

4/27/88

OFF REC 13679 PG 1270

COV5/ST4
CITYDECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS that the undersigned, being the owner, or having some right, title or interest in the following described property, lying being and situated in Dade County, Florida, to wit:

SEE EXHIBIT "A" ATTACHED HERETO.

(hereinafter referred to as the "Property") in order to assure the County Commission of Dade County, Florida, that representations made to it by the undersigned during consideration of the application by CITY NATIONAL BANK OF MIAMI, TRUSTEE, application #86-142 will be abided by, voluntarily makes the following Declaration of Restrictions covering and running with the above-described real property:

(1) Dedication of Land for Fire Station Site: In recognition of the fact that the subject Property will create a need for a fire station site, the undersigned agrees to dedicate by plat and donate at no cost to Dade County by fee simple title with no remainder, liens, or encumbrances, a one net acre parcel of land, exclusive of all easements and rights-of-way, described in Exhibit "B" attached hereto, to Dade County, prior to platting of any type, or waiver of plat for any of the Property contiguous thereto. The undersigned further agrees to provide adequate paved road access, approved by the Public Works Department, along one side of the fire station site and all other utilities including water lines, sewer lines, electric service, and telephone service at the perimeter of the fire station site in a sufficient operational state to meet all applicable building and zoning codes and support full development of the fire station. The undersigned also agrees to fill and compact the site to comply with all applicable building and zoning codes and flood insurance regulations. The fill and compaction shall be of sufficient quality to support all building improvements associated

This instrument prepared by:
Thomas P. Carlos, Esquire
Carlos Abbott & Ferro, P.A.
999 Ponce de Leon Blvd., Ste 1150
Coral Gables, FL 33134
(305) 444-1500

(1)

with the development of a fire station site planned for the subject site by Dade County. Any roads on the perimeter of the fire station site shall be improved with sidewalks and/or curbs and gutters if such improvements are either in existence or planned for contiguous development. All utilities, improvements, and fill/compaction, specified above, for the fire station site shall be completed by the undersigned prior to platting of any type, or waiver of plat for any of the Property contiguous thereof. Dade County shall have the option to sell this site in the future if service needs dictate that a site or equipment is needed elsewhere to properly serve this area.

It is noted that the donation of the fire station site satisfies the current fire service capital need generated by the entire subject application (#86-142) which includes the proposed residential tracts addressed by this declaration. To the extent permitted by law, the undersigned shall be credited for the portion of the fair market value (determined at time of donation) of the donated fire station site attributable to the subject proposed residential tracts in the assessment of any impact fees or fees from any other capital funding mechanism that may be charged in the future by Dade County for such capital fire services.

(2) Monetary School Donation Based On Value In Lieu Of Land:

In order to help meet future public schools needs generated by this application the undersigned shall voluntarily contribute funds to the Dade County School Board equal to the fair market value of a hypothetical 6.76 net acres of land with the same zoning and other development approvals as would permit 6.5 residential units per net acre of land on the subject Property. The fair market value of the entire hypothetical 6.76 net acres shall be determined by the Dade County Property Appraiser by applying the assumptions contained in Exhibit "C" attached hereto, prior to platting of any type or waiver of plat of the subject Property or any portion thereof.

The total school contribution as adjusted for cost-of-living

changes shall be made in the following manner:

a) Ten installments, composed of an initial installment representing 50% of the fair market value of that portion of the school site requirement allocated to each tract pursuant to paragraph B below, at the time of the plat approval of any type or waiver of plat for each tract, and the remaining 50% of the contribution corresponding to each tract upon the issuance of the building permit representing 50% of the units contained in each tract.

b) The school contribution obligation to each tract shall be the fair market value of the acreage reflected below:

<u>TRACT</u> *	<u>SCHOOL ACREAGE ALLOCATED</u>
G	3.05
H	1.08
I	.80
J	.83
K	<u>1.00</u>
TOTAL	6.76 acres

* The references to Tracts relate to the designation of Tracts on that certain plan described herein as the CONCEPTUAL LAND USE AND WETLAND MITIGATION PLAN as prepared by POST, BUCKLEY, SCHUH & JERNIGAN, INC., dated January 20, 1988 and last revised February 11, 1988.

All school contribution installments shall be subject to cost-of-living adjustments over time beginning on the day following public hearing approval of the subject application (#86-142) and extending until the applicable installment is paid to the Dade County School Board.

