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OR BK 4128 PG1052
Escambia County, Florida
INSTRUMENT 97-384164

STATE OF FLORIDA
COUNTY OF ESCAMBIA

DEED DOC STAMPS PD 3 ESC CO \$2340.00
05/09/97 ERNIE LEE MAGANA, CLERK
By: *J. Kniffen*

**LEASE BETWEEN CITY OF PENSACOLA
AND PORT ROYAL PHASE II, INC.**

OR BK 4141 PG0466
Escambia County, Florida
INSTRUMENT 97-394118

THIS LEASE AGREEMENT (the "Lease") is made and entered into to be effective as of the 1 day of May, 1997, by and between THE CITY OF PENSACOLA, a municipal corporation of the State of Florida (the "Lessor"), and PORT ROYAL PHASE II, INC., a Florida corporation, its successors and assigns (the "Lessee").

I. STATEMENT OF PURPOSE

Lessor owns certain real property in the City of Pensacola, Florida known as the "Baylen Street Property, Phase II". Said property is particularly described on Exhibit "A" attached hereto and made a part hereof (the "Property"). Lessor intends to have the Property developed in accordance with the Master Site Plan dated October 22, 1996 and approved by the Pensacola City Council on October 24, 1996 (hereinafter referred to as the "Redevelopment Plan"), a copy of which is attached hereto as Exhibit "B".

Lessee desires to lease the Property from Lessor for the purpose of developing a residential project thereon consisting of lots for sixteen (16) single-family residences and eight (8) carriage house residential units, a community building (fitness room), and parking areas for the residents and guests of the Property. Lessee will sublease the lots by partial assignment of lease to third party purchasers (the "Sublessees").

II. PREMISES LEASED

Lessor hereby leases to Lessee the Property subject to the terms, provisions, and conditions of this Agreement.

III. EASEMENTS

A. Lessor hereby grants unto Lessee a nonexclusive easement over, under and across the following described property in Escambia County, Florida, to-wit:

Commence at the southwest corner of Lot 17, Block 27 of the waterfront or Pintado grant according to the map of the City of Pensacola copyrighted by Thomas C. Watson in 1906; thence go South 10 degrees 37 minutes 59 seconds East along the extension of the West line of the aforesaid Lot 17, Block 27, a distance of 80.00 feet to the Northwest corner of Lot 6, Block 32, said point being on the South right-of-way line of Cedar Street (80' R/W); thence go North 79 degrees 22 minutes 01 seconds East along the aforesaid South right-of-way line of Cedar Street a distance of 573.99 feet to the Northeast corner of Lot 11, Block 33, said point being on the West right-of-way line of Baylen Street (80' R/W); thence go South 10 degrees 34 minutes 11 seconds East along



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the aforesaid West right-of-way line of Baylen Street a distance of 200.00 feet to the Point of Beginning of an access easement varying in width; thence continue South 10 degrees 34 minutes 11 seconds East along the aforesaid West right-of-way line of Baylen Street a distance of 60.00 feet; thence go South 79 degrees 25 minutes 49 seconds West a distance of 135.00; thence go South 10 degrees 34 minutes 11 seconds East a distance of 305.00 feet to a point of curvature; thence go along a curve to the left having a radius of 18.00 feet an arc distance of 4.98 feet (CH = 4.97', CH BRG = S 18°29'49" E); thence go South 79 degrees 25 minutes 49 seconds West a distance of 40.48 feet to a point on a curve being concave Northeasterly and having a radius of 58.00 feet; thence go Northwesterly along the aforesaid curve having a radius of 58.00 feet an arc distance of 4.93 feet (CH = 4.93, CH BRG = N 13°00'13"W) to the point of tangency; thence go North 10 degrees 34 minutes 11 seconds West a distance of 365.00 feet; thence go North 79 degrees 25 minutes 49 seconds East a distance of 175.00 feet to the Point of Beginning. The above described parcel of land is situated in waterfront or Pintado Grant as per map of the City of Pensacola copyrighted by Thomas C. Watson in 1906 and contains 0.526 acres,

for use by Lessee and its contractors and employees, and by the Sublessees and their invitees, employees, contractors and guests for ingress and egress to the Property including the nonexclusive right to maintain the utilities situated thereon and thereunder or to be constructed.

B. Lessor retains a perpetual nonexclusive easement for ingress and egress and right-of-way on and over the private streets and pedestrian sidewalks adjacent to the right of way. This provision shall not be construed as granting the general public any access or easement rights over the private streets and pedestrian paths on the Property.

C. Lessee acknowledges that the Property is burdened by certain easements for the benefit of the Lessor, the owners of units of Port Royal Phase I, a condominium, and the Port Royal Owner's Association, Inc., their tenants, guests, invitees, contractors and employees, and the employees, invitees or contractors of the Port Royal Community Association, Inc.

D. Lessor hereby grants unto Lessee those certain common easements retained in Lessor's favor which are set forth in the Declaration of Covenants, Conditions and Restrictions dated July 9, 1984 and recorded at Official Records Book 1937 at Page 247 of the public records of Escambia County, Florida.

