone directly or indirectly employed by any of them. This insurance shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater, and shall include contractual liability insurance applicable to the Contractor's obligations. Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner.

#### 16.2 OWNER'S LIABILITY INSURANCE

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

#### 16.3 PROJECT MANAGEMENT PROTECTIVE LIABILITY INSURANCE

16.3.1 Optionally, the Owner may require the Contractor to purchase and maintain Project Management Protective Liability insurance from the Contractor's usual sources as primary coverage for the Owner's, Contractor's and Architect's vicarious liability for construction operations under the Contract. Unless otherwise required by the Contract Documents, the Owner shall reimburse the Contractor by increasing the Contract Sum to pay the cost of purchasing and maintaining such optional insurance coverage, and the Contractor shall not be responsible for purchasing any other liability insurance on behalf of the Owner. The minimum limits of liability purchased with such coverage shall be equal to the aggregate of the limits required for Contractor's Liability insurance under Paragraph 16.1.

16.3.2 To the extent damages are covered by Project Management Protective Liability insurance, the Owner, Contractor and Architect waive all rights against each other for damages, except such rights as they may have to the proceeds of such insurance. The policy shall provide for such waivers of subrogation by endorsement or otherwise.

16.3.3 The Owner shall not require the Contractor to include the Owner, Architect or other persons or entities as additional insureds on the Contractor's Liability insurance under Paragraph 16.1.

#### 16.4 PROPERTY INSURANCE

16.4.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located,



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292



property insurance on an "all-risk" policy form, including builder's risk, in the amount of the initial Contract Sum, plus the value of subsequent modifications and cost of materials supplied and installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Paragraph 14.5 or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph 16.4 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and sub-subcontractors in the Project.

16.4.2 The Owner shall file a copy of each policy with the Contractor before an exposure to loss may occur. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

#### 16.5 WAIVERS OF SUBROGATION

16.5.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 11, if any, and any of their subcontractors, sub-subcontractors, agents and employees for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Paragraph 16.4 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 11, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

16.5.2 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their sub-subcontractors in similar manner.

#### ARTICLE 17 CORRECTION OF WORK

17.1 The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

17.2 In addition to the Contractor's obligations under Paragraph 8.4, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Subparagraph 14.4.2, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it



© 1997, AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty.

17.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 7.3.

17.4 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work.

17.5 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Article 17.

#### ARTICLE 18 MISCELLANEOUS PROVISIONS

##### 18.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract without written consent of the other.

##### 18.2 GOVERNING LAW

The Contract shall be governed by the law of the place where the Project is located.

##### 18.3 TESTS AND INSPECTIONS

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.

##### 18.4 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

As between Owner and Contractor, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued:

1. not later than the date of Substantial Completion for acts or failures to act occurring prior to the relevant date of Substantial Completion;
2. not later than the date of issuance of the final Certificate for Payment for acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to the issuance of the final Certificate for Payment; and
3. not later than the date of the relevant act or failure to act by the Contractor for acts or failures to act occurring after the date of the final Certificate for Payment.



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

#### ARTICLE 19 TERMINATION OF THE CONTRACT

##### 19.1 TERMINATION BY THE CONTRACTOR

If the Architect fails to recommend payment for a period of 30 days through no fault of the Contractor, or if the Owner fails to make payment thereon for a period of 30 days, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the

Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages applicable to the Project.

## 19.2 TERMINATION BY THE OWNER

19.2.1 The Owner may terminate the Contract if the Contractor:

1. persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
2. fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
3. persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
4. otherwise is guilty of substantial breach of a provision of the Contract Documents.

19.2.2 When any of the above reasons exists, the Owner, upon certification by the Architect that sufficient cause exists to justify such action, may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days' written notice, terminate the Contract and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

19.2.3 When the Owner terminates the Contract for one of the reasons stated in Subparagraph 19.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

19.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

ARTICLE 20 OTHER CONDITIONS OR PROVISIONS

1. All survey controls, offsets, property corners, lot corners, buffer zones, easement corners, plan CADD files, boundary surveys and Plat provided by Owner. Survey controls, including but not limited to, all centerline data and offsets for P.T.'s, P.C.'s, P.I.'s, P.R.C.'s etc. and all curve data and layout on 25' centers on curves and 50' centers on straightaways. Owner shall provide site benchmarks, a minimum of 10 each spaced equally throughout the jobsite.
2. Tree protection limited to 1500 lf per bid documents.
3. Electric to lift station site provided by Owner.
4. Street signage by Others.
5. See Attachment "C" for alternate pricing for clearing and disposal of clearing if burning of debris onsite is not allowed.
6. We have included initial water quality testing per FDEP requirements. If these tests show that discharge contains contaminants or pH levels not acceptable to the FDEP, we have not included any corrective measures.
7. Sidewalks not included.
8. Bond is not included.
9. Sleeving is not included.
10. Underground electric, telephone and TV are not included.
11. Owner shall pay 100% for materials stored based on invoices for materials submitted by Contractor on monthly applications for payment. Materials must be received very early in the contract schedule to protect prices and ensure availability.

This Agreement entered into as of the day and year first written above

\_\_\_\_\_  
OWNER (Signature)

*John D. Braddock*  
\_\_\_\_\_  
CONTRACTOR (Signature)

\_\_\_\_\_  
(Printed name and title)

*John D. Braddock*  
\_\_\_\_\_  
(Printed name and title)

*President*

CAUTION: You should sign an original AIA document or a licensed reproduction. Originals contain the AIA logo printed in red; licensed reproductions are those produced in accordance with the Instructions to this document.



© 1997 AIA®  
AIA DOCUMENT A107-1997  
ABBREVIATED OWNER-  
CONTRACTOR AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

# BRADDOCK CONSTRUCTION, INC.

P.O. BOX 51328 JACKSONVILLE BEACH, FLORIDA 32250-1328

## SCHEDULE OF VALUES-BRADY POINT 4/21/04

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	SUBTOTALS
<b>A. EARTHWORK &amp; CLEARING</b>						
	CLEAR, GRUBB, & BURN ONSITE	24.75	AC	\$4,404.00	\$109,000.00	
	SILT FENCE	5200	LF	\$2.00	\$10,400.00	
	TREE PROTECTION	1500	LF	\$1.50	\$2,250.00	
	HAYBALES	100	EA	\$22.00	\$2,200.00	
	CUT AND FILL FOR ROADWAYS	25000	CY	\$3.00	\$75,000.00	
	GRADE OFFSITE ROAD	1	LS	\$5,785.00	\$5,785.00	
	LAKE EXC-HAUL OFFSITE	58000	CY	\$0.00	\$0.00	
	DRESS LAKE SLOPES	1	LS	\$3,480.00	\$3,480.00	
	FINEGRADING EDGE OF PVMT	40000	SY	\$0.95	\$38,000.00	
	<b>A. SUBTOTAL EARTHWORK &amp; CLEARING</b>	1	LS			<b>\$246,115.00</b>
<b>B. PAVING &amp; CURBS</b>						
	ONSITE PAVING	21453	SY	\$19.00	\$407,807.00	
	OFFSITE PAVING	1390	SY	\$22.00	\$30,580.00	
	CURBS	910	LF	\$11.00	\$10,010.00	
	CONCRETE PAVERS	585	SY	\$86.00	\$48,590.00	
	MISC INCL MAINT OF TRAFFIC	1	LS	\$3,500.00	\$3,500.00	
	<b>B. SUBTOTAL PAVING &amp; CURBS</b>					<b>\$500,287.00</b>
<b>C. GRASSING &amp; MULCHING</b>						
	SEED & MULCH	57300	SY	\$0.28	\$16,044.00	
	<b>C. SUBTOTAL GRASSING &amp; MULCHING</b>					<b>\$16,044.00</b>
<b>D. SODDING</b>						
	SODDING	3000	SY	\$4.00	\$12,000.00	
	<b>C. SUBTOTAL SODDING</b>					<b>\$12,000.00</b>
<b>D. STORM DRAINAGE</b>						
	15" HDPE 0-6'	56	LF	\$15.00	\$840.00	
	18" HDPE 0-6'	414	LF	\$17.00	\$7,038.00	
	30" HDPE 0-6'	295	LF	\$29.00	\$8,555.00	
	15" RCP 0-6'	508	LF	\$24.00	\$12,192.00	
	18" RCP 0-6'	469	LF	\$28.00	\$13,132.00	
	24" RCP 0-6'	1358	LF	\$40.00	\$54,320.00	
	36" RCP 6-8'	978	LF	\$74.00	\$72,372.00	
	48" RCP 6-8'	307	LF	\$100.00	\$30,700.00	
	C INLETS	9	EA	\$2,167.00	\$19,503.00	
	E INLETS	5	EA	\$3,200.00	\$16,000.00	
	H INLETS	1	EA	\$5,700.00	\$5,700.00	
	MANHOLES	8	EA	\$4,067.00	\$32,536.00	
	CONFLICT MANHOLE	1	EA	\$3,917.00	\$3,917.00	
	15" PRECAST MES	3	EA	\$600.00	\$1,800.00	
	18" PRECAST MES	2	EA	\$860.00	\$1,320.00	
	24" PRECAST MES	17	EA	\$900.00	\$15,300.00	
	30" PRECAST MES	1	EA	\$1,100.00	\$1,100.00	
	48" FDOT MES	1	EA	\$4,500.00	\$4,500.00	
	CONTROL STRUCTURE	1	EA	\$2,800.00	\$2,800.00	
	MODIFIED ENDWALL S-34	1	EA	\$29,635.00	\$29,635.00	
	<b>D. SUBTOTAL STORM DRAIN</b>					<b>\$333,260.00</b>

I. SANITARY SEWER					
8" PVC PIPING 0-8'	1010	LF	\$11.50	\$11,615.00	
8" PVC PIPING 6-8'	1170	LF	\$12.00	\$14,040.00	
8" PVC PIPING 8-10'	1355	LF	\$14.80	\$19,783.00	
8" PVC PIPING 10-12'	1510	LF	\$16.30	\$24,613.00	
8" PVC PIPING 12-14'	1020	LF	\$23.10	\$23,662.00	
8" PVC PIPING 14-16'	785	LF	\$28.40	\$22,294.00	
8" PVC PIPING 16-18'	506	LF	\$30.00	\$15,180.00	
SOCK	9660	LF	\$6.50	\$62,780.00	
PUMP SOCK	9860	LF	\$7.35	\$71,001.00	
TV SEWER	7356	LF	\$2.00	\$14,712.00	
MANHOLES	30	EA	\$4,350.00	\$130,500.00	
SERVICES	77	EA	\$380.00	\$29,260.00	
MISC SEWER	1	LS	\$2,010.00	\$2,010.00	
<b>I. SUBTOTAL SEWER</b>					<b>\$441,360.00</b>
<b>II. WATER SYSTEM</b>					
8" DR 25 PVC	8060	LF	\$14.00	\$112,840.00	
6" DR 25 PVC	280	LF	\$10.00	\$2,800.00	
4" DR 25 PVC	20	LF	\$15.00	\$300.00	
2" SCH 40 PVC	340	LF	\$8.00	\$2,720.00	
12 x 8 TAP & VALVE	1	EA	\$3,650.00	\$3,650.00	
8" G.V & BOX	8	EA	\$1,000.00	\$8,000.00	
6" G.V & BOX	1	EA	\$700.00	\$700.00	
4" G.V & BOX	1	EA	\$550.00	\$550.00	
TESTING	8700	LF	\$1.00	\$8,700.00	
SERVICES	78	EA	\$398.00	\$31,044.00	
FLUSHING HYDRANTS	3	EA	\$600.00	\$1,800.00	
FIRE HYDRANTS	18	EA	\$2,600.00	\$46,800.00	
MISC WATER	1	LS	\$3,176.00	\$3,176.00	
<b>II. SUBTOTAL WATER</b>					<b>\$223,080.00</b>
<b>III. LIFT STATION &amp; FORCE MAIN</b>					
LIFT STATION COMPLETE	1.0	LS	\$200,000.00	\$200,000.00	
6" DR-18 PVC	3480	LF	\$15.00	\$52,200.00	
6" x 6" TAP & VALVE	1	EA	\$2,232.00	\$2,232.00	
TESTING	3480	LF	\$1.60	\$5,568.00	
<b>III. SUBTOTAL LIFT STATION &amp; FORCE MAIN</b>					<b>\$260,000.00</b>
<b>TOTAL BRADY POINT BID</b>		<b>1</b>	<b>LS</b>		<b>\$2,032,146.00</b>

Attachment "B"

Brady Point Preserve

BID PROPOSAL

This Proposal of Braddock Construction, Inc. (hereinafter referred to as "Bidder"), organized and existing under the laws of the State of Florida, is hereby submitted to:

Brady Point Preserve, LLC  
c/o HILL, BORING, DUNN & ASSOCIATES, INC.  
7950 Belfort Parkway, Suite 1600  
Jacksonville, FL 32256

The Bidder, in compliance with your Invitation for Bids on Brady Point Preserve, having examined the plans, specifications, geotechnical report prepared by Ellis & Associates, Inc. and related documents prepared by Hill, Boring, Dunn & Associates, Inc., and the site of the proposed work, and being familiar with all conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials, supplies and to construct the project in accordance with the contract documents at the prices stated below.

The Bidder hereby agrees to commence work within ten (10) days after the date of the award of the contract. Furthermore, it is agreed that Brady Point Preserve, LLC. has the right to delete any of the following items without compensation made to the undersigned. The successful Bidder may be required to provide a performance bond.

The Bidder acknowledges receipt of the following addenda:

# 1 of 04/06/04  
\_\_\_\_\_  
\_\_\_\_\_

In accordance with the Drawings, Sheets 1 of 41, through 41 of 41 prepared by Hill, Boring, Dunn & Associates, Inc., and the latest Nassau County and the JEA specifications, the Bidder offers the following Proposal;

Note: Phase 1 & 2 will be constructed simultaneously and shall be included in this bid.

Section A - Lump Sum Items:

ITEM	DESCRIPTION	AMOUNT
1.	<b><u>CLEARING &amp; EARTHWORK</u></b> - Clearing and grubbing of roadways, Lakes, drainage and utility corridors and easements, complete, as necessary to facilitate and complete grading of site to subgrade elevations in paved areas, and to the grades shown in unpaved areas. Removal and replacement of all unsuitable material shall be required, including removal and replacement of unsuitable material under roadway. Unsuitable material and any excess suitable material will be hauled offsite. Grade roadway subgrade, and seed and mulch all disturbed areas. Excavate lakes, fine grade lake banks. Construct embankments, perform dewatering and temporary water control, install silt screen, including making provisions to control turbidity in downstream surface waters and ditches during construction in accordance with all permits; water and compact suitable fill material where unsuitable material has been removed; spread, compact and grade to lines, slopes and grades shown on the Plans, specified in the specifications, and as directed by the Owner or Owner's representative; provide overall grading within and outside the right-of-way as shown on the plans; excavate temporary ditches for dewatering, if required; clear and grade electric utility transformer pad locations (assume twelve (12) 10' x 10' pad easements for the basis of this bid) and final cleanup. Erect and maintain silt fence where shown and other areas as may be necessary. Install continuous sod strip behind proposed curb and gutter. The price for this item number shall be the lump sum price for all work described including all labor, testing, materials, tools, equipment and incidentals for doing work as specified above and shown on the Plans and Specifications.	

Bidder shall make his own determination of the quantity of unsuitable material removal and replacement (if any) required on-site for all work. No adjustments to the Contract Price will be allowed for variation from the estimated amount of unsuitable material calculated by the Bidder in the preparation of this Bid Proposal. Owner shall provide benchmarks and boundary staking. Contractor shall maintain the staking and control elevations at his (Contractor's) expense during construction.

2.	<b><u>ROADWAYS</u></b> - Paving, striping, complete, including stabilization, base, prime coat, asphalt, curb and gutter at entrance, in accordance with plans and specifications and/or directed by the owner or engineer. The price for this item number shall be the lump sum price	246,115. <sup>00</sup> Dollars
----	--	--------------------------------



for all labor, materials, tools, testing, equipment and incidentals for doing all work as specified above and shown on the plans and specifications. NOTE: Contractor shall be responsible for roadway staking. The owner shall provide offset reference points for all PC's and PT's for the Contractor's use in staking roadway centerlines. Benchmarks are provided as shown on plans. Note: Street signs are not a part of this bid. Price shall include as-builts signed and sealed by registered surveyor in a format acceptable to Nassau County.

