

# EXHIBIT 1

## PROPOSED

ORDINANCE NO.

1  
2 AN ORDINANCE OF BROWARD COUNTY, FLORIDA, ADOPTING A SMALL SCALE  
3 AMENDMENT TO THE BROWARD COUNTY COMPREHENSIVE PLAN; AMENDING THE  
4 BROWARD COUNTY LAND USE PLAN WITHIN THE CITY OF HALLANDALE BEACH; AND  
5 PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

6 (SPONSORED BY THE BOARD OF COUNTY COMMISSIONERS)  
7

8 WHEREAS, Broward County adopted the Broward County Comprehensive Plan on  
9 April 25, 2017 (the Plan);

10 WHEREAS, the Department of Economic Opportunity has found the Plan in  
11 compliance with the Community Planning Act;

12 WHEREAS, Broward County now wishes to propose an amendment to the Broward  
13 County Land Use Plan within the City of Hallandale Beach;

14 WHEREAS, the Planning Council, as the local planning agency for the Broward  
15 County Land Use Plan, held its hearing on December 1, 2022, with due public notice;

16 WHEREAS, the Board of County Commissioners held an adoption public hearing on  
17 February 7, 2023, at 10:00 a.m., having complied with the notice requirements specified in  
18 Section 163.3184(11), Florida Statutes, at which public comment was accepted and  
19 considered;

20 WHEREAS, the Board of County Commissioners, after due consideration of all  
21 matters, hereby finds that the following amendment to the Plan is consistent with the State  
22 Plan, Regional Plan, and the Plan; complies with the requirements of the Community Planning

23 Act; and is in the best interests of the health, safety, and welfare of the residents of Broward  
24 County; and

25 WHEREAS, the proposed amendment constitutes a Broward County permitted small  
26 scale amendment to the Plan pursuant to Section 163.3187(1), Florida Statutes,

27

28 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD  
29 COUNTY, FLORIDA:

30 Section 1. The Broward County Land Use Plan is hereby amended by Amendment  
31 PC 22-6 in the City of Hallandale Beach, set forth in Exhibit "A," attached hereto and  
32 incorporated herein.

33 Section 2. Severability.

34 If any portion of this Ordinance is determined by any court to be invalid, the invalid  
35 portion will be stricken, and such striking will not affect the validity of the remainder of this  
36 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be legally  
37 applied to any individual, group, entity, property, or circumstance, such determination will not  
38 affect the applicability of this Ordinance to any other individual, group, entity, property, or  
39 circumstance.

40 Section 3. Effective Date.

41 1. The effective date of the plan amendment set forth in this Ordinance shall be  
42 the latter of:

43 (a) Thirty-one (31) days after the adoption of this Ordinance;

44 (b) The date a final order is issued by the Department of Economic Opportunity or  
45 the Administration Commission finding the amendment to be in compliance;

- 46 (c) If the Department of Economic Opportunity or the Administration Commission  
47 finds the amendment to be in noncompliance, pursuant to Section  
48 163.3184(8)(b), Florida Statutes, the date the Board of County Commissioners  
49 nonetheless, elects to make the plan amendment effective notwithstanding  
50 potential statutory sanctions;
- 51 (d) If a Declaration of Restrictive Covenants is applicable, as per Exhibit B, the  
52 date the Declaration of Restrictive Covenants is recorded in the Public Records  
53 of Broward County; or
- 54 (e) If recertification of the municipal land use plan amendment is required, the date  
55 the municipal amendment is recertified.
- 56 2. This Ordinance is effective as of the date provided by law.

ENACTED

**PROPOSED**

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:  
Andrew J. Meyers, County Attorney

By: /s/ Maite Azcoitia 12/05/2022  
Maite Azcoitia (date)  
Deputy County Attorney

MA/gmb  
PC22-6 City of Hallandale Beach Ordinance - Small Scale  
12/06/2022  
#80041

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.