E. Lessor retains for itself, other public utility companies, and the general public, an easement for a public pedestrian right-of-way and for the installation, maintenance, repair and replacement of proposed street lighting and an existing sanitary sewer lift station and forcemain over, under, and through that portion of the Property known as the "Cedar Street Pedestrian Access and Utility Area" and more particularly described as that portion of the South forty (40) feet of that portion of the vacated Cedar Street right-of-way, lying within the boundary of the first parcel described in Exhibit "A."

Lessor shall construct and maintain an eight foot (8') wide sidewalk with brick paver bands on each side across the entire east-west length of the Cedar Street Pedestrian Access and Utility Area. The sidewalk shall be of concrete construction with brick paver bands and its design shall match the design of the sidewalk which Lessor plans to construct within the Cedar Street right-of-way east of Baylen Street. The City shall install and maintain and pay the electricity charges for street lights along side the sidewalk within the Cedar Street Pedestrian Access and Utility Area. The construction of the sidewalk and the installation of street lights shall coincide with the sidewalk construction and street light installation planned to be undertaken by the City along Cedar Street east of Baylen Street. Lessee shall pay to Lessor upon demand, but in no event later than one year from the date of this agreement, the amount of \$4,875.00, as Lessee's share of the cost of due sidewalk construction. In the event the sidewalk is not constructed within ten (10) years from the date of the Lease, the Lessor will refund to Lessee the sum paid pursuant hereto.

Upon the completion of the aforesaid sidewalk construction, Lessee shall promptly install and maintain sod and shrubbery, together with an irrigation system within the Cedar Street Pedestrian Access and Utility Area. Lessee shall be responsible for the regular landscape and irrigation maintenance, mowing and litter pickup, as well as payment of water bills for the irrigation system. Prior to the installation of said sod and shrubbery, Lessee shall regularly maintain and pick up any litter within said area.

Neither Lessor nor Lessee shall use the Cedar Street Pedestrian Access and Utility Area for any other purpose without the other party's express written consent.

IV. TERM

The term of this Lease shall be for a period of eighty six (86) years commencing on the Effective Date (being the date the last of the parties has executed this lease agreement).

V. RENEWAL

This Lease may be renewed and extended for an additional one hundred (100) years on the terms and conditions contained herein. This lease shall be renewed and extended unless Lessee shall give written notice to Lessor at least one (1) year prior to the expiration of the last year of the Lease of its desire to not renew and extend the term of this Lease.

VI. LEASE PAYMENTS

A. Initial 50 Years. Lessee shall pay Lessor for the initial 50 years of the Lease the sum of Four Hundred Twenty Thousand Dollars (\$420,000) in the manner set forth herein:

i. The Lessor has received the sum of Fifty Thousand and No/100 Dollars (\$50,000) as option consideration which sum has been applied to the lease payment due hereunder for the initial 50 years of the Lease.

ii. Upon the execution of the Lease, Lessee shall pay Lessor the balance of the initial lease payment of Three Hundred Seventy Thousand Dollars (\$370,000).

B. Second Thirty-Six Years. The annual lease payment for years 51 through 86 of the Lease shall be:

Commencing on the first (1st) day of the fifty-first (51st) lease year hereunder and on the first day of each year thereafter to and through the initial lease term of eighty-six (86) years, Lessee shall pay to Lessor annual payments of Four Thousand One Hundred Nineteen and 69/100 Dollars (\$4,119.69) each. Commencing on the sixth (6th) year during the last 36 years of the initial term of this lease, and continuing each fifth (5th) year thereafter, the lease payments shall be increased by a sum equivalent to the percentage increase, if any, in the Consumer Price Index ("CPI") as reported most recently prior to the beginning and prior to the end of the preceding five (5) year period. The maximum increase for any five (5) year period shall be 17.5%. In no event shall the lease payment be less than \$4,119.69 per year during the last thirty-six (36) year period nor shall the lease payment ever be adjusted downward even though the CPI has decreased, e.g. a CPI change of less than zero will be deemed to be zero for the purpose of this Lease. For the purposes of this paragraph, "Consumer Price Index" or "CPI" shall mean the Index now known as the United States Bureau of Labor Statistics Consumer Price Index, United States City Average, all items, 1982-84 = 100. If such Index shall be discontinued, then the most equivalent index published by the United States government shall be used.

C. First Renewal Term. Upon Lessee's renewal of the lease term for the additional 100 years after the eighty-six (86) year initial term as provided hereinabove, Lessee shall continue paying the last annual payment under the eighty-sixth year of the initial term and as the same is adjusted at the end of each five (5) years during the renewal term of the lease agreement.

D. Allocation of Lease Payments. Lessee shall have the right to allocate the lease payments hereunder among the Sublessees.

VII. USE OF PREMISES

The Property shall be developed by Lessee as a residential project (the "Project") consisting of lots for sixteen (16) single-family residences and eight (8) carriage house residential units as referenced in the Site and Redevelopment Plan and final subdivision plat approved by Lessor. The eight (8) carriage house units shall be constructed for occupancy separate and apart

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from the single family residences. A separate certificate of occupancy shall be obtained for each of the units constructed as an independent habitable residential unit.

**VIII. CONSTRUCTION OF IMPROVEMENTS
AND CONSTRUCTION PLANS**

Plans and specifications for the development of the Property and construction of any improvements, whether constructed by Lessee or Sublessees, shall be in conformity with the site and development plan and subdivision plat approved by Lessor, the Lease, and all applicable state and local laws, regulations and ordinances. The term "improvements" as used in this lease means the improvements included in the approved final site and development plan and final subdivision plat.