500,287.<sup>00</sup>

Dollars

3. GRASSING AND MULCHING - All disturbed areas as shown on the plans and other locations as authorized during construction in accordance with D.O.T. Specifications, Section 570

16094.<sup>00</sup>

Dollars

4. SODDING - As shown on the plans and other locations as authorized during construction and shall be in accordance with D.O.T. Specifications, Section 575.

12,000.<sup>00</sup>

Dollars

5. STORM DRAINAGE SYSTEM - Complete, including all inlets, pipe, storm manholes, including temporary ditches that the Contractor might require to facilitate the construction of underground drainage system. Contractor shall be responsible for backfilling in accordance with specifications and removal and replacement of unsuitable material as necessary to facilitate construction of the system. The price is for all labor, materials, tools, equipment and incidentals for doing all the work specified above and as shown on the plans and specifications.

NOTE: Contractor shall be responsible for locating all structures and pipes in roadway. Price shall include providing as-builts signed and sealed by registered surveyor, pipe lengths, top elevation and invert elevations in a format acceptable to Nassau County and SJRWMD.

333,260.<sup>00</sup>

Dollars

6. SANITARY SEWER SYSTEM - Complete, including all pipe, manholes, services with location markers, connections, plugs, flushing, all testing required by JEA, televising the mains after completion, repairing roads damaged by construction and required adjustment of existing utilities to facilitate sewer construction. Price shall

include providing as-builts showing pipe lengths, manhole top and invert elevations and pipe slopes. As-Builts shall be signed and sealed by registered surveyor in format acceptable to JEA.

44,760.<sup>00</sup> Dollars

7. WATER DISTRIBUTION SYSTEM - Complete, including all pipes, fire hydrants, services, valves and fittings, connections to existing watermains, flushing valves, repair to roads damaged by construction, pressure testing and bacteriologicals. All work in accordance with plans and specifications. Price shall include providing signed sealed as-builts by registered surveyor in format acceptable to JEA.

223,080.<sup>00</sup> Dollars

8. SEWAGE PUMP STATION -Complete including wetwell, pumps, piping, and site improvements. Include forcemain in this item. Price shall include providing signed and sealed as-builts by registered surveyor in format acceptable to JEA.

260,000.<sup>00</sup> Dollars

NOTE: All utility trenches under roadway to be backfilled and compacted with suitable material in accordance with specifications. It is required that successful Contractor provide: Workmans Compensation, Liability insurance for their workers and provide lien releases to the Owner upon payment of pay requests. All location markers for storm inlets, sanitary manholes, and water/sewer services shall be maintained by Contractor until Owner's acceptance of project.

Performance Bond (if Required) Add 1%.

Respectfully Submitted By:

James J. Sullivan, Pres.  
Name and Title:

Braddock Construction Inc  
Company:

4/09/04  
Date:

TOTAL OF ITEMS 1-8

\$2,032,146.<sup>00</sup> Dollars \*

NOTE: Contractor shall include with this bid, a detailed quantity & unit price schedule, no exceptions.

Days to complete (Calendar Days)

Final Inspection + Acceptance 270 Days

\* This Bid Does NOT include Corrections of Ground Water or water quality remediation JJS

## LISTING OF MANUFACTURERS & SUPPLIERS

The Contractor shall submit this sheet with his bid, completed, to list manufacturers of materials he intends to use. It shall be understood that where the Contractor elects not to use the material and/or manufacturers called for in the Specifications, he will substitute only items of equal quality, durability, functional character and efficiency as determined by the Engineer. The Contractor shall ascertain, prior to bidding, the acceptability of substitutes. Only one manufacturer shall be listed for each item.

### ITEM OR MATERIALS

Paving

Lincoln

Curbs

Precast

Kerbs

\_\_\_\_\_  
\_\_\_\_\_

### MANUFACTURERS & SUPPLIERS

DUAL Asphalt

Prichard Trucking

Concrete Profile inc.

STANDARD Precast

Water and Sewer Materials

\_\_\_\_\_  
\_\_\_\_\_

No change will be approved by the Engineer of any material manufacturer listed after receipt of the bids, unless the manufacturer so listed cannot furnish materials meeting the Specifications. Should such change be allowed, there will be no change of the bid originally submitted.

Brady Point Preserve

WORK PROGRESS SCHEDULE

PRE-ROADWAY CONSTRUCTION

Calendar days after construction begins to have project ready for roadway construction including installation of sewer, water, and storm drainage systems..... 180

UTILITY COMPLETION AND ROADWAY CONSTRUCTION

Calendar days after construction begins to complete construction of curb and primed limerock road base, TV inspect sewer, and have water sewer system accepted by Nassau County and JEA such that water meters will be issued and customers will be allowed to use the system..... 240

FINAL INSPECTION

Calendar days after construction begins to complete Nassau County and JEA final inspection, and all punchlist items required for Certification and Acceptance by the same and the St. Johns River Water Management District..... 270

The Contractor, by execution of this Proposal, represents that he read each and every clause contained in this agreement and other Contract Documents, that he has visited and studied the site, familiarized himself with the conditions under which the work is to be performed, and correlated his observations with the requirements of the Contract Documents.

Bidder Braddock Const. Inc.

Signature John A. Guadagnoli Date 4/9/04

# Braddock Construction, Inc.

P.O. Box 51328, 1147 First Avenue South  
Jacksonville Beach, Florida 32250-1328

Date: 4-28-04

Time: **FAXED**  
10:10 AM

To: Mr. Dan Nolan - AIC

Fax No: 321-5089

From: Tom Braddock

Number of Pages(including this sheet): 1

Comments: DAN, as requested, we have finished pricing the Clearing Alternates @ Brady Point. They are:

Alternate #1 ADD \$ 71,675.00

Clear, Grubb, Grind, & Stockpile in Lakes onsite. This means some parts of the Lakes will go undone until a solution is found for disposal. No impact on schedule.

Alternate #2 ADD \$ 89,000.00

Clear, Grubb, and haul/off Clearing. This alternate will add approx. 60 days to the schedule due to the logistics of trucking & disposal.

Both these Alternates would be added to the base bid if chosen. Therefore #1 Alternate with base bid would equal \$ 2,103,821.00 For total bid. Alternate #2 = \$ 2,121,146.00 and add 60 days.

**Sitework & Utilities Contractor**  
(904) 247-2302 FAX (904) 247-2337

*Call with any questions,*

*Tom Braddock*

## NOTIFICATION OF FPL FACILITIES



Customer/Agency: BRADY POINT PRESERVE, LLC Date of Meeting/Contact: 09/04/04

Developer/Contractor: BRADY POINT PRESERVE, LLC Project Number: 10894731

Name and Location of Project: BRADY POINT PRESERVE, FERNANDINA, FLORIDA

City: FERNANDINA

FPL Representative: ROBERT HADDOCK Phone: 904-696-7422

FPL calls your attention to the fact that energized, high voltage electric lines are located in the area of this project. Adjustment or relocation, if any, of FPL facilities by reason of this project has no relation to hazards which may be created by actions of the contractors or subcontractors, and their employees, in the operation, use, or handling of cranes, mobile equipment or any other equipment or materials in dangerous proximity to such lines during the course of construction. It is impossible for FPL to know or predict whether or not the contractors or subcontractors, and their employees, will have to operate/use cranes or other mobile equipment, or handle materials in dangerous proximity to such lines during the course of construction, and, if so, when and where. It is the responsibility of all contractors and subcontractors to diligently fulfill the following obligations on their part:

1. Make absolutely certain that all persons responsible for operating or handling cranes, draglines, mobile equipment or any equipment or, materials capable of contacting a power line, have a copy of and are familiar with all applicable state and federal regulations, including but not limited to U.S. Department of Labor OSHA Regulations, before commencing operation of said equipment;
2. Make sure that all cranes, draglines, mobile equipment, and all other equipment or materials capable of contacting a power line have attached to them any warning signs required by U.S. Department of Labor OSHA Regulations;
3. Warn all employees, new and old alike, of the dangers of handling or touching any crane, cable, equipment or machinery when located or working close to any overhead power line;
4. If, during the course of construction, it appears to be necessary for any contractor or subcontractor, and their employees, to operate or handle cranes, draglines, mobile equipment, or any other equipment, or materials in such a manner that they might come closer to overhead power lines than is permitted by State and Federal Regulations, such contractor or subcontractor must notify FPL in writing of such planned operation prior to the commencement thereof and make all necessary arrangements with FPL in order to carry out the work in a safe manner. Any work in the vicinity of the electric lines should be suspended until these arrangements are finalized and implemented.

It is requested that this notification be provided to each contractor and subcontractor on this project and to each of their supervisors on the jobsite to be shared with the employees, prior to commencing work on this project.

Also be advised that FPL may have underground electrical lines within the limits of this project. Call our Underground Location Number at 1-800-432-4770, forty-eight hours in advance of construction to ensure facilities are located accurately.

MAILED TO BRADY POINT PRESERVE, LLC WITH AGREEMENT PACKAGE, PO BOX 3000 FB FL 32035

Means by which this notification was provided to customer and/or contractor

(if mailed, address mailed to)

Robert Haddock  
FPL Representative Signature

9-4-04  
Date

Work Order 1089473

**UNDERGROUND DISTRIBUTION FACILITIES INSTALLATION AGREEMENT**

This Agreement, made this \_\_\_ day of SEPTEMBER, 2004 by and between BRADY POINT PRESERVE, LLC (hereinafter called the Customer) and Florida Power & Light Company, a corporation organized and existing under the laws of the State of Florida (hereinafter called FPL).

**WITNESSETH:**

Whereas, the Customer has applied to FPL for underground distribution facilities to be installed on Customer's property known as BRADY POINT PRESERVE UNIT 1, AND UNIT 2 located in FERNANDINA, Florida.  
(City/County)

That for and in consideration of the covenants and agreements herein set forth, the parties hereto covenant and agree as follows:

1. The Customer shall pay FPL a Contribution in Aid of Construction of \$26,746.32 (the Contribution) to cover the differential cost between an underground and an overhead system. This is based on the currently effective tariff filed with the Florida Public Service Commission by FPL and is broken down as follows: 76 BUILDING LOTS @ \$367.00 PER LOT MINUS CREDIT FOR CUSTOMER INSTALLING FPL 2" PVC IN ROAD CROSSINGS. 120/240 3 PHASE TO SEWER LIFT STATION.
2. That a credit of \$2404.26 shall be provided to the Customer for trenching, backfilling and the installation of Company provided conduit, if applicable and approved by FPL.
3. The contribution and credit are subject to adjustment when FPL's tariff is revised by the Florida Public Service Commission and the Customer has requested FPL to delay FPL's scheduled date of installation. Any additional costs caused by a Customer's change in the Customer's plans submitted to FPL on which the contribution was based shall be paid for by the Customer. The contribution does not include the cost of conversion of any existing overhead lines to underground or the relocation of any existing overhead or underground facilities to serve the property identified above.
4. That the Contribution provides for 120/240 volt, SINGLE phase (120/240 volt, single phase for UMD Subdivisions) underground electrical service with facilities located on private property in easements as required by FPL. The Contribution is based on employment of rapid production techniques and cooperation to eliminate conflicts with other utilities. Underground service, secondary and primary conductors installed by FPL are to be of standard FPL design in conduit and with above grade appurtenances.
5. That the payment of the Contribution does not waive any provisions of FPL's Electric Tariff.  
If the property is subject to an underground ordinance, FPL shall notify the appropriate governmental agency that satisfactory arrangements have been made with the Customer as specified by FPL.  
Title to and ownership of the facilities installed by FPL as a result of this agreement shall at all times remain the property of FPL.
6. That good and sufficient easements, including legal descriptions and survey work to produce such easements, and mortgage subordinations required by FPL for the installation and maintenance of its electric distribution facilities must be granted or obtained, at no cost to FPL, prior to FPL's trenching, installation and/or construction of its facilities. FPL may require mortgage subordinations when the Customer's property, on which FPL will install its facilities, is mortgaged and (1) there are no provisions in the mortgage that the lien of the mortgage will be subordinate to utility easements, (2) FPL's easement has not been recorded prior to the recordation of the mortgage, (3) FPL's facilities are or will be used to serve other parcels of property, or (4) other circumstances exist which FPL determines would make such a subordination necessary.
  - a) The Customer shall furnish FPL a copy of the deed or other suitable document which contains a full legal description and exact name of the legal owner to be used when an easement is prepared, as required by FPL.
  - b) The Customer shall furnish drawings, satisfactory to FPL, showing the location of existing and proposed structures on the Customer's construction site, as required by FPL.
  - c) Should for any reason, except for the sole error of FPL, FPL's facilities not be constructed within the easement, FPL may require the Customer to grant new easements and obtain any necessary mortgage subordinations to cover FPL's installed facilities, and FPL will release the existing easement. Mortgage subordinations will be necessary in this context when 1) the Customer's property on which FPL will install its facilities is mortgaged, 2) there are no provisions in the mortgage for subordination of the lien of the mortgage to utility easements, or 3) FPL's facilities are or will be used to serve other parcels of property.
7. Before FPL can begin its engineering work on the underground electric distribution facilities, the Customer shall provide FPL with the following:
  - a) Paving, grading, and drainage plans showing all surface and sub-surface drainage satisfactory to FPL,
  - b) A construction schedule,
  - c) An estimate of when electric service will be required, and
  - d) Copies of the Customer's final construction plans as well as other construction drawings (plot, site, sewage, electrical, etc.) requested by FPL. Plans provided by the Customer must be either recorded by the circuit clerk or other recording officer or prepared and certified as meeting the requirements for recording (except approval by the governing body) by a registered land surveyor.
8. Prior to FPL construction pursuant to this agreement, the Customer shall:
  - a) Clear the FPL easement on the Customer's property of tree stumps, all trees, and other obstructions that conflict with construction, including the drainage of all flooded areas. The Customer shall be responsible for clearing, compacting, boulder and large rock removal, stump removal, paving and addressing other special conditions. The easement shall be graded to within six inches of final grade with soil stabilized.



- b) Provide property line and corner stakes, designated by a licensed surveyor, to establish a reference for locating the underground cable trench route in the easement and additional reference points when required by FPL. Also, the Customer shall provide stakes identifying the location, depth, size and type facility of all non-FPL underground facilities within or near the easement where FPL distribution facilities will be installed. The Customer shall maintain these stakes, and if any of these stakes are lost, destroyed or moved and FPL requires their use, the Customer shall replace the stakes at no cost to FPL, unless the stakes are lost, destroyed or moved by an agent, employee, contractor or subcontractor of FPL, in which case FPL will pay the Customer the cost of replacing the stakes.
- c) It is further understood and agreed that subsequent relocation or repair of the FPL system, once installed, will be paid by the Customer if said relocation or repair is a result of a change in the grading by the Customer or any of the Customer's contractors or subcontractors from the time the underground facilities were installed; and, that subsequent repair to FPL's system, once installed, will be paid by the Customer if said repair is a result of damage caused by the Customer or any of the Customer's contractors or subcontractors.
- d) Provide sufficient and timely advance notice (30 days) as required by FPL, for FPL to install its underground distribution facilities prior to the installation of paving, landscaping, sodding, sprinkler systems, or other surface obstructions. In the absence of sufficient coordination, as determined by FPL, by the Customer, all additional costs for trenching and backfilling shall be paid by the Customer, and none of the costs of restoring paving, landscaping, grass, sprinkler systems and all other surface obstructions to their original condition, should they be installed prior to FPL's facilities, shall be borne by FPL.
- e) Pay for all additional costs incurred by FPL which may include, but are not limited to, engineering design, administration and relocation expenses, due to changes made subsequent to this agreement on the subdivision or development layout or grade.
- f) Provide applicable trenching, backfilling and installation of Company provided conduit in accordance with FPL specifications.

