

Return recorded copy to:

Development Management Division  
115 S. Andrews Avenue, A240  
Fort Lauderdale, FL 33301

Document prepared by:

**NOTICE: PURCHASERS, GRANTEES, HEIRS, SUCCESSORS AND ASSIGNS OF ANY INTEREST IN THE PROPERTY SET FORTH ON EXHIBIT "A" ARE HEREBY PUT ON NOTICE OF THE OBLIGATIONS SET FORTH WITHIN THIS AGREEMENT WHICH SHALL RUN WITH THE PROPERTY UNTIL FULLY PERFORMED.**

### ARCHAEOLOGICAL SITE AGREEMENT

This is an Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY, "

AND

\_\_\_\_\_, its successors and assigns, hereinafter referred to as "DEVELOPER"

#### **[AND IF THE PROPERTY IS LOCATED WITHIN A MUNICIPALITY]**

The City of \_\_\_\_\_, a municipal corporation, created and existing under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "CITY."

WHEREAS, DEVELOPER'S plat, known as \_\_\_\_\_ Plat, Plat No./Clerk's File No. \_\_\_\_\_, hereinafter referred to as the "PLAT," was approved by the Board of County Commissioners of Broward County on \_\_\_\_\_, 20\_\_\_\_; and

WHEREAS, a description of the platted area is attached hereto as Exhibit "A" and made a part hereof, and

WHEREAS, the Plat depicts the proposed development of the real property described in Exhibit "B" attached hereto, hereinafter referred to as the "Property"; and

WHEREAS, the Plat shows Archaeological Site # \_\_\_\_\_ on that portion of the Property described in Exhibit "C" attached hereto, hereinafter referred to as the "Archaeological Site"; and

WHEREAS, the approval of the Plat by the COUNTY COMMISSION was conditioned upon DEVELOPER agreeing to prevent destruction of the Archaeological Site during development of the Property and to preserve the Archaeological Site as private open space; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, and payments hereinafter set forth, the parties agree as follows:

1. The above recitals and representations are true and correct and are incorporated herein.
2. DEVELOPER agrees that the development of the Archaeological Site shall be prohibited and that the Archaeological Site shall be preserved as private open space in perpetuity. The recording of this agreement in the Public Records of Broward County shall constitute a covenant running with the Archaeological Site in favor of COUNTY. This covenant shall touch and concern the land and shall bind the DEVELOPER, its successors, vendors, assigns, heirs, partners, subsidiaries, and affiliates. In addition to the above:
  - (a) DEVELOPER shall place a note on the face of the plat stating: "This plat contains \_\_\_\_\_ Archaeological Site, Florida Site File # \_\_\_\_\_, to be preserved as private open space in perpetuity;" and
  - (b) DEVELOPER shall delineate the Archaeological Site on the plat and identify it as " \_\_\_\_\_ Archaeological Site # \_\_\_\_\_."
3. DEVELOPER agrees to retain the services of a professional archaeologist (the "Archaeologist"), who shall be approved, in writing, by the State Archaeologist, Division of Historical Resources, Florida Department of State, to monitor development activities within the Property that may adversely and materially affect the Archaeological Site.
4. (a) DEVELOPER agrees to erect a physical barrier consisting of wood or other substantial material around the Archaeological Site in order to prevent damage to the Archaeological Site during development of the Property. Such barrier shall be constructed prior to the commencement of any filling, grading, excavation or construction activities occurring on the Property. The barrier shall be erected to a height of no less than four (4) feet and shall be brightly colored or have brightly colored flags attached.