In the event Lessee proposes to make any substantial change in the improvements to be erected on the Property, which improvements change or affect the basic character and nature of the development design from that shown on the final site plan, final subdivision plat and construction plans and specifications as approved by Lessor, such changes shall require Lessor's written approval which shall not be unreasonably withheld. Lessor shall furnish Lessee written approval or disapproval of such proposed design changes within sixty (60) days of submission of said changes by Lessee.

Lessee shall be fully responsible for the development of all improvements to the Property at Lessee's sole cost and expense, pursuant to the terms and conditions of this Lease Agreement, provided, however, Lessor acknowledges that Lessee may not construct the residential units themselves but, rather, the Sublessees or their contractors may construct the residential units.

Lessee shall be responsible for the installation of all underground utilities including any electrical, sewer and water systems for the Property, at its sole cost and expense within the boundaries of the Property. Lessor shall, if necessary, at Lessor's expense, construct a natural gas distribution line to be used for connection to the individual units or parcels with a gas line to be placed in the access easement which provides access to Port Royal Phase I. Lessor shall furnish Lessee with adequate gas and garbage collection services at Lessee's expense.

IX. TITLE TO IMPROVEMENTS

Title to any building or other improvements of a permanent character that shall be placed upon the Property by Lessee shall vest in Lessor upon the termination of this Lease or any renewal or extension hereof, and Lessee acknowledges that it shall have no right to remove such fixed or permanent improvements from the Property.

X. BULKHEAD, PIERS AND BERTHING SPACES

Lessee understands that the general public has been granted access to the boardwalk and piers that exist on the east side of the Property. Lessor shall be responsible for maintenance of the concrete sidewalk adjacent to the bulkhead on the east side of the Property and the bulkhead.

XI. ACCESS TO PROPERTY

During the term of the Lease and any renewal or extension hereof, Lessee shall permit the representatives of Lessor access to the Property at all reasonable times deemed necessary for inspection of all work being performed in connection with the construction of the improvements on the Property.

XII. PERFORMANCE SCHEDULE

All subdivision improvements contemplated to be constructed by the Lessee shall be completed within one year from the date of this Lease. All Subleases or partial assignments of lease to the Sublessees shall require the improvements to be permitted within two years with the construction of residences to be completed within three years of the date of the partial assignment of lease or sublease. Notwithstanding anything in this Agreement to the contrary, all of the residences shall be completed within seven years from the date of the Lease.

Notwithstanding the foregoing, in the event that severe windstorm, fire, flood or other Act of God, shall render temporarily impossible the performance as required above, said performance shall be suspended until said impossibility is removed and the time of impossibility of performance shall be added to the times provided above.

XIII. SHORELINE STABILIZATION/FILL

A. Lessee shall construct a shoreline stabilization system on the westerly shoreline of the Property in the manner approved by Lessor's engineering and permitting department. Lessee shall be fully responsible for any costs incurred by Lessee in undertaking shoreline stabilization of the westerly shoreline of the Property. To that end, Lessor agrees to assist Lessee in obtaining permits from any governmental entities or agencies having jurisdiction over the waters and shoreline surrounding the Property. Any modifications to the site plan filed with Lessor necessitated by or as the result of shoreline stabilization shall be submitted to Lessor for approval.

B. Lessor agrees and covenants with Lessee that Lessor shall not place any fill or consent to any person placing fill in the waters lying on the waterward side of the mean high water line of the Property which would have the effect of making nonriparian that portion of the Property which is riparian, except with the express written consent of Lessee. No construction will be done by Lessor nor shall Lessor consent to any person doing any construction in the above-described waters lying east of the westerly line of the Center Street right-of-way and north

of the southerly line of the Hickory Street right-of-way, except with the express written consent of Lessee. This subparagraph shall not be construed to require Lessor to take any affirmative action to prohibit any other person from placing fill or doing any construction in the aforesaid waters, except as set forth hereinabove.

XIV. ASSOCIATION DOCUMENTS

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Lessee will cause to be prepared the legal documents necessary to provide for the development of the Project with certain infrastructure and common areas to be maintained by the Lessee, the Sublessees, or the Sublessee's association and/or The Port Royal Community Association, Inc. Additionally, Lessee shall record the Declaration of Covenants, Conditions and Restrictions which has been approved by Lessor. No amendments or modifications to the Declaration of Covenants, Conditions and Restrictions (the "Declaration") or other instruments affecting title to the Property shall be recorded by Lessee, except as otherwise set forth herein, without the written consent of Lessor, which consent shall not be unreasonably withheld.

XV. COVENANTS AND RESTRICTIONS

Lessor and Lessee agree that the following restrictions shall be covenants running with the land, and shall be binding on Lessor, Lessee, and the successors and assigns of the parties, and all other successors in interest to the Property, or any part thereof:

- A. That the Property shall be devoted only to and in accordance with the uses specified in the site and development plan approved by the Lessor;
- B. That all utility distribution lines shall be placed underground; and
- C. That the covenants and restrictions contained in the Declaration shall be a part of this Lease and, therefore, enforceable by Lessor.