9. FPL shall:

- a) Provide the Customer with a plan showing the location of all FPL underground facilities, point of delivery, and transformer locations and specifications required by FPL and to be adhered to by the Customer.
- b) Install, own, and maintain the electric distribution facilities up to the designated point of delivery except when otherwise noted.
- c) Request the Customer to participate in a pre-construction conference with the Customer's contractors, the FPL representatives and other utilities within six (6) weeks of the start of construction. At the pre-construction conference, FPL shall provide the Customer with an estimate of the date when service may be provided.

10. This Agreement is subject to FPL's Electric Tariff, including but not limited to the General Rules and Regulations for Electric Service and the Rules of the Florida Public Service Commission, as they are now written, or as they may be revised, amended or supplemented.

The Customer and FPL will coordinate closely in fulfilling obligations in order to avoid delays in providing permanent electric service at the time of the Customer's receipt of a certificate of occupancy.

Accepted: Robert E. Haroldson 9-4-04  
 For FPL (Date)

(Print Name)

Accepted: BRADY POTUT PRESERVE, LLC  
 Customer Lorah P. ... VP 12-1-04 (Date)  
 Witness Margaret Ann Wood 12-1-04 (Date)  
 Witness ... 12/1/04 (Date)

FPL UNDERGROUND ROAD/PAVEMENT CROSSING AGREEMENT

This Agreement, made this \_\_\_ day of SEPTEMBER, 2004, by and between BRADY POINT PRESERVE, LLC (hereinafter called the Customer) and Florida Power & Light Company, a corporation organized and existing under the laws of the State of Florida (hereinafter called FPL).

WHEREAS, the Customer has requested the pre-approval of the location and installation of underground distribution facilities to be located under a dedicated roadbed described as follows:

BRADY POINT RD, SHELL MIDDEN CIR, NASSAU COUNTY, FLORIDA

Project Name BRADY POINT PRESERVE Phase 1 & 2
FPL Work Order No. 1089473

WITNESSETH

That, for and in consideration of the covenants and agreements herein set forth, the parties hereto covenant and agree as follows:

1. The Customer shall:

- a) Install conduit and cable markers provided by FPL in accordance with the instructions and specifications attached to this Agreement,
b) provide reasonable notification of the conduit installation date and allow FPL to inspect the conduit installation prior to backfilling the trench created for the underground distribution facility,
c) at the request of FPL, correct any discrepancies found in the installation that are inconsistent with the instructions and specifications attached to this Agreement, or pay FPL the associated cost to correct the installation, and
d) provide survey control points for FPL to stake the road/pavement crossing.

2. FPL shall:

- a) provide instructions and specifications for the installation of FPL-provided conduit,
b) provide conduit and cable markers to the Customer for the installation of underground facilities at the specified road/pavement crossing,
c) provide staking for the Customer at the specified road/pavement crossing,
d) inspect the underground distribution facilities prior to the backfilling of the trench to insure proper installation of said facilities, and
e) apply a credit in the amount of \$ 2404.28 in the event that the Customer has made or has agreed to make a contribution in aid of construction for other underground distribution facilities associated with this Agreement.

3. This agreement is subject to FPL's General Rules and Regulations for Electric Service and the Rules of the Florida Public Service Commission.

IN WITNESS WHEREOF the parties hereto have caused the Agreement to be duly executed to be effective as of the day and year first written above,

Accepted:

For FPL (Date)

Accepted: BRADY POINT PRESERVE, LLC

For Customer (Date)

Witness (Date)

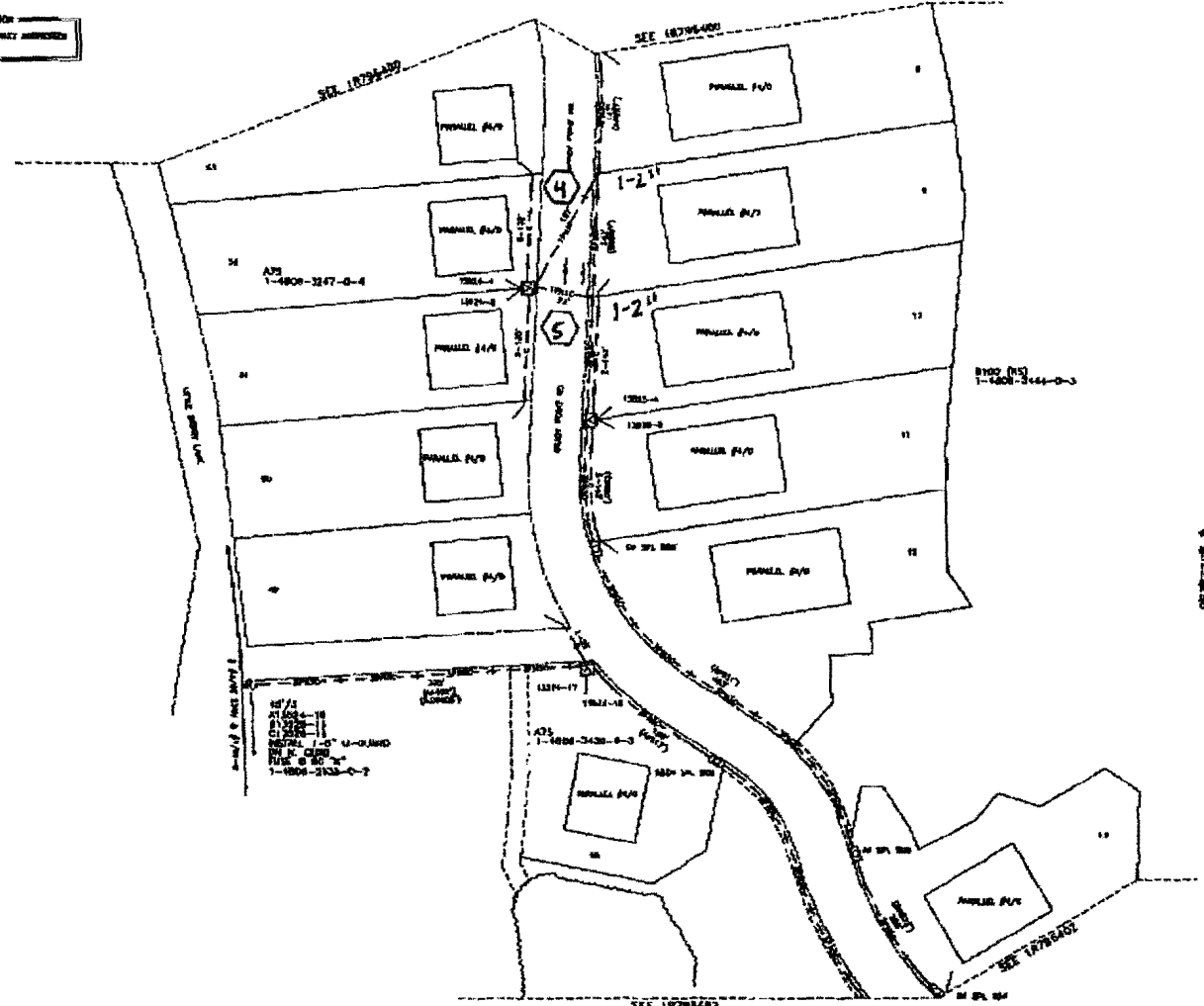
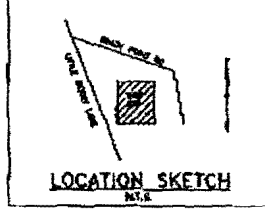
Witness (Date)



12/01/2004 15:15 FAX

ADDITIONAL STREET ADDRESS FOR THIS MAP

PARCELS  LOT  ALL USE ZON  LOTS  HALF SECTION  RAIL



CONSTRUCTION NOTES -- SEE PARCELS  
 PARCELS SHOWN  
 THIS PLAN  
 SHOWS THE LOTS AND PARCELS  
 AS SHOWN ON THE MAPS AND RECORDS  
 OF THE COUNTY OF WASHINGTON  
 DATE 12/01/04 15:15 FAX

REFERENCE DWG'S

- 13788495
- 18788469
- 18788462

12 LOTS

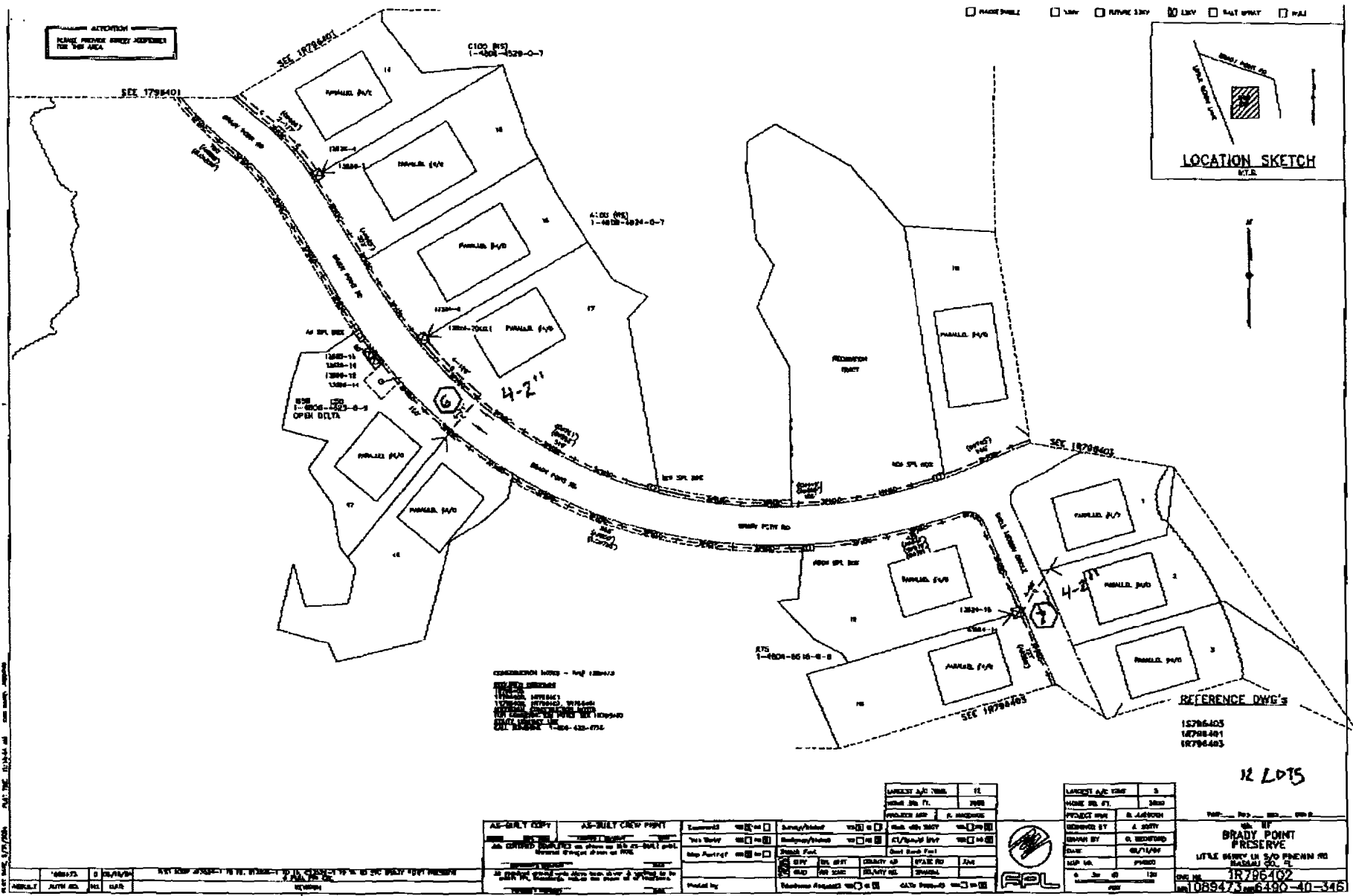
THIS MAP WAS PREPARED BY THE COUNTY OF WASHINGTON, DEPARTMENT OF LAND AND SURVEY

APPLICANT	DATE	NO.	NO.	NO.	NO.
PROJECT NAME		PROJECT NO.	PROJECT DATE	PROJECT STATUS	PROJECT COMMENTS
PROJECT NO.	PROJECT DATE	PROJECT STATUS	PROJECT COMMENTS	PROJECT PREPARED BY	
PROJECT NO.	PROJECT DATE	PROJECT STATUS	PROJECT COMMENTS	PROJECT PREPARED BY	

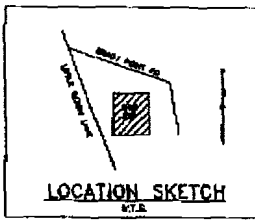
PROJECT NO.	PROJECT DATE	PROJECT STATUS	PROJECT COMMENTS
PROJECT NO.	PROJECT DATE	PROJECT STATUS	PROJECT COMMENTS
PROJECT NO.	PROJECT DATE	PROJECT STATUS	PROJECT COMMENTS
PROJECT NO.	PROJECT DATE	PROJECT STATUS	PROJECT COMMENTS

AD BY  
**BRADY POINT PRESERVE**  
 LITTLE HURRY LN S/2 E/4 SW/4 AD  
 WASHINGTON DC 20711  
 18788469  
 1888473 and 6490-46-348

010/018



PLEASE PROVIDE STREET ADDRESS FOR THIS AREA



CONSTRUCTION NOTES - SEE 18796403  
 SEE 18796403  
 1. SEE 18796403  
 2. SEE 18796403  
 3. SEE 18796403  
 4. SEE 18796403  
 5. SEE 18796403  
 6. SEE 18796403  
 7. SEE 18796403  
 8. SEE 18796403  
 9. SEE 18796403  
 10. SEE 18796403  
 11. SEE 18796403  
 12. SEE 18796403

REFERENCE DWG'S  
 18796403  
 18796401  
 18796403

12 LOTS

AS-BUILT COPY	AS-BUILT CREW POINT
DATE: 12/01/2004	DATE: 12/01/2004
BY: [Signature]	BY: [Signature]

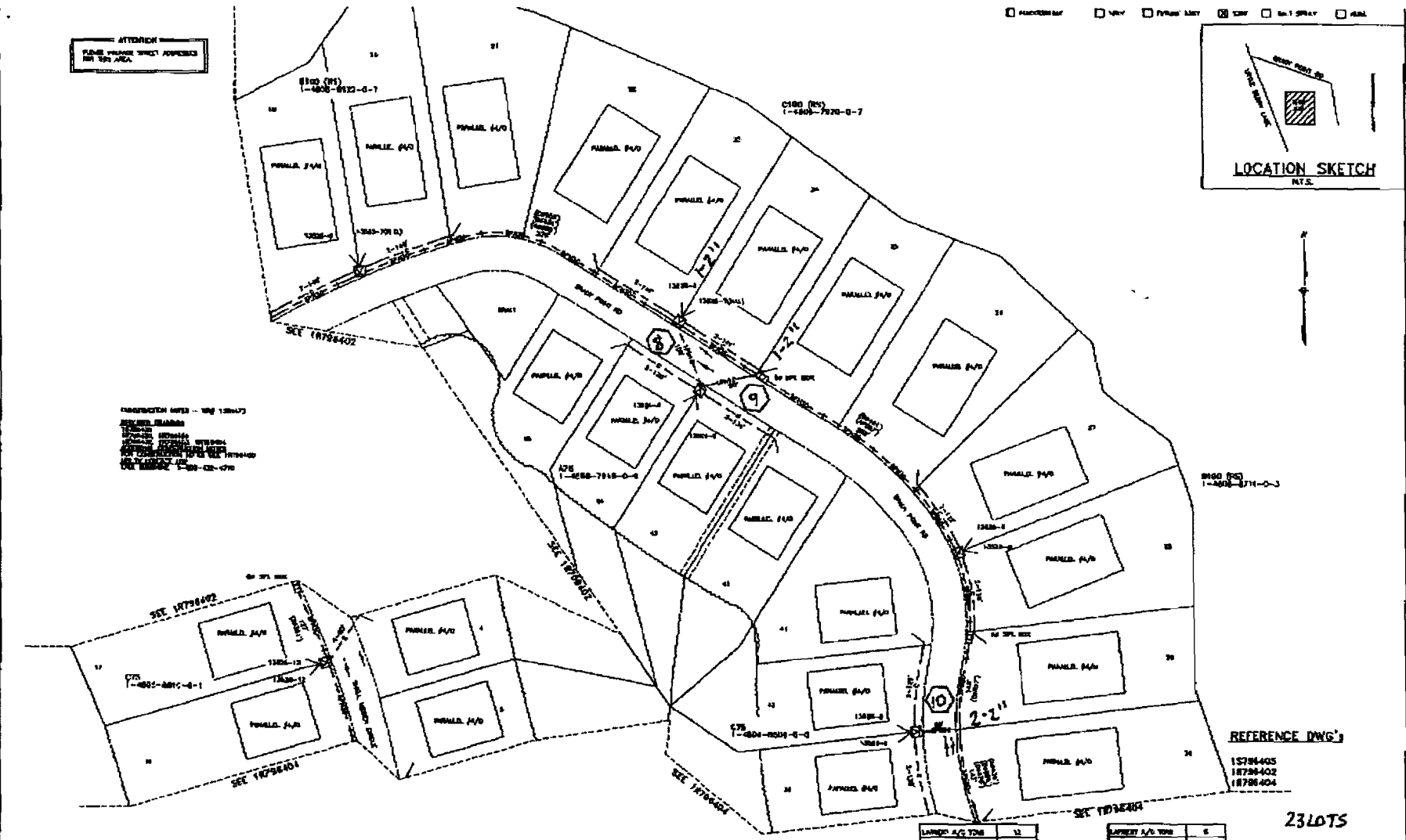
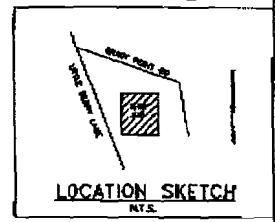
Reviewed	Yes/No	Approved	Yes/No	Check with [ ]	Yes/No
Top Order	Yes/No	Redesign/Revised	Yes/No	Check with [ ]	Yes/No
Map Accuracy	Yes/No	Check Foot	Yes/No	Check with [ ]	Yes/No
BY: [Signature]	DATE: 12/01/2004	BY: [Signature]	DATE: 12/01/2004	BY: [Signature]	DATE: 12/01/2004

