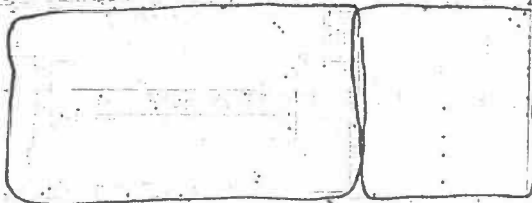


Lots 9 & 10  
owned by  
Atlantic Center Ltd.



Lots 12 & 13  
owned by  
EX B  
"Additional Property"

Lots 14, 15, 16 & 17  
owned by  
EX A  
"Property"

the "Property"

CRB 11707 / 504

This instrument prepared By:  
Record and Return to:

Michael S. Greene, Esq.  
Sachs, Sax & Klein, P.A.  
301 Yamato Road, Suite 4150  
Boca Raton, FL 33431

PARKING EASEMENT AGREEMENT

APPEARED THIS 3 day of February, 1999, MALLORY DEVELOPMENT, LTD., a Florida limited partnership ("Owner"), ATLANTIC CENTER, LTD, a Florida limited partnership ("Atlantic"), and the CITY OF DELRAY BEACH, FLORIDA ("City") and hereby entered into this Parking Easement Agreement ("Agreement").

WITNESSETH:

WHEREAS, Owner is the owner of that certain real property described on Exhibit "A" (the "Property") and the certain real property described on Exhibit "B" ("Additional Property"); and

WHEREAS, Atlantic is the owner of Atlantic Plaza described on Exhibit "C" ("Atlantic Plaza"); and

WHEREAS, Atlantic was the prior owner of the Property and has conveyed title of the Property to Owner by special warranty deed of even date herewith; and

WHEREAS, subsequent to the conveyance of the Property to Owner and, the recordation of this Agreement, Owner, its successors or assigns intend to construct a building and related improvements ("Building") on and above the Property and the Additional Property which would, in effect, create a covered parking lot for the Property; and

WHEREAS, the City has an interest in ensuring that parking for Atlantic Plaza is adequate under the City's Zoning Code, and, therefore, has the right to consent to any release or termination of this Agreement, as specifically provided herein; and

WHEREAS, in consideration for conveying the Property to Owner at the price paid by Owner to Atlantic, Owner has agreed to grant Atlantic an easement for parking of automobiles on the portions of the Property described and set forth herein.

Return to City Clerk, 100 N.W. 1st Avenue, 3rd Fl., Miami, FL 33134

automobiles on the portions of the Property described herein and a temporary easement for parking on a portion of the Alternate Property pursuant to the terms and conditions as more specifically set forth herein.

**NOW, THEREFORE**, in consideration of the recitals set forth herein, and other good and valuable consideration between the parties, the receipt of which is hereby acknowledged, the parties agree as follows:

1. The recitals set forth above are true and correct and are incorporated herein by reference.

2. A. Mallory hereby does establish, give, grant and convey an exclusive (subject to the Off-Hour Rights and the Building Conditions, as described and defined herein) perpetual easement over, upon and on the portion of the Property depicted and described on Exhibit "E" hereto ("Parking Easement") for the purpose of allowing Freecor, its tenants, customers and guests ("Freecor's Designees") ingress to and egress to and from the Parking Easement, at an access point reasonably designated by Mallory from time to time, and for the purpose of parking automobiles in parking spaces within the Parking Easement, specifically designated on Exhibit "E" ("Designated Parking Spaces"). The Parking Easement shall only extend to and encumber the Designated Parking Spaces and the driveways as depicted on Exhibit "E" and shall not extend to or encumber any other property nor any structure, foundation, ramp, elevator, utility or mechanical system associated with or part of the Building. Such grant shall be perpetual in nature, run with the land (but shall benefit only Carole Plaza and no other property or building), and be binding upon all subsequent owners of the Parking Easement.