XVI. NO ASSIGNMENT OF LESSEE'S RIGHTS

Lessee recognizes that because of its qualifications and identity, Lessor is entering into this Lease with Lessee. In so doing, Lessor is willing to accept and rely on the obligations of Lessee for the faithful performance of all undertakings and covenants hereby to be performed by Lessee. Therefore, pending completion of the Project, Lessee shall not assign its interest in this Lease except for the partial assignment of lease to Sublessees of parcels made in the ordinary course of business and the assignment of the common area facilities to the association responsible for maintenance of same. Nothing contained in the above shall prohibit Lessee from forming partnerships or other forms of business associations to carry out the terms of this Lease so long as Lessee shall remain liable for all obligations required pursuant to the terms hereof, and provided that Lessor is notified of such partnerships or associations in writing prior thereto.

A. After completion of construction of the planned improvements for the Property, according to the site and development plan approved by the City, Lessee may assign its interest and obligations in the Lease to the homeowners association established by the Declaration ("Phase II Association"). In that event, the Phase II Association and not the Lessee shall remain liable for all obligations required hereunder.

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B. Lessor further agrees that the partial assignment of lease, of a residential parcel to a Sublessee shall not constitute an assignment of the Lease requiring Lessor's approval whereupon Sublessees shall have all rights of Lessee hereunder.

XVII. MORTGAGES

A. Lessee shall have the right to mortgage their interests in the Property for the sole purpose of obtaining the financing necessary for acquisition, construction and development of the Project; provided, however, that all rights acquired under the leasehold mortgage shall be subject to all the terms of this Lease. There shall be no subordination of this Lease. Lessee agrees that any mortgage it executes in obtaining financing for the construction and development of the Project shall contain language incorporating the foregoing provision.

B. Sublessees are hereby expressly authorized and permitted to mortgage or otherwise encumber their subleasehold estates, in whole or in part, under one or more leasehold mortgages, deeds of trust, deed to secure debt or other security instrument by which such subleasehold estate is mortgaged, conveyed, assigned or otherwise transferred to secure a debt or other obligations (each, a "Leasehold Mortgage"), and to refinance and/or increase, from time to time such leasehold mortgage.

C. Each holder of a leasehold mortgage (each, a "Leasehold Mortgagee") may, but shall not be required to, perform on Lessee's behalf any of Lessee's obligations hereunder and performance by a Leasehold Mortgagee shall be deemed to be performance by Lessee insofar as the Lessor is concerned. In addition, each right and privilege of Lessee under this Lease shall inure to the benefit of each Leasehold Mortgagee. Leasehold Mortgagee shall have ninety (90) days after notice of default within which to cure such default.

XVIII. LESSOR'S WARRANTIES

Lessor warrants that Lessee may use the Property for its intended use.

XIX. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT IN FAVOR OF LESSOR

Lessee shall defend and indemnify Lessor, and save it harmless from any and all claims, suits, actions, damages, liability and expense in connection with loss of life, bodily or personal injury, or property damage arising from or out of any occurrence in, upon, at or about the Property or any part thereof, or occasioned wholly or in part by any act or omission of Lessee,

its successors and assigns, its agents, contractors, employees, servants, invitees, licensees or concessionaires.

The subleases to be entered into by and between Lessee and the Sublessees shall contain an indemnification and hold harmless clause under the terms of which the said Sublessees shall also agree to defend and indemnify Lessor and save it harmless from any and all claims, suits, actions, damages, liability and expense in connection with loss of life, bodily or personal injury, or property damage arising from out of any occurrence in, upon, at or about the subleased premises or any part thereof, or occasioned wholly or in part by any act or omission of said Sublessee, their invitees, licensees, tenants, guests, contractors and employees.

Lessee shall take such action as it deems reasonable and necessary to remove any liens placed against the Property, other than the mortgages that may be placed on the Property by Lessee and other than mortgages that may be granted by the Sublessees as to their parcels. If Lessee fails to remove any lien from the Property, other than those permitted by the terms hereof, within a reasonable period of time, such failure shall constitute a breach of the Lease.

XX. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT IN FAVOR OF LESSEE

Lessor shall hold harmless, indemnify and defend Lessee and Sublessees from any and all claims, suits, actions, damages, liability or expenses by federal, state or local government authorities in connection with any and all environmental conditions affecting the Property in existence on the date of closing, including all costs and reasonable attorney's fees at both trial and appellate levels, excepting for those environmental conditions caused by Lessee after the Effective Date hereof. Lessee shall promptly give notice to Lessor of any such claim or correspondence giving rise to any such claim. Lessor shall have the right, but not the obligation, to enter onto the Property at all reasonable times to investigate the environmental condition of the Property, to authorize consultants to undertake soil and groundwater tests thereon, and to undertake any environmental remediation of the Property; provided Lessor corrects any damage to surface improvements constructed by Lessee or Sublessees.

XXI. INSURANCE REQUIRED

Lessee shall maintain insurance and provide Lessor with certificates in accordance with Exhibit "C" during the life of this Lease Agreement as may be applicable under the circumstances. Lessee will not take possession of the Property or commence construction activities on the premises until certificates have been approved by the City's Department of Risk Management. Lessor shall have the right to make reasonable increases to the minimum required limits of liability on Exhibit "C" during the term of this Lease or any renewal or extension hereof. Lessee shall be responsible for all deductibles and self-insured retentions under its insurance policies.