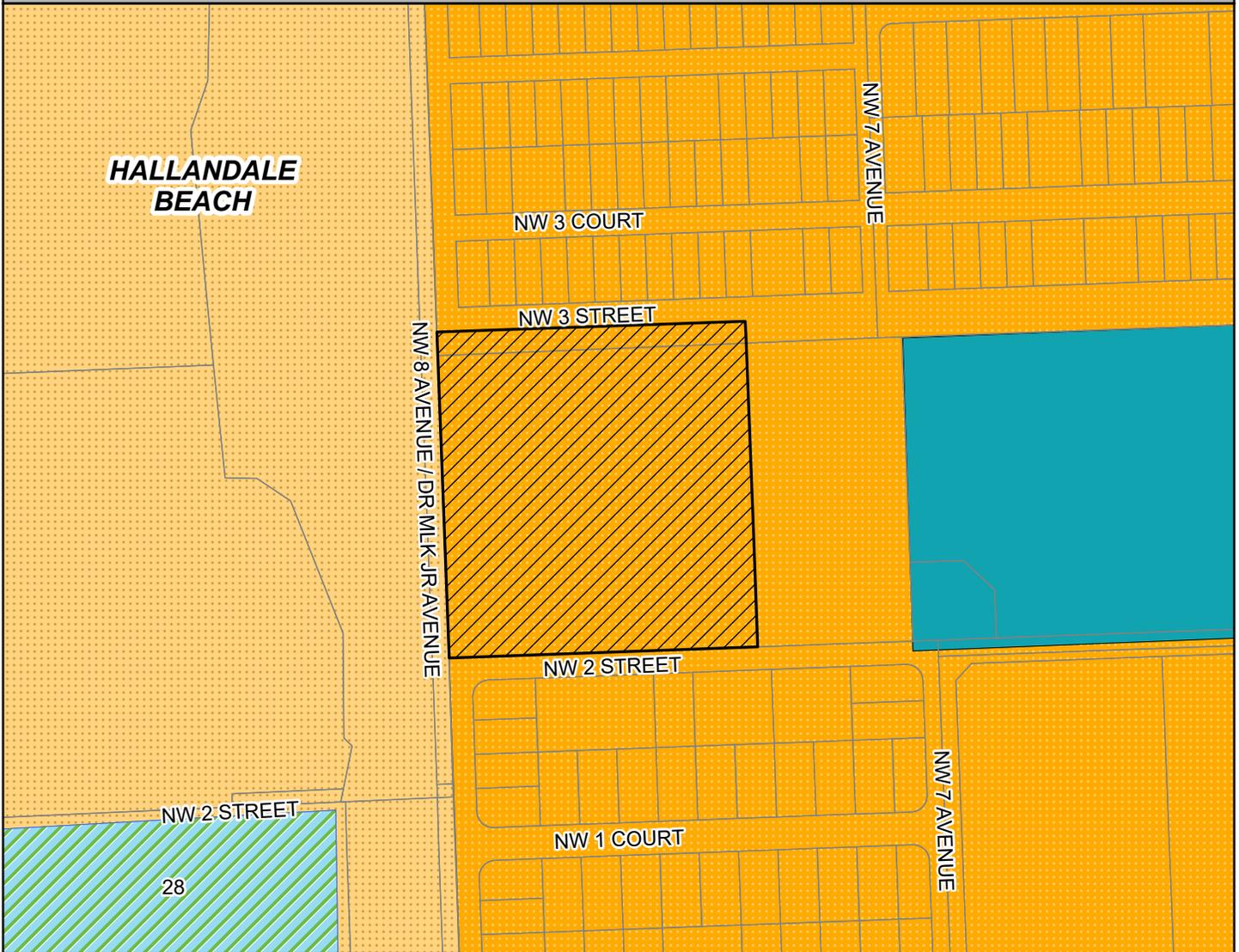
# EXHIBIT A

## BROWARDNEXT - BROWARD COUNTY LAND USE PLAN FUTURE LAND USE DESIGNATIONS AMENDMENT PC 22-6

Current Land Use: Low-Medium (10) Residential

Proposed Land Use: High (50) Residential

Gross Acres: Approximately 5.4 acres



 Site

 Low-Medium (10) Residential

 Medium (16) Residential

 Irregular Residential

 Community



**SECTION I**  
**AMENDMENT REPORT**  
**BROWARD COUNTY LAND USE PLAN**  
**PROPOSED AMENDMENT PC 22-6**  
**(HALLANDALE BEACH)**

**RECOMMENDATIONS/ACTIONS**

**DATE**

*I. Planning Council Staff Recommendation*

*November 22, 2022*

Planning Council staff finds the proposed amendment is generally consistent with the policies of the BrowardNext - Broward County Land Use Plan (BCLUP), and therefore, recommends approval, subject to the applicant's voluntary commitment regarding affordable housing (30 of the 200 dwelling units (15%) shall be at the low and very-low income levels).

