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Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1936 - 1948; (13pgs)

PREPARED BY AND RETURN TO:

PATRICIA KIMBALL FLETCHER, P.A.
DUANE MORRIS LLP
200 SOUTH BISCAYNE BLVD., SUITE 3400
MIAMI, FLORIDA 33131

**FIRST AMENDMENT TO DECLARATION
FOR WELLINGTON VIEW**

THIS FIRST AMENDMENT TO DECLARATION FOR WELLINGTON VIEW (this "**First Amendment**") is made by Toll FL III Limited Partnership, a Florida Limited Partnership ("**Toll**").

RECITALS

- A. That certain Declaration for Wellington View was recorded in Official Records Book 17921, Page 1247 of the Public Records of Palm Beach County, Florida (the "**Declaration**").
- B. Section 4.3 of the Declaration provides that, prior to the Turnover Date, Toll, as Developer, shall have the right to amend the Declaration as it deems appropriate, without the joinder or consent of any person or entity whatsoever. The Turnover Date has not yet occurred.

NOW THEREFORE, Toll hereby declares that every portion of Wellington View is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions and restrictions hereinafter set forth.

1. **Recitals.** The foregoing Recitals are true and correct and are incorporated into and form a part of this First Amendment.
2. **Conflicts.** In the event that there is a conflict between this First Amendment and the Declaration, this First Amendment shall control. Whenever possible, this First Amendment and the Declaration shall be construed as a single document. Except as modified hereby, the Declaration shall remain in full force and effect.
3. **Definitions.** All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration, except that the defined terms are hereby modified as follows:

"**Declaration**" shall mean the Declaration and this First Amendment together with all amendments and modifications thereof.

"**Declaration of Maintenance Covenants**" shall mean that certain Declaration of Maintenance Covenants, recorded in Official Records Book 18727, Page 1913, of the Public Records of Palm Beach County, Florida and that certain First Amendment to Declaration of Maintenance Covenants, recorded in Official Records Book 18969, Page 1055, of the Public Records of Palm Beach County, Florida attached as **Exhibit 5** to this Declaration and made a part hereof, as amended from time to time.

4. **Permit.** The Permit attached as Exhibit 4 to the Declaration is hereby replaced with the Permit attached hereto as **Exhibit A**.
5. **Declaration of Maintenance Covenants.** The Declaration of Maintenance Covenants and the First Amendment to the Declaration of Maintenance Covenants attached hereto as **Exhibit B** shall hereby be added to the Declaration as **Exhibit 5** to the Declaration.

6. Maintenance by Association. The following provision shall be added to the Declaration as Section 11.16 to the Declaration:

11.16 Maintenance of Medians. Association shall maintain the landscaping on the roundabout median at the intersection of Lyons Road and Dillman Road in conjunction with the approved landscape plans from Palm Beach County pursuant to that certain Declaration of Maintenance Covenants, as amended, attached as Exhibit 5 to this Declaration.

7. Covenant. This First Amendment shall be a covenant running with the land.

IN WITNESS WHEREOF, the undersigned hereunto set its hand and seal as of this 9th day of August, 2005.

WITNESSES:

TOLL FL III LIMITED PARTNERSHIP,
a Florida limited liability company
By: Toll FL GP Corp., General Partner

E. Fay Sacchetti
Print Name: E. Fay Sacchetti
Elizabeth A. Curran
Print Name: ELIZABETH A. CURRAN

By: Ronald Blum
Name: Ronald Blum
Title: VICE PRESIDENT

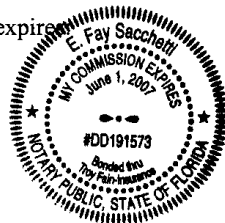
{SEAL}

STATE OF FLORIDA

COUNTY OF Palm Beach

The foregoing was acknowledged before me this 9th day of August, 2005 by Ronald Blum as Vice President of Toll FL GP Corp, General Partner of TOLL FL III LIMITED PARTNERSHIP, a Florida Limited Liability Company, who is personally known to me or who has produced as identification on behalf of the limited liability company.