The City will release Lessee from its obligation to maintain insurance provided the obligation to obtain and maintain the insurance required hereunder is assumed by an incorporated homeowner's association which is acting as the homeowner's association for the subdivision which Lessee is developing and provided said association provides City with proof acceptable to City that such insurance is in place and has been fully paid.

XXII. NO DISCRIMINATION

Lessee agrees that it will not discriminate upon the basis of race, creed, color, national origin, age, or sex in the construction, subleasing, use, occupancy, or operation of the Property, or in the improvements to be erected thereon and that each contract, or agreement with respect thereto shall specifically contain the following provision (provided, however, the provision of this Section XX shall not apply to any contracts between Sublessees and their contractors or assigns. This provision shall not exempt Sublessees from compliance with any applicable anti-discrimination or equal opportunity law):

"EQUAL OPPORTUNITY PROVISION:

1. In the construction and operation of the improvements, neither the Lessee nor any contractor or manager employed by Lessee shall discriminate against any employee or applicant for employment because of race, color, religion, age, sex or national origin, and they shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment with regard to their race, color, religion, age, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by Lessee setting forth the provisions of this Equal Opportunity Clause, and to cause any contractor, subcontractor or manager to do likewise.

2. The Lessee and any contractor or manager shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, age, sex or national origin. They shall send to each labor union or representative of workers with which they, or any of them, have a collective bargaining agreement or other contract or understanding, a notice, to be provided by Lessee, advising the labor union or workers' representative of their commitments under

this Equal Opportunity Clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment."

XXIII. AD VALOREM TAXES

Lessee shall pay any and all ad valorem taxes, or other taxes that may be levied against the Property commencing as of the effective date hereof. In the event that at any time during the period of this Lease, the law of Florida or interpretation of the law of Florida by an appropriate appellate court is altered so that no ad valorem taxes are required to be paid on the Property, and no tax or other levy is imposed in lieu of such ad valorem taxation. Then, and in that event, Lessee shall pay Lessor on an annual basis, as additional rent hereunder, an amount equivalent to what the ad valorem taxes on the Property would have been had Lessee been required to pay same. "Ad Valorem taxes", shall mean city and county taxes.

XXIV. WASTE

Lessee shall repair, replace and maintain the Property in a good, safe and substantial condition and shall use all reasonable precaution to prevent waste, damage or injury to the Property. In the event of damage to or destruction of any improvements hereafter constructed on the Property by fire, windstorm, water or any other cause whatsoever, Lessee shall, within a reasonable time, repair or rebuild such structures so as to place the same in as good and tenable condition as they were before the event causing such damage or destruction; failure to do so shall constitute a breach of this Lease.

**XXV. ENFORCEMENT OF LEASE; FORFEITURE
DEFAULT; REMEDIES; NONWAIVER**

Lessor may enforce the performance of this Lease in any manner provided by law, and this Lease shall be void upon the following events:

1. If Lessee shall desert or vacate the Property;
2. If default shall be made by Lessee in the payment of the lease payments as specified in this Lease;
3. If default shall be made by Lessee in the performance of any of the terms or conditions of this Lease that Lessee is to perform, including, but not limited to, the following:
 - a) Lessee's obligation to timely submit its construction plans to Lessor;
 - b) Lessee's obligation to timely commence construction of the planned improvements on the Property as set forth in Article XII, hereinabove; and

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c) Lessee's obligation to timely complete construction of the planned improvements on the Property as set forth in Article XII, hereinabove.

4. If Lessee shall fail to comply with any of the statutes, ordinances, rules or regulations of any governmental body governing or regulating the Lessee's business;

5. If Lessee shall file a petition in bankruptcy, or make an assignment for the benefit of creditors, or be adjudicated a bankrupt, or take advantage of any insolvency act.

Lessor shall notify Lessee of any such default and of Lessor's intention to declare this Lease terminated which notice Lessor shall make in writing. Unless Lessee shall have removed or cured the default within ten (10) days if a monetary default or to maintain insurance as required by this Agreement or within thirty (30) days if a non-monetary default, from the date of Lessor's notice of intention to declare the Lease terminated, this Lease shall come to an end as if the date established by notice of forfeiture were the day originally fixed herein for the expiration of the term of this Lease, without any further notice from Lessor to Lessee. Lessor's agent or attorney shall have the right, without further notice or demand, to re-enter and remove Lessee and Lessee's property from the Property without being deemed guilty of any trespass.

The failure of Lessor to insist, in any one or more instances, on a strict performance of any of the terms or conditions of this Lease, or to exercise any option set forth in this Lease, shall be construed as a future waiver or a relinquishment of the provision or option, but it shall continue and remain in full force and effect. The receipt by Lessor of rent, with knowledge of the breach of any term or condition hereof, shall not be deemed a waiver of the breach and no waiver by Lessor of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Lessor.

