

**AN INTERLOCAL AGREEMENT AND MULTIPLE PARTY AGREEMENT FOR THE
EAGLE'S NEST PROGRAM AT ATLANTIC HIGH SCHOOL CAREER ACADEMY
(known as the Eagle's Nest Interlocal Agreement)**

THIS INTERLOCAL AGREEMENT AND MULTIPARTY AGREEMENT is made this ____ day of _____, 2005, by and between the **CITY OF DELRAY BEACH, FLORIDA** (hereinafter referred to as the "**CITY**"), the **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF DELRAY BEACH** (hereinafter referred to as the "**CRA**"), the **GREATER DELRAY BEACH CHAMBER OF COMMERCE** (hereinafter referred to as the "**CHAMBER**"), and the **SCHOOL BOARD OF PALM BEACH COUNTY**, a corporate body politic pursuant to the Constitution of the State of Florida (hereinafter referred to as "**SCHOOL DISTRICT**") (and collectively known as the "**PARTIES**").

WITNESSETH:

WHEREAS, Community partnerships are encouraged to provide quality educational experiences to students and to promote the attainment of "real-world" skills which benefit the **CITY**, the **CRA**, the **CHAMBER**, and the **SCHOOL DISTRICT** and Palm Beach County; and

WHEREAS, the **PARTIES** realize that assisting the construction project of the Career Academy Program at the new Atlantic High School on Atlantic Avenue within the City of Delray Beach, known as the Eagle's Nest Program will involve Language Arts (code and zoning restrictions); Math (measuring, estimating, budgeting and purchasing); Physics (insulation, material testing, trusses); Economics (taxes, insurance, mortgage, financing, budgets); Drafting (working drawings and blueprints); Journalism (newspaper articles and brochures); Criminal Justice (security issues, door locks, window treatments and lighting); career education (career preparation, applied opportunities, apprenticeships); E.S.E. (transition skills); Health (first aid/CPR); Biology (water cooler contamination); Foreign Language (safety sayings in six languages); Team Work; Leadership Skills (working with others to overcome obstacles); Public Speaking (speaking about the program to interested groups); and

WHEREAS, the Construction Industry will benefit when students learn the construction skills needed by the industry; and

WHEREAS, the Construction Industry, through its ability to give its support and materials will not only help the students and the Construction Industry, but all the **PARTIES**, including the students and the Construction Industry will be playing an important part in providing an affordable/workforce housing opportunity to a family in need; and

WHEREAS, the Program in summary provides that the **CITY** will donate land for the Eagle's Nest Program, the **CRA** will grant to the **CITY** funds for construction that will be drawn by the **SCHOOL DISTRICT** for the construction of the Eagle's Nest; the **CHAMBER** will allow the Eagle's Nest Program to use the Chamber's Education Foundation for the donation of services and supplies for the construction of the Eagle's Nest house, the **SCHOOL DISTRICT**, through the Eagle's Nest Career Program will construct the house, through the efforts of students in the Eagle's Nest Career Programs, and the house will be sold and the construction monies will be repaid to the **CRA** through the use of the City's Renaissance Program and a first time homebuyer will be able to buy through the Renaissance Program an affordable/workforce housing unit. Profits over and above the construction loans and expenses will be retained by the Eagle's Nest Program for the building of future houses through the Eagle's Nest Program and the **SCHOOL DISTRICT** shall donate to the **CITY** ten percent of the profits, to offset costs and expenses and to further the program.

NOW, THEREFORE, for the Mutual Promises and Covenants herein contained, the Parties agree as follows:

1. **Recitations:** The Recitations set forth above are incorporated herein.
2. **City Responsibilities:** The **CITY** shall:
 - a) Allow the **SCHOOL DISTRICT**, through the Eagle's Nest Program, to build a house on **CITY** land as legally described in Exhibit "A" hereto. The **CITY** will complete its Quiet Title Action on the property prior to construction by the **SCHOOL DISTRICT**.
 - b) Once the **CITY** receives construction funds from the **CRA** it will disburse the funds in accordance with the Construction Agreement attached hereto as Exhibit "C".
 - c) The **CITY** shall provide a first time home buyer through its Renaissance Program and assist the buyer in qualifying and obtaining a mortgage through the Renaissance Program. The **CITY** does not guarantee any loans. The **CITY** shall convey the house and property under the program.
 - d) The **CITY** shall receive from the Renaissance Program Funds to pay off the construction loan given by the **CRA** and will repay such loan to the **CRA** without interest upon the sale of the said house and property.
 - e) The **CITY** shall retain ten percent (10%) of the profits received upon the sale of the house to use to facilitate the acquisition and costs, including, but not limited to quiet title costs, for this house or for future, similar endeavors with the parties or if none to facilitate the **CITY'S** Affordable/Workforce Housing Program.

3. **CRA Responsibilities:** The **CRA** shall pay to the **CITY** One Hundred Fifty Thousand Dollars (\$150,000.00) to be forwarded by the **CITY** to the **SCHOOL DISTRICT** for the Eagle's Nest Program at Atlantic High School for the construction of a home located on property identified in Exhibit "A" and it shall be discussed by the **CITY** in accordance with the Construction Agreement set forth in Exhibit "B". This loan shall be repaid to the **CRA** without interest.

4. **The Chamber's Responsibilities:**

(a) The **CHAMBER** shall allow the Eagle's Nest to use their educational foundation for the receipt and disbursement of funds, supplies, products or materials until such time as the Eagle's Nest Program establishes its own Foundation as hereinafter required.

(b) Upon receipt of money, supplies, products, or materials, the **CHAMBER** shall notify the Eagle's Nest and disburse the same to the Eagle's Nest Program participants at the site.

5. **School District's Responsibilities:**

(a) The **SCHOOL DISTRICT**, through the Eagle's Nest Career Academy Program, shall cause to be constructed on the land, made available through the program, a house in substantial compliance with Exhibit "C" with disbursements pursuant to this Agreement and Exhibit "B".

