

EASEMENT AND INDEMNITY AGREEMENT

THIS EASEMENT AND INDEMNITY AGREEMENT ("Agreement") is made and entered into as of this day of * , 1990, by and between JEFFREY I. FRIEDMAN, Trustee and FOREST CITY RENTAL PROPERTIES CORP., a * corporation (jointly, "Owners"), and the TOWN OF GOLDEN BEACH, FLORIDA (the "Town").

W I T N E S S E T H:

WHEREAS, the parties own, in fee simple, adjoining tracts of real estate situated in the County of Dade, State of Florida, and described on Exhibit A attached hereto as the "Owners' Tract" and the "Town's Tract," respectively; and

WHEREAS, the Owners and the Town desire to create a common driveway between and upon the Owners' Tract and the Town's Tract and to create an easement over, under and across that part of the Owners' Tract described on Exhibit B attached hereto and referred to therein as the "Owners' Easement Premises" and over, under and across the Town's Tract. The Owners' Easement Premises tract and the Town's Tract shall at times be jointly referred to as the "Easement Premises";

NOW, THEREFORE, in consideration of the mutual covenants, promises and conditions contained in this agreement, and for the sum of One and No/100 Dollars (\$1.00) each to the other in hand paid and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do agree as follows:

1. The foregoing recitals are true and correct and are made a part hereof.
2. The Owners hereby grant to the Town, as an easement appurtenant to the Town's Tract, an easement for ingress and egress over, under and across the Owners' Easement Premises (the "Town's Easement"). This Agreement may be terminated by the Owners without cause or reason being required; provided that such termination may not be effective earlier than thirty (30) days after the giving of written notice by the Owners to the Town; and further provided that, after completion of the improvements to the roadway as described in Paragraphs 5 and 7 hereof, termination of this Agreement may only occur upon mutual express written consent of the parties. Unless and until termination occurs as aforesaid, the Town's Easement granted to the Town shall be continuous and indefinite and, so long as it is in force and effect, shall run in favor of the Town, its residents, their invitees and respective successors and shall bind the Owners, their successors and assigns.
3. The Town hereby grants to the Owners, as an easement appurtenant to the Owners' Tract, a perpetual easement for ingress and egress over, under and across the Town's Tract (the "Owners' Easement"), which shall run in favor of the Owners, their residents, tenants, customers, invitees and employee, and each of their respective successors and assigns, and which shall bind the Town, its successors and assigns. There shall be no circumstances or grounds under which the Owners' Easement granted to the Owners as aforesaid may be terminated, except with the express mutual written joinder and consent of the parties. (The Town's Easement and the Owners' Easement are referred to jointly hereinafter as the "Easement.")
4. The proposed use of the Easement Premises by the Town is intended to provide access to the property north of the Town's Tract for the following limited purposes (the "limited purposes") only: emergency vehicles and weekday school bus traffic. (Notwithstanding such specific limits on use, it is recognized that, as a practical matter, residents of the section of Golden Beach to the north of the Easement Premises will possibly use the roadway during the period that any gate is open for school bus traffic, provided that in no way

shall any specific right to use ever be implied in favor of such residents and none is intended, and in the event that such use by residents interferes in any way with the Owners' use of the Easement Premises, then the residents' use may be curtailed or eliminated by the Owners.) Use of the Easement Premises for ingress and egress shall not be limited to present means of transportation, but shall include all forms of transportation that may in the future be of common and/or acceptable usage.

