July 6, 2004****DRAFT*****

AGREEMENT AND RELEASE

This Agreement and Release ("Agreement") is entered into by and between KILLEARN LAKES HOMEOWNERS ASSOCIATION ("KILLEARN LAKES") and ROD MOELLER; JAMES PREISS; LEON COUNTY and the STATE OF FLORIDA, DEPARTMENT OF HEALTH, LEON COUNTY HEALTH DEPARTMENT ("LCHD") (collectively, "THE PARTIES").

Recitals

WHEREAS THE PARTIES to this Agreement are identified as follows:

A. KILLEARN LAKES is the homeowners association representing the property owners and residents for the subdivisions that comprise the Killearn Lakes Plantation development, including Killearn Lakes Unit 1 and Unit 2, and is charged with the enforcement of the protective covenants and for the maintenance of the green spaces and common areas such as parks, recreational areas, trails and water bodies in Killearn Lakes Units 1 and 2 with the express purpose of protecting, maintaining, and enhancing the natural environment within Killearn Lakes Units 1 and 2.

B. ROD MOELLER is the purchaser and developer of lots in Killearn Lakes Unit 1 from JAMES PREISS.

C. JAMES PREISS is the applicant for septic tank permits on the following lots all of which are located within Killearn Lakes unit 1 (collectively, "NINETEEN LOTS"):

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NINETEEN LOTS

[1]**KL 1-1-AB, 7873 Briarcreek Road, Tallahassee, FL 32309,** No. 03-0653-N
12/16/2003
[37-S1-06745, LH-0400045]

KL 1-4-O, 3419 Cherokee Ridge Trail, Tallahassee, FL 32309, No. 03-0655-N
12/11/2003
[37-S1-06747, LH-0300662]

KL 1-9-H, 3541 Oak Hill Trail, Tallahassee, FL 32312, No. 03-0031-N
12/11/2003
[37-S1-06122, LH-0300658]

KL 1-9-S, 3220 Fawn Hill Trail, Tallahassee, FL 32308, No. 00-0536-N
12/11/2003
[37-S1-02542, LH-0300650]

KL 1-12-AA, 7781 Briarcreek Road North, Tallahassee, FL 32312, No. 02-0438-N
12/12/2003
[37-S1-05175, LH-0300660]

KL 1-12-P, Rosemont Ridge Road, Tallahassee, FL 32312, No. 03-0652-N
01/22/2004
[37-S1-06744, LH-0400047]

KL 1-13-P, Rosemont Ridge Road, Tallahassee, FL 32312, No. 03-0047-N
12/11/2003
[37-S1-06138, LH-0300661]

KL 1-15-P, Rosemont Ridge Road, Tallahassee, FL 32308, No. 03-0654-N
01/22/2004
[37-S1-06746, LH-0400048]

KL 1-17-R, 8021 Briarcreek Road South, Tallahassee, FL 32312, No. 02-1350-N
01/20/2004
[37-S1-06082, LH-0400046]

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[1] Information regarding these permits is presented in the following format: [Unit within Killearn Lakes]-[Lot Number]-[Block Number], [Address], [OSTDS Permit No.]
[Date of Issuance]
[[Centrax Number], [Handwritten Identification Number]]

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KL 1-22-T, 3493 Cedarwood Trail, Tallahassee, FL 32311, No. 02-1352-N
12/12/2003
[37-S1-06084, LH-0300653]

KL 1-29-Q, 7424 Laurel Ridge Lane, Tallahassee, FL 32312, No. 03-0048-N
12/11/2003
[37-S1-06139, LH-0300652]

KL 1-36-X, 3388 Micanopy Trail, Tallahassee, FL 32312, No. 02-0036-N
12/11/2003
[37-S1-04773, LH-0300659]

KL 1-38-P, 3443 Treaty Oak Trail, Tallahassee, FL 32312, No. 02-1349-N
12/11/2003
[37-S1-06081, LH-0300656]

KL 1-45-S, 8005 Briarcreek Road South, Tallahassee, FL 32312, No. 02-1351-N
12/12/2003
[37-S1-06083, LH-0300654]

KL 1-55-X, 3453 Hawks Hill Trail, Tallahassee, FL 32312, No. 03-0038-N
12/12/03
[37-S1-06129, LH-0300655]

KL 1-58-X, 3465 Hawks Hill Trail, Tallahassee, FL 32309, No. 02-0802-N,
01/02/2004
[37-S1-05540, LH-0400043]

KL 1-74-X, 3512 Larkspur Lane, Tallahassee, FL 32308, No. 02-1354-N
12/11/2003
[37-S1-06086, LH-0300657]

KL 1-107-X, 3408 Cedarwood Trail, Tallahassee, FL 32312, No. 03-0037-N,
12/12/2003
[37-S1-06128, LH-0400044]

KL 1-113-X, 7932 Briarcreek Road, Tallahassee, FL 32312, No. 03-0039-N,
12/11/2003
[37-S1-06130, LH-0300651]

D. LEON COUNTY is a county government that has the authority to regulate the construction of onsite sewage treatment and disposal systems within Leon County, including

Killearn Lakes Unit 1, through requirements in the County Code that are in addition to requirements found in Florida Statutes and the Florida Administrative Code.

E. The LCHD is the agency of the State of Florida that has been delegated the responsibility to implement Section 381.0065, Florida Statutes, Chapter 64E-6, Florida Administrative Code, and relevant parts of the Leon County Code that pertain to the authority to regulate the construction of onsite sewage treatment and disposal systems (OSTDS) in Leon County.