(b) The **SCHOOL DISTRICT's** Eagle's Nest Career Academy shall receive from the **CITY**, (through monies the **CITY** receives from the **CRA**) construction monies in an amount not to exceed One Hundred Fifty Thousand Dollars(\$150,000.00), interest free, pursuant to the Construction Agreement set forth in Exhibit "B".

(c) All services under this agreement and the Construction Agreement for which a contracting license is required by law shall be performed by a holder of the appropriate license retained by the **SCHOOL DISTRICT**.

(d) The **SCHOOL DISTRICT** shall complete the construction of the house no later than twenty-four (24) months from the date the **SCHOOL DISTRICT** acquires the land from the **CITY**.

(e) The **SCHOOL DISTRICT** shall pull permits and meet all **CITY** codes in the construction of the house.

(f) The **SCHOOL DISTRICT** shall work diligently towards the completion of the house and secure the house and property in a manner that does not cause undue deterioration of the aesthetics and safety of the neighborhood.

(g) The **SCHOOL DISTRICT** shall retain ninety percent (90%) of the profits after the construction loan and expenses are paid in full. The **SCHOOL DISTRICT** shall remit ten percent (10%) of the profits to the **CITY** to be used by the **CITY** as set forth in Paragraph 2(g).

(h) The **SCHOOL DISTRICT** shall maintain adequate records to justify all charges, expenses, and costs incurred in the construction of the house.

4. **Notices:** Any notice given pursuant to the terms of this Interlocal Agreement shall be in writing and hand delivered or sent by certified mail, return receipt requested. All notices shall be addressed to the following:

As to the County: Greater Delray Beach Chamber of Commerce
Bill Wood, Director
64-A S.E. 5th Avenue
Delray Beach, FL 33483

As to the CRA: Community Redevelopment Agency
Diane Colonna, Director
20 North Swinton Avenue
Delray Beach, FL 33444

As to School District: Chief of Facilities Management
School District of Palm Beach County
3320 Forest Hill Blvd.
West Palm Beach, FL 33406

As to City: David Harden, City Manager
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, FL 33444

5. **Termination:** The **SCHOOL DISTRICT** or **CITY** may terminate this Interlocal Agreement upon thirty (30) days advance written notice to each other for non-compliance in the performance of any of the terms and conditions as set forth herein and where **SCHOOL DISTRICT** or the **CITY** does not cure said non-compliance within ninety (90) days of receipt of written notice to do so. Further, upon written notice, **SCHOOL DISTRICT** shall reimburse the **CITY** any funds provided to **SCHOOL DISTRICT** pursuant to this Interlocal Agreement that have not been expended by the **SCHOOL DISTRICT** by the date of the notice of termination and the **CITY** will use the funds to complete the project.

6. **Remedies; Venue:** This Interlocal Agreement shall be governed by the laws of the State of Florida. No remedy herein conferred upon any party is intended to

be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. The parties hereto may pursue any and all actions available under law to enforce this Interlocal Agreement including, but not limited to, actions arising from the breach of any provision set forth herein. Venue shall be in Palm Beach County.

7. **Filing:** A copy of this Interlocal Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

8. **Liability:** The parties recognize their respective liability for certain tortious acts of their agents, officers, employees and invitees, and agree to be responsible respectively for all claims, liability, losses, and/or causes of action that may arise from any negligent act or omission due to the acts of its agents, servants, or employees, to the extent and limits provided by law, the parties being subject to the limits provided in Section 768.28, Florida Statutes, the State of Florida's partial waiver of Sovereign Immunity; provided, however, that this provision shall not be construed as a waiver of any right or defense that any of the parties have under said statute. In addition, the **SCHOOL DISTRICT** will indemnify the **CITY** against any loss or damage incurred by the **CITY** which loss or damage is suffered or incurred as a result of the negligence of its students, contractors, and employees. Such indemnity is expressly limited to subject to and within the extent and limitations of F.S. §768.28 but in no event for any amount greater than provided by F.S. §768.28.

9. **Insurance.** The Parties recognize that the **SCHOOL DISTRICT** of Palm Beach County is self-insured. To the extent permitted by F.S. §768.28, and without waiving any rights or reservations therein, The **SCHOOL DISTRICT** shall be responsible for its own negligence. In addition, the **SCHOOL DISTRICT** will indemnify the **CITY** against any loss or damage incurred by the **CITY** which loss or damage is suffered or incurred as a result of the negligence of its students, contractors, and employees. Such indemnity is expressly limited to subject to and within the extent and limitations of F.S. §768.28 but in no event for any amount greater than provided by F.S. §768.28.

SCHOOL DISTRICT shall require its contractor to maintain sufficient professional, general liability and worker's compensation coverage and other insurance as required by Exhibit D. So long as the **SCHOOL DISTRICT** complies with this requirement, the **CITY** shall not look to the **DISTRICT** itself to correct any defects in construction which are first discovered or identified after the issuance of a Final Certificate of Occupancy or its equivalent by the appropriate building official of the City of Delray Beach, Florida. The cost of the insurance shall be included within the lump sum Contractor's fee and the **SCHOOL DISTRICT** shall pay that fee from the funds provided by the **CRA** for the project.

9. **Captions:** The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

10. **Severability:** If any term or provision of this Interlocal Agreement, or the application thereof to any person or circumstance, shall to any extent be held invalid or unenforceable, the remainder of this Interlocal Agreement, or the application of such term or provision, to any person or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Interlocal Agreement shall be deemed valid and enforceable to the extent permitted by law.

11. **Entirety of Agreement:** This Interlocal Agreement and exhibits hereto, including but not limited to the construction loan agreement, represents the entire understanding between the CITY, the CRA, the CHAMBER and the SCHOOL DISTRICT and supersedes all other negotiations, representations or agreements, either written or oral. Other than through the construction agreement, none of the provisions, terms and conditions contained in this Interlocal Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

12. **No Third Party Beneficiaries:** This Interlocal Agreement is made solely and specifically among and for the benefit of the parties hereto, and no other person or entity shall have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Interlocal Agreement as a third-party beneficiary or otherwise.

