

Prepared by and Return To:
Scott Backman, Esq.
Dunay, Miskel & Backman, LLP
14 SE 4th Street, Suite 36
Boca Raton, FL 33432

**DECLARATION OF RESTRICTIVE COVENANT AND NON-EXCLUSIVE ACCESS
EASEMENT**

This Declaration of Restrictive Covenant ("Restrictive Covenant") is executed this 19th day of AUGUST, 2022, by LOTIS WELLINGTON, LLC, a Florida limited liability company, having an address of 2300 Glades Road, Suite 202E, Boca Raton, FL 33431 (referred to herein as "Owner"), shall be for the benefit of the Village of Wellington, a political subdivision of the State of Florida with a post office address at 12300 Forest Hill Boulevard, Wellington, FL 33414 ("Village").

WITNESSETH:

WHEREAS, Owner is the fee simple owner of land located in the Village of Wellington, Florida, and more particularly described as in Exhibit "A" ("Property"); and

WHEREAS, the Property is subject to the Lotis Wellington Master Plan as approved by Village Council on December 8, 2020 as Resolution No. R2020-48 ("Approval"); and

WHEREAS, as a condition of the Approval, Owner has agreed to grant a conservation easement in favor of the Village for the +/- 0.60 acre Cypress Preserve Area, as more particularly described as "Tract P" as shown on the plat of LOTIS WELLINGTON, according to the plat thereof, as recorded in Plat Book _____ Page _____ of the Public Records of Palm Beach County, Florida ("Cypress Preserve"); and

NOW, THEREFORE, in consideration of the promises and covenants herein contained, Owner hereby declares that the Cypress Preserve specifically referenced herein 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 Restrictive Covenant by this reference.
2. **Covenant Running with the Land.** This Restrictive Covenant shall run with and touch the land and shall inure to the benefit of Wellington and the public.
3. **Binding Effect.** Owner agrees that this Restrictive Covenant is binding upon Owner and all subsequent owners and mortgagees of the Property.
4. **Restrictive Covenant and Conservation Easement.**
Owner hereby agrees to improve Tract P by removing all native and invasive species, preserving native species, installing walking paths, seating and trash bins and hereby agrees to restrict the Cypress Preserve as a conservation and preserve area in order to maintain the existing natural and vegetative areas.

The Cypress Preserve shall be improved with removal of all non-native and invasive species, preservation of native species, walking paths, seating, and trash bins as approved by the Village.

Exhibit F - g)

DORC & Non Exclusive Easement - Cypress Preserve
To Be Recorded After Plat Recordation

Construction of buildings, roads or other structures, dumping or placing of soil or other substances, excavation and dredging and other construction activities shall be prohibited within the Cypress Preserve.

5. **Access.** Owner hereby grants a non-exclusive access easement to the Village of Wellington over and across the Cypress Preserve for the benefit of the public, in common with others entitled to utilize the Cypress Preserve from time to time.
6. **Maintenance and Preservation Management.** Owner shall provide a maintenance and preservation management plan to the Village for the protection and maintenance of the Cypress Preserve area. The maintenance preservation management plan shall be submitted as part of the plat documents or incorporated in the plat prior to issuance of the Land Development Permit.
7. **Enforcement.** Wellington may enforce these restrictions in any judicial proceeding seeking any remedy cognizable at law or in equity, including an action or lawsuit seeking damages, injunction, specific performance, or any other form of relief, against any person, firm, or entity violating or attempting to violate the covenant or restrictions herein. The failure by Wellington to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of such covenant or restriction or the right of Wellington to thereafter enforce such covenant or restriction. Only Wellington will have the right to enforce this Restrictive Covenant. No other party will be deemed a third-party beneficiary for any purposes. This Restrictive Covenant may only be modified, amended, or released by a document executed by Wellington and the Developer and recorded in the Public Records of Palm Beach County, Florida. The Parties acknowledge that Wellington will be irreparably harmed if this Restrictive Covenant is not specifically enforced. Therefore, in the event of a breach or threatened breach by Developer, its successors and/or assigns, as to any provision of this Restrictive Covenant, Wellington shall be entitled to all the rights and remedies, including injunctive relief, restraining such breach without being required to show any actual damage, irreparable harm, or to post any bond or other security. All Parties agree that any dispute shall be determined by a judge and not a jury, and waive their right to a jury trial in any litigation arising out of this agreement.
8. **Modification, Amendment, Release.** This Restrictive Covenant shall not be modified, amended or released as to any portion of the Cypress Preserve except by written instrument, executed by the then owner or owners of the portion of the Property affected by such modification, amendment or release and approved by majority vote of the Village Council. Any amendment, modification or release of this Restrictive Covenant shall be recorded in the Public Records of Palm Beach County, Florida.
9. **Recording and Effective Date.** This Restrictive Covenant shall be recorded in the Public Records of Palm Beach County, Florida. Once recorded, the restrictions herein shall run with the Property and shall remain in full force and effect and be binding upon Owner and its heirs, successors and assigns until such time as the same are modified, amended or released as provided for herein.
10. **Severability.** Invalidity of any one of these provisions, by judgment of court, shall not affect any of the other provisions which shall remain in full force and effect.
11. **Third Party Beneficiary Rights.** This Restrictive Covenant is not intended to create, nor shall it be in anyway interpreted or construed to create, any third party beneficiary rights in any person not a party hereto unless otherwise expressly provided herein.