Effectiveness of the approval of the land use plan amendment shall not occur until after the recordation in the public records of Broward County, Florida, to the satisfaction of Broward County, of the Declaration of Restrictive Covenants to legally enforce any voluntary commitments proffered by the applicant, as an inducement for Broward County to favorably consider its application.

As the Planning Council is aware, the Broward County Charter requires at least one Planning Council public hearing and Article 1.2(A) of the *Administrative Rules Document: BrowardNext* outlines the following circumstances in which a second Planning Council public hearing may be recommended or required:

- (1) At its initial public hearing, the Planning Council takes an action to recommend denial of a proposed amendment; or
- (2) At its initial public hearing, the Planning Council takes an action to recommend approval subject to meeting specific criteria or policy prior to a second Planning Council public hearing; or
- (3) At its initial public hearing, the Planning Council votes by a majority of the members present with a minimum of six (6) affirmative votes for a second Planning Council public hearing; or
- (4) If the County Commission requests by a vote of the majority of members present to request a second Planning Council public hearing; or
- (5) If an objection or comment on adverse impacts to important state resources or facilities is issued during the State of Florida Chapter 163 review process; or
- (6) If State of Florida Chapter 163 requires or is modified to require a second local planning agency public hearing.

**If the Planning Council chooses to require a second Planning Council public hearing per Article 1.2(A)(1)(2) or (3), such recommendation must be made as part of its motion.**

**RECOMMENDATIONS/ACTIONS (continued)**

**DATE**

**I. Planning Council Staff Recommendation (continued)**

**November 22, 2022**

In addition, if the Planning Council does not require a second Planning Council public hearing and the Broward County Land Use Plan amendment is adopted by the County Commission, this action by the Planning Council shall be considered the “conditional” recertification of the municipal land use plan amendment, which directly correlates to the referenced BCLUP amendment. The recertification will not be deemed effective until such time as the Planning Council Executive Director and Attorney determine that the municipality has fulfilled all application requirements for recertification of local land use plans, as outlined in the *Administrative Rules Document: BrowardNext*. The Planning Council Executive Director will issue a written letter of effectiveness to the municipality upon satisfaction of the same.

**II. Planning Council Public Hearing Recommendation**

**December 1, 2022**

Approval per Planning Council staff recommendation, including not requiring a second Planning Council public hearing. (Vote of the board; Unanimous: 8-0; Blackwelder, Breslau, Castillo, Gomez, Hardin, Rich, Zeman and DiGiorgio)

**SECTION II**  
**AMENDMENT REPORT**  
**PROPOSED AMENDMENT PC 22-6**

**INTRODUCTION AND APPLICANT'S RATIONALE**

- I. Municipality: Hallandale Beach
- II. County Commission District: District 6
- III. Site Characteristics
- A. Size: Approximately 5.4 acres
- B. Location: In Section 28, Township 51 South, Range 42 East; generally located on the east side of Northwest 8 Avenue, between Northwest 2 Street and Northwest 3 Street.
- C. Existing Use: Vacant
- IV. Broward County Land Use Plan (BCLUP) Designations
- A. Current Designation: Low-Medium (10) Residential
- B. Proposed Designation: High (50) Residential
- C. Estimated Net Effect: Addition of 216 dwelling units  
54 dwelling units currently permitted by the Broward County Land Use Plan  
270 total dwelling units
- V. Existing Uses and BCLUP Designations Adjacent to the Amendment Site
- A. Existing Uses: *North:* Single-family residential  
*East:* Municipal facility  
*South:* Warehouses and single-family residential  
*West:* Multi-family residential
- B. Planned Uses: *North:* Low-Medium (10) Residential  
*East:* Low-Medium (10) Residential  
*South:* Low-Medium (10) Residential  
*West:* Medium (16) Residential