13. **No Interpretation Against Drafter:** No party shall be considered the author of this Interlocal Agreement since the parties have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final Interlocal Agreement. Thus, the terms of this Interlocal Agreement shall not be strictly construed against one party as opposed to another party based upon who drafted it.

IN WITNESS WHEREOF, the parties have caused this Interlocal Agreement to be executed on the day and year first above written.

Attest:

CITY OF DELRAY BEACH, FLORIDA

City Clerk

By: _____
Jeff Perlman, Mayor

Approved as to Form
and Legal Sufficiency:

City Attorney

WITNESSES:

COMMUNITY REDEVELOPMENT AGENCY

By: _____
Brenda Montague, Chairperson

WITNESSES:

**GREATER DELRAY BEACH CHAMBER OF
COMMERCE**

By: _____
Bill Wood, Director

WITNESSES:

**SCHOOL BOARD OF PALM BEACH
COUNTY**

By: _____
Thomas E. Lynch, Chairman

Approved as to Form
and Legal Sufficiency:

School District Attorney

Attest: _____
By: _____
Arthur C. Johnson, PhD.
Superintendent

EXHIBIT B

CONSTRUCTION AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2005, by and between the **SCHOOL BOARD OF PALM BEACH COUNTY**, hereinafter called the "the School District", and the **CITY OF DELRAY BEACH, FLORIDA**, hereinafter called the "City".

WITNESSETH:

WHEREAS, the **City** shall allow the **School District** to build house through the Eagle's Nest Program on certain property situated in the County of Palm Beach, State of Florida, known and described as follows:

Lot 28, Block 1, Atlantic Park Gardens, according to the map or plat thereof as recorded in Plat Book 14, Page 56, Public Records of Palm Beach County, Florida; and

WHEREAS, said **School District** shall to build a house ("Improvements") on said property above-described as set forth in the plans and specifications and said **School District**, in order to provide a hands on Career Academy, requires funds with which to construct said Improvements, and said **City**, through the **CRA** as hereinafter provided, has agreed to make a financial contribution to the **SCHOOL DISTRICT** for the construction of the house subject to the terms of the Agreement known as the Eagle's Nest Interlocal Agreement.

NOW, THEREFORE, in consideration of the mutual and separate agreements, covenants and warranties of the parties hereto, it is agreed, covenanted and warranted by and between the parties hereto as follows:

1. The **School District**, through its Eagle's Nest Program, covenants, warrants and agrees:

A. The **School District** will build a house on the above-described property. The **City** and the **CRA** may take whatever action is necessary in law or in equity to secure its rights and obligations under the Eagle's Nest Interlocal Agreement and Exhibits thereto, and if a breach occurs during construction of the house, the **City** is entitled to take possession and title to the property and has the option to complete the building using whatever monies the **City** has retained and is entitled to receive monies from the **School District** that have been received by the **CITY** for the Program, but have not been expended. This covenant is in addition to and not a substitution for all

rights of the **City** set forth elsewhere in the Eagle's Nest Interlocal Agreement and any exhibits thereto, including this Agreement.

B. The **School District** covenants and warrants that the as of the date hereof no materials of any kind have been placed thereon and no labor has been performed upon the property incident to the contemplated construction.

C. The **School District** shall furnish the **City**, at **School District 's** expense upon the completion of said building(s) and improvements, a print or prints of survey showing said building(s) and improvements properly located on said property.

D. The **School District** and all Parties hereto recognize that the School District of Palm Beach County is self-insured. To the extent permitted by F.S. 768.28, and without waiving any rights or reservations therein, The School District shall be responsible for its own negligence. In addition, the School District will indemnify the City against any loss or damage incurred by the City which loss or damage is suffered or incurred as a result of the negligence of its students, contractors, and employees. Such indemnity is expressly limited to subject to and within the extent and limitations of F.S. §768.28 but in no event for any amount greater than provided by F.S. §768.28. The School District further agrees that it shall require its contractor to carry the insurance coverages set forth in Exhibit D and that both the School District and the City shall be included as additional insureds on the Contractor's liability insurance policies required under this Agreement and shall both receive certificates of such insurance and notices of cancellation, if any.

E. The **School District** shall construct and erect in a true, thorough, workmanlike and substantial manner on the above-described property the Improvements herein mentioned in accordance with the plans and specifications heretofore and approved by the **City**, which plans and specifications shall be construed together in such manner so that any works, structures, or parts thereof exhibited in the plans and not mentioned in the specifications, or vice versa, are to be constructed and erected as if they were exhibited in the plans and mentioned in the specifications. The **School District** shall fully equip said Improvements and install and pay for any fixtures and materials and complete and pay for any landscaping, walls, drives, approaches or walks required by said plans or specifications

F. The **School District** shall take all necessary steps to ensure that construction of said Improvements shall proceed continuously and diligently, and in all events shall complete construction and equipage of said Improvements and perform all covenants and promises contained in the preceding sub-paragraph (E) hereof not later than twenty-four (24) months after the **last of the parties execute this agreement**.

G. The School District shall require its contractor to provide a standard one-year warranty homeowner warranty on the Improvements, said warranty to

commence upon the date that the final Certificate of Occupancy is issued. The School District shall itself cooperate and require that its contractor cooperate with the City and the homeowner in the scheduling and performance of any warranty work.

H. The **School District** covenants and warrants that all necessary licenses or permits will be obtained to permit the completion of said Improvements and that all materials contracted or purchased are for delivery to said property and for use in said construction, and all labor contracted or hired for or in connection with said construction shall be used and employed solely on said property and in said construction and only in accordance with said plans and specifications. Copies of the necessary building permits shall be furnished by the **School District** to the **City** forthwith prior to any disbursement of funds pursuant to this Agreement.

I. The **School District** agrees to comply with all federal, state, and local laws, rules and regulations of any nature whatsoever, applicable zoning ordinances and subdivision restrictions, now in effect or in the future.