PROJECT NO.	18796403
DATE	12/01/2004
BY	[Signature]
CHECKED BY	[Signature]
DATE	12/01/2004
MAP NO.	18796403

BRADY POINT PRESERVE  
 LITTLE BRADY LN S/O PINNAC RD  
 BRADY CO, MO  
 64643  
 816-646-4345

ATTORNEY  
PLUMB, PAVAGE STREET, JEFFERSON  
CITY, MISSOURI

RECORD MAP  VIEW  PLUMB MAP  COPY  IN 1 SHEET  AREA



CONSTRUCTION NOTES - SEE 18796402  
SEE 18796401  
SEE 18796403  
SEE 18796404  
SEE 18796405  
SEE 18796406  
SEE 18796407  
SEE 18796408  
SEE 18796409  
SEE 18796410  
SEE 18796411  
SEE 18796412  
SEE 18796413  
SEE 18796414  
SEE 18796415  
SEE 18796416  
SEE 18796417  
SEE 18796418  
SEE 18796419  
SEE 18796420  
SEE 18796421  
SEE 18796422  
SEE 18796423

REFERENCE DWG'S  
18796405  
18796402  
18796404

23 LOTS

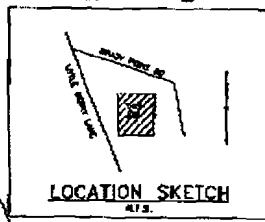
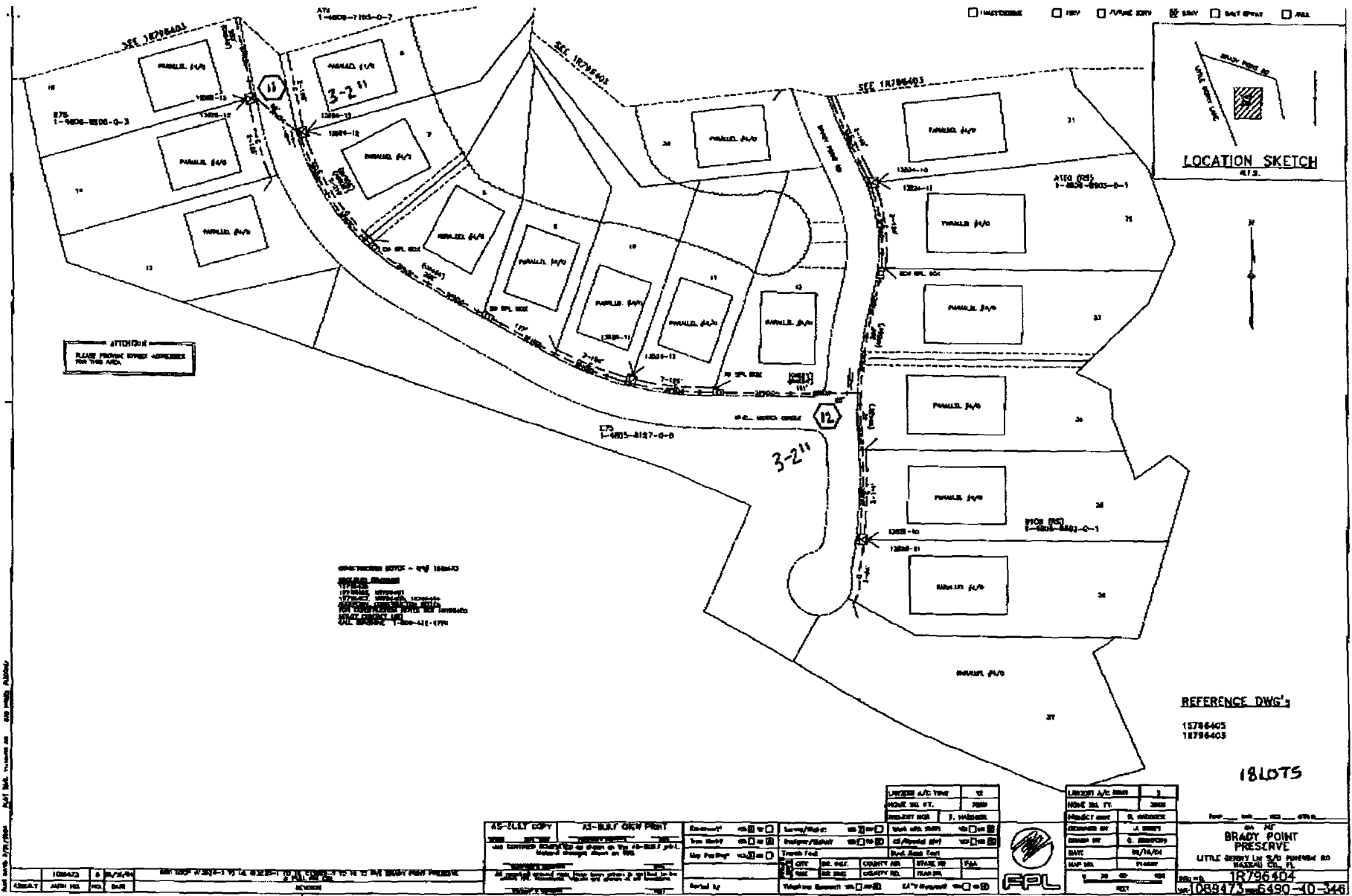
AS-BUILT COPY  
AS-BUILT ONLY PERM  
THIS DRAWING IS THE PROPERTY OF THE ENGINEER AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN CONSENT OF THE ENGINEER.  
ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

Submitted by: [ ]  
Prepared by: [ ]  
Checked by: [ ]  
Date: [ ]  
Scale: [ ]  
Title: [ ]



PROJECT NO. 18796403  
DATE 12/01/04  
SHEET NO. 1 OF 1

BRADY POINT PRESERVE  
LITTLE NEPHEW AND S/D BREWSTER RD  
MARIETTA, MO  
18796403  
18796403  
18796403



**ATTENTION**  
PLEASE PROVIDE OWNER ADDRESS FOR THIS AREA.

**CONSTRUCTION NOTES - 4/1/186403**  
 1. ALL UTILITIES TO BE DELETED.  
 2. ALL UTILITIES TO BE RELOCATED TO THE OUTSIDE OF THE LOTS.  
 3. ALL UTILITIES TO BE DELETED AND RELOCATED TO THE OUTSIDE OF THE LOTS.  
 4. ALL UTILITIES TO BE DELETED AND RELOCATED TO THE OUTSIDE OF THE LOTS.  
 5. ALL UTILITIES TO BE DELETED AND RELOCATED TO THE OUTSIDE OF THE LOTS.  
 6. ALL UTILITIES TO BE DELETED AND RELOCATED TO THE OUTSIDE OF THE LOTS.  
 7. ALL UTILITIES TO BE DELETED AND RELOCATED TO THE OUTSIDE OF THE LOTS.  
 8. ALL UTILITIES TO BE DELETED AND RELOCATED TO THE OUTSIDE OF THE LOTS.  
 9. ALL UTILITIES TO BE DELETED AND RELOCATED TO THE OUTSIDE OF THE LOTS.  
 10. ALL UTILITIES TO BE DELETED AND RELOCATED TO THE OUTSIDE OF THE LOTS.

**REFERENCE DWG'S**  
 15786403  
 18786403

**18 LOTS**

AS-BUILT COPY	AS-BUILT COPY
DATE: 12/01/2004	DATE: 12/01/2004
BY: [Signature]	BY: [Signature]
CHECKED: [Signature]	CHECKED: [Signature]
APPROVED: [Signature]	APPROVED: [Signature]

PROJECT NO.	18786403
DATE	12/01/2004
BY	[Signature]
CHECKED	[Signature]
APPROVED	[Signature]
CITY	Little Rock, AR
COUNTY	Pulaski, AR
STATE	AR
ZIP	72201

PROJECT NO.	18786403
DATE	12/01/2004
BY	[Signature]
CHECKED	[Signature]
APPROVED	[Signature]
CITY	Little Rock, AR
COUNTY	Pulaski, AR
STATE	AR
ZIP	72201

PROJECT NO.	18786403
DATE	12/01/2004
BY	[Signature]
CHECKED	[Signature]
APPROVED	[Signature]
CITY	Little Rock, AR
COUNTY	Pulaski, AR
STATE	AR
ZIP	72201



Florida Power & Light Company  
PO BOX 2019  
CALLAHAN FL 32011

DATE: 12-01-04

Florida Power & Light Company  
PO Box 2019  
Callahan FL 32011

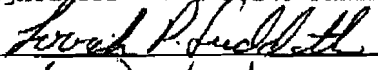
Re: Installation of Underground Electric Distribution Facilities  
BRADY POINT PRESERVE, FERNANDINA, Nassau County, Florida

Dear Bob Haddock:

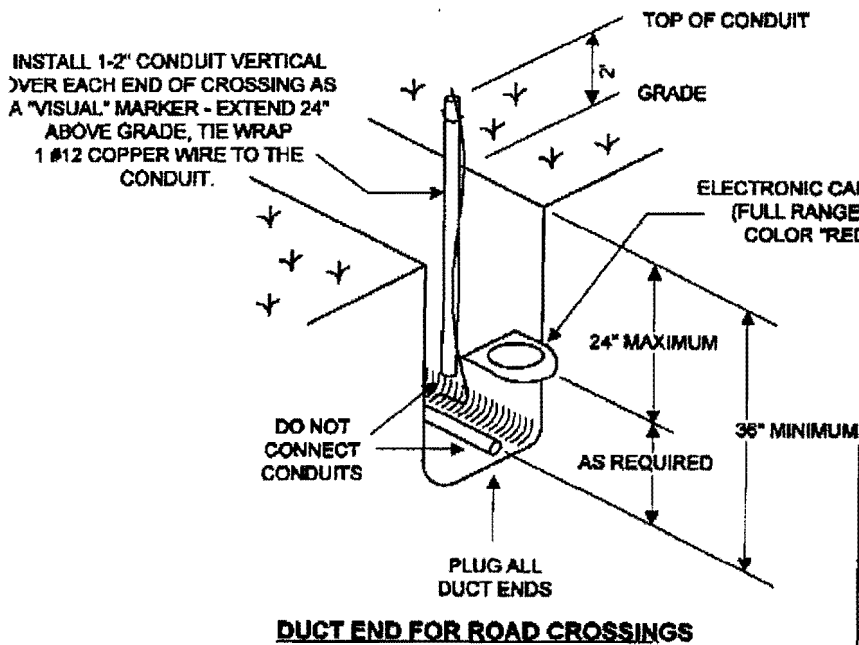
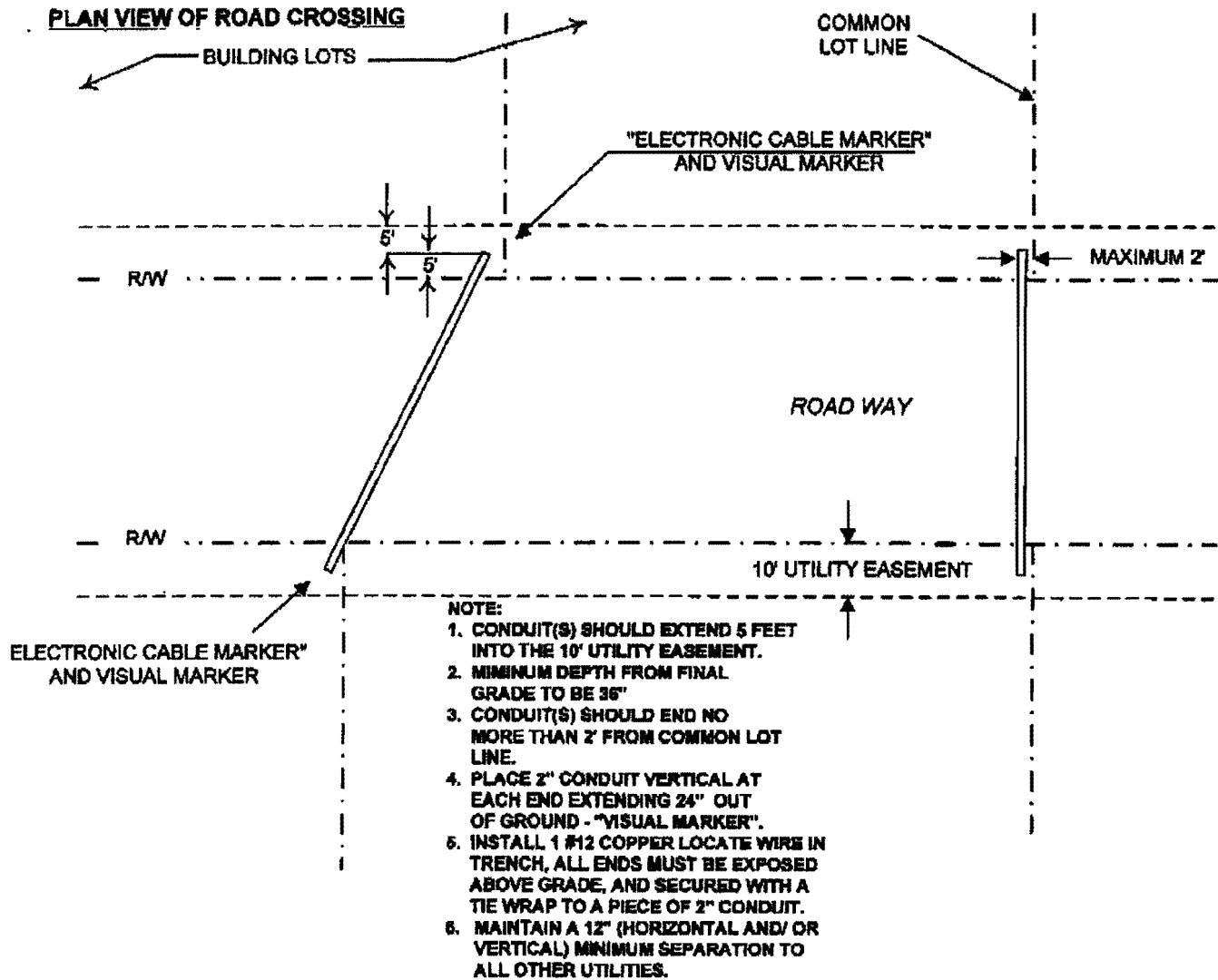
This is to notify you that the site at the aforementioned project is ready for the installation of your underground electric distribution facilities:

1. The underground cable route has been cleared of trees, stumps and other obstructions.
2. The cable route has been filled or cut to within 6" of final grade.
3. Grade stakes have been set along the cable route marked to indicate final grade.
4. Lot lines and corners have been staked as you requested for reference to locate the cable route.
5. Any grade or reference stakes found missing will be replaced by our surveyors at your request.
6. All flooded areas have been drained.
7. All underground facilities have been staked within 2 feet of their location along the cable route. Stakes are marked with depth, size and type of facility.
8. The above conditions will be maintained throughout construction of FPL facilities.