5. The Owners shall have the exclusive right, but not the obligation, to improve the Easement Premises (similarly on each of the Owners' Easement Premises and the Town's Tract) with paving, grading, landscaping, drainage and other improvements at the time a permit for development is issued. A plan shall be submitted to the Town for review and comment. The Town shall provide any comments it may have, in writing, within * (*) days of the receipt of the proposed plan. If the Town does not provide comments within the said * -day period, or in any event, after review of the comments and discussion of same with the Town, the Owners shall be permitted to proceed with improvement of the Easement Premises in accordance with the plan, together with any modifications that may be mutually agreed upon. Modification of the plan pursuant to comments of the Town shall be at the exclusive discretion of the Owners, after reasonable consideration of the Town's comments. If required by any permitting or governing agency and provided the Town does not thereby incur any expense, the Town hereby agrees to join in any applications with the Owners or execute any documents required to obtain permits for the construction of the improvements (including median cuts, traffic light warrants, etc.). In addition, if dedication of all or a portion of the Easements is a requirement, each party hereby consents to and shall join in such dedication. In the event that the Owners, in their exclusive discretion, desire to construct a median area within the roadway and if additional land is required in respect thereto, then the Owners may utilize a portion of the property that they own on the southern boundary of the Owners' Easement Premises, provided that the cost of any improvements thereto shall be borne exclusively by the Owners. In the event such additional land is utilized and becomes an integral part of the use of the Easement Premises, then it shall be subject to the Owners' rights of termination as set forth in Paragraph 2, which may be applied to all the lands or only to such additional land without otherwise affecting the Owners' Easement Premises. The roadway improvements shall further include but not be limited to signs, lights or other structures related to utilities permitted hereafter, provided that such signs, lights and structures shall not obstruct utilization of the Easement Premises. Further, each party shall have the right to install subsurface pipes, conduits or wires or similar materials required in connection with utilities installed to service the Owners' Tract or the Town's Tract (including servicing the property abutting the Town's Tract to the north). If the rights of use set forth in this paragraph are exercised, the party so exercising such rights shall do so exclusively at its own cost and expense and, as to subsurface work, shall restore the Easement Premises as nearly and as soon as reasonably practical to its condition prior to the installation of any subsurface utilities. Except as provided above, neither party may erect, construct, place or install any improvement or obstruction upon the surface of any portion of the Easement Premises.

6. To the extent necessary or appropriate to the improvements described in Paragraph 5, the Owners shall have a temporary easement over the portion of the Town's property that abuts the northern boundary of the Town's Tract for use by equipment or for the purpose of excavation, provided that the temporary easement shall not extend more than twenty (20) feet north of the Town's Tract, and further provided that the Owners shall promptly restore and repair such property to its original condition immediately after completion of the improvements.

coverage reduced thereunder without notice ten (10) days in advance of such cancellation or reduction to all named insureds.

12. Notwithstanding the provisions of Paragraph 3 hereof, the Town shall be permitted to terminate this Easement upon six (6) months' notice to the Owners, in the event and only in the event the Owners obtain a building permit for the construction of improvements on the Owners' Tract for structures that contain in excess of twelve (12) stories in height above structured parking (e.g., if parking is three (3) stories, then for a structure of more than fifteen (15) stories). Without limiting the foregoing, the Owners agree that they shall provide to the Town specific development plans prior to the time that they are formally submitted for approval of issuance of a building permit in respect to same and that such plans will be discussed with the Town's representatives. However, the Town acknowledges that its review of said plans and discussions of same shall be non-binding upon the Owners and that the Owners shall have the sole, exclusive and final decision with regard to what improvements shall actually be constructed on the Owners' Tract; accordingly, in no event shall the timing or substance of any submittal to the Town pursuant to this sentence be deemed a ground on which to affect or limit the rights of the parties in connection with the Easement established under the terms of this Agreement. The Owners do, however, as an enforceable covenant hereunder, agree that they will provide setbacks from the north boundary of that portion of the Owners' Tract that lies west of the Easement in the event the Owners do construct multi-story, multi-family units on the property, which will be the greater of those provided under the Dade County Building and Zoning Code or the following:

(a) For multi-family buildings up to four (4) stories, a thirty (30) foot building setback;

(b) For buildings over four (4) stories, an additional two and one-half (2 1/2) foot setback for each story in excess of four (4) (e.g., a ten (10) story building would require a forty-five (45) foot setback [thirty (30) feet plus six (6) times two and one-half (2 1/2) feet]).