J. The **School District** shall furnish, on completion of construction on said property, all receipted bills, certificates, affidavits, releases of liens and other documents which shall be reasonably required by the **City** as evidence of full payment for all labor and materials incident to said construction.

K. The **School District**, without charge or deduction for such services to any other Party, shall see to it that the construction of said Improvements is appropriately supervised.

L. The **School District** shall execute all instruments required to fully comply with and shall abide by, complete, perform and carry out all of the **School District** representations, proposals and obligations. It is specifically agreed and understood that **City's** obligation to disburse the money at any time in accordance with this Agreement is contingent upon the **School District's** full and strict compliance with all of the covenants, warranties, representations, terms and conditions of the documents executed and delivered in connection with this transaction.

M. The **School District** shall furnish **City** forthwith and prior to the disbursement of any funds pursuant to this Agreement, duly executed copies of the contract between contractor and the **School District** and any other contracts and/or subcontracts, purchasing orders and any other agreements between the **School District**, and any other party that the **City** shall reasonably request, including, without limitation a copy of the executed contract between the **School District** and its architect.

2. Funds shall be disbursed and advanced by the **City** from time to time as follows:

A. Subject to the provisions hereof, such funds shall be disbursed and advanced by the **City** from time to time as follows:

(1) The **City**, using the funds received by the **CRA** for the Eagle's Nest Program, shall deposit said funds in an Eagle's Nest Construction Fund. The funds to be drawn by the **School District** for the Eagle's Nest Program during the term of this loan shall be disbursed by the **City**, on a direct payment basis as work progresses upon receipt by the **City** of properly executed draw requests acceptable to the **City** both as to form and substance together with bills and/or lien waivers. In addition, the **City** shall receive prior to any disbursement, a certification from either the **City's** inspectors, the **School District's** architect, the **School District's** general contractor or the **School District** indicating the work completed. Payments shall not exceed 90% of the value of the work performed and materials in place or the amount due to the contractors and material suppliers, whichever is less. Such ten percent (10%) hold back will be retained until completion of construction and funding of the final loan proceeds. There shall be no disbursements for materials stored offsite. Disbursements for materials stored onsite shall be permitted unless such disbursements are prohibited by or are in violation of the payment and performance bonds.

B. Notwithstanding any other provision hereof, the **City** shall be entitled at its option to refuse to make any disbursements hereunder, or to withhold a part of any disbursement, if the **School District** shall fail to perform or comply with any condition, contingency or requirement of any agreement between the parties.

C. Said funds shall be disbursed in accordance with all of the standard controls typically placed upon the disbursement of construction proceeds by the **City**. Disbursement will be made based upon a percentage of completion as described above, or directly to the contractor, subcontractor and/or supplier or in such other manner as the **City** may determine. Requisitions for advances shall be on the **City's** approved forms. All determinations as to cost-to-complete, feasibility, compliance with plans, specifications and building codes, frequency and amount of advance and other matters relating to disbursements shall be at the sole discretion of the **City**.

D. No change orders that would cause the total construction cost to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) will be permitted unless approved in writing by the **City**.

E. If the services of an architect and/or engineer are employed, the **City** shall, but at the **School District's** expense, require the architect's and/or engineer's certificate as to the progress of construction before making each disbursement in accordance with the aforesaid schedule.

F. The **City** may, at its option, from time to time during construction and at its completion require for its own information and protection evidence from the

SCHOOL DISTRICT or contractor, or both, of the payment of bills for all labor and materials, but the **City** shall not be required or responsible to ascertain that any bills are paid.

G. Without the prior written consent of the **City**, all monies disbursed hereunder shall be used solely on account of costs of construction and improvements on the hereinabove-described property and expenses of the construction loan and no such monies shall be diverted or borrowed for any other use.

H. The **City** shall not be responsible or liable to ascertain or determine at the time of making any disbursement hereunder, or at any other time, that the construction of said building(s) and improvements has been in accordance with the specifications of any contract of the **School District** for the construction thereof, nor that same as proposed or constructed is permitted by restrictions or zoning ordinances, if any, affecting said premises.

I. As requested by the **City** during construction, an Engineering Report satisfactory to the **City** shall be provided, at the **School District's** expense, from an independent engineering firm approved by the **City**. Said inspections shall show all buildings and equipment to be in satisfactory condition and working order.

3. The **City** shall not be liable to materialmen, contractors, subcontractors, laborers or others for goods and/or services delivered and/or rendered by them in or upon said premises or employed in said construction or for any debts or claims accruing in favor of any such parties and against the **School District** or others or against said premises. The **School District** is not and shall not be the agent of the **City** for any purpose whatsoever.

4. All inspection services, if any, rendered by the **City** or officers, agents, or employees, shall be rendered solely for its own information and protection. Neither the **City** nor its officers, agents or employees shall be in any way liable for the failure of any dealer, contractor, sub-contractor or laborer to deliver materials or perform services to be delivered or performed by them.

5. If and when it shall appear in the **City's** reasonable discretion at any time during the construction that the balance of costs of all the construction and improvements to be performed as aforesaid (cost-to-complete) will exceed the aggregate cost of the improvements, less such sums thereof as have been theretofore advanced or reserved, the **School District**, forthwith upon demand of the **City**, shall deposit with the **City** the excess amount of such costs of such construction and improvements.

6. If the **School District** or the **School District's** contractor shall fail to perform according to the terms of this Agreement or cause or permit conditions to arise

so that performance would be rendered unduly difficult or hazardous for the **City**, or if the **School District** shall fail, neglect or refuse to perform either or any of the **School District's** promises or agreements hereunder, or breach any promise, covenant, warranty or agreement made hereby, or if it becomes apparent that the **School District** or the **School District's** contractor will not complete said Improvements within the time specified in paragraph 1(F) hereof, or if the **School District** or its contractor shall become insolvent or if there is filed a voluntary or involuntary petition in bankruptcy or if a conservator or trustee or receiver is appointed or an assignment for the benefit of creditors is made, then and in either such event the **City** may, at its option, withhold further disbursements hereunder and will be entitled to take possession of the property and has all rights as set forth in Paragraph 1.A. and is entitled to pursue all of the remedies available at law and in equity and may pursue any or all rights and remedies as set forth in the Eagle's Nest Interlocal Agreement and exhibits thereto.