The standard for determining cost-of-living adjustments shall be the Implicit Price Deflator for Gross Private Domestic Nonresidential Fixed Investment ("Deflator") issued quarterly by the Bureau of Economic Analysis, U.S. Department of Commerce. The Deflator for the quarter of the year in which the subject application is approved shall be taken as the Basic Standard. Cost-of-living adjustments to school contribution installments which are due and payable shall be made by multiplying the appli-

cable installment by a fraction, the numerator of which shall be the New Deflator Figure (such figure being the Deflator figure for the quarter of the year in which the applicable installment is due and payable) and the denominator of which shall be the Basic Standard, and the result thus obtained shall be the installment to be paid by the undersigned to the Dade County School Board.

(3) Contribution for Parks and Open Space: In order to reduce the burden on usable open space created by this development, and in order to comply with the open space requirements of the Comprehensive Development Master Plan, the undersigned shall develop private park sites as follows:

<u>TRACT *</u>	<u>PARK SIZE</u>
G	3.23 Acres
H	1.13 Acres
I	0.84 Acres
J	0.86 Acres
K	<u>1.06</u> Acres
TOTAL	7.12 Acres

* The references to Tracts relate to the designation of Tracts on that certain plan described herein as the CONCEPTUAL LAND USE AND WETLAND MITIGATION PLAN as prepared POST, BUCKLEY, SCHUH & JERNIGAN, INC., dated January 20, 1988 and last revised February 11, 1988.

Prior to platting of any type, or waiver of plat, for each of the tracts listed above, the undersigned shall submit development plans for the park site proposed in a particular tract to the Dade County Park and Recreation Department for approval of the site location and recreational facilities, parking, and landscaping for the subject site. Additionally, the undersigned shall complete installation and construction, subject to the approval of the Park and Recreation Department, of the previously approved improvements to the subject park site prior to the issuance of building permits for more than 50% of the dwelling units approved in each tract.

(4) DERM: The undersigned has submitted a conceptual plan

featuring wetlands mitigation and drainage management. This conceptual plan features 47.89 acres of lake and mitigation areas. As the Department of Environmental Resource Management (DERM) has already approved this conceptual plan as meeting their mitigation requirement and their cut and fill requirement for drainage and water retention, the undersigned covenants to develop substantially in accordance with this plan which is entitled Conceptual Land Use and Wetland Mitigation Plan as prepared by Post, Buckley, Schuh & Jernigan, Inc., dated January 20, 1988 and last revised February 11, 1988. The determination as to whether the final plan is in substantial compliance with the conceptual plan shall be made by the Director of DERM. If the undersigned disagrees with the Director's determination, an appeal of the Director's decision may be taken to the Environmental Quality Control Board in accordance with Section 24-6 of the Code. In order to maintain these areas, the undersigned shall dedicate by plat and donate at no cost to Dade County by fee simple title with no remainder, liens, or encumbrances, the aforesaid 47.89 acres of land to Dade County for the purpose of meeting the County's drainage and mitigation requirements. The aforesaid dedicated lands shall be maintained through special taxing districts which shall be implemented as the adjacent tracts, or any portion thereof, are platted. For the purposes of this paragraph, the word "plating" is defined to include tentative platting, final platting, or waiver of plat. In addition, the "tracts" referred to above are delineated in the Conceptual Land Use and Wetland Mitigation Plan cited earlier in this paragraph. It is understood that the lands subject to special taxing district assessments shall include all residential and commercial tracts as delineated in the Conceptual Land Use and Wetland Mitigation Plan cited in this paragraph. For any tracts which are not adjacent to a wetland mitigation site, that tract shall be included in the special taxing district for the adjacent residential tract which does abut a mitigation site.

In addition to meeting DERM's requirements, the undersigned understands and agrees that it may have to, prior to obtaining building permits, receive permits from other governmental agencies (i.e., U.S. Army Corps of Engineers, South Florida Water Management District, Florida Department of Environmental Regulation, etc.).

This covenant, as well as the approved Class IV permit, shall neither be deemed to exempt the undersigned from the provisions of a basin wide environmental management plan, nor shall this covenant, as well as the approved Class IV permit, be deemed to require compliance by the undersigned with the provisions of a basin wide environmental management plan.