My commission expires



E. Fay Sacchetti
NOTARY PUBLIC
State of Florida at Large
Print name: E. Fay Sacchetti

Exhibit A

This is not a certified copy



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE
STANDARD GENERAL PERMIT NO. 50-05831-P
DATE ISSUED: December 15, 2003**

Form #0941
08/95

PERMITTEE: AGRADEX INTERNATIONAL INC
4989 STE CATHERINE QUEST
WESTMOUNT QUEBEC, H3Z1T3

PROJECT DESCRIPTION: Modification for construction and operation of a surface water management system serving 160.27 acres of residential development known as Wellington View.

PROJECT LOCATION: PALM BEACH COUNTY,

SEC 5 TWP 44S RGE 42E

PERMIT DURATION: See Special Condition No.1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 030829-17, dated August 29, 2003. This action is taken pursuant to Rule 40E-1.608 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

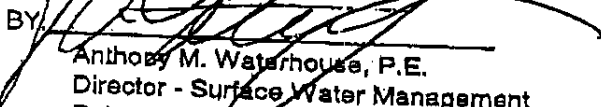
Based on the information provided, District rules have been adhered to and an Environmental Resource General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 General Conditions (See Pages : 2 - 4 of 6),
3. the attached 15 Special Conditions (See Pages : 5 - 6 of 6) and
4. the attached 2 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 15th day of December, 2003, in accordance with Section 120.60(3), Florida Statutes.

BY: 
Anthony M. Waterhouse, P.E.
Director - Surface Water Management
Palm Beach Service Center

Certified mail number 7003 1010 0004 2586 6274

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GENERAL CONDITIONS

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the supplied Environmental Resource Permit Construction Completion/Certification Form Number 0881. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings is discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "As-built" or "Record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the

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GENERAL CONDITIONS

approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and

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GENERAL CONDITIONS

- 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
 18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
 19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on December 15, 2008.
2. Operation of the surface water management system shall be the responsibility of Agradex/Lyons Road PUD Homeowners Association. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
3. Discharge Facilities:

1-2.13' W X 1.5' H SHARP CRESTED weir with crest at elev. 15' NGVD,
1-.5' W X .5' H TRIANGULAR ORIFICE with invert at elev. 14' NGVD.

Receiving body: LWDD Canal System
Control elev: 14 feet NGVD.
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Turbidity screens shall be installed and maintained during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.
8. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
9. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
10. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
12. Minimum building floor elevation: BASIN: Agradex - 19.00 feet NGVD.
13. Minimum road crown elevation: Basin: Agradex - 17.00 feet NGVD.
14. All special conditions and exhibits previously stipulated by Permit No. 50-05831-P (including those regarding the onsite mitigation construction, maintenance and monitoring and long term management contained in the permit modification issued for Application No. 030812-17) remain in effect unless otherwise revised and shall apply to this modification.

SPECIAL CONDITIONS

15. All provisions of the permit modification previously issued for Application No. 030812-17 on October 9, 2003 concerning the construction, management, monitoring and maintenance of the onsite mitigation areas are incorporated by reference into this permit.

This is not a certified copy

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Exhibit B

This is not a certified copy

It is (enclose self-addressed stamped envelope)

Bill D'Amore
c/o LAND DESIGN SOUTH

2601 Centre Park West Dr. Ste. 100
West Palm Beach, FL 33409

CFN 20050358898
OR BK 18727 PG 1913
RECORDED 06/10/2005 13:18:29
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pg 1913; (1pg)

DECLARATION OF MAINTENANCE COVENANTS

THIS DECLARATION is made the 24th day of May, 2005, by the Toll FL III Limited Partnership ("Declarant")

WITNESSETH

WHEREAS, Declarant is the homeowners' association with regard to the real property in Palm Beach County, Florida (the "Property").

WHEREAS, Declarant, pursuant to the public benefit of the Wellington View PUD proposes to landscape the median within the Island Way right-of-way for the portion adjacent to the Wellington View PUD (totaling 1,661 square feet) and for fourteen percent (14%) of the median between Lyons Road and Dillman Road (totaling 12,038 square feet).

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, Declarant hereby declares the following:

1. Declarant agrees to landscape the median within the proposed Island Way right-of-way for that portion adjacent to the Wellington View PUD (totaling 1,661 square feet) and for fourteen percent (14%) of the median between Lyons Road and Dillman Road (totaling 12,038 square feet) in conjunction with the approved landscape plans from Palm Beach County.