7. If at any time it shall appear that the Improvements are being constructed in violation of any environmental laws, regulations, rules, covenants, restrictions or zoning ordinances of governmental authorities affecting said property, the **City** shall be entitled to withhold further disbursements hereunder and, unless such violation is attempted to be corrected and cured by the **School District** forthwith on notice to the **City** and the process is continuously and vigorously prosecuted until completed, otherwise the **City** may at its option, declare all funds previously advanced be immediately due and payable.

8. The dissolution of the **School District**, the Eagle's Nest Program or its contractor shall not terminate its obligations to complete said Improvements to perform all other agreements hereunder, and the trustees of the aforesaid shall be required to carry out this Agreement in the manner and within the time herein provided.

9. Should any dispute arise between the **School District** and the **City** that cannot otherwise be mutually resolved by the parties respecting the true construction and meaning of the plans and specifications, the same shall be decided by a competent architect and/or engineer to be selected mutually by the **City** and the **School District** and the costs of such services shall be borne equally by the **City** and the **School District**.

10. All charges and expenses (including but not limited to the **City's** fee, recording fees, intangible tax on any mortgage on the property, documentary stamps on note, abstracting, counsel fees, inspecting engineers, architects, construction consultants, title insurance and title search expenses, recording charges and expenses, etc.) in connection with the construction are due and payable by first by the **City** from the funds allotted to it by the CRA and if sufficient funds are no longer available, then by the **School District**.

11. The **School District** further represents, covenants, warrants and agrees that:

A. No notice of commencement of any improvement upon any part of the property hereinabove described has been made, recorded or posted within forty-five (45) days preceding the date of this Agreement; no such Notice of Commencement will be recorded or posted prior to the recording of the mortgage hereinabove referred to; the Notice of Commencement will be properly recorded and posted prior to commencement of any improvements; and the improvements described in said Notice will be commenced within thirty (30) days after such recording;

B. The **City's** advances hereunder shall be disbursed by the **City**, as hereinabove provided; and the **City** is not an agent of the **School District**, and has no obligation or responsibility to the **School District** or the contractor or any other parties provided labor, services and/or materials to the Project, for the further disbursement and proper payment of said funds to any parties for work, labor, services and materials done, performed and supplied for the construction and improvements on the property;

C. The **City's** advances hereunder shall be disbursed for "proper payments", pursuant to the **School District's** contracts and as defined by Chapter 713, Florida Statutes, the Florida Construction Lien Law for work, labor, services and materials done, performed and supplied to the property. The **School District** will require and obtain from all contractors, sub-contractors and/or lienors all affidavits required, or permitted to be required, by the **City**.

D. If and when requested by the **City**, the **School District** will promptly furnish satisfactory proof of compliance with all the foregoing and copies of all notices, affidavits and other papers received, made or given by the **School District** relating to the property. The **City** shall have the right to withhold payment of any advance otherwise due the **School District** hereunder whenever, in the opinion of **City** or title insurer, the further disbursement of said funds by the **School District** would not constitute "proper payments" for work, labor, services or materials done on and supplied to the property under the **School District 's** contracts or under the Florida Construction Lien Law.

12. The **School District** releases the **City** and CRA from any liability or damages arising out of or related to the disbursement of the proceeds hereunder, and the **School District** and contractor severally agree to indemnify and hold harmless the **City** from and against any such liability or damages, to the extent permitted by law. The indemnification and hold harmless agreement in this paragraph is limited to the liability or damages arising out of or related to the disbursement of the proceeds hereunder and not for any other purpose or person.

13. The mailing of a written notice of demand, addressed to the **School District**, directed to said **School District** at the last address actually furnished to the **City** and mailed by the United States certified mail, return receipt requested, shall be

sufficient notice and demand in any case arising under this instrument and required by the provisions hereof or by law. Notice to City, if required hereunder, shall be deemed properly given when forwarded by certified mail, return receipt requested, with sufficient postage affixed thereto and addressed to City at 100 N.W. 1st Avenue, Delray Beach, Florida 33444, Attention: City Manager and to 200 N.W. 1st Avenue, Delray Beach, Florida 33444, Attention: City Attorney

14. Nothing herein shall be construed to waive or diminish any right or security of the **City**. It is the purpose and intent hereof to provide safeguards, protections and rights for the **City** in addition to those provided and to better secure said **City** by reason of this Agreement.

15. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their heirs, legal representatives, successors and assigns. The **School District** shall be released from obligations and agreements hereunder only by written instrument of the **City** specifically provided for in such release.

16. This Construction Agreement shall be governed and construed under the laws of the State of Florida.

17. If this Construction Agreement is executed by more than one person then all singular nouns, pronouns and verbs herein shall be construed as plural nouns, pronouns or verbs; it being the intent and purpose hereof that this form shall conform to the circumstances as fully as if each change from singular to plural were set forth in writing herein.

18. No change or modification of this Agreement shall be valid unless the same is in writing and signed by the parties hereto. This Agreement, in conjunction with the Interlocal Agreement for the Eagle's Nest Program and exhibits thereto, contains the entire agreement between the parties hereto and there are no promises either written or oral express or implied, between the parties hereto other than as herein set forth. It is expressly understood and agreed that the parties hereto intend this Agreement and the Eagle's Nest Program Agreement to be an integration of all prior and contemporaneous promises, agreements conditions, undertakings, warranties and representations between the parties hereto.

19. It is specifically agreed and understood that the **City** shall not be held liable for any and all claims for loss, damage or injury of any nature whatsoever with respect to any person or to the property described in the Eagle's Nest Interlocal Agreement and exhibits thereto or the Improvements to be constructed thereon or to the personal property to be installed or located therein. Furthermore, the **City's** negligence in the administration of the construction loan shall not excuse the **School District** or anyone else from complying with any and all of the terms set forth hereunder and under the other loan documents of even date. All of the provisions set forth hereunder and

under the other documents are to be fully enforced and are solely for the **City's** protection and are not to be and should not be relied upon by the **School District** or other third parties.