**INTRODUCTION AND APPLICANT'S RATIONALE (continued)**

VI. Applicant/Petitioner

- A. *Applicant:* Urban Farmers, Inc.
- B. *Agent:* Dunay, Miskel & Backman, LLP
- C. *Property Owner:* Eighth Avenue Partners, LLC

VII. Recommendation of Local  
Governing Body:

The City of Hallandale Beach recommends approval of the proposed amendment.

## **EXHIBIT B**

The attached draft "Declaration of Restrictive Covenants" has been submitted and is required to be executed and recorded by the applicant prior to the effective date.

Return to: (enclose self addressed stamped envelope)

Hope W. Calhoun, Esq.  
Dunay, Miskel & Backman, LLP  
14 SE 4<sup>th</sup> Street, Suite 36  
Boca Raton, FL 33432



This Instrument Prepared By:  
Hope W. Calhoun, Esq.  
Dunay, Miskel & Backman, LLP  
14 SE 4<sup>th</sup> Street, Suite 36  
Boca Raton, FL 33432

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**DECLARATION OF RESTRICTIVE COVENANTS**

**THIS DECLARATION OF RESTRICTIVE COVENANTS** ("Declaration") made this of \_\_\_\_ of \_\_\_\_\_, 2022, by, 8AC HOUSING LLC, a Delaware limited liability company, having an address of 838 Walker Road, Suite 21-2, Dover, DE 19904 ("Declarant"), successor by assignment to Eighth Avenue Partners, LLC, a Florida limited liability company, shall be for the benefit of BROWARD COUNTY, a political subdivision of the State of Florida, with a post office address at 115 South Andrews Avenue, Fort Lauderdale, FL 33301 ("County"), its successors and assigns, and the City of Hallandale Beach, with a post office address at 400 S. Federal Highway, Hallandale Beach, FL 33009 ("City")

**WITNESSETH:**

WHEREAS, Declarant is the fee simple owner of approximately 5.4 gross acres of land, generally located on the east side of NW 8<sup>th</sup> Avenue between NW 2<sup>nd</sup> Street and NW 3<sup>rd</sup> Street, Broward County, Florida, and more particularly described in **Exhibit "A,"** attached hereto (the "Property"); and

WHEREAS, Declarant, has submitted an application to the City and to the County (Broward County Planning Council Application No. 22-6) for a land use plan amendment, to change the existing land use designation for the Property from Low-Medium (10) Residential to High (50) Residential in conjunction with the redevelopment of the Property ("Amendment"); and

WHEREAS, the City and the County have approved the Amendment which will allow residential uses on the Property; and

WHEREAS, the Property is being developed as a residential rental apartment complex,

subject to the affordable housing restrictions set forth in this Declaration. Declarant reserves the right to convert the Property, or a portion thereof, to a condominium or other fee simple ownership structure in the future, subject to the affordable housing restrictions as set forth in this Declaration (a "Conversion"); and

WHEREAS, Declarant voluntarily agrees to make certain designations for affordable housing for the period of time provided herein.

NOW, THEREFORE, in consideration of the promises and covenants herein contained, Declarant hereby declares that the Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, and regulations hereinafter set forth, all of which shall run with such Property and any part thereof and which shall be binding upon all parties having any right, title or interest in such Property or any part thereof, their heirs, successors and assigns.

1. Recitations. The recitations set forth above are true and correct and are incorporated into this Declaration by this reference.