B. The easement granted herein is limited to parking by passenger automobiles, and shall not be used for parking commercial vehicles, trucks (other than sports utility vehicles and mini-vans utilized as personal transportation), boats (including but not limited to personal water crafts), or trailers, or for the storage of equipment or other personal property. Mallory, its successors and assigns, and its designees, shall have the right to post signs prohibiting parking by other than passenger vehicles of tenants, customers and guests of Carole Plaza within the Parking Easement, and shall have the right to cause vehicles violating this restriction, or vehicles abandoned on the Property or vehicles parking on Mallory's property but outside of the Parking Easement, to be towed from the Property, to assess fines against such vehicles, to immobilize such vehicles utilizing devices such as a "Denver boot", and/or to take such other reasonable measures necessary or appropriate to enforce this restriction with regards to vehicles violating the aforementioned restriction, Mallory shall provide forty-eight (48) hours written notice (facsimile transmission being deemed sufficient for this purpose) to Freecor before towing or immobilizing such vehicles except in the event of an emergency or breach of the peace; however, no such notice shall be required for vehicles parking outside of the Parking Easement in spaces marked "reserved" or "private" or designated by name, suite or unit number. The Mallory, in the Mallory's sole and

absolute discretion, may establish from time to time, a parking decal or pass card system, security check-in or other reasonable mechanism to restrict parking in the Parking Easement to Freecor's Designees. Freecor shall be responsible to distribute such parking decals and passes, and/or advise its tenants of the mechanism established by Mallory pursuant hereto. Additionally, the Mallory shall have the right to notify Freecor of any violation and require that Freecor remove any abandoned vehicle, and/or to notify any persons violating the foregoing restrictions, and/or to otherwise take all reasonable actions to prevent any recurring violations. The Mallory, or any designee of the Mallory, may establish reasonable rules and regulations for conduct on the Property and the Parking Easement consistent with the Mallory's development of the Building and for the benefit of the Building and its occupants, including without limitation, the following rules and regulations, which shall be effective from the date of this Agreement:

- (1) No alcoholic beverages shall be permitted to be consumed in the Parking Easement;
- (2) No loitering by any persons shall be permitted;
- (3) No radios or other noise producing devices shall be operated by any persons in the Parking Easement.

The Mallory shall have the right to enforce such restrictions and cause any persons violating such rules to be removed from the Property in accordance with law. The Mallory shall notify Freecor of the establishment of new or additional reasonable rules and regulations by providing written notice thereof at least ten (10) days before such become effective. Freecor shall promptly notify in writing its tenants of the establishment of the rules and regulations. New tenants shall be notified in writing at or before execution of their respective leases and before occupancy of the existence of the restrictions and rules and regulations.

C. Between the hours of 6:00 p.m. and 7:00 a.m., Monday through Friday, and on Saturday and Sunday ("Off-Hours") Mallory shall have the right ("Off-Hours Rights") to utilize the Parking Easement for overflow or event parking for the Building for occupants, tenants, and guests in the Building.

D. Freecor acknowledges and agrees that portions of the Building's structure, foundation, ramps, pipes and lines, mechanical systems, and other components ("Building Conditions") may, as a result of necessary design and construction considerations, encroach into, on or under the Parking Easement. The encroachment of such Building Conditions are expressly permitted by the terms of the Agreement, and the Freecor shall have no right to require the removal or relocation of such Building Conditions. Freecor agrees that upon Mallory's request this Agreement and the Parking Easement shall be amended to (i) modify Exhibit "E" hereto to account for or remove therefrom any Building Conditions so long as there are no less than fifty-two (52) Designated Parking Spaces in the aggregate located in the same

**NOW, THEREFORE**, in consideration of the recitals set forth herein, and other good and valuable consideration between the parties, the receipt of which is hereby acknowledged, the parties agree as follows:

1. The recitals set forth above are true and correct and are incorporated herein by reference.

2. A. Owner hereby does establish, give, grant and convey an exclusive (subject to the Off-Hour Rights and the Building Conditions, as described and defined herein) perpetual easement over, upon and on the portion of the Property depicted and described on Exhibit "D" hereto ("Parking Easement") for the purpose of allowing Atlantic, its tenants, customers and guests ("Atlantic's Designees") ingress to and egress to and from the Parking Easement, at an access point reasonably designated by Owner from time to time, and for the purpose of parking automobiles in parking spaces within the Parking Easement, specifically designated on Exhibit "D" ("Designated Parking Spaces"). The Parking Easement shall only extend to and encumber the Designated Parking Spaces and the driveways as depicted on Exhibit "D" and shall not extend to or encumber any other property nor any structure, foundation, ramp, elevator, utility or mechanical system associated with or part of the Building. Such grant shall be perpetual in nature, run with the land (but shall benefit only Atlantic Center and no other property or building), and be binding upon all subsequent owners of the Parking Easement.