20. The **School District** shall pay and deposit with the **City** all of the out-of-pocket costs, charges and expenses, including reasonable attorneys' fees and abstract and/or title search costs, reasonably incurred or paid at any time by the **City** because of the failure of the **School District** to perform, comply with, and abide by each and every of the stipulations, agreements, conditions and covenants of this Agreement.

21. The **School District** shall furnish the **City** written notice forthwith, addressed to **City** by certified - return receipt requested mail, of any conduct (by action or omission) which in the **School District's** opinion may be actionable against the **City**, including but not limited to fraud, duress, breach of contract, breach of fiduciary duty, negligence, breach of covenant of good faith, failure to disclose, interference, etc. Failure to furnish such notice will constitute a waiver by the **School District** of such action.

22. All environmental laws, rules and regulations issued by all governmental authorities in connection with the intended use of the property will be complied with use of said property will not violate any such laws, rules and/or regulations.

Furthermore, the **City** shall have the right to enter the property and inspect it from time to time to clean up, at the **City's** expense, if the **School District** fails to do so, the **School District** shall immediately notify the **City** of any significant release of hazardous substances on the property and the receipt of any notices or communications regarding environmental matters from governmental authorities. The **School District** shall submit to the **City** from time to time as requested by the **City** proof acceptable to **City**, that there is full compliance with all environmental laws, rules and regulations.

23. The recitals are incorporated as if fully set forth herein.

IN WITNESS WHEREOF, the parties have executed this instrument under their respective seals the day and year first above written.

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

City Clerk

By: _____
Jeff Perlman, Mayor

Approved as to Form:

City Attorney

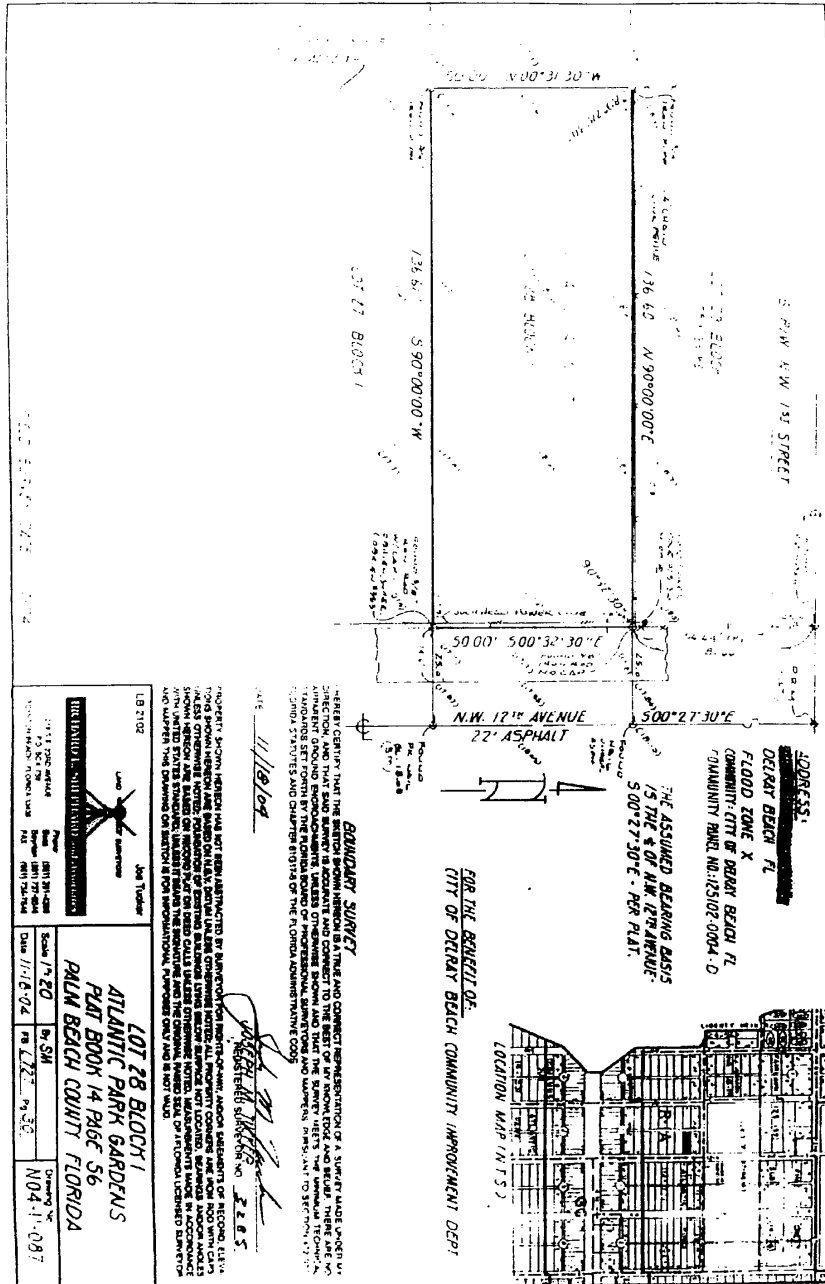
**THE SCHOOL BOARD OF
PALM BEACH COUNTY**

By: _____
Thomas E. Lynch
Chairman

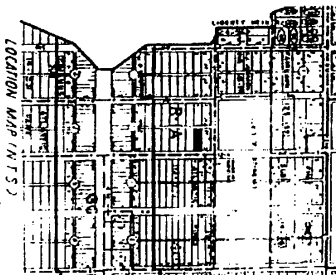
Date: _____

Attest:

By: _____
Arthur C. Johnson, Ph.D.
Superintendent



ADDRESS:
 DELRAY BEACH FL
 FLOOD ZONE X
 COMMUNITY CTR OF DELRAY BEACH FL
 COMMUNITY RANG. NO. 125102-0004-10
 THE ASSUMED BEARING BASIS
 IS THE \pm OF N.W. 12th AVENUE
 S 00° 27' 30" E - PER PLAT.



