

EXHIBIT E

GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT, dated as of February ___, 2007 is made by KEITH L. "CASEY" CUMMINGS, a resident of Palm Gardens, Florida (the "Guarantor") in favor of the TOWN OF CHAPEL HILL, a North Carolina municipal corporation ("Town").

STATEMENT OF PURPOSE

Town has entered into that certain General Development Agreement dated of even date herewith by and between the Town and RAM Development Company (the "Development Agreement") pursuant to which RAM Development Company (the "Developer") has agreed to construct the Project (as defined therein) on and subject to the terms, provisions, and conditions thereof, all on real property, or interests therein, owned by the Town and leased to the Developer. Included as a part of the Project is the construction and development of various public facilities to be owned by the Town. Guarantor is a stockholder of Developer and is thereby a beneficiary, directly or indirectly, of Developer's rights pursuant to the Development Agreement. As a condition of entering into the Development Agreement, Town has required this Guaranty from Guarantor with respect to the obligations created under the Development Agreement as more fully provided herein.

NOW, THEREFORE, in consideration of the Premises and the mutual agreements set forth herein, and in order to induce the Town to enter into the Development Agreement, Guarantor hereby agrees with the Town as follows:

SECTION 1. Definitions. Capitalized terms not otherwise defined in this Guaranty, including the preambles and recitals hereof, shall have the meanings assigned to them in the Development Agreement. In the event of a conflict between capitalized terms defined herein and in the Development Agreement, the Development Agreement shall control.

SECTION 2. Representations and Warranties of Guarantor. In order to induce the Town to enter into the Development Agreement, the Guarantor hereby represents and warrants to the Town that:

(a) the Guarantor is the legal and beneficial owner of fifty percent (50%) of the total outstanding ownership interest in the Developer and the parent entity of the Developer.

(b) The Guarantor has the legal capacity to execute, deliver and perform this Guaranty. This Guaranty has been duly executed and delivered by the Guarantor to the Town and this Guaranty constitutes the legal, valid and binding obligation of the Guarantor enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar state or federal debtor relief laws from time to time in effect which affect the enforcement of creditor's rights in general and the availability of equitable remedies. The execution, delivery and

performance by the Guarantor of this Guaranty, will not, by the passage of time, the giving of notice, or otherwise, violate any material provision of any applicable law or any material contractual obligation binding on the Guarantor and will not result in the creation or imposition of any lien upon, or with respect to, any property or revenues of the Guarantor.

SECTION 3. Unconditional Recourse Guaranty.

The Guarantor hereby unconditionally guarantees to the Town, for the benefit of the Town and its respective permitted successors, transferees and assigns, the obligation of the Developer to develop, construct and achieve Substantial Completion of the Project in accordance with the Development Agreement (such obligations set forth in this Section 3 as so guaranteed being referred to herein as the “Guaranteed Obligations”) without regard to whether or not such Guaranteed Obligations are enforceable or unenforceable as against the Developer, whether or not discharged, stayed or otherwise affected by any applicable insolvency law or proceeding thereunder.

SECTION 4. Nature of Guaranty. The Guarantor agrees that this Guaranty is a continuing, unconditional guaranty of completion, and that his obligations under this Guaranty shall be primary, absolute and unconditional, irrespective of, and unaffected by:

- (a) the genuineness, validity, regularity, enforceability or any future amendment of, or change in, the Development Agreement or any other agreement, document or instrument to which Developer is or may become a party;
- (b) the absence of any action to enforce this Guaranty or the Development Agreement or the waiver or consent by the Town with respect to any of the provisions of this Guaranty or the Development Agreement;
- (c) the existence, value or condition of any security (including bonds) for or other guaranty of the Guaranteed Obligations or any action, or the absence of any action, by the Town in respect of such security or guaranty (including, without limitation, the release of any such security or guaranty); or
- (d) any other action or circumstances which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor;

it being agreed by the Guarantor that its obligations under this Guaranty shall not be discharged until the final performance, in full, of the Guaranteed Obligations. To the extent permitted by law, the Guarantor expressly waives all rights it may now or in the future have under any statute (including without limitation N.C.G.S. Section 26-7, et seq. or similar law), or at law or in equity, or otherwise, to compel Town to proceed in respect of the Guaranteed Obligations against Developer or any other party or against any security for, or bond or other guaranty of the payment and performance of the Guaranteed Obligations before proceeding against, or as a condition to proceeding against, Guarantor. To the extent permitted by law, the Guarantor further expressly waives and agrees not to assert or take advantage of any defense based upon the

failure of Town to commence an action in respect of the Guaranteed Obligations against Developer, any other guarantor or any other party or any security or bond for the payment and performance of the Guaranteed Obligations. Guarantor agrees that any notice or directive given at any time to Town which is inconsistent with the waivers in the preceding two sentences shall be null and void and may be ignored by Town, and, in addition, may not be pleaded or introduced as evidence in any litigation relating to this Guaranty for the reason that such pleading or introduction would be at variance with the written terms of this Guaranty, unless Town has specifically agreed otherwise in writing.