It is recognized that the plan entitled Conceptual Land Use and Wetland Mitigation Plan, prepared by Post, Buckley, Schuh, & Jernigan, Inc., dated January 20, 1988 and last revised February 11, 1988, and consisting of one sheet, meets the mitigation requirement and the cut and fill requirement for drainage and water retention for the properties described in Exhibits "A" and "D". Thus, when the parcels in Exhibit "D" are approved for development, no further lands shall be set aside to meet wetland mitigation and/or cut and fill requirements by the undersigned.

(5) Controlled Densities: The planned number of units and/or net acreage of each residential tract described and depicted in the Conceptual Land Use and Wetland Mitigation Plan as prepared by Post, Buckley Schuh & Jernigan, Inc., dated January 20, 1988 and last revised February 11, 1988 may change by not more than 25% (twenty five percent) at the time of the Dade County site plan approval process. Thus, the planned density in parcel yield would change accordingly. However, the aggregate total number of units within the Land Use Plan shall not exceed 1,080 dwelling units. Prior to any sale or transfer of any individual residential parcel or parcels (other than a total sale of all residential parcels) the Director of Building and Zoning shall receive and approve, in recordable form, a designation by the Owner and

proposed buyer or transferee of the maximum number of units to be allocated to the subject parcel/parcels under said flexibility factor.

(6) Authorization For Building and Zoning Department to Withhold Permits and Inspections: In the event payments are not made as promised, or improvements are not made as promised, in addition to any other remedies available, the Dade County Building and Zoning Department is hereby authorized to withhold any further permits, and refuse any inspections or grant any approvals, until such time as the Declaration is complied with.

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

(8) No Permits until Water/Sewer Contracted For No C.O. Until Water/Sewer Installed: The undersigned voluntarily agrees not to apply for building permits on the subject property until (1) it has executed a contract with Miami Dade Water and Sewer Authority Department for the installation of the water and sewer system to serve the subject property, and (2) engineering plans for the water and sewer lines have been approved by the required regulatory agencies. Further, certificates of completion or occupancy shall not be requested and units shall not be occupied until the water and sewer lines have been installed and connection to the lines has been made. The foregoing restriction shall not apply to requests for building permits for "dry entrance features, fill, walls and preconstruction work.

As further part of this Declaration, it is hereby understood that any official inspector of the Dade County Building and Zoning Department, or its agents duly authorized, has the privilege at any time during normal working hours of entering and investigating the use of the premises to determine whether or not

the requirements of the building and zoning regulations and the conditions herein-agreed to are being complied with.

These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.

This Declaration on the part of the owner shall constitute a covenant running with the land and may be recorded in the public records of Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned, and their heirs, successors and assigns until such time as the same is modified and released.

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 30 years from the date these covenants are recorded, after which time they shall be extended automatically for successive periods of ten years, unless an instrument signed by a majority of the, then, owner(s) of the subject real property has been recorded agreeing to change or release the covenants in whole, or in part, provided that the covenants have first been modified or released by Dade County.

This Declaration of Restrictive Covenants may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the, then, owner of the fee simple title of such lands petitioning such modification, amendment or release, provided that the same is also approved by the Board of County Commissioners of Metropolitan Dade County, Florida, after public hearing.

Should this Declaration of Restrictive Covenants be so modified, amended or released, the Director of the Metropolitan Dade County Building and Zoning Department, or the executive officer of the successor of such department, or in the absence of such director or executive officer, by his assistant in charge of the office in his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification,

amendment or release.

Enforcement shall be by action at law or in equity against any parties or persons violating, or attempting to violate, any covenants, either to restrain violation or to recover damages. The prevailing party in the action, or suit, shall be entitled to recover, in addition to costs and disbursements allowed by law, such sums as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available under law.

Invalidation of any one of these covenants, by judgment or Court, in no way shall affect any of the other provisions which shall remain in full force and effect.

Signed, sealed, executed and acknowledged this 2nd day of MAY, 1988.

WITNESSES:

CITY NATIONAL BANK OF FLORIDA
IS SUCCESSOR TO CITY NATIONAL BANK OF MIAMI

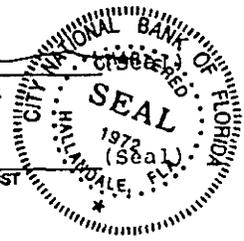
CITY NATIONAL BANK OF MIAMI,
Trustee under Trust #5006355

Chantal J. Becke

BY: [Signature]
VICE PRESIDENT & TRUST OFFICER

[Signature]

BY: CITY NATIONAL BANK OF FLORIDA EXECUTES THIS INSTRUMENT SOLELY AS TRUSTEE UNDER LAND TRUST NO. 5006355 AND NOT INDIVIDUALLY AND NO PERSONAL JUDGEMENT OR DECREE SHALL EVER BE SOUGHT OR OBTAINED AGAINST THE SAID BANK BY REASON OF THIS INSTRUMENT.