Signed for BRADY POINT PRESERVE, LLC

  
Vice President





PROJECT	<u>BRADY POINT PRESERVE</u>
FPL JOB NO.	<u>1089473</u>
FPL REP.	<u>ROBERT HADDOCK</u>
PHONE NO.	<u>904-696-7422</u>

**Work Request Charges Quotation  
FPL-Power Systems**

To: BRADY POINT PRESERVE, LLC  
6490-040-0348  
PO BOX 3000  
FERNANDINA BEACH, FL 32035

Quote Number: NF10894731  
Description: DIFFERENTIAL COST FOR UNDERGROUND  
DISTRIBUTION SYSTEM TO BRADY POINT  
PRESERVE, 76 BUILDING LOTS

Quote Date: 9/4/2004  
Preferred Option: Yes  
No. Payments:  
Project:

**Quotation Details**

Description	Refundable?	Unit Cost	Quantity	Total	Due Before Work	Paid
New Sub-low density (per lot)	No	367.00	76	27,892.00	Y	
Trench Only (per foot)	No	-1.80	1153	-2,075.40	Y	
install 2" PVC only (per foot)	No	-0.32	2304	-737.28	Y	
Loop-2PH Frm Exst UG TM Sourc(=<100 KVA)	No	1,667.00	1	1,667.00	Y	

<b>Charges Due Before Work Starts:</b>	26,746.32	
<b>Tax:</b>	0.00	
<b>Subtotal:</b>		26,746.32
<b>Charges Due On Completion:</b>	0.00	
<b>Tax:</b>	0.00	
<b>Subtotal:</b>		0.00
<b>Total Charges:</b>	26,746.32	
<b>Total Tax:</b>	0.00	
<b>Total Including Tax:</b>	26,746.32	
<b>Total Refundable:</b>	0.00	
<b>Total Non-Refundable:</b>	26,746.32	

**EXHIBIT D**  
**AMENDED & RESTATED ACQUISITION AND**  
**DEVELOPMENT LOAN AGREEMENT**

**AMENDED AND RESTATED**  
**ACQUISITION AND DEVELOPMENT LOAN AGREEMENT**

This Amended and Restated Acquisition and Development Loan Agreement (the "Agreement") is made and entered into as of the 30<sup>th</sup> day of January, 2004, by and between **COMPASS BANK**, an Alabama banking corporation (the "Lender") and **BRADY POINT PRESERVE LLC**, a Florida limited liability company (the "Borrower").

**RECITALS:**

A. Borrower and Lender have previously executed that certain Acquisition and Development Loan Agreement dated February 21, 2003 (hereinafter referred to herein as the "Prior Loan Agreement") evidencing a development loan (the "Loan") in the maximum principal amount of \$8,600,000.00 for the development of a residential subdivision on real property situate in Nassau County, Florida now and hereafter encumbered by the Mortgage (as hereinafter defined).

B. The aggregate principal balance outstanding and to be disbursed under the Loan is \$5,450,000.00. Borrower and Lender have agreed to increase the maximum principal amount of the Loan to Eight Million Eighty Four Thousand and 00/100 Dollars (\$8,084,000.00). Accordingly, the Borrower has executed and delivered that certain Renewal Promissory Note Including Future Advance in the amount of Eight Million Eighty Four Thousand and 00/100 Dollars (\$8,084,000.00). Such Promissory Note shall evidence the Loan and will be secured by the Mortgage.

C. Borrower and Lender now desire to amend and restate the Prior Loan Agreement in its entirety.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, Borrower and Lender hereby agree that the Prior Loan Agreement is hereby amended in its entirety to read as follows:

**ARTICLE I**

**PARTICULAR TERMS AND DEFINITIONS**

For purposes of this Agreement, the following terms shall have the respective meanings specified in this Article 1 (such meanings to be equally applied to both the singular and plural forms of the terms defined):

1.1 Account to Receive Advances: Development Draw Account of Borrower established with Lender.

1.2 Agent to Request Advances: S. Norman Bray or any officer or agent of Borrower, appointed by Borrower and approved by Lender.

- 1.3 Borrower and Address: Brady Point Preserve LLC  
3000 First Coast Highway South  
Amelia Island, FL 32034
- 1.4 Borrower's Contractor: The contractor or contractors selected by Borrower and approved by Lender which approval shall not be unreasonably withheld.
- 1.5 Borrower's Engineer: The engineer or engineers selected by Borrower and approved by Lender which approval shall not be unreasonably withheld.
- 1.6 Closing: The time of the execution and delivery hereof by Borrower and Lender.
- 1.7 Commencement Date: on or before April 1, 2004.
- 1.8 Common Areas: That portion of the Premises evidenced on the Site Plan as "Common Areas" and owned by the Borrower or conveyed to a homeowner's association pursuant to the Declaration.
- 1.9 Completion Date: On or before twelve (12) months from Closing.
- 1.10 Conservation Member: The holder of a Conservation Membership.
- 1.11 Conservation Land: That portion of the Premises that will be encumbered by a conservation easement prohibiting development, in form and content approved by Lender and in the location as set forth on the final Site Plan approved by Lender.
- 1.12 Conservation Membership: A membership interest in the Borrower requiring the Conservation Member to make a minimum \$350,000.00 capital contribution to the Borrower. Such Conservation Membership shall entitle the Conservation Member to a \$225,000.00 credit toward the purchase of Lot as well as a twenty percent (20%) discount off the purchase price of a Lot.
- 1.13 Cost Breakdown: The cost breakdown attached hereto as Exhibit "A", which has been certified by the Borrower as accurate and sufficient to complete the Improvements.
- 1.14 Declaration: A declaration of covenants, easements and restrictions approved by Lender and recorded in the public records of Nassau County, Florida encumbering the Premises.
- 1.15 Excusable Delays: means unusually adverse weather conditions which have not been taken into account in the construction schedule, fire, earthquake or other acts of God, strike, lockout, acts of public enemy, riot or insurrection or any unforeseen circumstances of events (except financial circumstances or events or matters which may be resolved by the payment of money) beyond the control of Borrower, not to exceed a total of ten (10) days, provided Borrower shall notify Lender in writing within five (5) days after such occurrence, but no Excusable Delay shall extend the Completion Date or suspend or abate any obligation of Borrower or any Guarantor or any other person to pay any money.

1.16 Governmental Authority: The United States, the state in which the Premises are located, the state under the laws of which Borrower is organized, any state in or to residents of which offers to sell or lease any portion of the Premises or Improvements will be made, and any political subdivision thereof and any agency, department, commission, board, bureau or instrumentality of any of them.

1.17 Guarantor and Address: Collectively,

Richard L. Cooper  
Suite 118, One King James South  
24700 Center Ridge Road  
Westlake, OH 44145

R & J Cooper Investments Limited Partnership  
Suite 118, One King James South  
24700 Center Ridge Road  
Westlake, OH 44145

R & J Cooper LLC  
Suite 118, One King James South  
24700 Center Ridge Road  
Westlake, OH 44145

Richard A. Cooper, as Trustee of  
The RLC 1998 Irrevocable Trust  
Suite 118, One King James South  
24700 Center Ridge Road  
Westlake, OH 44145

Richard A. Cooper, as Trustee of  
The EJC 1998 Irrevocable Trust  
Suite 118, One King James South  
24700 Center Ridge Road  
Westlake, OH 44145

Amelia Island Company  
3000 First Coast Highway South  
Amelia Island, Florida 32034

Brady Point Company LLC  
3000 First Coast Highway South  
Amelia Island, Florida 32034

1.18 Improvements: Development on the Premises of an eighty-five (85) lot single-family residential subdivision including development of roads, water, sewer and electrical facilities including lift station, recreational facilities and stormwater drainage facilities. Such subdivision may be referred to as the "Project."

1.19 Inspecting Agent: The agent selected by Lender to inspect the development of the Improvements

1.20 Interest Rate: The interest rate applicable from time to time to principal outstanding under the Note.

1.21 Lender and Address: Compass Bank  
10060 Skinner Lake Drive  
Jacksonville, FL 32246

1.22 Loan Amount: Eight Million Eighty Four Thousand and 00/100 Dollars (\$8,084,000.00).

1.23 Loan Commitment: The Loan Commitment Letter from the Lender to the Borrower dated September 11, 2003, and accepted by the Borrower on October 15, 2003.

1.24 Loan Documents: Those items required by the Loan Commitment, together with any other document or instrument executed or submitted in connection with this Loan, including but not limited to Note; Mortgage; Assignment of Borrower's Interest in Contract Documents; Guaranties of the Guarantor; Environmental Indemnification Agreements; Owner's Affidavit; Title Insurance Binder or Policy; Survey; Site Plan; Plans and Specifications; Cost Breakdown; insurance policies; Opinions of Counsel; Letters of any Governmental Authority, provider of utilities, architect, engineer or other consultant; and Loan Commitment.

1.25 Lots: The single family residential lots developed or to be developed within the Premises as set forth on the final Site Plan approved by Lender.

1.26 Mortgage: The Mortgage, Security Agreement and Financing Statement dated February 21, 2003, and recorded in Official Records Book 1116, Page 1138 of the public records of Nassau County, Florida as amended by that certain Mortgage Modification Agreement Evidencing Renewal Note including Future Advance of even date herewith securing the repayment of the Note from Borrower to Lender.

1.27 Note: The Renewal Promissory Note Including Future Advance dated of even date herewith in the Loan Amount executed and delivered by Borrower to Lender.

1.28 Permitted Exceptions: The exceptions to Borrower's title to the Premises listed as exceptions in the Loan Policy of Title Insurance issued pursuant to title commitment No. \_\_\_\_\_ issued by the Title Insurer.

1.29 Plans and Specifications: Those plans and specifications prepared by Borrower's Architect for the construction of the Improvements and all amendments thereto, approved by the Lender.

1.30 Premises: The real property encumbered by the Mortgage.

1.31 Requirement of Governmental Authority: Any law, ordinance, order, rule or regulation of a Governmental Authority.

- 1.32 Roads: That portion of the Premises evidenced on the Site Plan as "Roads".
- 1.33 Site Plan: Site Plan for the Project approved by Lender.
- 1.34 Title Insurer: Commonwealth Land Title Insurance Company.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES OF THE BORROWER

The Borrower represents and warrants that:

2.1 The Financial Statements heretofore delivered to the Lender by the Borrower and Guarantor are true and correct in all respects, have been prepared in accordance with generally accepted accounting principles, consistently applied, and fairly present the respective financial conditions of the subjects thereof as of the respective dates thereof, no materially adverse change has occurred in the financial conditions reflected therein since the respective dates thereof and no additional borrowings have been made by the Borrower or Guarantor since the date thereof other than the borrowing contemplated thereby or approved by the Lender. All other information submitted by Borrower or any Guarantor in support of the application for the loan is true and correct as of the date of this Agreement, and no material adverse change has occurred.

2.2 The Borrower is currently and shall remain in good standing in the state of its incorporation and is currently and shall remain qualified to do business in the state of Florida throughout the term of the Loan.

2.3 There are no actions, suits or proceedings pending or, to the knowledge of the Borrower, threatened against or affecting it, the Premises or the Guarantor, or involving the validity or enforceability of the Mortgage or the priority thereof, at law or in equity, or before or by any Governmental Authority except actions, suits and proceedings fully covered by insurance or which, if adversely determined, would not substantially impair the ability of the Borrower or the Guarantor to pay when due any amounts which may become payable in respect of the Note; and to the Borrower's knowledge it is not in default with respect to any order, writ, injunction, decree or demand of any court or any Governmental Authority.

2.4 The consummation of the transactions hereby contemplated and performance of this Agreement will not result in any breach of, or constitute a default under, any deed to secure debt, mortgage, deed of trust, indenture, security agreement, lease, bank loan or credit agreement, corporate charter, by-laws, partnership agreement, covenants or use restrictions applicable to the Premises or other instruments to which the Borrower is a party or by which it or the Premises may be bound or affected. Lender consents that, at the time of closing, the consummation of this transaction does not breach any of the covenants contained in the existing loan facilities between Lender and Borrower.

2.5 At the time of the execution and delivery of the Loan Documents and at the time of the recording of the Mortgage and at the time of the execution and delivery of this Agreement, no work has been done on the Improvements or on the Premises by the Borrower or anyone else acting for, on behalf of or under the Borrower, and no materials have been placed on the



Premises by any materialmen or by anyone else; or if any work shall have been done on the Improvements or the Premises, or any materials furnished thereto, all work done and all materials furnished have been paid for in full or will be paid in full (except for retainage) from the first disbursement of loan proceeds at closing. If required by Lender, Borrower shall evidence such payment by releases, receipts and waivers satisfactory to Lender.

2.6 All roads necessary for insurable ingress and egress to the Premises have been completed.

2.7 There is no default on the part of the Borrower under this Agreement, the Note, the Mortgage, the permanent loan commitment, if any, or any other Loan Document, and no event has occurred and is continuing which with notice or the passage of time or either would constitute a default.

2.8 The following utility services are or will be available to the Premises in adequate supply prior to the Commencement Date: water, sewer, electricity and telephone.

2.9 Borrower represents and warrants that all governmental permits, licenses and approvals necessary for the construction of the Improvements, have been obtained or are obtainable without restriction, limitation or delay upon any necessary application and payment of the required fees and that there are no conditions which would prohibit, impede or delay issuance of any such permits.

2.10 Except for offsite road improvements and utility connections, Borrower represents and warrants that the Improvements shall be constructed and be wholly within the Premises so that the Lender shall at all times have an insurable first mortgage on all of the Improvements.

### ARTICLE III

#### **CONDITIONS PRECEDENT TO LENDER'S OBLIGATION TO MAKE ADVANCES**

Lender's obligation to make advances shall be subject to the satisfaction of the time of each advance of the following conditions:

3.1 All provisions of the Loan Commitment, if any, shall have been complied with.

3.2 Borrower's representations and warranties shall remain true and correct.

3.3 No Event of Default nor an event which with notice and/or passage of time could result in an Event of Default shall have occurred under this Agreement or under any other Loan Document.

3.4 The requirements of Article 4 with respect to requests for advances shall have been complied with.

## ARTICLE IV

### ADVANCES

The loan funds shall be disbursed by the Lender at the times and under the terms and conditions as follows:

4.1 Loan funds will be disbursed in accordance with the Cost Breakdown attached hereto as **Exhibit "A"** and the conditions contained in this Agreement.

4.2 Disbursements for the construction of the Improvements shall be made on application of the Borrower, which applications shall not be more than once every month. Request for advances for Direct Costs (as herein defined) shall be submitted on AIA Forms G-702 and G-703 "Application and Certificate for Payment" signed by Borrower, Borrower's Contractor and Borrower's Engineer and shall be received by Lender and the Inspecting Agent not less than ten (10) days prior to the date on which the payment is desired and shall set forth in detail the amounts expended or costs incurred for work done and materials incorporated on the Premises.

4.3 \$300,000.00 of the loan funds have been allocated to create an undisbursed interest reserve. Said sums shall be disbursed periodically for the exclusive purpose of paying accrued interest on the loan as it comes due under the Note. Said sums shall be so used until such time as said reserve has been extinguished so long as the Borrower is not in default under the terms of the Note, Mortgage, this Agreement or the Loan Documents. However, the creation of said reserve shall not release the Borrower from its contractual obligation to pay interest under the terms of the Note to the extent said reserve is insufficient to pay all of the interest under the Note nor should the Lender be obligated under the terms of this Agreement or the Loan Documents to use said reserve for the payment of accrued interest.