SECTION 5. Demand by Town. In addition to the terms set forth in Section 4, and in no manner imposing any limitation on such terms, if all or any portion of the then outstanding Guaranteed Obligations are declared to be immediately due, then Guarantor shall, upon demand in writing therefor by Town to Guarantor, perform all or such portion of the outstanding Guaranteed Obligations then declared due.

SECTION 6. Waivers. In addition to the waivers contained in Section 4, the Guarantor, to the extent permitted by law, waives and agrees that he shall not at any time insist upon, plead or in any manner whatever claim or take the benefit or advantage of, any appraisal, valuation, stay, extension, marshalling of assets or redemption laws, or exemption, whether now or at any time hereafter in force, which may delay, prevent or otherwise affect the performance by Guarantor of his obligations under, or the enforcement by Town of, this Guaranty. The Guarantor further hereby waives, to the extent permitted by applicable laws, diligence, presentment, demand, protest and notice (except as specifically required herein) of whatever kind or nature with respect to any of the Guaranteed Obligations and waives, to the extent permitted by applicable laws, the benefit of all provisions of law which are or might be in conflict with the terms of this Guaranty. The Guarantor represents, warrants and agrees that his obligations under this Guaranty are not and shall not be subject to any counterclaims, offsets or defenses of any kind against Town or Developer whether now existing or which may arise in the future.

SECTION 7. Benefits of Guaranty. The provisions of this Guaranty are for the benefit of Town and its permitted successors, transferees and assigns, and nothing herein contained shall impair, as between Developer and the Town, the obligations of Developer under the Development Agreement.

SECTION 8. Modification of Development Agreement etc. If the Town shall at any time or from time to time, with or without the consent of, or notice to, Guarantor:

- (a) change or extend the manner, place, time or terms of performance or payment of, or renew or alter all or any portion of, the Guaranteed Obligations;
- (b) take any action under or in respect of the Development Agreement in the exercise of any remedy, power or privilege contained therein or available to it at law, in equity or otherwise, or waive or refrain from exercising any such remedies, powers or privileges;

(c) amend or modify, in any manner whatsoever, the Development Agreement to the extent permitted therein;

(d) extend or waive the time for performance by Guarantor, Developer or any other Person of, or compliance with, any term, covenant or agreement on its part to be performed or observed under the Development Agreement, or waive such performance or compliance or consent to a failure of, or departure from, such performance or compliance;

(e) take and hold security or collateral (including payment and performance bonds) for the payment of the Guaranteed Obligations;

(f) release anyone who may be liable in any manner for the payment or performance of any Guaranteed Obligations imposed on the Guarantor, any other guarantor to Town; or

(g) apply any sums by whomever paid or however realized to the Guaranteed Obligations owing by Guarantor, any other guarantor or Developer to Town in such manner as Town shall determine in its reasonable discretion;

then Town shall incur no liability to Guarantor as a result thereof, and no such action shall impair or release the obligations of Guarantor under this Guaranty.

SECTION 9. Reinstatement. Guarantor agrees that, if any payment made by Developer or any other Person applied to the Guaranteed Obligations is at any time annulled, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be refunded or repaid or the proceeds of any collateral are required to be refunded by Town to Developer, its estate, trustee, receiver or any other party, including, without limitation, the Guarantor, under any applicable law or equitable cause, then, to the extent of such payment or repayment, the Guarantor's liability hereunder (and any lien securing such liability) shall be and remain in full force and effect, as fully as if such payment had never been made, and, if prior thereto, this Guaranty shall have been canceled or surrendered (and if any lien or collateral securing such Guarantor's liability hereunder shall have been released or terminated by virtue of such cancellation or surrender), this Guaranty (and such lien) shall be reinstated in full force and effect, and such prior cancellation or surrender shall not diminish, release, discharge, impair or otherwise affect the obligations of Guarantor in respect of the amount of such payment (or any lien securing such obligation).

SECTION 10. Remedies. Upon the occurrence and during the continuance of any Event of Default under the Development Agreement, Town may enforce against Guarantor its obligations and liabilities hereunder and exercise such other rights and remedies as may be available to Town hereunder, under the Development Agreement or otherwise.

SECTION 11. No Subrogation. Notwithstanding any payment or payments by Guarantor hereunder, or any set-off or application of funds of Guarantor by Town, or the receipt of any amounts by Town with respect to any of the Guaranteed Obligations, Guarantor shall not be

entitled to be subrogated to any of the rights of Town against Developer or against any collateral security held by Town for the payment or performance of the Guaranteed Obligations nor shall Guarantor seek any reimbursement from Developer in respect of any performance made by Guarantor in connection with the Guaranteed Obligations, until the performance owing to Town on account of the Guaranteed Obligations are completed. If any amount shall be paid to Guarantor on account of such subrogation rights at any time when all of the Guaranteed Obligations shall not have been completed, such amount shall be held by Guarantor in trust for Town, segregated from other funds of Guarantor, and shall, forthwith upon receipt by Guarantor, be turned over to Town in the exact form received by Guarantor (duly endorsed by Guarantor to Town, if required) to be applied against the Guaranteed Obligations.