13. Upon the earlier of issuance of a building permit in respect to improvements on the Owners' Tract or sale of the Owners' Tract, an escrow account shall be established with a mutually agreeable escrow agent in the amount of One Hundred Thousand and No/100 Dollars (\$100,000.00) to assure that adequate landscaping shall be provided within or without the Easements for screening, buffering, fencing, walls, etc. for the mutual benefit of the parties. The terms of the release of the escrow shall be established and agreed upon by the parties prior to the time that the fund is established. Any proceeds in the fund shall be interest-bearing, with interest to accrue to the Owners until such time as disbursed.

14. Each of the parties agrees to indemnify the other against all liability for bodily injury or property damage that shall result from, arise out of or be attributable to the negligence or intentional action of the indemnifying party. The indemnification shall survive termination of this Agreement.

15. Each party warrants that it has good, marketable and insurable fee simple title to its respective portion of the Easement Premises, subject only to the permitted encumbrances listed with respect to each tract as set forth on Exhibit D attached hereto. Should any party hereto so desire, it may apply forthwith for a title insurance policy insuring the Easement hereby granted and each party will make available to the other for inspection by any title company, attorney or abstract company such information and documentation as may be reasonably requested, and shall if so requested cause the holder of any encumbrance of the Easement Premises to execute and deliver an appropriate release, subordination or joinder recognizing the Easement granted hereby. Each party further warrants and represents that it has the full power and authority to enter into and

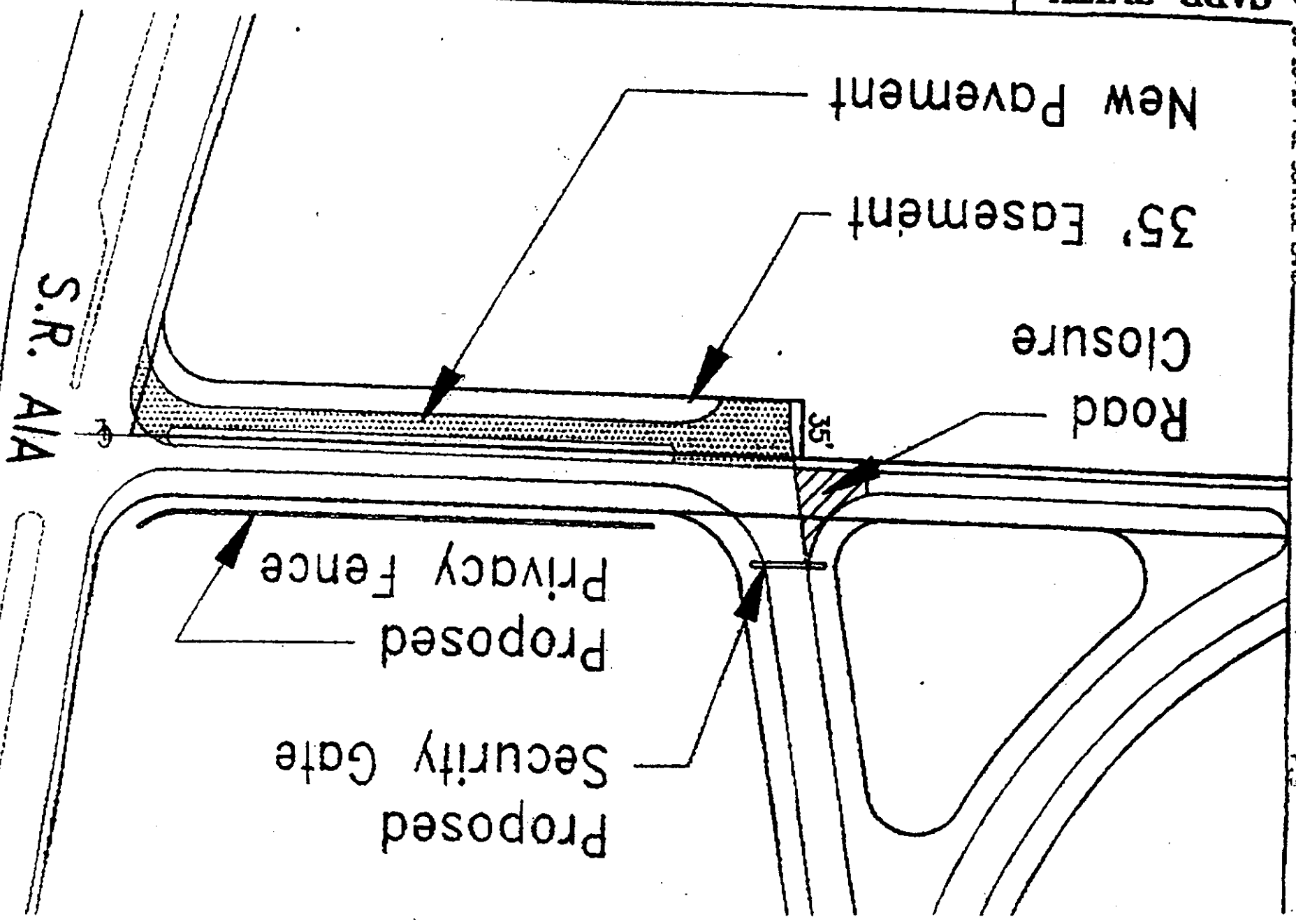
CARR SMITH
ASSOCIATES
ARCHITECTS PLANNERS