Notwithstanding the foregoing, Lessor understands that Lessee intends to construct the Project on the Property. Lessor has been advised further that Lessee intends to sublease the individual building sites to the Sublessees. In the event Lessee defaults under the terms of this Lease and Lessor should declare the Lease forfeited, Lessor shall honor the terms of any sublease entered into by Lessee provided that each Sublessee is not in default under any provision of the Sublessee's sublease agreement. Lessor shall not disturb such Sublessee's possession of the subleased property provided that such Sublessee continues to comply with the terms of the sublease agreement.

XXVI. ATTORNEY'S FEES

If default be made by Lessee in the performance of any of the terms, covenants, agreements, or conditions set forth in this Lease, so that it becomes necessary to place the enforcement of this Lease or any part hereof, or the collection of any rent due or to become due hereunder, or the recovery or possession of the Property in the hands of an attorney, or to file suit upon this Lease, Lessee shall pay Lessor all the costs incurred in such action, including all attorney's fees, whether at trial or appellate levels, and whether or not suit is filed.

XXVII. NOTICES

All notices provided in this Lease shall be deemed sufficient when sent by U.S. Certified Mail, Return Receipt Requested, postage prepaid, to the following address:

Lessor: The City of Pensacola
c/o City Manager
180 Governmental Center
City Hall
Pensacola, Florida 32501

Lessee: Port Royal Phase II, Inc.
c/o John S. Carr
125 S. Alcaniz Street
Pensacola, Florida 32501

XXVIII. PROVISIONS BINDING

The terms and provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto, including Sublessees, and, their successors and assigns, respectively.

XXIX. AMENDMENT

This Lease may not be altered, changed or amended except by an instrument in writing, signed by the parties hereto.

XXX. SEVERABILITY

If any provision of this Lease shall be declared in contravention of law or void as against public policy, such provisions shall be considered severable and the remaining provisions of this Lease shall continue in full force and effect.

XXXI. PARAGRAPH HEADINGS

The paragraph headings in this Lease are intended for convenience only and shall not be taken into consideration in any construction or interpretation of this Lease or any of its provisions.

XXXII. ENTIRE AGREEMENT

This instrument constitutes the entire agreement between Lessor and Lessee on the subject of this Lease, and all prior or contemporaneous oral or written agreements, or representations of any nature with reference to the subject matter of this Lease are cancelled and superseded by the provisions of this Lease.

XXXIII. WAIVER

Failure on the part of Lessor to complain of any action or non-action on the part of Lessee, no matter how long it may continue, shall never be deemed to be a waiver by Lessor of any of its rights under this Lease. Further, it is covenanted and agreed that no waiver at any time of any of the provisions of this Lease by Lessor shall be construed as a waiver at any subsequent time of the same provisions. The consent or approval by Lessor to or of any action by Lessee requiring Lessor's consent or approval shall not be deemed to waiver or render unnecessary Lessor's consent or approval to or of any subsequent similar act by Lessee.

XXXIV. TIME OF THE ESSENCE

Time is of the essence of each and every provision, covenant and condition of this Lease on the part of Lessor and Lessee to be done and performed.

XXXV. GOVERNING LAW

This Lease is subject to and shall be governed by the laws of the State of Florida.

EXECUTED in multiple original copies to be effective as of the day and year first above written.

Witnesses:

CITY OF PENSACOLA, FLORIDA,
a municipal corporation, Lessor



City Manager

Print Name _____

Print Name _____

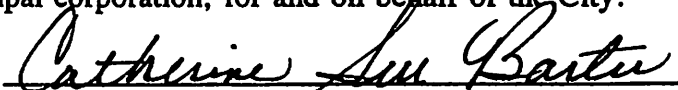
ATTEST:



City Clerk

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 1 day of MAY, 1997, by Edmond R. Hinkle and Shirley F. Law, the City Manager and City Clerk, respectively, of THE CITY OF PENSACOLA, a municipal corporation, for and on behalf of the City.



Notary Public

My Commission Expires:



Catherine Sue Bartee
MY COMMISSION # CC548950 EXPIRES
April 21, 2000
BONDED THRU TROY FAIN INSURANCE, INC.

PORT ROYAL PHASE II, INC.
a Florida Corporation, Lessee

Witnesses:

[Signature]
Print Name Stephen R. Moorhead

[Signature]
Print Name Gerard L. [unclear]

By: John S. Carr
John S. Carr, Its President

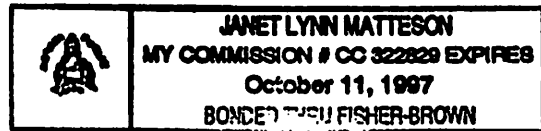
OR BK 4141 PG0480
Escambia County, Florida
INSTRUMENT 97-394118

STATE OF FLORIDA

COUNTY OF ESCAMBLA

The foregoing instrument was acknowledged before me this 15th day of May, 1997, by John S. Carr, the President, of Port Royal Phase II, Inc., a Florida corporation, for and on behalf of the corporation.

Janet Lynn Matteson
Notary Public JANET LYNN MATTESON
My Commission Expires:



City/Lease.