STATE OF FLORIDA)
COUNTY OF DADE)

I, an officer authorized to take acknowledgements, according to the laws of the State of Florida duly qualified and so acting, do hereby certify that on this date appeared before me IRVING J. LEHRER ^{VICE PRESIDENT & TRUST OFFICER} to me personally known, who acknowledged the foregoing instrument for the purposes therein contained, and had acknowledged that he was authorized under the trust to execute said instrument on behalf of the beneficiaries of the trust.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Miami, Dade County, Florida this 2nd day of May, 1988.

Chantal J. Becke
Notary Public, State of Florida
at Large

My Commission Expires:



CHANTAL J. BECKE
My Comm. expires Sept. 21, 1991
Bonded thru Notary Public Underwriters

EXHIBIT "A"

LEGAL DESCRIPTION

All of Tracts 5, 7, 8, 9, 10, 11, 12, 21, 22, 23, 24, 27, 28, 37, 38, 43, 44, 53, 54, and Tract 60 less the South 55.00 feet thereof according to the Plat of "MIAMI EVERGLADES LAND CO. LTD." lying in Section 32, Township 54 South, Range 39 East as recorded in Plat Book 2 at Page 3 of the Public Records of Dade County, Florida, containing 199.22 acres more or less, subject to any reservations, dedications or easements of record,

less the South 55.00 feet of TRACT 60, according to the Plat of "MIAMI EVERGLADES LAND CO. LTD.", lying in Section 32, Township 54 South, Range 39 East as recorded in Plat Book 2 at Page 3 of the Public Records of Dade County, Florida, containing 9.17 acres more or less,

and less the West 208.71 feet of the North 258.71 feet of Tract 5, according to the Plat of "MIAMI EVERGLADES LAND CO. LTD.", lying in Section 32, Township 54 South, Range 39 East as recorded in Plat Book 2 at Page 3 of the Public Records of Dade County, Florida and less the North 69.72 feet of TRACT 12, according to the Plat of "MIAMI EVERGLADES LAND CO. LTD." lying in Section 32, Township 54 South, Range 39 East as recorded in Plat Book 2 at Page 3 of the Public Records of Dade County, Florida, containing 9.82 Acres more or less.

Note - also referred to as TRACTS F and L, respectively, of the CONCEPTUAL LAND USE AND WETLAND MITIGATION PLAN as prepared by POST, BUCKLEY, SCHUH & JERNIGAN, INC., dated January 20, 1988 and last revised February 11, 1988.

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EXHIBIT "B"

LEGAL DESCRIPTION

The West 208.71 feet of the North 258.71 feet of TRACT 5, according to the Plat of "MIAMI EVERGLADES LAND CO. LTD.", lying in Section 32, Township 54 South, Range 39 East as recorded in Plat Book 2 at Page 3 of the Public Records of Dade County, Florida, containing 1.24 Acres more or less, also referred to as TRACT M of the CONCEPTUAL LAND USE AND WETLAND MITIGATION PLAN as prepared by POST, BUCKLEY, SCHUH and JERNIGAN, INC., dated January 20, 1988 and last revised February 11, 1988.

EXHIBIT "C"

LAND VALUATION ASSUMPTIONS

Appraisal Date: The estimate of value for the subject property should be determined for the day of public hearing approval.

Definition of Value: The most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell in a competitive market under all conditions requisite to fair value, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress. Fundamental assumptions and conditions presumed in this definition area:

1. Buyer and seller are motivated by self-interest.
2. Buyer and seller are well-informed and are acting prudently.
3. The property is exposed for a reasonable time on the open market.
4. Payment is made in cash, its equivalent, or in specified financing terms.
5. Specified financing, if any, may be the financing actually in place or on terms generally available for the property type in its locale on the effective appraisal date.