- (b) DEVELOPER shall notify COUNTY's Development Management Division in writing, when the barrier has been erected. Within five (5) working days following receipt of this notice, appropriate personnel of COUNTY's Development Management Division shall inspect the barrier and confirm, in writing, to DEVELOPER that the barrier has been erected in accordance with the terms of this Agreement.
  - (c) DEVELOPER agrees to permit appropriate personnel of COUNTY's Development Management Division to periodically inspect the barrier to ensure continued compliance with the terms of this Agreement. Such inspections shall be made at reasonable times following at least twenty-four (24) hours verbal notice to DEVELOPER.
  - (d) DEVELOPER agrees to maintain the physical barrier in place until all filling, grading, excavation or construction activities immediately adjacent to the Archaeological Site have been completed.
5. DEVELOPER agrees to deposit not less than a twelve-inch layer of clean fill and to place lawn-type sod over the entire Archaeological Site prior to construction activities occurring on the Property. Such fill shall be placed on the Archaeological Site with rubber-wheeled equipment. In addition, DEVELOPER may plant trees upon and irrigate the Archaeological Site. Excavation associated with the above activities shall not exceed the depth of the fill material.
6. After placement of the fill, installation of irrigation, and landscaping of the Archaeological Site is complete, DEVELOPER shall notify COUNTY's Development Management Division in writing, that all required activities and site development have been completed on and immediately adjacent to the Archaeological Site. Within ten (10) working days of this written notification, COUNTY's Development Management Division staff shall verify that said work has been completed and shall confirm this, in writing, to DEVELOPER. The protective barriers shall not be removed until such confirmation is received by DEVELOPER from COUNTY's Development Management Division.
7. DEVELOPER agrees that any proposed change of grade immediately adjacent to the Archaeological Site shall be monitored by the Archaeologist referred to in Paragraph 3 above. In the event that any potentially significant artifacts are uncovered, DEVELOPER agrees to cease any development activities in the immediate vicinity of the discovery site and a reconnaissance level survey and assessment of the discovery site shall be conducted by the Archaeologist. Said survey and assessment shall be submitted by the DEVELOPER to the Development Management Division, the local government having jurisdiction and the State Division of Historical Resources for review and approval of the assessment, which

approval shall not be unreasonably withheld. If the Archaeologist determines, and the reviewing agencies concur, that the discovery site is not significant, development activities may resume, with the appropriate archaeological monitoring. If the reviewing agencies do not notify DEVELOPER in writing that the discovery site is significant within thirty (30) days after receipt of the survey and assessment, then, in that event, the discovery site shall be deemed insignificant and development activities may resume with appropriate archaeological monitoring. If the discovery site is determined to be significant according to the approved Archaeologist's assessment, DEVELOPER shall, within thirty (30) days of the approval of such assessment by reviewing agencies, take one of the following actions:

- (a) Preserve the discovery site by modifying the approved Plat to include the location of the discovery site within the Archaeological Site, or enter into an agreement, in a form acceptable to COUNTY and CITY (if applicable), which agreement shall include the location of the discovery site within the Archaeological Site. Upon a modification of the Plat or execution of the agreement by COUNTY and CITY (if applicable), development activities may resume with appropriate archaeological monitoring. DEVELOPER agrees to follow those procedures described in paragraphs 3 through 6 above to protect the new Archaeological Site; or
  - (b) Delay construction activities in the location of the discovery site in order to initiate an excavation to recover all significant artifacts at that location. Such excavation shall be supervised by the Archaeologist referred to in Paragraph 3 above and shall be conducted pursuant to all applicable federal, state and local regulations.
8. The Developer obligations contained in Paragraphs 3 through 7 of this Agreement shall terminate and be of no further force and effect when the Developer has fulfilled the obligations contained in Paragraph 5 of this Agreement and when all excavation activity of the land immediately adjacent to the Archaeological Site has been completed.
  9. The continued maintenance of the Archaeological Site shall be the responsibility of the Developer. The site shall be maintained in the same manner as other common areas within the development.
  10. DEVELOPER agrees that the development of the Archaeological Site shall be prohibited and that the Archaeological Site shall be preserved as private open space in perpetuity.
  11. Excavation of the Archaeological Site shall be permitted only if the activity is part of a bona fide archaeological survey conducted by a professional archaeologist and permission has been obtained, in writing, from the State Archaeologist.

12. (a) If DEVELOPER fails to comply with the provisions of this Agreement, COUNTY shall provide to DEVELOPER and CITY written notice of such failure to comply, in which event DEVELOPER shall have ten (10) days from the date of the notice in which to cure such non-compliance. In the event DEVELOPER does not cure such non-compliance within said ten-day period, COUNTY or CITY (if applicable) may withhold additional building permits or certificates of occupancy for further development until the default is corrected. If COUNTY or CITY (if applicable) determines that such a default may be endangering the archaeological resource, COUNTY or CITY (if applicable) shall be entitled to an injunction to prevent DEVELOPER from damaging or permitting the damage of the archaeological resource.
- (b) The parties agree that if the archaeological resources of the site are damaged as a result of any default of this Agreement by DEVELOPER, COUNTY or CITY (if applicable) may require DEVELOPER to take action to mitigate such damage. Necessary mitigation shall be determined by COUNTY in consultation with the Archaeologist described in paragraph 3 and the Division of Historical Resources.
13. COUNTY agrees that this Agreement satisfies the requirements of Section 5-198(j)2 of the Broward County Land Development Code with respect to the protection of archaeological sites.
14. NOTICE. Whenever any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