Commence at the Southwest corner of Lot 17, Block 27 of the Waterfront or Pintado Grant according to the map of the City of Pensacola copyrighted by Thomas C. Watson in 1906; thence go South 10°37'59" East along an extension of the West line of the aforesaid Lot 17, Block 27 a distance of 40.00 feet to the centerline of Cedar Street (90° R/W); thence go North 79°22'01" East along said centerline of Cedar Street for a distance of 289.00 feet for a Point of Beginning; thence continue along said centerline of Cedar Street for 285.03 feet to the West right-of-way line of Baylen Street (90° R/W); thence South 10°34'11" East along said right-of-way line for a distance of 163.70 feet; thence North 79°22'01" East for a distance of 69.62 feet; thence South 10°34'11" East for a distance of 448.88 feet to the North line of the property described in Official Record Book 1937, at Page 152; thence South 79°25'49" West along said North line for a distance of 204.31 feet to a point on the arc of a circular curve concave to the Northeast having a radius of 18.00 feet and a central angle of 15.52°54"; thence Northwest along the arc of said curve for an arc distance of 4.99 feet (Ch. = 4.97', CB = North 18°30'38" West) to the point of tangency; thence run North 10°34'11" West for 318.50 feet to the point of curvature of a circular curve concave to the Southwest having a radius of 170.33 feet and a central angle of 45°00'00"; thence northwesterly along the curve of said curve for an arc distance of 133.78 feet (Ch. = 130.36', CB = North 33°04'11" West) to the point of tangency; thence North 55°34'11" West for 102.57 feet; thence North 37°28'06" West for a distance of 60.10 feet; thence North 10°37'59" West for for a distance of 40.00 feet to the Point of Beginning. Containing 3.10 acres, more or less, and all lying and being in the City of Pensacola, Escambia County, Florida.

AND ALSO,

OR BK 4-14-1 PG 04-81
Escambia County, Florida
INSTRUMENT 97-394118

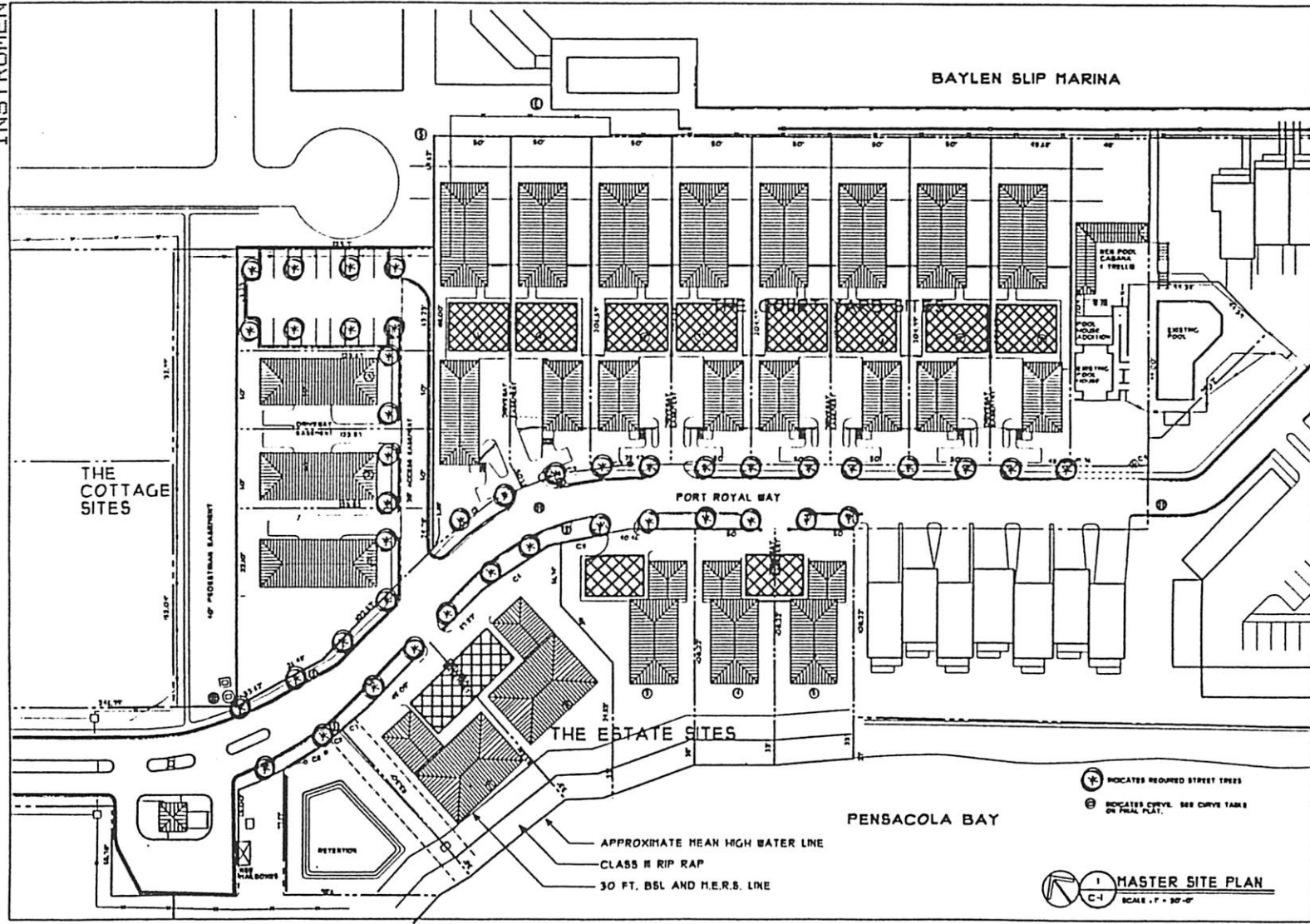
Commence at the Southwest corner of Lot 17, Block 27 of the Waterfront or Pintado Grant according to the map of the City of Pensacola copyrighted by Thomas C. Watson in 1906; thence go South 10°37'59" East along an extension of the West line of the aforesaid Lot 17, Block 27 a distance of 40.00 feet to the centerline of Cedar Street (90° R/W); thence go North 79°22'01" East along said centerline of Cedar Street a distance of 173.22 feet; thence South 10°37'59" East for a distance of 70.00 feet for a point hereinafter called point "A"; thence continue South 10°37'59" East for a distance of 98 feet, more or less, to the mean high water line of Pensacola Bay and for the Point of Beginning; thence North 10°37'59" West along the line, last traversed for a distance of 77.17 feet to a point on the arc of a circular curve concave to the Northeast having a radius of 201.85 feet and a central angle of 18°15'14"; thence North Southeastly along the arc of said curve for an arc distance of 84.24 feet (Ch. = 83.97', CB = South 46°26'34" East) to the point of tangency; thence South 55°34'11" East for a distance of 102.57 feet to the point of curvature of a circular curve concave to the Southwest having a radius of 130.33 feet and a central angle of 45°00'00"; thence Southeastly along the arc of said curve for an arc distance of 102.36 feet (Ch. = 99.75', CB = South 33°04'11" East) to the Point of tangency; thence South 10°34'11" East for a distance of 140.46 feet; thence South 79°25'49" West for a distance of 137 feet, more or less, to said mean high water line; thence Northwest along said mean high water line for a distance of 280 feet, more or less, to the Point of Beginning. All lying and being in the City of Pensacola, Escambia County, Florida.