2. All required median landscaping shall be installed at the expense of Declarant. All landscape shall be the perpetual obligation of Declarant and its successors, heirs and assigns. Perpetual maintenance includes, but is not limited to, pruning, fertilizing and alternate watering of the approved landscape plan material during periods of drought in order to maintain healthy plant material. All landscape material, installation and maintenance requirements shall be subject to the standards set forth by the approved landscape plan.

3. This declaration shall run with the land.

IN WITNESS WHEREOF, this Declaration of Maintenance Covenants has been signed by the Declarant the day and year first above set forth.

Toll FL III Limited Partnership

Wendy D'Amore
Witness print name

By

J. Michael Donnelly
J. Michael Donnelly, Divisional Vice-President

Julie Beale
Witness print name

SWORN TO AND SUBSCRIBED before me on this 1 day of June 2005, by Vice President J. Michael Donnelly who is personally known to me.

Wendy D'Amore
Notary Public (Signature)

Notary Public (Print Name)

Stamp



STATE OF FLORIDA - PALM BEACH COUNTY
I hereby certify that the foregoing is a true and correct copy of the record in my office.

THIS 10 DAY OF JUNE 2005

SHARON R. BOCK
CLERK OF COMPTROLLER

Sharon Bock
Clerk of Comptroller

110413

PREPARED BY AND RETURN TO:

PATRICIA KIMBALL FLETCHER, P.A.
DUANE MORRIS LLP
200 SOUTH BISCAYNE BLVD., SUITE 3400
MIAMI, FLORIDA 33131

FIRST AMENDMENT TO DECLARATION OF MAINTENANCE COVENANTS

THIS FIRST AMENDMENT TO DECLARATION OF MAINTENANCE COVENANTS (this "**First Amendment**") is made by Toll FL III Limited Partnership, a Florida limited partnership ("**Declarant**").

RECITALS

- A. That certain Declaration of Maintenance Covenants was recorded in Official Records Book 18727, Page 1913 of the Public Records of Palm Beach County, Florida (the "**Declaration**").
- B. Declarant is the homeowners' association with regard to the real property in Palm Beach County, Florida known as Wellington View (the "**Property**").
- C. Declarant, pursuant to the public benefit of Wellington View PUD, proposes to install and maintain the landscaping on the roundabout median at the intersection of Lyons Road and Dillman Road adjacent to the Property.
- D. Section 1 of the Declaration is incorrectly referred to as an Island Way right-of-way median for that portion adjacent to Wellington View PUD (totaling 1,661 square feet) and for fourteen per cent (14%) of the median between Lyons Road and Dillman Road (totaling 12,038 square feet).

NOW THEREFORE, Declarant hereby declares that every portion of Wellington View is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions and restrictions hereinafter set forth.

1. **Recitals**. The foregoing Recitals are true and correct and are incorporated into and form a part of this First Amendment.
2. **Conflicts**. In the event that there is a conflict between this First Amendment and the Declaration, this First Amendment shall control. Whenever possible, this First Amendment and the Declaration shall be construed as a single document. Except as modified hereby, the Declaration shall remain in full force and effect.
3. **Landscape Median**. Section 1 of the Declaration is hereby modified as follows:

Declarant agrees to landscape the roundabout median at the intersection of Lyons Road and Dillman Road in conjunction with the approved landscape plans from Palm Beach County.

[ADDITIONAL TEXT AND SIGNATURES APPEAR ON THE FOLLOWING PAGE]

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4. Covenant. This First Amendment shall be a covenant running with the land.

IN WITNESS WHEREOF, the undersigned hereunto set its hand and seal as of this 22nd day of July, 2005.

WITNESSES:

TOLL FL III LIMITED PARTNERSHIP,
a Florida limited partnership,

E. Fay Sacchetti
Print Name: E. Fay Sacchetti

By: Ronald Blum
Name: Ronald Blum
Title: Vice President

Elizabeth A. Curnow
Print Name: ELIZABETH A. CURNOW

{SEAL}

STATE OF FLORIDA)
COUNTY OF Palm Beach)SS.:

The foregoing was acknowledged before me this 22ND day of July, 2005 by Ronald Blum as Divisional VP of TOLL FL III LIMITED PARTNERSHIP, a Florida limited partnership, who is personally known to me or who has produced _____ as identification on behalf of the limited liability company.

My commission expires:



E. Fay Sacchetti
NOTARY PUBLIC
State of Florida at Large
Print name: E. Fay Sacchetti