4.4 If requested by Lender, each request for an advance shall be accompanied by a certificate of endorsement from the Title Insurer stating that a search of the public records has been made and that such search reveals no change in the state of title since the preceding advance and there are no survey exceptions not theretofore approved by Lender, and that the amount of the requested Advance will be covered by the Title Insurance Policy.

4.5 With each application for periodic loan disbursements, Borrower shall furnish to Lender a certified statement or bill of the particular contractor or subcontractor to whom the monies are due, together with such evidence as the Lender shall require (including the certificate of the Borrower's Architect and the Inspecting Agent) to evidence and establish that the work has been satisfactorily done, that the particular contractor or subcontractor is entitled to the said progress payment as billed, that the amount of the particular request plus the amount previously disbursed under the Loan do not exceed the percentage of completion as of the requisition date and that the undisbursed portion of the direct costs is sufficient to complete the Improvements in accordance with the approved Plans and Specifications.

4.6 Each such request by the Borrower for a loan advance shall constitute its certification that the work has been done and that the particular contractor or subcontractor is entitled to the said progress payment requested by it.

4.7 Each application for advance made by the Borrower, including the initial advance at closing, shall constitute a reaffirmation that all representations and warranties hereunder and under all other instruments executed in conjunction with the Loan remain true and correct, and a certificate binding upon the Borrower that Borrower is in compliance with all provisions of this Agreement; that there exists no default hereunder or under the Note, Mortgage or any other Loan Documents; that all bills for labor, materials and services (including engineering services, survey and land planning) incurred and payable in connection with the Improvements will be paid from the loan advance then requested; that all funds received through previous requisitions have been properly applied to bills for labor and materials used on the Premises; and that the undisbursed loan proceeds are sufficient to pay in full the costs of all work remaining to be done to complete the Improvements. The Lender, however, may nevertheless require further evidence of such payments and remaining costs in the form of receipts, releases, certifications or otherwise.

4.8 All requests for construction and development disbursements for Direct Costs will be subject to an on-site inspection by Lender and/or the Inspecting Agent, and shall be at the expense of the Borrower.

4.9 Based upon the information supplied by Borrower to Lender and as set out in the Cost Breakdown furnished to Lender by Borrower and as attached hereto as Exhibit "A", Lender shall allocate the Loan between costs which relate to the Loan and the Improvements other than direct costs of construction of the Improvements (the "Indirect Costs") and direct costs of construction of the Improvements (the "Direct Costs"). The amount of each advance for the Direct Costs shall be equal to the amount of the Loan allocated for Direct Costs multiplied by the percentage of completion of the Improvements as certified by the Inspecting Agent, less ten percent (10%) (the "Retainage") and less all advances previously made on account of Direct Costs. The provisions to the contrary notwithstanding, at such time that the Improvements are certified by the Inspecting Agent to be fifty percent (50%) completed, the amount of the Retainage from each subsequent advance shall be reduced to zero percent (0%) provided Borrower's contract with Borrower's Contractor is consistent with this provision. Upon substantial completion of the Improvements as certified by the Inspecting Agent, the Retainage shall be disbursed to Borrower.

4.10 Loan disbursements will be made for materials stored on the Premises, provided: (i) such materials are adequately identified, secured and insured; (ii) no materials are stored for a time period exceeding 45 days; (iii) Lender has a first lien on such materials; (iv) Lender has received and approved all invoices for the materials to be stored on-site; and (v) the aggregate of advances for stored materials shall not exceed \$50,000.00 (the "Stored Materials Advance Limit"). The Loan disbursements for stored materials shall be limited to 90% of the invoice cost of the materials. No funds will be disbursed for materials not stored on the Premises.

4.11 Loan disbursements for construction administration and project overhead fees to Borrower as reflected in the Cost Breakdown shall be disbursed monthly on a prorated basis based upon the percentage of completion of the Improvements.

4.12 By execution of this Agreement, the Borrower authorizes Lender, at Lender's option, to make advances, pursuant to Borrower's requests for advance, directly to any contractor or subcontractor and to advance to itself sums required to pay interest for the preceding month. No further direction or authorization from Borrower shall be necessary to warrant such direct advances and all such advances shall satisfy pro tanto the obligations of Lender hereunder and shall be secured by the Mortgage as fully as if made to Borrower.

4.13 The balance not disbursed as aforesaid shall be disbursed when all the Improvements have been completed and all work and materials incorporated therein and Lender has received: (i) Certification from the Inspecting Agent that the Improvements have been acceptably completed, (ii) the final contractor's affidavit conforming to the lien laws of the State of Florida, (iii) full and complete releases of lien from each and every party who performed any work or supplied any materials towards the construction and installation of the Improvements, or otherwise, upon the Premises, (iv) the acceptance of the Improvements by the County, and any other Governmental Authority having jurisdiction thereover, (v) three (3) copies of a final recorded plat of the Premises, (vi) endorsement to the Lender's loan policy of title insurance that brings down the effective date of the title policy without exception for any title matters objectionable to Lender, and (vii) such other documents and papers as may reasonably be required by the Lender to satisfy itself that the Improvements have been properly and fully completed, that all costs of the work done and materials supplied in connection therewith have been fully paid, and that no person has any right or claim of lien upon the said Premises for any work done or materials supplied. The Lender may, at its sole discretion, release the balance of the retainage held back on a particular subcontractor when said subcontractor's work is satisfactorily completed and is free and clear of all mechanic's or materialman's liens and unpaid bills.

4.14 Lender shall be entitled to withhold any disbursement or advance of loan proceeds at any time when Borrower is in default either under any of the terms of this Agreement or of said Note or Mortgage. Lender will at all times have final determination as to the amounts to be advanced.

4.15 After the initial disbursement, Lender may disburse to itself from the undisbursed loan proceeds any sums payable to Lender on account of origination or commitment fees, interest, costs, documentary stamp taxes, intangible taxes, charges, fees; including attorneys' fees, brokerages, commissions or expenses owing to the Lender by the Borrower, and any such disbursement shall be considered with like effect as if same had been made to the Borrower. Likewise, Lender may apply undisbursed loan proceeds to the satisfaction of the Borrower's obligations hereunder and under the Mortgage and other Loan Documents, and amounts so applied shall be part of the Loan, shall bear interest at the Interest Rate set forth in the Note, and shall be secured by the Mortgage.

4.16 Borrower will receive the advances to be made hereunder and will hold the same as a trust fund for the purpose of paying the costs as shown on the Cost Breakdown submitted to Lender and for no other purpose.

4.17 The terms of this Agreement notwithstanding, no disbursements shall be made under this Agreement for any of the budget items described in the Cost Breakdown relating to

the Direct Costs of the construction of the Improvements until Borrower has provided Lender with a copy of an executed contract between Borrower and a contractor acceptable to Lender for the construction of the particular budget items which the Lender is being requested to fund. Such contract must provide that the work to be performed under that contract can be completed for an amount equal to or less than the amount(s) budgeted in Exhibit "A" for the particular budget item(s). If the contract amount exceeds the amount(s) budgeted in Exhibit "A" for the work in question, then at Lender's option, the Borrower shall deposit with Lender, in cash, an amount equal to the contract amount less the budgeted amount in Exhibit "A" for the budget item(s) in question. If at any time during the course of development the Lender determines that the undisbursed loan reserve for any budget line item is insufficient to complete the work contemplated by the line item, then the loan shall be considered "out of balance". Borrower, within five (5) days after notice from Lender that the loan is out of balance, shall deposit sufficient funds, in cash, with the Lender to bring the loan in balance and shall submit a revised cost breakdown reflecting the additional costs and showing the loan to be in balance. The amount so deposited by Borrower shall equal the cost to complete the work contemplated by the particular budget line item minus the undisbursed loan reserve for such budget item. The amount(s) so deposited shall be disbursed by Lender before any additional loan proceeds are advanced. In the event of default, any moneys deposited under this paragraph and not previously disbursed may be applied by Lender against the amount of indebtedness then outstanding. The previous provisions of this paragraph to the contrary notwithstanding, any savings under a particular budget item may be used to correct any imbalance in another budget item with the prior written consent of the Lender, which consent shall not be unreasonably withheld.

4.18 Borrower shall disclose to Lender and the Inspecting Agent on AIA Document G805 and on a current and ongoing basis, the names of all persons with whom Borrower has contracted or intends to contract for any construction or for the furnishing of labor or materials therefor, and when required by Lender, obtain the approval by Lender of all such persons. The contract with the Borrower's Contractor shall be covered by a payment and performance bond furnished to and acceptable to Lender. If Borrower requests that this bonding requirement be waived, Borrower shall submit to Lender financial information and descriptions of previous experience of the Borrower's Contractor. Lender shall review this submitted information and promptly notify Borrower if the bonding requirement is waived as to the Borrower's Contractor. The decision to waive any bonding requirement shall be within the sole discretion of the Lender.

4.19 The other provisions of this Loan Agreement and the Loan Documents to the contrary notwithstanding, total advances made under this Loan Agreement and the Loan Documents shall not exceed the Loan Amount. It is the intent of the parties that this Loan Agreement not evidence a revolving line of credit.

4.20 a. As of the date hereof, \$6,586,855.21 of Loan proceeds have been disbursed pursuant to the Prior Loan Agreement, and \$4,200,000.00 of the Loan proceeds have been repaid, leaving \$2,386,855.21 of Loan proceeds disbursed and are outstanding.

b. As of the date hereof, \$3,063,144.79 of Loan proceeds available to be disbursed under the Prior Loan Agreement have not been disbursed. There is an additional, \$2,634,000.00 of Loan Proceeds available to be disbursed as a result of the future advanced evidenced by the

Note and this Agreement. Accordingly, there is \$5,697,144.79 of Loan Proceeds to be disbursed pursuant to this Agreement.

c. The Lender shall not be obligated to advance any additional Loan Funds for Direct Costs until Borrower has provided Lender with all of the items described in Exhibit "B" hereto, in form and substance acceptable to Lender.

## ARTICLE V

### COVENANTS OF BORROWER

Borrower covenants with Lender as follows:

5.1 Borrower will not convey or encumber the Premises in any way without the prior written consent of Lender. All easements to be executed after the date of this Agreement affecting the Premises shall be submitted to Lender for its approval prior to the execution thereof by Borrower, accompanied by a drawing or survey showing the location thereof.

5.2 Borrower will comply promptly with any Requirement of a Governmental Authority.

5.3 Borrower will pay all costs and expenses required to satisfy the conditions of this Agreement; without limitation of the generality of the foregoing, Borrower will pay: (a) all taxes and recording expenses, including all intangible and documentary stamp taxes, if any; (b) all fees and commissions lawfully due to brokers in connection with this transaction; (c) all legal fees and expenses of Lender's Counsel; (d) all title insurance premiums; and (e) all fees and expenses of the Inspecting Agent.

5.4 Borrower will cause all conditions hereof to be satisfied to the extent it is within its power to do so. Borrower will commence work on the Improvements by the Commencement Date and will diligently pursue said work on the Improvements to completion in accordance with the Loan Documents on or before the Completion Date.

5.5 Borrower will receive the advances to be made hereunder and will hold the same as a trust fund for the purpose of paying the costs as shown on the Cost Breakdown submitted to Lender and for no other purpose.

5.6 Borrower will not modify or amend any construction contracts for the construction of the Improvements, including, but not limited to change orders, without the Lender's prior written consent.

5.7 Borrower will indemnify and hold Lender harmless from any loss or liability arising out of claims of third parties by reason of the execution hereof or the consummation of the transactions contemplated hereby.

5.8 Borrower shall disclose to Lender and the Inspecting Agent, upon demand, the names of all persons with whom Borrower has contracted or intends to contract for any

construction or for the furnishing of labor or materials therefor and, when required by Lender, obtain the approval by Lender of all such persons.

5.9 Lender may apply amounts due hereunder to the satisfaction of the conditions hereof, and amounts so applied shall be part of the loan and shall be secured by the Mortgage.

5.10 Borrower will maintain public liability insurance with coverage in an amount satisfactory to Lender. Lender agrees that the initial minimum coverage amount is \$1,000,000.00; however, such minimum coverage amount is subject to change during the term of the Loan at Lender's sole discretion. Borrower shall furnish Lender with evidence of worker's compensation insurance and shall obtain such other insurance coverage as may reasonably be required by Lender. All insurance policies shall name Lender as first mortgagee, shall be written on companies satisfactory to Lender and shall not be cancelable unless thirty days prior written notice is given to Lender.

5.11 Borrower will comply with all land use, building, subdivision, zoning and similar Requirements of Governmental Authority applicable to the use of the Premises, the construction of any Improvements and the operation thereof. Borrower shall obtain and deliver to Lender the originals or true copies of all subdivision, building, zoning, use and other government permits, licenses or approvals required for the construction of the Improvements. In the event any such permits, licenses or approvals are revoked or subjected to attack by action before any Court, Administrative Agency or other body having jurisdiction, Borrower agrees to notify Lender of such action and to defend against such action, and Lender may refuse to make further advances under this Agreement, and at its discretion, all advances previously made shall become payable and in default and Lender may exercise all of the remedies available for default in this Agreement.

5.12 Borrower will not (i) seek to rezone all or any portion of the Premises after the initial rezoning to allow construction of the Improvements, (ii) seek to amend any development order which directly affects the Premises, or (iii) impose or modify any covenants which affect the Premises without the prior written consent of the Lender, other than the Declaration as approved by Lender in form and content.

5.13 Borrower will not submit to any Governmental Authority for approval, any site plan for the Improvements or the Premises which would affect the Premises without Lender's prior written consent.

5.14 Other than off-site road improvements and utility connections, Borrower covenants to construct all of the Improvements within the Premises. At Lender's request, Borrower will obtain a certificate from a surveyor certifying that all of the Improvements are in fact being constructed within the Premises, other than as set forth above.

5.15 At Lender's request and expense, Borrower shall place upon the Premises at a mutually acceptable location a sign announcing that financing is being provided by Lender. Also, Lender shall have the right to secure printed publicity through newspapers and other media concerning the Premises and its financing.

5.16 Borrower shall deliver annual compiled financial statements of the Borrower, Richard L. Cooper and Amelia Island Company, a Delaware corporation ("AIC"), respectively, to Lender within one hundred eighty (180) days of the respective fiscal year end, and Borrower, Richard L. Cooper and AIC shall deliver federal and state tax returns to Lender within twenty (20) days after filing but in no event later than one hundred fifty (150) days after the close of each such taxable year. Additional financial statements may be requested when deemed necessary by Lender. AIC's financial statements shall include the assets and liabilities of Brady Point Company LLC, a Florida limited liability company and Richard L. Cooper's financial statements shall include the assets and liabilities of (i) R & J Cooper Investments Limited Partnership, a Delaware limited partnership, (ii) R & J Cooper LLC, a Delaware limited liability company, (iii) The RLC 1998 Irrevocable Trust and (iv) The EJC 1998 Irrevocable Trust.

5.17 The Borrower shall notify Lender of any material litigation involving the Borrower or respecting the Premises within fifteen (15) days of learning of same.

5.18 The Borrower covenants and agrees that through out the term of the Loan and this Loan Agreement AIC shall maintain a Debt Service Coverage Ratio of 1.20:1 or greater. For purposes of this Agreement, Debt Service Coverage Ratio shall mean the ratio of (A) Net Operating Income (NOI) for the previous twelve (12) months to (B) all principal and interest coming due under any note or other obligation of the AIC for such period. As used herein, NOI shall mean: (a) all of AIC's operating income during any applicable period; less (b) all of the AIC's operating expenses during such period including, without limitation, ad valorem real property taxes and costs of repairs and maintenance, but excluding debt service requirements, depreciation, capital expenditures (other than capital expenditures treated by the AIC as operating expenses) and income taxes. NOI shall be calculated on an accrual basis in accordance with general accepted accounting principals. The foregoing covenant shall be tested as of December 31st of each fiscal year of AIC commencing December 31, 2003.