OR BK 4-1-28 PG 106B
 Escambia County, Florida
 INSTRUMENT 97-384164

OR BK 4-1-4-1 PG 0482
 Escambia County, Florida
 INSTRUMENT 97-394118

EXHIBIT "B"
 REDEVELOPMENT PLAN



INDICATES REQUIRED STREET TREES

INDICATES CURVE. SEE CURVE TABLE ON FINAL PLAN.

1 MASTER SITE PLAN
 C-1 SCALE: 1" = 30'-0"

PORT ROYAL PHASE II
 PENSACOLA, FLORIDA

DATE: 10/22/16

DRAWN BY: S. SALLIS
 C. LEE

CHECKED BY: K. BULLOCK
 C. LEE

PROJECT NO: 1601

SHEET FILE: MASTER SITE PLAN

SHEET NO: C-1

EXHIBIT "C"

MINIMUM INSURANCE REQUIREMENTS

1. **Workers' Compensation** - Coverage to apply for all employees for Statutory Limits in compliance with the applicable state and federal laws. In addition, the policy must include:
 - a) **Employers' Liability** with a limit of not less than \$500,000 each accident.
 - b) **Notice of Cancellation and/or Restriction** - The policy must be endorsed to provide the City with thirty (30) days notice of cancellation or material change.
 - c) **If any operations are to be undertaken on or about navigable waters, coverage must be included for the U.S. Longshoremen and Harbor Workers Act and Jones Act during any period of exposure.**

2. **Comprehensive General Liability** - Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy filed by the Insurance Services Office and must include:
 - a) **Minimum limits of \$1,000,000 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability.**
 - b) **Premises and Operations.**
 - c) **Independent Contractors.**
 - d) **Products and Completed Operations.**
 - e) **Liquor Liability.**
 - f) **XCU Coverage.**
 - g) **Broad Form Property Damage**
 - h) **Broad Form Contractual Coverage applicable to this specific Lease, including any hold harmless and/or indemnification agreement.**
 - i) **Personal Injury**
 - j) **Additional Insured** - The City of Pensacola is to be specifically included as an additional insured for all coverages with regard to liability arising out of or in connection with the Property and all improvements thereto. Except with regard to limits of liability, this insurance shall apply separately to the City. This insurance shall be primary and not contributory with the City's insurance.

- k) Notice of Cancellation and/or Restriction - The policy must be endorsed to provide the City with thirty (30) days notice of cancellation or material change.
3. Business Auto Policy - Coverage must be afforded on a form no more restrictive than the latest edition of the Business Auto Policy filed by the Insurance Services Office and must include:
- a) Minimum limits of \$500,000 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability.
- b) Owned Vehicles.
- c) Hired and Non-Owned Vehicles.
- d) Employee Non-Ownership.
- e) Notice of Cancellation and/or Restriction - The policy must be endorsed to provide the City with thirty (30) days notice of cancellation or material change.

OR BK 4141 PG0484
Escambia County, Florida
INSTRUMENT 97-394118

RCD Jun 18, 1997 08:54 am
Escambia County, Florida

Ernie Lee Magaha
Clerk of the Circuit Court
INSTRUMENT 97-394118

City/Lease

RCD May 09, 1997 08:26 am
Escambia County, Florida

Ernie Lee Magaha
Clerk of the Circuit Court
INSTRUMENT 97-384164