B. The easement granted herein is limited to parking by passenger automobiles, and shall not be used for parking commercial vehicles, trucks (other than sports utility vehicles and mini-vans utilized as personal transportation), boats (including but not limited to personal water crafts), or trailers, or for the storage of equipment or other personal property. Owner, its successors and assigns, and its designees, shall have the right to post signs prohibiting parking by other than passenger vehicles of tenants, customers and guests of Atlantic Center within the Parking Easement, and shall have the right to cause vehicles violating this restriction, or vehicles abandoned on the Property or vehicles parking on Owner's property but outside of the Parking Easement, to be towed from the Property, to assess fines against such vehicles, to immobilize such vehicles utilizing devices such as a "Denver boot", and/or to take such other reasonable measures necessary or appropriate to enforce this restriction with regards to vehicles violating the aforementioned restriction, Owner shall provide forty-eight (48) hours written notice (facsimile transmission being deemed sufficient for this purpose) to Atlantic before towing or immobilizing such vehicles except in the event of an emergency or breach of the peace; however, no such notice shall be required for vehicles parking outside of the Parking Easement in spaces marked "reserved" or "private" or designated by name, suite or unit number. The Owner, in the Owner's sole and absolute discretion, may establish from time to time, a parking decal or pass card system, security check-in or other reasonable mechanism to restrict parking in the Parking Easement to Atlantic's Designees. Atlantic shall be responsible to distribute such parking decals and passes, and/or advise its tenants of the mechanism established by Owner pursuant hereto,

Additionally, the Owner shall have the right to notify Atlantic of any violation and require that Atlantic remove any abandoned vehicle, and/or to notify any persons violating the foregoing restrictions, and/or to otherwise take all reasonable actions to prevent any recurring violations. The Owner, or any designee of the Owner, may establish reasonable rules and regulations for conduct on the Property and the Parking Easement consistent with the Owner's development of the Building and for the benefit of the Building and its occupants, including without limitation, the following rules and regulations, which shall be effective from the date of this Agreement:

- (1) No alcoholic beverages shall be permitted to be consumed in the Parking Easement;
- (2) No loitering by any persons shall be permitted;
- (3) No radios or other noise producing devices shall be operated by any persons in the Parking Easement.

The Owner shall have the right to enforce such restrictions and cause any persons violating such rules to be removed from the Property in accordance with law. The Owner shall notify Atlantic of the establishment of new or additional reasonable rules and regulations by providing written notice thereof at least ten (10) days before such become effective. Atlantic shall promptly notify in writing its tenants of the establishment of the rules and regulations. New tenants shall be notified in writing at or before execution of their respective leases and before occupancy of the existence of the restrictions and rules and regulations.

C. Between the hours of 6:00 p.m. and 7:00 a.m., Monday through Friday, and on Saturday and Sunday ("Off-Hours") Owner shall have the right ("Off-Hours Rights") to utilize the Parking Easement for overflow or event parking for the Building for occupants, tenants, and guests in the Building.

D. Atlantic acknowledges and agrees that portions of the Building's structure, foundation, ramps, pipes and lines, mechanical systems, and other components ("Building Conditions") may, as a result of necessary design and construction considerations, encroach into, on or under the Parking Easement. The encroachment of such Building Conditions are expressly permitted by the terms of the Agreement, and the Atlantic shall have no right to require the removal or relocation of such Building Conditions. Atlantic agrees that upon Owner's request this Agreement and the Parking Easement shall be amended to (i) modify Exhibit "D" hereto to account for or remove therefrom any Building Conditions so long as there are no less than fifty-two (52) Designated Parking Spaces in the aggregate located in the same general area of the Property, and/or (ii) modify Exhibit "A" and "B" and "D" hereto to relocate the parking spaces therein (so long as the essential benefits of this Agreement are not denied to Atlantic). The parties agree to enter into any necessary, appropriate and recordable documents to accomplish such modification. Additionally, any lien rights granted

to Atlantic herein shall not extend to encumber or be a lien against any portion of the Building or any Building Condition encroaching into, on or under the Parking Easement or the Additional Parking Spaces.

3. It being contemplated by the parties that Owner will be demolishing the existing parking improvements currently existing on the Property in order to prepare the Property for site work and the construction of the building on the Property, the parties hereby agree that Owner shall provide no less than thirty (30) days written notice to Atlantic prior to commencing demolition of the existing parking improvements on the Property. Upon the expiration of said thirty (30) days, and for the period during construction of improvements on the Property and as otherwise set forth in this Agreement.