2. Property Development. Declarant hereby declares the following:

(a) There shall be no more than two hundred (200) residential units constructed on the Property, along with associated parking and related amenities ("Project");

(b) Fifteen (15) percent of the residential units to be constructed on the Property (as set forth on the final site plan approved by the City) shall be affordable as defined in the Broward County Comprehensive Plan and as further restricted by this Declaration (each an "Affordable Housing Unit," collectively the "Affordable Housing Units"). If fifteen (15) percent of the actual residential units to be constructed on the Property does not yield a whole number of Affordable Housing Units, the partial number of Affordable Housing Units yielded shall be rounded up to the next whole number;

(c) Upon issuance of each final certificate of occupancy for any structure containing residential units, Declarant shall record a Notice of Designation of Affordable Housing Unit (an "Affordable Housing Notice") corresponding to such Affordable Housing Unit located within the building covered by such certificate of occupancy, the form of which Affordable Housing Notice is set forth on **Exhibit "B"** attached hereto and incorporated herein; provided, however, with respect to Affordable Housing Units offered for rent or offered for sale in the event of a Conversion, Declarant shall retain the right to modify which units within any structure shall be an Affordable Housing Unit so long as at all times following issuance of a final certificate of occupancy for any structure containing residential units there is a minimum of fifteen (15) percent of Affordable Housing Units designated and a revised Affordable Housing Notice is recorded identifying all then designated Affordable Housing Units.

3. Affordable Housing Units Offered For Rent. Declarant hereby declares all Affordable Housing Units offered for rent shall be rented in accordance with the following:

(a) All Affordable Housing Units constructed on the Property shall be used solely as each renter's principal residence and shall be used solely for residential purposes. No Affordable Housing Unit may be used for any non-residential purpose, other than home-based businesses when permitted by applicable law; and

(b) 1) At the time of the lease, one or more natural persons or a family shall have a total annual adjusted gross household income as outlined below:

a. ten (10) units for adults aged fifty-five (55) and over, at fifty percent (50%) of the average median income ("AMI") for Broward County;

b. ten (10) units at or below sixty percent (60%) of AMI; and

c. ten (10) units at or below eighty percent (80%) of AMI

for a total of thirty (30) units.

AMI, as adjusted for family size, shall be determined by utilizing the Broward County chart published at the time of issuance of the last certificate of occupancy for the Project. Said limits to be published annually by Broward County or other appropriate governmental entity designated by Broward County for the purposes of this provision, the term "adjusted for family size" means adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four (4) people, or higher for households with more than four (4) people, based upon a formula as established by the United States Department of Housing and Urban Development. Within thirty (30) days of the City's written request, Declarant agrees to provide leases or rental agreements exhibiting compliance with the affordable housing set asides described above. No request for proof of compliance may be made within twelve (12) months of the previous request; and

2) The renters of Affordable Housing Units shall have monthly rental payments (including taxes and insurance) that do not exceed thirty (30) percent of their monthly adjusted gross income. For the purposes of this Agreement, the term "adjusted gross income" shall mean all wages, assets, regular cash or noncash contributions or gifts from persons outside the household and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions

allowable under section 62 of the Internal Revenue Code. For the purposes of this provision, the term “adjusted for family size” means adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households with more than four people, based upon a formula as established by the United States Department of Housing and Urban Development.

(c) On an annual basis, beginning no later than twelve (12) months after the Effective Date of this Declaration, the owner of an Affordable Housing Unit offered for rent shall request written certification from the City, or from an agent designated by the City for the purpose of providing such certifications, that the criteria in 3(b) has been satisfied. Said owner of an Affordable Housing Unit offered for rent shall not be required to comply with this provision if the City does not approve or deny the request within thirty (30) days of said owner's request.

4. Affordable Housing Units Offered For Sale. In the event of a Conversion, Declarant hereby declares all Affordable Housing Units offered for sale shall be purchased in accordance with the following:

(a) All Affordable Housing Units constructed on the Property shall be used solely as each owner's principal residence and shall be used solely for residential purposes. No Affordable Housing Unit may be used for any non-residential purpose, other than home-based businesses when permitted by applicable law; and

(b) All Affordable Housing Units shall be purchased solely by persons who meet the following criteria at the time of purchase of an Affordable Housing Unit. "Purchased" shall be defined to mean by sale, inheritance, court order, or other legal method of transfer or acquisition.