FOR THE BENEFIT OF:
 CITY OF DELRAY BEACH COMMUNITY IMPROVEMENT DEPT

BOUNDARY SURVEY

...REFER CENTER THAT THE BOUNDARY SURVEY IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY MADE UNDER THE
 ...CITY OF DELRAY BEACH COMMUNITY IMPROVEMENT DEPARTMENT...
 ...DATE 11/18/04...

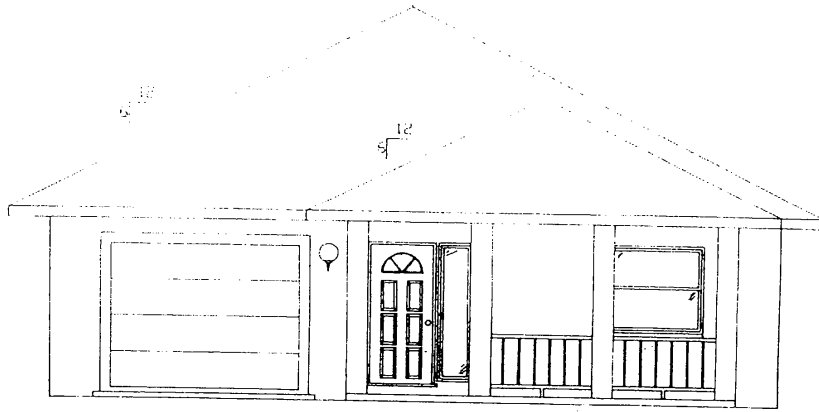
[Signature]
 REGISTERED SURVEYOR NO. 22885

PROPERTY SURVEY HAS NOT BEEN ABSTRACTED BY BIRMINGHAM...
 ...ALL PROPERTY OWNERS ARE ADVISED THAT THIS SURVEY...
 ...IN ACCORDANCE WITH THE FLORIDA STATUTES AND CHAPTER 119 OF THE FLORIDA ADMINISTRATIVE CODE...

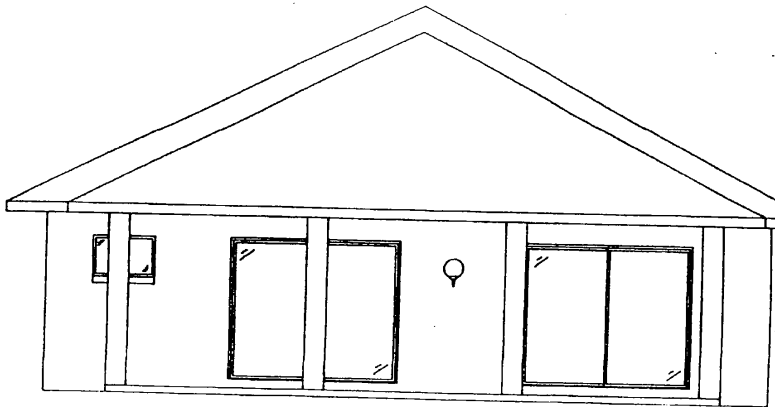
Lot 28 Block 1
 ATLANTIC PARK GARDENS
 PLAT BOOK 14 PAGE 56
 PALM BEACH COUNTY FLORIDA

Scale 1/4" = 20'	By SH	Drawing No. N04-11-087
Date 11-18-04	PL 1727 PA 56	

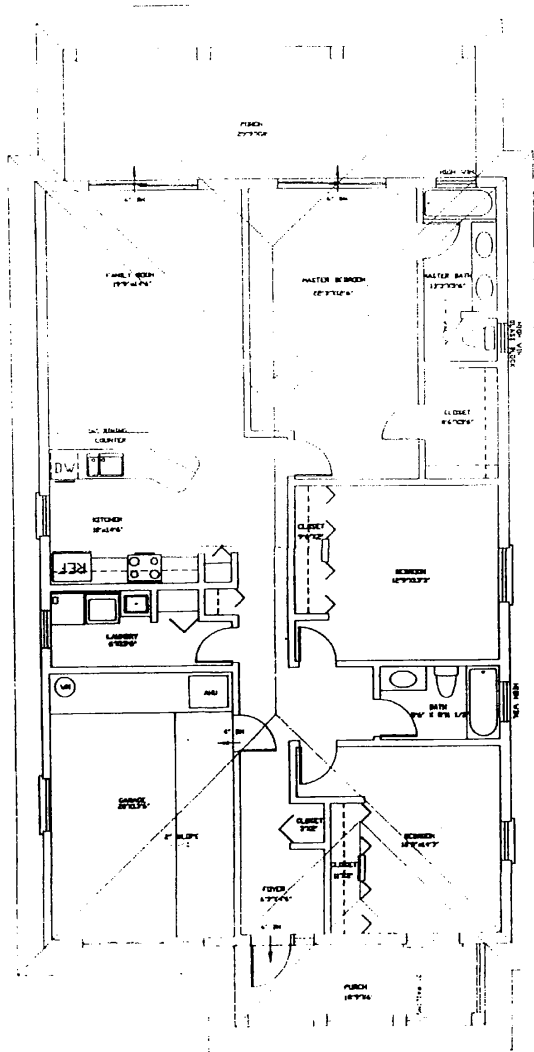
EXHIBIT "C"



FRONT



REAR



SCALE - 1/4" = 1'