Director, Development Management Division of Broward County  
115 South Andrews Avenue, Room A240  
Fort Lauderdale, FL 33301

For the DEVELOPER:

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

15. RELEASE. When all of the obligations under this Agreement are fully performed, at the request of the Developer or its successor and upon payment of any applicable fees, COUNTY shall cause a Release to be recorded in the Official Records of Broward County, Florida evidencing such performance.
16. RECORDATION. This Agreement shall be recorded in the Public Records of Broward County Florida, at the DEVELOPER=s expense. The benefits and obligations contained in this Agreement shall inure to grantees, successors, heirs, and assigns who have an interest in the PLAT.
17. VENUE; CHOICE OF LAW. Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue sitis, and shall be governed by the laws of the State of Florida.
18. CHANGES TO FORM AGREEMENT. DEVELOPER represents and warrants that there have been no amendments or revisions whatsoever to the form Agreement without the prior written consent of the County Attorney=s Office. Any unapproved changes shall be deemed a default of this Agreement and of no legal effect.
19. CAPTIONS AND PARAGRAPH HEADINGS. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.
20. NO WAIVER. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.
21. EXHIBITS. All Exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference. Typewritten or handwritten provisions inserted in this Agreement or attached hereto shall control all printed provisions in conflict therewith.
22. FURTHER ASSURANCES. The parties hereby agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.
23. ASSIGNMENT AND ASSUMPTION. DEVELOPER may assign all or any portion of its obligations pursuant to this Agreement to a grantee of the fee title to all or any

portion of the property described in Exhibit "A." DEVELOPER agrees that any assignment shall contain a provision which clearly states that such assignment is subject to the obligations of this Agreement.

24. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the COUNTY and DEVELOPER.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature; BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor and Vice Mayor, authorized to execute same by Board action on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and \_\_\_\_\_, through its duly authorized representative to execute same.

**COUNTY**

ATTEST:

BROWARD COUNTY, through its  
BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
County Administrator and Ex-  
Officio Clerk of the Board of  
County Commissioners of  
Broward County, Florida

By \_\_\_\_\_  
Mayor

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Approved as to form by  
Office of County Attorney  
Broward County, Florida  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-6968

By \_\_\_\_\_  
Assistant County Attorney

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_









**MORTGAGEE-CORPORATION/PARTNERSHIP**

Mortgagee, being the holder of a mortgage relating to the parcel(s) described in Exhibit "A" hereby consents and joins in for the purpose of agreeing that its mortgage shall be subordinated to the foregoing Agreement.

Witnesses:

\_\_\_\_\_  
Name of Developer (corporation/partnership)

\_\_\_\_\_  
(Signature)  
Print name: \_\_\_\_\_

By \_\_\_\_\_  
(Signature)

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

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
(Signature)  
Print name: \_\_\_\_\_

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

ATTEST (if corporation):

(CORPORATE SEAL)

\_\_\_\_\_  
(Secretary Signature)  
Print Name of Secretary: \_\_\_\_\_

**ACKNOWLEDGMENT - CORPORATION/PARTNERSHIP**

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ corporation/partnership, on behalf of the corporation/ partnership. He or she is:

[ ] personally known to me, or  
[ ] produced identification. Type of identification produced \_\_\_\_\_.

NOTARY PUBLIC:

(Seal)

My commission expires: \_\_\_\_\_  
Print name: \_\_\_\_\_



**CITY**  
(If Property is located within a City)

WITNESSES:

CITY of \_\_\_\_\_

\_\_\_\_\_

By \_\_\_\_\_  
Mayor-Commissioner

\_\_\_\_\_

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
City Manager

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

APPROVED AS TO FORM:

By \_\_\_\_\_  
City Attorney

**EXHIBIT "A"**

**LEGAL DESCRIPTION FOR PLAT**

**EXHIBIT "B"**

**PROPERTY**

**EXHIBIT "C"**  
**ARCHAEOLOGICAL SITE**