12. **Captions, Headings and Titles.** Paragraph captions, headings and titles inserted throughout this Restrictive Covenant 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 Restrictive Covenant.
13. **Entire Agreement.** This Restrictive Covenant sets forth the entire understanding and agreement between the Developer and Wellington. No other agreements or obligations will be created or implied by virtue of this Restrictive Covenant. This instrument does not grant Wellington any use, possessory, right, easement, or any other rights with respect to the Property beyond those set forth herein.
14. **Governing Law and Venue.** This Restrictive Covenant shall be governed by and construed in accordance with the laws of the State of Florida and venue shall lie in Palm Beach County.
15. **Attorney's Fees.** If any legal or equitable action or other proceeding is required to be brought to enforce the Restrictive Covenant, the successful and prevailing party shall be entitled to recover reasonable attorney's fees and costs incurred in that action or proceeding in addition to any other relief to which such party may be entitled.
16. **Duration and Renewal.** This Restrictive Covenant and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens contained in this Restrictive Covenant shall run with and bind all of the lands described in Exhibit A and shall inure to the benefit of Wellington, its respective legal successor or assign, for the term of 90 years from the date of this Restrictive Covenant, after which time this Restrictive Covenant shall be automatically renewed and extended for successive periods of 10 years each, unless at least one year prior to the termination of the 90 year period or before each such 10 year extension, as the case may be, there is recorded in the Public Records of Palm Beach County, Florida an instrument terminating this Restrictive Covenant in accordance with the requirements of paragraph 10 above.

[Signature Pages Begin on the Following Page]

IN WITNESS WHEREOF, Owner has executed this Covenant on the day first above written.

OWNER:

LOTIS WELLINGTON, LLC,
a Florida limited liability Company

By: Lotis Wellington Holding, LLC, a
Florida limited liability company, its
Member

By: Lotis Wellington Venture, LLC, a
Florida limited liability company, its
Member

By: JKM Wellington Capital, LLC, a
Florida limited liability company, its
Member

WITNESSES:

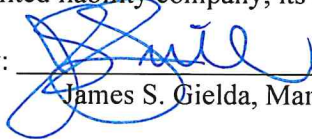

(Signature)

Dimarco Kasser
(Print Name)


(Signature)

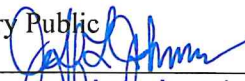
Zack Hobrock
(Print Name)

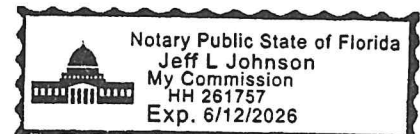
By: Lotis Capital Fund, LLC, a Florida
limited liability company, its Member

By: 
James S. Gielda, Manager

STATE OF FLORIDA)
COUNTY OF Palm Beach) SS:

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 28 day of JUNE, 2022, by James S. Gielda as Manager of Lotis Capital Fund, LLC, a Florida limited liability company, as Member of JKM Wellington Capital, LLC, a Florida limited liability company, as Member of Lotis Wellington Venture, LLC, a Florida limited liability company, as Member of Lotis Wellington Holding, LLC, a Florida limited liability company, as Member of Lotis Wellington, LLC, a Florida limited liability company, who ☒ is personally known to me, or ☐ presented the following identification: _____.

Notary Public
sign 
print Jeff L. Johnson
State of Florida at Large (Seal)
My Commission Expires:




JOINDER AND CONSENT OF MORTGAGEE

LV Wellington LLC, a Florida Limited Liability Company ("Mortgagee"), the holder of that certain Mortgage, Assignment of Leases and Rents, Fixture Filing and Security Agreement recorded on April 1, 2022 in Official Records Book 33438, Page 1180 of the Public Records of Palm Beach County, Florida, and all related instruments evidencing or securing the loans secured thereby (together, the "Mortgage"), which Mortgage constitutes a lien upon the property described in the foregoing Declaration of Restrictive Covenants (the "Restrictions"), hereby consents to subjecting the real property described therein to the provisions of the Restrictions and agrees that the Restrictions shall be binding upon all present and future owners of the real property encumbered by the Restrictions and, further, that the Mortgage shall be subject and subordinate to the Restrictions.