WHEREAS, on or about November 7, 2003, the Leon County Board of County Commissioners enacted Ordinance 2003-33 which created a special development zone for Killearn Lakes Units 1 and 2, prohibits mounded septic tank systems within that Special Development Zone and creates a bonding requirement and a requirement that the engineer guarantee the system will not fail for a period of five (5) years for alternative systems;

WHEREAS Leon County maintains that Ordinance 2003-33 does not apply to the NINETEEN LOTS, applications for which were in process prior to the enactment date of the ordinance,

WHEREAS the LCHD has issued OSTDS construction permits for the NINETEEN LOTS, including some mound septic tank systems since Ordinance 2003-33 was enacted and it did not apply the requirements imposed by Ordinance 2003-33 to any of the NINETEEN LOTS; and

WHEREAS, in issuing such permits, LCHD acted pursuant to both the authority derived from Florida Statutes, Florida Administrative Code, and County Ordinances.

WHEREAS KILLEARN LAKES has filed petitions challenging the issuance of all nineteen permits;

WHEREAS the parties have agreed that a fair, efficient, and cost effective resolution of this dispute is in their respective best interests as opposed to expending substantial sums to litigate the dispute; and

NOW THEREFORE in consideration of the mutual promises and recitals herein and for the valuable consideration herein acknowledged by all THE PARTIES it is agreed:

Agreement

1. The foregoing Recitals are incorporated by reference and made part of this Agreement.

2. JAMES PREISS and ROD MOELLER agree that only aerobic treatment units shall be installed on all of the NINETEEN LOTS.

3. ROD MOELLER, the developer, shall make provision for a five year guarantee on each of the aerobic treatment systems installed on the NINETEEN LOTS.

4. LEON COUNTY and LCHD agree that the permits for each of the NINETEEN LOTS shall be amended to reflect that an aerobic treatment system shall be installed on each of the NINETEEN LOTS and to incorporate the terms of this Agreement into the OSTDS construction permits and final permits. If the aerobic treatment systems on any of the NINETEEN LOTS is not completely installed and all inspections completed to the satisfaction of LEON COUNTY and the LCHD on or before the expiration date indicated on the permit for that lot, said permit shall be automatically renewed for a period of another eighteen months after the initial expiration date, provided there have been no material

amendments to the construction permit or material change in condition of the site that deviates from or is inconsistent with conditions imposed by the permit after the date of this Agreement..

5. KILLEARN LAKES agrees to dismiss each of the petitions it has filed challenging the OSTDS permits on the NINETEEN LOTS and will not challenge OSTDS permits for these NINETEEN LOTS so long as the requirements of this Agreement are met. KILLEARN LAKES will file its Notice of Dismissal within three days of the execution of this Agreement by all THE PARTIES.

6. As a material inducement to THE PARTIES to enter into this Agreement , THE PARTIES hereby irrevocably and unconditionally release each other, as well as their current or former agents, officers, directors, employees, representatives, attorneys, successors or assigns or any of them, from any and all manner of action or actions, cause or causes of action, suits, accounts, reckonings, covenants, controversies, agreements, promises, damages, claims, liens, and demands whatsoever, in law or equity, whether in a judicial or an administrative forum, which any of THE PARTIES ever had, shall or may have against any other PARTY, upon or by reason of any cause or thing whatsoever having to do with the septic tank permits for the NINETEEN LOTS or claimed consequential damages related to the SEPTIC TANK PERMITS that are the subject matter of this Agreement, from the beginning of the world until the date of execution of this Agreement.

7. With the exception of any approvals relating to the architectural design required by those covenants and restrictions applicable within Killearn Lakes, KILLEARN LAKES hereby agrees to provide any and all approvals from KILLEARN LAKES necessary for the

installation of an aerobic treatment system and the construction of a single family residence on each of the NINETEEN LOTS.

8. Nothing in this Agreement is an admission of any liability by or on the part of any Party to this Agreement.

9. Each Party shall bear its own costs and attorneys' fees.

10. The Parties expressly acknowledge that they have read this Agreement and Release and have had an opportunity to ask questions and consult with legal counsel of their choice; and further acknowledge that they execute this Agreement and Release voluntarily and with full knowledge of its substance and agree to be bound thereby.

11. Each party expressly covenants and agrees that it has the authority to enter into this Agreement and Release.

12. Should any term, provision or portion of any provision of this Agreement be held unenforceable for any reason, it shall be deemed severed from this Agreement, and the remainder of this Agreement shall continue to be in force in its entirety.

13. If there is a breach of any term, provision or portion of this Agreement by any party to it, any other party to this Agreement may bring a legal action to enforce its rights under this Agreement and the prevailing party shall be entitled to its costs and attorney's fees for such action.

14. This Agreement constitutes the full and final agreement between the Parties concerning the NINETEEN LOTS. This Agreement and Release may only be modified in writing signed by the Parties.

15. This Agreement and Release shall be governed and construed by and in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, THE PARTIES have executed this Agreement.

KILLEARN LAKES HOMEOWNERS ASSOCIATION, INC.

By: _____ Date: _____

ROD MOELLER, DEVELOPER

By: _____ Date: _____
Martha H. Chumbler, Esquire
Counsel for Rod Moeller

JAMES PREISS

By: _____ Date: _____
Martha H. Chumbler, Esquire
Counsel for James Preiss

LEON COUNTY, FLORIDA

By: _____ Date: _____
Jane G. Sauls, Chair
Board of County Commissioners

ATTEST:

By: _____ Date: _____
Bob Inzer, Clerk of the Court
Leon County, Florida

APPROVED AS TO FORM:

By: _____ Date: _____
Herbert W. Thiele, Esquire
County Attorney

By: _____ Date: _____
State of Florida, Department of Health,
Leon County Health Department