4. The anticipated site plan for the Parking Easement is attached as part of Exhibit "D" and have been approved by Atlantic. Owner shall not materially alter the Parking Easement, or relocate the Designated Parking within the Property, without Atlantic's prior written approval, which shall not be unreasonably delayed, withheld or conditioned. Notwithstanding the foregoing, the Owner may relocate the Designated Parking Spaces on the Property, so long as there are no less than fifty-two (52) parking spaces in the aggregate located in the same general area of the Property. In such event, the parties hereto agree to modify Exhibits "A" and "D" to reflect such relocation and to enter into any necessary, appropriate, and recordable documents to accomplish such modification.

5. Owner shall have eighteen (18) months from demolition of the existing parking improvements, subject to events of force majeure (including without limitation, inclement weather, acts of God, riot, strikes and labor unrest, unavailability of materials, acts or omissions of any governmental authority) within which to complete all improvements on the Property that are necessary to allow use of the Parking Easement for parking spaces as provided in this Agreement. If such improvements for the parking area in the Parking Easement, are not completed within said eighteen (18) month period (completion meaning issuance of a Certificate of Occupancy from the appropriate governmental agency, or other approval for use as a parking lot, if any), Owner shall pay liquidated damages to Atlantic equal to Two Thousand and No/100 Dollars (\$2,000.00) for every calendar month period beyond the eighteen (18) months described herein. Such \$2,000.00 payment shall be due and owing on the first day of each such month day period, and shall be deemed earned for such succeeding one month period without proration for any portion thereof.

6. In addition to the Parking Easement, Owner grants to Atlantic the non-exclusive right to maintain in the enclosure depicted on Exhibit "D" and identified as "dumpster enclosure", a commercial dumpster with a capacity of no greater than six (6) cubic yards. Atlantic acknowledges that the depicted enclosure will also house other dumpsters, including those serving the Building. Atlantic shall maintain, repair, and clean the dumpster, at its sole cost and expense; such maintenance, repair and cleaning to be accomplished in a commercially reasonable manner and so as to prevent debris and odor to escape therefrom.

7. Owner shall ensure, at its own expense, that all improvements constructed on the Property, including parking structures, as well as building structures shall be in material compliance with all applicable building codes, fire codes and insurance requirements. To the extent any such codes or requirements are violated in any material respect, which violation results in the partial or full closure of the Property, then Atlantic shall be entitled, at its option, (but without obligation) to rectify such code violations at its own expense, and request reimbursement from Owner for such expense. Failure to pay such reimbursement within ten (10) days of presentation of payment to Owner, shall result in the establishment of a lien on the Parking Easement for such amount. Upon the filing of an affidavit making reference to this paragraph, such affidavit shall constitute a lien on the Parking Easement and the Additional Parking Spaces in the amount set forth therein.

8. A. Owner shall be responsible for maintaining and repairing all structures constructed on or over the Parking Easement. Atlantic shall maintain, clean, repair and replace the Parking Easement including, but not limited to, repairing, replacing and re-sealing all concrete and asphalt parking spaces and driveways, re-striping, replacing signage, and periodic clearing of debris removal on the Property and Additional Property, all to maintain the first class condition thereof. Owner's replacing and maintaining structures shall include, but is not limited to, using reasonable efforts to prevent use of the Parking Easement by anyone not authorized to park on the Parking Easement, maintaining all ceiling materials, conduits, pipes and other materials which will exist above the Parking Easement so that such will not fall, drip, leak, corrode or otherwise deteriorate in such a manner as to cause serious injury or damage to person or personalty while on the Parking Easement; and repairing any portion of the improvement on the Parking Easement constructed by, or on behalf of Owner which has fallen, dripped, leaked, corroded or otherwise deteriorated in such a manner as to cause damage to person or personalty on the Parking Easement. It is agreed between the parties, that Atlantic shall pay maintenance and repair costs as described herein except to the extent that such are caused by Owner, Owner's Designees, agents, contractors, employees, or invitees, in which event Owner shall pay within ten (10) days from receipt of an invoice, such costs to Atlantic. To the extent that such maintenance and repair obligations of Atlantic are not properly carried out to such an extent that all or part of the Parking Easement is prevented from being used as a parking area, then, Owner shall be entitled to enter the Parking Easement, perform such maintenance to the Parking Easement, in which event Owner may charge the reasonable costs of such maintenance to Atlantic. In the event that Atlantic does not pay such reasonable costs within thirty (30) days after receipt of Owner's invoice and supporting documentation, Owner may file in the Public Records of Palm Beach County, Florida an affidavit making reference to this paragraph, such affidavit shall be considered a lien for such reasonable costs against the Parking Easement and the Additional Parking Spaces (subject to Building Conditions encroaching thereon) and foreclose such in the same manner as the foreclosure of mortgages.