Assumptions: For the purposes of this appraisal, the following are assumed facts:

1. The property is ready to be developed with building improvements and no funds would be required to be expended for site development work or materials.
2. All utilities are in place and are at the perimeter of the site and would include roads, walks, curbs, water lines, sewer lines, electric service lines, and telephone service lines.
3. All utilities are of sufficient quality and quantity to adequately service the site with no less than 6.5 dwelling units per net acre.
4. The site is 6.76 net acres with an adequate shape to be developed with no less than 6.5 dwelling units per net acre.
5. The property is filled and compacted to comply with all appropriate building and zoning codes and flood insurance laws and regulations. The fill and compaction are of sufficient

EXHIBIT "C" con't.

quality to accept the building improvements contemplated.

6. The site has zoning that allows no less than 6.5 dwelling units per net acre.
7. The environs of the property are fully platted, zoned, and developed with roads, walks, utility lines, and are ready to be improved with homes at a density of approximately 6.5 dwelling units per net acre of land.

EXHIBIT "D"

LEGAL DESCRIPTION

TRACT 60, less the South 55.00 feet thereof, according to the Plat of "MIAMI EVERGLADES LAND CO. LTD.", lying in Section 32, Township 54 South, Range 39 East as recorded in Plat Book 2 at Page 3 of the Public Records of Dade County, Florida.

Containing 9.17 Acres more or less.

LEGAL DESCRIPTION

TRACT 5, less the West 208.71 feet of the North 258.71 feet thereof, according to the Plat of "MIAMI EVERGLADES LAND CO. LTD.", lying in Section 32, Township 54 South, Range 39 East as recorded in Plat Book 2 at Page 3 of the Public Records of Dade County, Florida.

and

The North 69.72 feet of TRACT 12, according to the Plat of "MIAMI EVERGLADES LAND CO. LTD.", lying in Section 32, Township 54 South, Range 39 East as recorded in Plat Book 2 at Page 3 of the Public Records of Dade County, Florida.

Containing 9.82 Acres more or less.

Note - also referred to as TRACTS F and L, respectively, of the CONCEPTUAL LAND USE AND WETLAND MITIGATION PLAN as prepared by POST, BUCKLEY, SCHUH & JERNIGAN, INC., dated January 20, 1988 and last revised February 11, 1988.

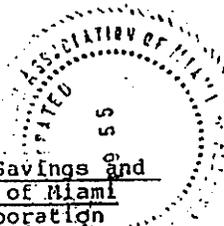
JOINDER BY MORTGAGEE
CORPORATION

The undersigned, Flagler Federal Savings and Loan Association of Miami, a Florida Corporation, Mortgagee, under that certain mortgage from City National Bank of Miami, as Trustee, dated the 3rd day of October 1986, and recorded in Official Records Book 13040, Page 142, of the Public Records of Dade County, Florida, in the original amount of \$ 6,500,000.00 covering all/or a portion of the property described in the foregoing agreement, do hereby acknowledge that the terms of this agreement are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF, these presents have been executed this 29th day of APRIL, 19 88.

RECORDED IN OFFICIAL RECORDS BOOK
13679 PG 1284
RICHARD P. BRINER
CLERK CIRCUIT COURT

Flagler Federal Savings and Loan Association of Miami
Name of Corporation



By [Signature]
President

Attest: [Signature] (SEAL)
ASST. Secretary

STATE OF Florida
COUNTY OF Dade

BEFORE ME, the undersigned authority, this day appeared HERSCHEL ROSENTHAL and LAWRENCE M. WEST, JR., both being to me well known and known by me to be the PRESIDENT and ASST. SECRETARY OF FLAGLER FEDERAL SAVINGS & LOAN ASSOC. OF MIAMI, under the laws of the State of UNITED STATES OF AMERICA, and which said Corporation is known by me to be the persons described in and which executed the foregoing instrument, the said officers of the said Corporation being likewise known by me to the Officers thereof who, in their official capacities as such officers of said Corporation executed, signed and delivered the said instrument as the act and deed of said Corporation, to and before me that they executed the said instrument, acting in their said official capacities, for and as to the act and deed of said Corporation and in its name, and impressed therein its Corporate Seal, for the uses and purposes therein mentioned, and after being duly authorized and directed.

WITNESS my hand and official Seal at MIAMI in the County and State aforesaid, on this, the 29th day of APRIL, A.D., 19 88.

My Commission Expires:

[Signature]
Notary Public, State of Florida
At Large



MY COMMISSION
EXPIRES 10-19-90