DETAIL "A"

001 09 '90 15:38 SHAPU FREEMAN
OCT 09 '90 15:15 FCE SURISE LAND

977 P.3

P.3



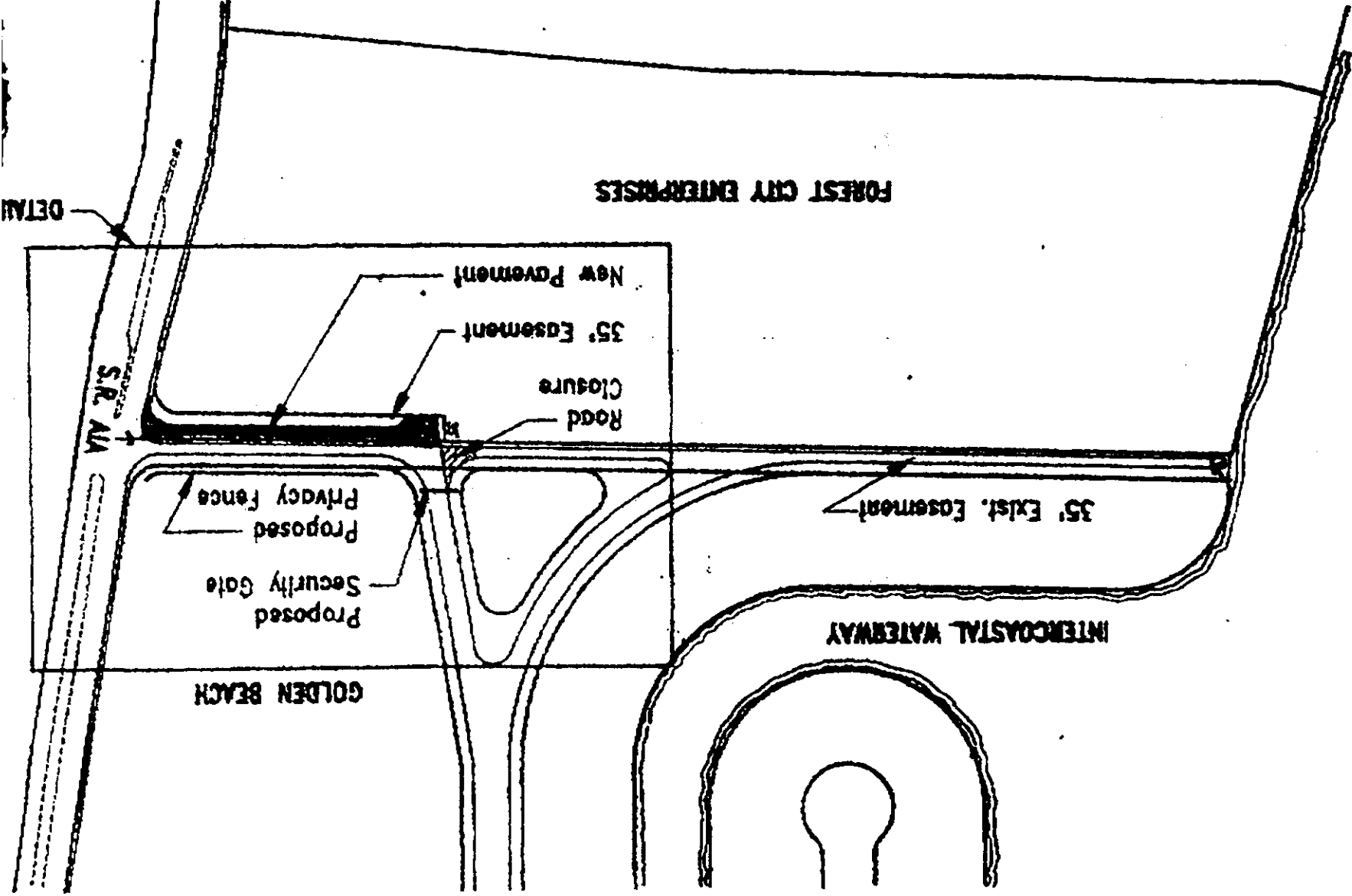
CARR SMITH
ASSOCIATES

TERRACE AVENUE

Unit 09 '90 15:37 SHARU HUEHMAN
OCT 09 '90 15:15 FCE SUNRISE LAND

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be fully bound by this Agreement and that it may be enforced against them, respectively, in accordance with its terms.

16. Whenever a transfer of ownership of either tract takes place, liability of the transferor for breach of covenant occurring thereafter shall automatically terminate. It is recognized that each of the parties own other nearby parcels of real estate in the North Dade County area, but this Agreement is not intended and shall not have any effect or application, express or implied, to any of such other parcels

17. In the event that the Owners' Tract is annexed into and becomes part of the Town, then the annexation agreement shall terminate this Agreement and its provisions shall supersede those provided herein.

18. This Agreement shall be recorded in the Public Records of Dade County, Florida.

19. The rule of strict construction shall not apply to this Agreement. This Agreement shall be given a reasonable construction so as to give effect to the intention of the parties to confer a commercially useable right of enjoyment and use, restricted only as expressly provided herein, with respect to the Easement Premises.

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

WITNESSES:

OWNERS:

JEFFREY I. FRIEDMAN, Trustee
FOREST CITY RENTAL PROPERTIES
CORP., a * _____ * corpora-