1) One or more natural persons or a family, the total annual adjusted gross household income of which does not exceed one hundred twenty percent (120%) of the median annual adjusted gross income for Broward County, adjusted for family size, shall occupy said Affordable Housing Unit. Said limits to be published annually by Broward County or other appropriate governmental entity designated by Broward County; and

2) The purchaser of the Affordable Housing Unit shall have monthly mortgage payments (including taxes and insurance) that do not exceed thirty (30) percent of their monthly adjusted gross income; and

3) Excluding government subsidies, the down payment, if any, for the

purchase of the Property must not exceed twenty (20) percent of the purchase price; and

4) During the term of this Declaration, as defined herein, every deed of sale or equivalent document transferring title to the Affordable Housing Unit shall include a restriction stating as follows:

This property is to be sold and occupied as an "Affordable Housing Unit," in accordance with the Declaration of Restrictive Covenants recorded in the Official Records of Broward County at Instrument No.

\_\_\_\_\_.

5) Prior to any transfer of title or closing on a purchase of an Affordable Housing Unit, each purchaser shall request written certification from the City, or from an agent designated by the City for the purpose of providing such certifications, that the criteria in (b) 1), 2), and 3) have been satisfied. Purchaser shall not be required to comply with this provision if the City does not approve or deny the request within thirty (30) days of purchaser's request.

5. Recordation and Effective Date.

(a) This Declaration shall not become effective (the "Effective Date") until the latter of (i) Final Approval and (ii) recordation amongst the Public Records of Broward County, Florida; however, as to each Affordable Housing Unit, the Effective Date of this Declaration shall be the date of recording of the Affordable Housing Notice corresponding to such Affordable Housing Unit.

(b) Once recorded, this Declaration shall run with the Property for the sole benefit of the County and the City and does not operate as a restriction in favor of any Property owner and shall bind all successors and assigns to the title of the Property. As used herein, "Final Approval" shall mean final approval and adoption of the County Application, and the expiration of any appeal periods applicable thereto without an appeal having been taken or, if taken, when finally dismissed with no further appeal permitted.

(c) From and after such time as any Affordable Housing Unit is conveyed by Declarant to a third-party purchaser following a Conversion, Declarant shall have no further obligations under this Declaration with respect to that particular Affordable Housing Unit and such third-party purchaser shall be obligated to comply with all of the provisions of this Declaration with respect to said Affordable Housing Unit.

6. Term, Release, Termination, and Amendments. The restrictions, covenants, rights and privileges granted, made and conveyed herein ("Affordable Housing Restrictions") shall be valid for a minimum of thirty (30) years from the Effective Date of

each Affordable Housing Notice, unless terminated by the Declarant, the City, and the County, as evidenced by a termination recorded in the Public Records of Broward County. This Declaration shall not be modified or amended as to any portion of the Property except by written instrument, executed by the then owner or owners of the portion of the Property affected by such modification, amendment, termination or release and approved in writing by the County and City. Any modification or amendment of this Declaration shall be recorded in the Public Records of Broward County, Florida.

7. Remedies for Violation. In the event the Declarant, its successors or assigns, violate any of the covenants and restrictions contained herein, Declarant hereby acknowledges and agrees that the County and/or City (upon a written request from the County and/or City, as applicable) may withhold further permits and approvals with respect to the Property. The County and the City are the beneficiaries of these covenants and restrictions, and as such, the County and the City may enforce these covenants and restrictions by action at law or in equity, including without limitation; a decree of specific performance or mandatory or prohibitory injunction, against any person or persons, entity or entities, violating or attempting to violate the terms of these covenants and restrictions.

8. Waiver. Any failure of the County or City to enforce these restrictive covenants shall not be deemed a waiver of the right to do so thereafter. This document shall be construed in accordance with the laws of Florida and venue shall be Broward County, Florida.

9. Severability. If any court of competent jurisdiction shall declare any section, paragraph or part thereof invalid or unenforceable, then such judgment or decree shall have no effect on the enforcement or validity of any other section, paragraph or part hereof, and the same shall remain in full force and effect.

10. Captions, Headings and Titles. Articles and paragraph captions, headings and titles inserted throughout this Declaration are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of this Declaration.

11. Context. Whenever the context requires or admits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns or pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

IN WITNESS WHEREOF, Declarant has executed this Declaration of Restrictive