B. In the event of any loss or damage to all or any portion of the Parking Easement (or means of access thereto) due to fire or other casualty, Owner shall, subject to the



rights of its mortgagees and lenders, expeditiously restore and rebuild all loss or damage to the Parking Easement (or means of access thereto) resulting from such fire or other casualty. The Parking Easement shall be restored and rebuilt of at least equal quality and substantially the same character as it existed prior to such loss or damage. During such period of rebuilding or restoring, Owner shall designate such other parking lot or spaces for use by Atlantic pending completion of the rebuilding or restoration in the general vicinity of the Property.

**C** To the extent that Owner is delinquent in payment of real estate taxes or hazard insurance then Atlantic shall be allowed to make such payments and such payments shall also constitute a lien on the Property. Upon the filing of an affidavit making reference to this paragraph, such affidavit shall constitute a lien on the Property in the amount set forth therein

9. At all times, Owner shall not take or permit any action which will result in material interference with, or material restriction of, the use of the Parking Easement or the Alternate Property (as provided herein) as a parking lot by Atlantic or Atlantic's designees without the prior written consent of Atlantic. Further, Owner shall take such reasonable action to ensure the continued use by Atlantic of the Parking Easement or the Alternate Property as applicable. Such obligation shall include, but not be limited to, procuring and paying at all times, all permits, licenses, authorizations and consents and renewals thereof from all appropriate governmental authorities and agencies which may be required in connection with the ownership of the Parking Easement and its operation as a parking lot; material compliance with all applicable city, county, state and federal laws, rules, orders, ordinances, material regulations and all lawful orders, rules and requirements of all governmental or quasi-governmental authorities or agencies, and of all municipal departments, bureaus, boards, commissions, companies or other authorities regarding the ownership or use of the Parking Easement; and the payment of all real estate taxes, fees, charges or other payments to ensure the continued ownership and use of the Parking Easement; that no liens or other encumbrance shall be placed against or attached to the Parking Easement which would divest or result in termination of this Agreement; and that the Owner shall not apply for or cause to be effective any zoning amendment or variance to existing zoning ordinances that would prevent or diminish the use of the Parking Easement as a parking lot, Atlantic shall have no obligation to remit payment to Owner as a result of Owner's obligations as set forth herein, unless such was due to the acts or omissions of Atlantic or Atlantic's Designees.

10. Atlantic and its assigns shall have the right to mortgage, pledge or collaterally assign its interest in this Agreement and to assign or pledge the same as security for any debt and all rights acquired by such secured party under any such security instrument in connection with and ancillary to the financing of Atlantic Center (so long as such mortgage, pledge, or collateral assignee agrees to be bound by the terms hereof and obligations and agreements of Atlantic herein). In addition to the specific rights granted to any mortgagee or secured party as contemplated herein, such mortgagee or secured party shall possess all rights of Atlantic under this Agreement and all obligations of Owner to Atlantic shall inure to the benefit of such

mortgagee or secured party and all obligations of Atlantic shall be the obligation of such mortgagee or secured party from and after the date such may come into possession of Atlantic's rights hereunder.

11. Owner and its assigns shall have the right to mortgage, pledge or collaterally assign its interest in the Property, the Building and this Agreement and to assign or pledge the same as security for any debt and all rights acquired by such secured party under any such security instrument in connection with the Property and the Building; however, such shall be mortgage, pledge or collateral assignment shall be subordinate to the easement rights set forth herein. In addition to the specific rights granted to any mortgagee or secured party as contemplated herein, such mortgagee or secured party shall possess all rights of Owner under this Agreement and all obligations of Atlantic to Owner shall inure to the benefit of such mortgagee or secured party.

12. To the extent that any portion of the Parking Easement is condemned or an action for eminent domain is filed which would result in the taking of any portion of the Parking Easement, Atlantic shall be entitled to a separate award based on its interests in the Property.