## ARTICLE VI

### EVENTS OF DEFAULT AND REMEDIES

6.1 The occurrence of any one of the following events shall constitute an Event of Default hereunder:

a. Borrower fails to make any payment due under the Note, Mortgage, or any of the Loan Documents, on the date such payment is due and such non-payment continues for a period of ten (10) days.

b. Borrower or any Guarantor: (A)(i) defaults in the performance of any of its obligations under this Agreement or (ii) commits a non-monetary default under the Note, Mortgage, or any other Loan Document, (B) such default is not the subject matter of any other provisions of this Paragraph 6.1, and (C) such default is not curable, or if curable continues for a period of thirty (30) days after notice of such default is delivered by the Lender to the Borrower.



c. Any representations, warranty or statement made by Borrower or Guarantor herein or in any certificate, report or other writing delivered pursuant hereto shall be untrue in any material respect as of the date made.

d. A lien or claim of lien for the performance of work or the supply of materials is properly filed against the Premises and remains unsatisfied or unbonded for a period of thirty (30) days after the date of filing thereof.

e. Borrower or any Guarantor makes an assignment for the benefit of creditors, files a petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for any receiver of or trustee for it or any substantial part of its property, commences any proceeding relating to the Borrower or any Guarantor under any reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or if there is commenced against Borrower or any Guarantor by any such act proceeding which remains undismissed for a period of sixty (60) days, or the Borrower or Guarantor by any act indicates its consent to, approval of, or acquiescence in any such proceeding or the appointment of any receiver of or trustee for it or any substantial part of its property, or suffers any such receivership or trusteeship to continue undischarged for a period of sixty (60) days.

f. Any change in the legal or equitable ownership of a controlling interest in Borrower (if other than an individual) or the Premises, or any change in the management of the Borrower, if in the Lender's sole judgment such change materially and adversely affects the ability of the Borrower to perform in accordance with the terms of this Agreement.

g. The dissolution of the Borrower.

h. The death of the individual Guarantor, unless Lender is notified of the death of the individual Guarantor within sixty (60) days from the date of death as evidenced by a certificate of death, Lender files a valid claim in the individual Guarantor's probate estate (if the estate is subject to probate), the loan is not otherwise in default, and, prior to the closing of the probate proceeding, if any, but in no event later than (a) one (1) year from the date of death of the individual Guarantor, or (b) thirty (30) days after an adverse ruling by the Probate Court on Lender's claim, Lender receives additional security of a type and amount acceptable to Lender, in its sole and exclusive judgment, from the estate, the Probate Court, or the Borrower;

i. Any legal or equitable action shall be commenced against Borrower which, if adversely determined, could reasonably be expected to impair substantially the ability of Borrower to perform each and every obligation under the Loan Documents and this Agreement.

j. The validity of any permit, approval or consent by any Governmental Authority relating to the Premises, the Improvements, or the operation thereof is questioned by a proceeding before any board, commission, agency, court, or other authority having jurisdiction and such proceeding is not satisfactorily resolved, in the reasonable opinion of the Lender, within sixty (60) days of the commencement of the proceedings. The foregoing to the contrary notwithstanding, Borrower shall not be in default as long as Borrower is defending against such action with due diligence by appropriate proceedings conducted in good faith; provided, such

contest shall not subject Lender to civil liability and does not jeopardize Lender's interest in the Premises; and provided there are no injunctions or similar procedures in place that would prohibit further construction on the Premises.

6.2 Upon the occurrence of an Event of Default, Lender may, at its option and in addition to any remedies specifically provided for such default under the Note and Mortgage, do all or any of the following:

a. declare all sums evidenced by the Note and all sums secured by the Mortgage and all sums due hereunder to the Lender to be immediately due and payable, and may foreclose said Mortgage and in so doing shall be entitled to reasonable attorney's fees (including attorney's fees through any appeals and in the bankruptcy court) and other foreclosure expenses; and

b. pursue any and all remedies granted under the Note and/or the Mortgage for default and/or the remedies granted under any and all laws and statutes, all remedies therein and contained in this Agreement being deemed cumulative so that the exercise of no remedy or combination of remedies in whatever sequence shall be deemed to exclude the subsequent exercise of any other remedy whatsoever; and

c. apply to a court of competent jurisdiction, for the appointment of a receiver to take charge of, manage, preserve, protect, complete construction of and operate the Premises and any business or businesses located thereon. The Borrower agrees to pay to the Lender, on demand, all costs and expenses of completion of the Improvements, including all sums disbursed by the Lender incident to said completion and a reasonable attorney's fees incurred by the Lender incident to said default and the completion of said construction or incident to the enforcement of any provision hereof, and all such sums, even though they may, when added to the construction moneys advanced and disbursed under this Agreement, exceed the principal amount of the Note, shall be secured by the lien of the Mortgage as though the same were a part of the debt originally described in and secured thereby. If said sums are not paid by the Borrower immediately on demand, the Lender may declare all such sums, and all other sums secured by the Mortgage, immediately due and payable and nonpayment thereof by Borrower shall constitute a default under the Mortgage.

## ARTICLE VII

### SALE OF PARTNERSHIP INTERESTS AND PARTIAL RELEASES

7.1 As of the date hereof, eighteen (18) Conservation Memberships have been sold at a price of Three Hundred Fifty Thousand and 00/100 Dollars (\$350,000.00) each. The proceeds from the sale of the first five (5) Conservation Memberships (\$1,750,000) were used as partial payment for the land cost to acquire the Property. The proceeds from the sale of the next twelve (12) Conservation Memberships (\$4,200,000) have been used to reduce the principal balance of the Loan. The proceeds from one (1) of the Conservation Memberships have been retained by the Borrower to be used for working capital. The gross sales proceeds from the sale of any of additional Conservation Memberships, up to \$350,000, shall be paid to the Lender to reduce the principal balance of the Loan.

7.2 Provided the Borrower has complied with the conditions of paragraph 36 of the Mortgage, Lender shall release from the lien of the Mortgage such of the Lots encumbered thereby upon the sale of such Lot to a Conservation Member for a purchase price equal to or greater than the sales price established on the price list attached hereto as Exhibit "C", on the following terms and conditions:

a. Upon the sale of the first nine (9) Lots to Conservation Members, the Lender shall release such Lots from the lien of the Mortgage without a principal reduction. However, the Borrower shall deliver to the Lender, to be held in escrow with the Lender (hereinafter referred to as the "Escrow Account"), the Borrower's net sales proceeds from the sale of such Lots. Net sales proceeds from the sale of such Lots to Conservation Members shall mean the gross Lot retail sales price less: 20% partner discount; 10% for marketing/sales fee; .05% conservation fee and \$225,000 Lot credit provided to Conservation Members. Borrower hereby grants the Lender a security interest in the Escrow Account and the proceeds thereof as additional security for the repayment of the Loan by the Borrower and the performance by Borrower of its obligations under the Loan Documents. The other provisions of this Paragraph to the contrary notwithstanding, upon closing on each of the first nine (9) Lots sold to Conservation Members, 10% of each Conservation Member's additional payment at the Lot closing for the Lot sold over the original Conservation Membership investment of \$350,000 may be withdrawn by the Borrower from the Escrow Account and disbursed by the Borrower to the members of the Borrower, so long as the Borrower is not in default under the Loan Documents.

By way of example, below are two (2) sample calculations of the amount to be escrowed from the sale of the first nine Lots to Conservation Members and the amount available to be disbursed from the Escrow Account by the Borrower to its members:

\$475,000	\$375,000	Lot gross sales price
95,000	75,000	20% partner discount
47,500	37,500	10% Marketing/sales
2,375	1,875	Conservation fee (.05%)
<u>225,000</u>	<u>225,000</u>	Lot credit
\$105,125	\$ 35,625	Amount to escrowed
\$10,512.50	\$ 3,562.50	Amount available to be disbursed.

b. Furthermore, upon each closing of the sale of a Lot to a party other than a Conservation Member in accordance with paragraph 7.3 below, an amount equal to 10% of the gross sales price from sale of such Lot may be withdrawn by the Borrower from the Escrow Account described above and distributed by the Borrower to the partners of the Borrower.

c. Except as provided herein, any other disbursements from the Escrow Account shall be at the sole discretion of the Lender. In the event of a default under the Loan, the Lender may apply the funds in the Escrow Account to the principal, interest and other sums outstanding under the Loan in such order as the Lender shall determine in its sole and absolute discretion. Should any sums remain in the Escrow Account after repayment of the Loan in full, then such proceeds shall be disbursed to the Borrower.

d. Beginning with the tenth (10<sup>th</sup>) Lot closing to a Conservation Member, a release price for each Lot sold to a Conservation Member shall be paid by the Borrower to the Lender and applied to the principal balance outstanding under the Loan. Such release price shall be calculated as follows:

Gross Lot retail sales price MINUS 20% partner discount for lot sold MINUS  
10% marketing/sales fee MINUS Conservation Fee MINUS \$225,000 Lot Credit.

By way of example, below are sample calculations of the release price using the above formula:

\$475,000	\$375,000	Lot gross sales price
95,000	75,000	20% partner discount
47,500	37,500	10% Marketing/sales
2,375	1,875	Conservation fee (.05%)
<u>225,000</u>	<u>225,000</u>	Lot credit
\$105,125	\$ 35,625	Partial Release Payment Amount

7.3 Provided the Borrower has complied with the conditions of paragraph 36 of the Mortgage, Lender shall release from the lien of the Mortgage such of the Lots encumbered thereby upon the sale of such Lot to a third party other than a Conservation Member, upon the payment by Borrower to the Lender of a release price equal to the greater of (i) 80% of gross sales price from the sale of such Lot or (ii) 70% of the retail list price established for each Lot as set forth in Exhibit "C". Such release price shall be applied to the principal balance outstanding under the Loan.

7.4 In addition, subsequent to the Commencement Date and prior to the first Lot sale, Lender shall release from the lien of the Mortgage the Conservation Land for no additional payment provided the Borrower has complied with the conditions of paragraph 36 of the Mortgage. In addition, subsequent to the Commencement Date, and upon (y) the completion of construction of the Roads and other Common Areas, and (z) the acceptance of same by all governmental entities and the recording of a plat of the Premises, Lender shall release from the lien of the Mortgage the Roads and Common Areas upon conveyance to a homeowner's association provided Borrower has satisfied conditions (i) and (ii) above.

## ARTICLE VIII

### GENERAL CONDITIONS

The following conditions shall be applicable throughout the term of this Agreement:

8.1 No advance of loan proceeds hereunder shall constitute a waiver of any of the provisions, conditions or obligations set forth in the Loan Commitment, this Agreement or any other Loan Document, nor, in the event Borrower is unable to satisfy any such provision or

condition, shall any such waiver have the effect of precluding Lender from thereafter declaring such inability to be an Event of Default as hereinabove provided.

8.2 All proceedings taken in connection with the transactions provided for herein, all surveys, appraisals and documents required or contemplated by the Loan Commitment, or this Agreement, and the persons responsible for the execution and preparation thereof, the insurers and the form of all policies of insurance shall be satisfactory to Lender and Borrower shall promptly furnish to Lender's counsel copies of all documents which they may request in connection therewith.

8.3 All conditions of the obligations of Lender to make advances hereunder are imposed solely and exclusively for the benefit of Lender and its assigns and no other person shall have standing to require satisfaction of such conditions in accordance with their terms or be entitled to assume that Lender will refuse to make advances in the absence of strict compliance with any or all thereof and no other person shall, under any circumstances, be deemed to be beneficiary of such conditions, any or all of which may be freely waived in whole or in part by Lender at any time if in its sole discretion it deems it advisable to do so.

8.4 There shall be no subordinate or other financing of the personal or real property securing the Loan, and no sale or transfer of ownership of the Premises unless Lender, in its sole and absolute discretion, has given its prior written approval. All loans from a member of the Borrower to the Borrower shall be subordinate to the Loan, and there shall be no payment of principal on any such loan from a member of the Borrower until the Loan has been paid in full. Interest may be paid on any such loans unless and until an event of default under the Loan has occurred.

8.5 Other than the sale of Conservation Memberships in accordance with the provisions of Article VII hereof, there shall be no change in the ownership or control of Borrower unless Lender, in its sole and absolute discretion, has given its prior written approval.

8.6 All notices shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when presented personally or sent by express mail or courier service or by registered or certified mail to any party hereto at its address above-stated or at such other address of which it shall have been notified by the party giving such notice in writing.

8.7 Neither this Agreement nor any provision hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

8.8 The remedies herein provided shall be in addition to and not in substitution for the rights and remedies which would otherwise be vested in Lender in any Loan Document or in law or equity, all of which rights and remedies are specifically reserved by Lender. The remedies herein provided or otherwise available to Lender shall be cumulative and may be exercised concurrently. The failure to exercise any of the remedies herein provided shall not constitute a waiver thereof, nor shall use of any of the remedies hereby provided prevent the subsequent or concurrent resort to any other remedy or remedies. It is intended that this clause shall be broadly construed so that all remedies herein provided for or otherwise available to Lender shall continue

and each and all available to Lender until all sums due it by reason of this Agreement have been paid to it in full and all obligations incurred by it in connection with the construction or operation of any Improvements have been fully discharged without loss or damage to Lender.

8.9 Lender is not a partner with Borrower or any other party in the development of the Premises. Lender shall not in any way be liable or responsible by reason of the provisions hereof, or otherwise, for the payment of any claims growing out of the operation.

8.10 In this Agreement, whenever the context so requires, the neuter gender includes the feminine and/or masculine, as the case may be, and the singular number includes the plural.

8.11 The terms, conditions, covenants, agreements, powers, notices and authorization herein contained shall extend to, be binding upon and available to the heirs, executors, administrators, successors and, to the extent permitted hereunder, to the assigns of each of the respective parties hereto. Notwithstanding the foregoing, Borrower shall not assign or transfer voluntarily or by operation of law, or otherwise dispose of this Agreement, or any rights in Lender's commitment, or any moneys, property or funds deposited with Lender. An assignment or transfer in violation of this provision shall be invalid, and an assignment or transfer by operation of law shall be deemed to be an invalid transfer.

8.12 This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties or signatories hereto may execute this Agreement by signing any such counterpart.

8.13 This Agreement and each transaction consummated hereunder shall be deemed to be made under the laws of the State of Florida and shall be construed in accordance with and governed by the laws of said State.

8.14 BORROWER AND LENDER, JOINTLY AND SEVERALLY, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS, WHETHER VERBAL OR WRITTEN, OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDER MAKING THE LOAN EVIDENCED HEREBY.

8.15 IN WITNESS WHEREOF, the Lender and Borrower have hereunto set their hands and seals this 30th day of January, 2004.

Signed, sealed, and delivered in the presence of:

**"BORROWER"**

**BRADY POINT PRESERVE LLC, a Florida limited liability company**

By: Brady Point Company LLC, a Florida limited liability company, its Manager

By: Amelia Island Company, a Delaware corporation, its Sole Member

By: Jack B. Healy Jr.  
Name: Jack B. Healy Jr.  
Title: President

Margaret Ann Wood  
Witness: MARGARET ANN WOOD

Jana H. Williams  
Witness: Jana H. Williams

**"LENDER"**

**COMPASS BANK**

By: Philip Palmer  
Name: Philip Palmer  
Title: Vice President

Martine Lee  
Witness: Martine Lee

Laura Livingston  
Witness: L. Livingston

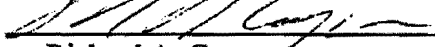
The form and content of all Loan Documents is approved.

**"GUARANTOR"**

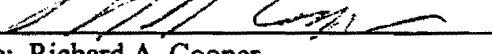
**RICHARD L. COOPER**


**R & J COOPER INVESTMENTS  
LIMITED PARTNERSHIP, a Delaware  
limited partnership**


By: R & J Cooper LLC, a Delaware limited  
liability company, its General Partner

By:   
Name: Richard A. Cooper  
Title: Vice President

**R & J COOPER LLC, a Delaware limited  
liability company**

By:   
Name: Richard A. Cooper  
Its: Vice President

  
**RICHARD A. COOPER, as Trustee of The  
RLC 1998 Irrevocable Trust**

  
**RICHARD A. COOPER, as Trustee of The  
EJC 1998 Irrevocable Trust**

**AMELIA ISLAND COMPANY,  
a Delaware corporation**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



The form and content of all Loan Documents is approved.