ATLANTIC COMMUNITY HIGH SCHOOL
 EARLE NESS

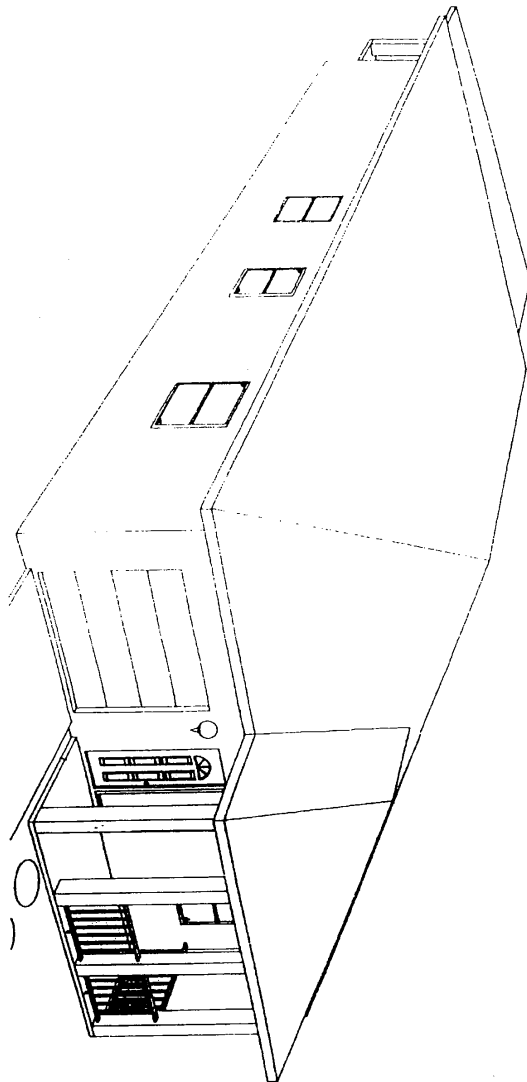


EXHIBIT D

EAGLES NEST PROGRAM INSURANCE REQUIREMENTS

Insurance/Bond Requirements and Conditions:

During the term of this Agreement with the City, except as otherwise stated in this Agreement, the School District shall have its contractor procure and maintain insurance of the types and to the limits and conforming to requirements as specified in the following paragraphs. No work under this contract shall begin until evidence of these financial guarantees is delivered as is directed under this contract.

Commercial General Liability Insurance: Shall be written on the most current ISO Occurrence Form, or equivalent, to cover legal liabilities arising from premises and operations, independent contractors, contractual (indemnification) agreement, products and completed operations, personal injury and XCU exposures as required by the work to be performed under this Contract, unless waived by the City. The combined bodily injury and property damage limit shall not be less than \$1,000,000 per occurrence with an annual aggregate of \$2,000,000.

The Contractor will maintain the completed operations insurance for a period of one (1) year after the work performed under this Contract has been completed and accepted by the City.

Automobile Liability Insurance: Shall be maintained in accordance with the laws of the State of Florida to cover the ownership, maintenance and/or use of all owned, non-owned, or hired vehicles as required by the work to be performed under this Contract. The combined bodily injury and property damage limit shall not be less than \$500,000 per occurrence.

Workers' Compensation Insurance: Shall be provided and maintained in accordance with the State of Florida's Workers' Compensation Law. Included shall be Employee's Liability Insurance to protect against on-the-job injury or illness which may not fall within the provisions of the State's Workers' Compensation Law. The limits shall be no less than \$500,000 each accident and an occupational disease limit of \$500,000 per employee/\$500,000 aggregate.

Additional Insured: The School District and the City of Delray Beach shall be included as an additional insured by way of the most current ISO endorsement, or its equivalent, on the Contractor's liability insurance policies required under this Agreement and shall receive certificates of insurance and notices of cancellation, if any. Subcontractor Provision: The School District will assure that

the contractor requires the subcontractor(s) to adhere to the same insurance, safety and indemnity provisions as in this Agreement, or otherwise the Contractor will assume the legal liabilities of such subcontractor(s).

Safety Practices/Hazardous Waste Agreement: The School District warrants that work practices of employees and agents of the School District, and the services and/or products supplied by the School District to the City under this contract will be provided and/or used in compliance with, although not an exhaustive reference, the standards set forth in the Occupational Safety and Health Act of 1970 and its amendments, Federal and State environmental pollution laws, and the policies and procedures of the City. The City retains the right to stop School District work if such compliance is not maintained by the School District.

Evidence of Insurance: Prior to the commencement by the School District's contractor or any to its subcontractors of any work under this Contract, the City must receive and approve Certificates of Insurance evidencing the insurance coverages and requirements as required by this Contract. Certified copies of the policies will be provided if requested by the City. Renewal Certificates shall be provided to the City at least ten (10) days prior to the expiration of any policy.

If at any time the Contractor fails to maintain, or provide evidence of insurance coverage required by this Contract, all work may be halted by the City.

Cancellation/Changes/Renewal: At least thirty (30) days written notice must be given to the City of any cancellation, intent to non-renew, or material reduction or change in insurance coverages.

Primary Policies: The Contractor's insurance will be primary to the City's insurances or self-insurance programs.

Waiver of Subrogation: The School District and its insurer(s) waive all rights of subrogation against the City, its employees, officers, directors and agents for the recovery of damages except to the extent such damages are covered under any of the City's general liability, automobile liability, excess liability or property insurance and self-insurance programs.

Insurance Ratings: All insurers of the School District shall be authorized to do business in Florida, and shall have an A.M. Best rating of A-VII, or equivalent.

Deductibles and Self-Insured Retentions: The Contractor shall be responsible for all deductibles and self-insured retentions. In the event of loss which would have been covered but for the deductible or self-insured retention, the City may withhold from payment to the School District an amount equal to the deductible or self-insured retention should the full loss recovery not be obtained under the

Contractor's insurance as a result, and the School District shall be entitled to withhold from the Contractor an equal sum.

Builders Risk Insurance: Shall be maintained by the Contractor during the work performed under this Agreement and shall be an all risk coverage, to include wind storm and flood as required by the City, with limits equal to 100% of the replacement value of the completed structure. This insurance shall include, or inland marine insurance shall be maintained by the Contractor, to provide all risk coverage for related property, to include machinery and equipment, while in transit or being stored at the work site. If necessary, the insurance policy will contain a waiver of occupancy clause which would allow the City or the School District to occupy the structure as stipulated in the Agreement without jeopardizing the insurance coverage.