13. A. Owner shall procure and keep in full force and effect such insurance as may be required to insure the Property against loss or damage by fire, lightning or other hazards or casualties commonly covered under broad form "Extended Coverage" insurance policies with such insurance to be in the amount of the replacement cost of the improvements on the Property, including the parking area.

B. Owner and Atlantic shall each procure and keep in full force and effect commercial general liability insurance policies with limits of no less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate for their respective properties and the interests provided herein. Each party, and their successors and assigns, shall be named as additional insureds under such policies. Atlantic and any of Atlantic's mortgagees or secured parties shall be named as additional insureds under such the hazard insurance policies as their interest may appear. To the extent permitted by each party's insurance companies, Owner and Atlantic shall waive any and all claims, damages, liabilities, demands, costs and expenses to the extent covered and paid under such insurance policies.

C. All such policies of insurance required hereunder shall be effected under valid and enforceable policies issued by insurers licensed to do business in the State of Florida. Each party shall furnish to the other certificates evidencing such coverage and shall furnish evidence of renewals thereof within thirty (30) days prior to the expiration of any then existing coverage. All certificates and policies shall state that such insurance may not be changed or canceled without at least thirty (30) days prior written notice to the additional insureds.

14. The relationship between Owner and Atlantic hereunder shall be solely that of owner and easement holder, and nothing herein contained shall be construed as establishing a joint venture, partnership, association, agency or other form of business relationship or render Owner or Atlantic liable for any other debts or obligations or for any act or omission of the other.

15. In any proceeding to interpret or enforce the terms of this Agreement, the prevailing party, including any mortgagee or secured party of Atlantic or Owner, shall be entitled to an award of attorney fees and costs, through all levels of appeal. This Agreement is entered into in the State of Florida and shall be governed by the applicable law of said state. Venue for any litigation shall be Palm Beach County, Florida.

16. The conditions, covenants, and agreements contained in this agreement shall bind and inure to the benefit of Owner and Atlantic and their respective heirs, distributees, mortgagees, successors and assigns. Atlantic acknowledges that Owner may develop the Building as residential condominium units and in that event, the Owner may assign its rights, in whole or in part, and duties hereunder to the condominium association created in connection therewith, in which event such association shall be deemed the successor and assign of the Owner, in which event the Owner shall be released of further obligation hereunder. Atlantic acknowledges and agrees that if Atlantic's and/or its mortgagee(s)' joinder and consent is required to submit the Property to the Declaration of Condominium, Atlantic shall execute (and/or cause to be executed by its mortgagee(s)) and deliver to Owner such recordable joinder and consent as reasonably required by Owner within ten (10) days from receipt thereof.

17. This agreement sets forth the entire understanding between Owner and Atlantic, and shall not be changed, modified, or amended except by an instrument in writing signed by the party against whom the enforcement of any such change, modification, or amendment is sought, and intending to be such a change, modification or amend. Whenever used, the singular and the use of any gender shall include all genders, the headings set forth in this agreement are for ease of reference only, and shall not be interpreted to modify or limit the provisions hereof.

18. If any term, covenant or condition of this agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this agreement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this agreement shall be valid and enforceable to the fullest extent permitted by law so long as the benefits and obligations of the parties hereto are not materially altered.

19. Owner hereby agrees to indemnify and hold Atlantic and its officers, directors, shareholders, employees, assigns, and related entities, harmless from and against all claims,

suits, actions, proceedings, administrative claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees and expenses through all levels of appeal), affecting Atlantic or its officers, directors, shareholders, employees, assigns and related entities, arising in connection with the existing of this Agreement or any breach of the terms of this Agreement, by Owner.

20. Atlantic hereby agrees to indemnify and hold Owner and its officers, directors, shareholders, employees, assigns, and related entities, harmless from and against all claims, suits, actions, proceedings, administrative claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees and expenses through all levels of appeal), affecting Owner or its officers, directors, shareholders, employees, assigns and related entities, arising in connection with the existing of this Agreement or any breach of the terms of this Agreement, by Atlantic.

21. Time is of the essence with respect to the performance of every provision of this agreement in which time of performance is a factor.

22. This Agreement may be terminated or released or amended or modified only with the written consent of Owner, Atlantic and the City, which termination, release, amendment or modification shall be effectuated by a written agreement being recorded among the Public Records of Palm Beach County, Florida.