**"GUARANTOR"**

  
\_\_\_\_\_  
RICHARD L. COOPER

**R & J COOPER INVESTMENTS  
LIMITED PARTNERSHIP**, a Delaware  
limited partnership

By: R & J Cooper LLC, a Delaware limited  
liability company, its General Partner

By: \_\_\_\_\_  
Name: Richard A. Cooper  
Title: Vice President

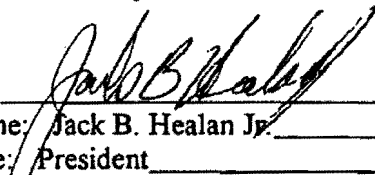
**R & J COOPER LLC**, a Delaware limited  
liability company

By: \_\_\_\_\_  
Name: Richard A. Cooper  
Its: Vice President

\_\_\_\_\_  
**RICHARD A. COOPER**, as Trustee of The  
RLC 1998 Irrevocable Trust

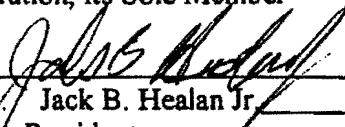
\_\_\_\_\_  
**RICHARD A. COOPER**, as Trustee of The  
EJC 1998 Irrevocable Trust

**AMELIA ISLAND COMPANY**,  
a Delaware corporation

By:   
\_\_\_\_\_  
Name: Jack B. Healan Jr.  
Title: President \_\_\_\_\_

**BRADY POINT COMPANY LLC, a Florida  
limited liability company**

By: Amelia Island Company, a Delaware  
corporation, its Sole Member

By:   
Name: Jack B. Healan Jr.  
Title: President

**EXHIBIT "A"**  
**USE OF PROCEEDS**

	<u>Revised Budget</u>	<u>Loan Budget</u>
<b>Direct Costs (Hard Costs):</b>		
Land	\$7,000,000	\$5,250,000
Real Estate Acquisition	350,000	350,000
Retainage	-	-
Entry Construction	-	-
Amenity Construction	-	-
Conservation Easement	100,000	100,000
Sitework Construction	3,520,000	3,520,000
Landscape Construction	-	-
<b>Total Direct Costs</b>	10,970,000	9,220,000
<b>Indirect Costs (Soft Costs):</b>		
Environmental Permitting	57,500	57,500
Appraisal	15,000	15,000
Environmental Assessment	25,000	25,000
Surveying	50,000	50,000
Site Planning	4,250	4,250
Engineering/Permitting/Zoning	52,750	52,750
County Impact Fees	85,000	85,000
Water & Sewer Impact Fee	34,000	34,000
Underground Electric	-	-
Signage	-	-
Marketing ( <i>separated from SG&amp;A</i> )	450,000	450,000
Developer Overhead	42,500	42,500
AIP Resort Credit	630,000	630,000
Project Management	42,500	42,500
Title Policy	-	-
Doc Stamps/Intangible Taxes	-	-
Legal Fees	20,000	20,000
Loan Fees	150,000	150,000
Loan Interest Expense	300,000	300,000
Due Diligence	100,000	100,000
Organization & Syndication	25,000	25,000
Contingency	51,500	51,500
S G & A (admin & referrals)	839,000	839,000
Archeological Mitigation	90,000	90,000
Land Acquisition Expenses	-	-
<b>Total Indirect Costs</b>	3,064,000	3,064,000
Partnership Contributions		1,750,000
<b>Total Project Costs</b>	14,034,000	14,034,000

\*The \$6,586,855.21 previously funded under the Loan has been allocated as follows:

Land:	\$5,250,000.00
Real Estate Acquisition	\$ 103,782.14
Conservation Easement	\$ 30,480.26
Sitework Construction	\$ 461.98
Environmental Permitting	\$ 19,391.84
Environmental Assessment	\$ 23,203.53
Surveying	\$ 13,410.60
Site Planning	\$ 6,714.60
Engineering/ Permitting/ Zoning	\$ 58,342.30
Marketing	\$ 2,514.81
AIP Resort Credit	\$ 222,000.00
Legal Fees	\$ 86,859.68
Loan Fees	\$ 126,975.90
Loan Interest Expense	\$ 117,841.85
Due Diligence	\$ 99,354.73
Organization & Syndication	\$ 14,714.74
Contingency	\$ 84,422.77
G & A (admin & referrals)	\$ 245,038.79
Archeological Mitigation	\$ 81,335.29
Total	\$6,586,855.21

## EXHIBIT "B"

### Post-Closing Items to be Provided

After the initial disbursement of Loan proceeds at Closing and except for any disbursements of Loan Proceeds described in Paragraph 4.20 of this Agreement, Lender shall not be required to make any disbursements of Loan Proceeds for the Direct Costs of the construction of Improvements unless and until the following conditions shall have been satisfied:

1. The Lender shall receive a copy of a fully executed contract or fully executed contracts between the Borrower and the Borrower's (i) Contractor or Contractors for the construction of the Improvements and (ii) Engineer for the Improvements, which contracts shall have been reviewed and approved by the Lender and the Inspecting Agent. Such review and approval shall not be unreasonably withheld or delayed.

2. The Lender shall receive a wetlands survey of the Premises which shall be reviewed and approved by Lender. Such review and approval shall not be unreasonably withheld or delayed.

3. The Lender shall receive a Site Plan for the construction of the Improvements which Site Plan shall have been reviewed and approved by the Lender and the Inspecting Agent. Such review and approval shall not be unreasonably withheld or delayed.

4. The Lender shall receive a complete set of the Plans and Specifications for the construction of the Improvements which Plans and Specifications shall have been reviewed and approved by the Lender and the Inspecting Agent. Such review and approval shall not be unreasonably withheld or delayed.

5. The Lender shall receive a detailed Improvements budget which itemizes with particularity the Direct Costs to construct the Improvements and related road work and utility work as well as related Indirect Costs (referred to in this Agreement as the "Supplemental Cost Breakdown). The Supplemental Cost Breakdown shall be certified by the Borrower as accurate and sufficient to complete the Improvements; shall be in a form acceptable to the Lender and shall be reviewed and approved by the Lender and the Inspecting Agent, which review and approval shall not be unreasonably withheld or delayed. The Supplemental Cost Breakdown shall also contain an allocation of the both the undisbursed Loan proceeds and the Borrower's equity among the budget items contained in the Supplemental Cost Breakdown. Such allocations shall be subject to the Lender's prior approval which approval shall be granted or denied in the Lender's sole discretion.

6. The Lender shall receive (i) an executed Engineer's Certificate from the Borrower's Engineer, in the form provided Borrower by Lender, and attached hereto as Exhibit "B-1" and (ii) copies of all governmental permits, approvals and authorizations (including without limitation concurrency rights) necessary for the construction of the Improvements.

7. The Lender shall receive an executed Contractor's Certificate from the Borrower's Contractor, in the form provided Borrower by Lender and attached hereto as **Exhibit "B-2"**.

8. Utility letters from each respective utility provider.

9. Evidence of rezoning of the Premises to RS-1 or RS-2.

10. Borrower shall have paid the Lender's reasonable attorney's fees incurred in reviewing any of the items set forth in this Exhibit "B" which are provided to Lender after Closing. Borrower acknowledges that such fees may be paid by the Lender from Loan proceeds.

11. All other conditions to advances under the Loan Agreement shall have been satisfied.

**EXHIBIT "B-1"**

**Engineer's Certificate**

**ENGINEER'S LETTER/CERTIFICATE**

Compass Bank  
10060 Skinner Lake Drive  
Jacksonville, Florida 32246

*Re: Construction of subdivision improvements for an 85 lot single family residential subdivision to be known as Brady Point Preserve (the "Project")*

Dear Sir or Madam:

I am the Engineer on the above-captioned project. In consideration of your making the construction loan to Brady Point Preserve, L.P. ("Borrower"), I shall, at your request, continue performance on your behalf under my agreement with Borrower, in accordance with the terms of such agreement for all services rendered in your behalf.

We have prepared those plans and specifications (the "Plans and Specifications") for the Project described above, which Plans and Specifications are incorporated by reference herein. The Plans and Specifications are consistent with all plans and specifications submitted by us to the governmental agencies issuing the permits described below.

We hereby certify to you that:

1. The land (the "Site") on which the Project is to be constructed is zoned \_\_\_\_\_ and such zoning classification permits the intended use of the Project.

2. We have examined the relevant laws, regulations and ordinances applicable to the Project, including any applicable concurrency regulations. The Plans and Specifications comply with all applicable federal, state and municipal laws, rules and regulations and ordinances, including zoning, building and fire codes and ordinances. The Project, if constructed substantially in accordance with the Plans and Specifications, will likewise comply with applicable federal, state and municipal laws, rules and regulations and ordinances, relating to the construction and intended use thereof.

3. We are familiar with the on-the-ground conditions of the Site. We have also reviewed the soil report with respect to the Site prepared by \_\_\_\_\_, dated \_\_\_\_\_, \_\_\_\_\_, and have taken the findings and recommendations contained in said report into consideration in preparing the Plans and Specifications.

In our opinion, the following certificates, permits and approvals are the only certificates, permits and approvals needed for the construction, completion and use of the Project. These permits have either been issued or are obtainable without restriction, limitation or delay upon any necessary application and payment of the required fees and there are no conditions existing to

our knowledge which would prohibit, impede or delay issuance of any such certificate, permits or approvals. No concurrency reservation is required for this Project.

<u>Permit</u>	<u>Estimated Time of Issuance</u>
1. [please describe all required permits including concurrency]	
2.	
3.	

If the Project is constructed in accordance with the Plans and Specifications, all utility lines providing utility services to the Project (including, without limitation, water, sewer, electricity and stormwater drainage):

\_\_\_ are located in dedicated public rights of way adjacent to the Property;

\_\_\_ extend, or shall extend, over private property of third parties (\*we give no opinion as to whether or not all necessary easements for such utilities are in place).

This certificate is being given to Compass Bank ("Lender") in connection with arrangements between Borrower and the Lender for a lien to finance construction of the Project under a Loan Agreement to be executed by the Borrower and the Lender, and we acknowledge and agree that the Lender may rely upon the contents and accuracy of this Certificate in concluding said Loan Agreement with the Borrower and in making advances thereunder.

You shall be entitled to use the plans, specifications and drawings, together with any and all modifications thereof, prepared for the captioned project, including any additions, enlargements or extensions thereof, without cost to you. The undersigned hereby consents to the conditional assignment for security by Borrower to Lender of all of Borrower's right, title and interest in and under the contract between Borrower and the undersigned.

It is agreed that any claim of lien which the undersigned might have for work performed upon this project is and shall continue to be subordinate to the lien of your mortgage, deed of trust, security agreement or other security instrument encumbering the subject premises and improvements thereon.

Please feel free to contact our office if we can be of further service.

Very truly yours,

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



EXHIBIT "B-2"

GENERAL CONTRACTOR'S LETTER

Compass Bank  
10060 Skinner Lake Drive  
Jacksonville, Florida 32246

Re: *Construction of subdivision improvements for an 85 lot single family residential subdivision to be known as Brady Point Preserve (the "Project")*

Dear Sir or Madam:

We are the General Contractors on the captioned project pursuant to our General Contract with Brady Point Preserve, L.P. ("Borrower"). In consideration of your making a loan to Borrower to finance the construction of the Project, we agree that in the event of default by the Borrower under the loan documents, we shall, at your request, continue performance on your behalf under our General Contract with the Borrower in accordance with the terms thereof, provided that we shall be reimbursed in accordance with said General Contract for all work, labor and materials rendered on your behalf. The undersigned hereby consents to the conditional assignment for security by Borrower to Lender of all of Borrower's right, title and interest in and under the contract between Borrower and the undersigned.

We further agree that we shall not agree to any modification in our General Contract with the Borrower and shall not perform work pursuant to any Change Order in violation of the terms of the Loan Agreement without your specific written approval.

The officer executing this instrument on behalf of the undersigned hereby personally certifies that has full authority under all state and local laws and regulations to perform all of its obligations under the General Contract with the Borrower in accordance with the terms thereof.

The undersigned agrees that any lien that it now holds or hereafter acquires for work or materials furnished by it to the captioned project shall be subordinate to the lien of your mortgage, deed of trust, security agreement and any other security instrument encumbering the subject premises and improvements.

Very truly yours,

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

EXHIBIT "C"

UNIT ONE 57 LOTS - PLAT COMPLETE

LOT NUMBER	TYPE VIEW	SALES PRICE
1	Marsh - Creek	\$315,000
2	Marsh - Creek	\$340,000
3	Marsh - Creek	\$350,000
4	Marsh - Creek	\$360,000
5	Marsh - Creek	\$360,000
6	Marsh - Creek	\$395,000
7	Marsh - Creek	\$425,000
8	Marsh - Creek	\$405,000
9	Marsh - Creek	\$425,000
10	Marsh - Creek	\$425,000
11	Marsh - Creek	\$375,000
12	Marsh - Creek	\$400,000
13	Marsh - Creek	\$375,000
14	Marsh - Creek	\$380,000
15	Marsh - Creek	\$420,000
16	Marsh - Creek	\$455,000
17	Marsh - Creek	\$375,000
18	Marsh - Creek	\$480,000
19	Marsh - Creek	\$490,000
20	Marsh - Creek	\$510,000
21	Marsh - Creek	\$530,000
22	Marsh - Creek	\$550,000
23	Marsh - Creek	\$530,000
24	Marsh - Intracoastal	\$530,000
25	Marsh - Intracoastal	\$530,000
26	Marsh - Intracoastal	\$550,000
27	Marsh - Intracoastal	\$550,000
28	Marsh - Intracoastal	\$550,000
29	Marsh - Intracoastal	\$530,000
30	Marsh - Intracoastal	\$530,000
31	Marsh - Intracoastal	\$530,000
32	Marsh - Intracoastal	\$530,000
33	Marsh - Hammocks	\$365,000
34	Marsh - Hammocks	\$350,000
35	Marsh - Hammocks	\$365,000
36	Marsh - Hammocks	\$365,000
37	Marsh - Hammocks	\$325,000

Total Marsh                      37 Lots                      \$16,270,000

LOT NUMBER	TYPE VIEW	SALES PRICE
38	Lake - Wooded	\$260,000
39	Lake - Wooded	\$260,000
40	Lake - Wooded	\$260,000
41	Lake - Wooded	\$260,000
42	Lake - Wooded	\$260,000
43	Lake - Wooded	\$260,000
44	Lake - Wooded	\$260,000
45	Lake - Wooded	\$260,000

Total Lake	8 Lots	\$2,080,000
46	Interior - Wooded	\$150,000
47	Interior - Wooded	\$150,000
48	Interior - Wooded	\$150,000
49	Interior - Wooded	\$150,000
50	Interior - Wooded	\$150,000
51	Interior - Wooded	\$150,000
52	Interior - Wooded	\$150,000
53	Interior - Wooded	\$150,000
54	Interior - Wooded	\$150,000
55	Interior - Wooded	\$150,000
56	Interior - Wooded	\$150,000
57	Interior - Wooded	\$150,000
Total Interior	12 Lots	\$1,800,000
Total Unit One	57 Lots	\$20,150,000

UNIT TWO 19 LOTS - PLAT UNFINISHED

LOT NUMBER	TYPE VIEW	SALES PRICE
1	Lake - Wooded	\$260,000
2	Lake - Wooded	\$260,000
3	Lake - Wooded	\$260,000
4	Lake - Wooded	\$260,000
5	Lake - Wooded	\$260,000
6	Lake - Wooded	\$260,000
7	Lake - Wooded	\$260,000
8	Lake - Wooded	\$260,000
9	Lake - Wooded	\$260,000
10	Lake - Wooded	\$260,000
11	Lake - Wooded	\$260,000
12	Lake - Wooded	\$260,000
Total Lake	12 Lots	\$3,120,000

LOT NUMBER	TYPE VIEW	SALES PRICE
13	Interior - Wooded	\$150,000
14	Interior - Wooded	\$150,000
15	Interior - Wooded	\$150,000
16	Interior - Wooded	\$150,000
17	Interior - Wooded	\$150,000
18	Interior - Wooded	\$150,000
19	Interior - Wooded	\$150,000

Total Interior 7 Lots \$1,050,000

Total Unit Two 19 Lots \$4,170,000

GRAND TOTAL  
UNITS ONE & TWO 76 Lots \$24,320,000