Notwithstanding the execution of this Joinder and Consent, nothing herein shall be construed to render the undersigned Mortgagee responsible or liable for any of the covenants, undertakings, acts or omissions of the Developer/Owner under the Restrictions.

Dated this 19 day of August, 2022.

WITNESSES:


Print Name: Allen Hernandez


Print Name: Daniela Sanmartin

LV WELLINGTON LLC,
a Florida limited liability company

BY: LV LENDING LLC, a Florida limited liability company,
its Manager

By: 
Camilo Niño, Manager

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 19 day of August, 2022 by CAMILO NIÑO, as Manager of LV LENDING LLC, a Florida limited liability company, the Manager of LV WELLINGTON LLC, a Florida limited liability company, ☐ who is personally known to me or ☒ who has produced as identification Driver's License # NS00101780261 or (other identification) (describe) _____.


Notary Public

Print Name: Ileana Alvarado

My Commission Expires: April 05 2026

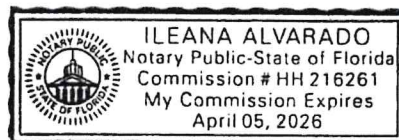


EXHIBIT "A"

A parcel of land being comprised of Tract 10, Tract 11, a portion of Tract 13, Tract 14, Tract 15 and a portion of Tract 16, Block 18, together with a portion of the 25 foot wide Road Reservation lying between Tracts 10, 11, 12, 13, 14, 15 and 16, Block 18, together with a portion of the variable width Road Reservation lying West of Tract 10, Block 18, The Palm Beach Farms Co Plat No. 3, according to the plat thereof, as recorded in Plat Book 2, Pages 45 through 54, the Public Records of Palm Beach County, Florida, being more particularly described as follows:

BEGINNING at the Southwest corner of WELLINGTON MUPD, according to the plat thereof, as recorded in Plat Book 101, Page 132 of the Public Records of Palm Beach County, Florida;

thence North 88°59'11" East, along the South line of said WELLINGTON MUPD plat, a distance of 611.96 feet to the Southeast corner of said WELLINGTON MUPD plat, said point being on the West Right-of-Way line of State Road No. 7 (U.S. 441) as laid out and in use;

thence South 01°37'52" West, along said West Right-of-Way line and the West line of Parcel 115 according to that certain Warranty Deed, as recorded in Official Records Book 9427, Page 665 of the Public Records of Palm Beach County, Florida, a distance of 686.86 feet to a point being on the South line of Tract 13, Block 18 of said Palm Beach Farms Co Plat No.3;

thence South 89°00'05" West, along the South line of Tracts 13, 14, 15, 16, Block 18 and the Westerly extension thereof, of said Palm Beach Farms Co Plat No. 3, a distance of 2369.64 feet to a point being on a line lying 40.00 feet East of and parallel with (as measured at right angles) the West line of the East one-half of Section 12, Township 44 South, Range 41 East, Palm Beach County, Florida;

thence North 01°28'32" East, along said parallel line, a distance of 660.33 feet to a point being on the Westerly extension of the North line of Tract 16, Block 18 of said Palm Beach Farms Co Plat No. 3;

thence South 89°00'05" West, along the Westerly extension of the North line of Tract 16, Block 18 of said Palm Beach Farms Co Plat No. 3, a distance of 40.04 feet to the West line of the East one-half of said Section 12;

thence North 01°28'32" East, along the West line of the East one-half of said Section 12, a distance of 685.35 feet to a point being on the Westerly extension of the North line of Tracts 10 and 11, Block 18 of said Palm Beach Farms Co Plat No. 3;

thence North 89°00'05" East, along said Westerly extension and the North line of Tracts 10 and 11, Block 18 of said Palm Beach Farms Co Plat No. 3, a distance of 1769.21 feet to a point being on the West line of said WELLINGTON MUPD plat;

thence South 01°09'58" East, along the West line of said WELLINGTON MUPD, a distance of 658.44 feet to the POINT OF BEGINNING;

Said lands situate, lying and being in Section 12, Township 44 South, Range 41 East, Village of Wellington, Palm Beach County, Florida.