(Signature Page to Follow)

IN WITNESS WHEREOF, Owner, Atlantic, and the City have caused this Agreement to be executed as required by law on the day and year first above written.

WITNESSES:

OWNER:

MALLORY DEVELOPMENT, LTD., a Florida limited partnership

By: MALLORY DEVELOPMENT, INC., a Florida corporation, as General Partner

Rachelle F. Schindle

Printed Name: RACHELLE F. SCHINDLE

By: [Signature]

Name: RICHARD WELDER

[Signature]

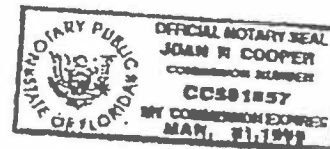
Printed Name: SHARON UMORENZ

Its: VP

STATE OF FLORIDA )  
: ss.:  
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 21st day of January, 1999, by Richard Welder as V.P. of MALLORY DEVELOPMENT, INC., a Florida corporation, as General Partner on behalf of MALLORY DEVELOPMENT, LTD., a Florida limited partnership, who is personally known to me or have produced N/A as identification.

[Signature]  
NOTARY PUBLIC  
Commission Expires:



(Signature Page to Follow)

WITNESSES:

ATLANTIC CENTER, LTD., a Florida  
Limited Partnership

By: Atlantic Center, Inc., a Florida corporation

Rachelle F. Shindle

By: CMU

Printed Name: LAUREN F. SHINDLE

Name: RICARDO WERBER

Shannon CM Lorenz

Its: VP

Printed Name: SHANNON C M LORENZ

STATE OF FLORIDA )  
: ss.:  
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 21st day of January, 1999, by RICARDO WERBER as V.P. of Atlantic Center, Inc., a Florida corporation, general partner of ATLANTIC CENTER, LTD., a Florida limited partnership, who is personally known to me or have produced N/A as identification.

Joan R Cooper  
NOTARY PUBLIC  
Commission Expires:



(Signature Page to Follow)

Joined in by the City of Delray Beach for the purposes set forth herein:

WITNESSES:

CITY OF DELRAY BEACH, FLORIDA

*Eileen McDonough*

Printed Name: Eileen McDonough

By:

*Jay Alperin*  
Jay Alperin, Mayor

*Susan B. Maloney*

Printed Name: SUSAN L. MALONEY

STATE OF FLORIDA )

: ss.:

COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 3 day of February, 1999, by Jay Alperin as Mayor of the City of Delray Beach, Florida corporation, who is personally known to me or have produced \_\_\_\_\_ as identification.

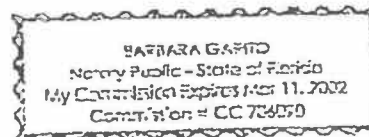
*Barbara Gafito*

NOTARY PUBLIC

Commission Expires:

Approved as to form and  
legal sufficiency:

By: *R. Z. Mc*  
Att. City Attorney



**EXHIBIT "A"**

Lots 14, 15 and 16, and Lot 17 less the South 3 feet thereof, Block 116, Delray Beach (Formerly the Town of Linton), according to the Plat thereof, as recorded in Plat Book 1, Page 3, Sheet 1 of the Public Records of Palm Beach County, Florida.



FEB 12 '99 11:59 TO-2744755

FROM-

T-787 P.02/02 T-788

ORR 11707 Pg 517

**EXHIBIT "B"**

Lots 12 and 13, Block 116, Delray Beach (Formerly the Town of Linton), according to the Plat thereof, recorded in Plat Book 1, Page 3, Sheet 1 of the Public Records of Palm Beach County, Florida.

**EXHIBIT "C"**

**Lots 9 and 10, less the West 5 feet thereof; Lots 18 and 19 inclusive; Lot 23, less the West 40 feet thereof and the South 7 feet thereof; and Lot 24; less the South 7 feet of all of the previously described property for the East Atlantic Avenue road right-of-way; of Block 116 of Delray Beach (Formerly the Town of Linton), according to the Plat thereof, as recorded in Plat Book 1, at Page 3, of the Public Records of Palm Beach County, Florida.**

**EXHIBIT "D"**

See the sketch attached hereto, for all spaces designated AC.

M:\Msg\Colony Club\Second Parking Easement\4-atlantic center parcel.wpd

NE 1st STREET

RECORDER'S MEMO: Legibility of document unsatisfactory when received.