tion

By: _____ *

TOWN:
TOWN OF GOLDEN BEACH

STATE OF FLORIDA)
COUNTY OF DADE) SS.:

BEFORE ME, the undersigned authority, personally appeared
JEFFREY I. FRIEDMAN, to me well known to be the individual(s)
acknowledged before me that he executed the foregoing instrument, and he
tarily for the purposes therein expressed.

SWORN TO AND SUBSCRIBED before me this ____ day of
* _____, 1990.

My commission expires:

NOTARY PUBLIC, State of Florida
at Large

STATE OF FLORIDA)
COUNTY OF DADE)
SS.:

* BEFORE ME, the undersigned authority, personally appeared
* as *
a * corporation, to me well known to be the individual who
executed the foregoing instrument, and * acknowledged before me
that * did execute same, freely and voluntarily, under authority
duly vested in * by said corporation, and that the seal affixed
to said instrument is the true corporate seal of said corporation.

*
SWORN TO AND SUBSCRIBED before me this _____ day of
*, 1990.

My commission expires:

NOTARY PUBLIC, State of Florida
at Large

STATE OF FLORIDA)
COUNTY OF DADE) ss.:
)

BEFORE ME, the undersigned authority, personally appeared * as * of the TOWN OF GOLDEN BEACH, FLORIDA, to me well known to be the individual who executed the foregoing instrument, and * acknowledged before me that * did execute same, freely and voluntarily, under authority duly vested in * by said corporation, and that the seal affixed to said instrument is the true corporate seal of said corporation.

* SWORN TO AND SUBSCRIBED before me this _____ day of _____, 1990.

My commission expires:

NOTARY PUBLIC, State of Florida
at Large