SECTION 12. Expenses. Guarantor agrees to fully indemnify and save Town harmless from any and all costs and expenses (including reasonable attorneys' fees, legal expenses and court costs) incurred by Town as a result of the failure of the Developer or Guarantor to complete the Guaranteed Obligations in accordance with the terms of the Development Agreement and this Guaranty ("Expenses") and to pay said Expenses upon demand by the Town, which Expenses shall be additional Guaranteed Obligations hereunder.

SECTION 13. Notices. All notices and communications hereunder shall be given to the addresses and otherwise made in accordance with the Development Agreement.

SECTION 14. Successors and Assigns. This Agreement is for the benefit of Town and its permitted successors, transferees and assigns, and in the event of an assignment of all or any of the Guaranteed Obligations, the rights hereunder may be transferred therewith. This Agreement shall be binding on Guarantor and his heirs, personal representatives, successors and assigns; provided that Guarantor may not assign or transfer any of his rights or obligations hereunder without the prior written consent of Town. Notwithstanding the foregoing, the Guarantor shall be permitted to substitute an affiliated entity as Guarantor for the Guaranteed Obligation provided that the Town Manager and the Chief Financial Officer of the Town shall determine that said substituted entity (i) has a minimum audited net worth of Fifty Million and No/100 Dollars (\$50,000,000), (ii) such entity is controlled by the Guarantor (and proper assurances as to such ongoing control shall be provided by such entity), and (iii) such entity (for this purpose includes its partners, members, principal stockholders and any other constituent entities (A) has not been designated as a "specifically designated national or blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website <http://www.treas.gov/efac/t11_sdn.pdf> or at any replacement website or other replacement official publication of such list; and (B) is currently in compliance with and will at all times during the term of this Agreement (including any extension thereof) remain in compliance with the regulations of the Office of Foreign Assets Control of the Department of the Treasury and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

SECTION 15. Amendments, Waivers and Consents. No term, covenant, agreement or condition of this Agreement may be amended or waived, nor may any consent be given, except in the manner set forth in the Development Agreement.

SECTION 16. Powers Coupled with an Interest. All authorizations and agencies herein contained with respect to the Collateral are irrevocable and powers coupled with an interest.

SECTION 17. Governing Law. **THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH CAROLINA, WITHOUT REFERENCE TO THE CONFLICTS OR CHOICE OF LAW PRINCIPLES THEREOF.**

SECTION 18. Consent To Jurisdiction. GUARANTOR HEREBY IRREVOCABLY CONSENT TO THE PERSONAL JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN ORANGE COUNTY, NORTH CAROLINA, IN ANY ACTION, CLAIM OR OTHER PROCEEDING ARISING OUT OF OR ANY DISPUTE IN CONNECTION WITH THIS GUARANTY, ANY RIGHTS OR OBLIGATIONS HEREUNDER, OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS. GUARANTOR HEREBY IRREVOCABLY CONSENT TO THE SERVICE OF A SUMMONS AND COMPLAINT AND OTHER PROCESS IN ANY ACTION, CLAIM OR PROCEEDING BROUGHT BY TOWN IN CONNECTION WITH THIS GUARANTY, ANY RIGHTS OR OBLIGATIONS HEREUNDER, OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS, ON BEHALF OF ITSELF OR ITS PROPERTY. NOTHING IN THIS SECTION 18 SHALL AFFECT THE RIGHT OF TOWN TO SERVE LEGAL PROCESS IN ANY MANNER PERMITTED BY APPLICABLE LAW OR AFFECT THE RIGHT OF TOWN TO BRING ANY ACTION OR PROCEEDING AGAINST GUARANTOR IN THE COURTS OF ANY OTHER JURISDICTIONS.

SECTION 19. Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, TOWN AND GUARANTOR, BY THEIR ACCEPTANCE OF THIS AGREEMENT OR THE BENEFITS HEREOF, HEREBY IRREVOCABLY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL WITH RESPECT TO ANY ACTION, CLAIM OR OTHER PROCEEDING ARISING OUT OF OR ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER, OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS.

SECTION 20. Severability. If any provision hereof is invalid and unenforceable in any jurisdiction, then, to the fullest extent permitted by law, (a) the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in favor of Town in order to carry out the intentions of the parties hereto as nearly as may be possible; and (b) the invalidity or unenforceability of any provisions hereof in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction.

SECTION 21. Headings. The various headings of this Guaranty are inserted for convenience only and shall not affect the meaning or interpretation of this Guaranty or any provisions hereof.

SECTION 22. Counterparts. This Guaranty may be executed by the parties hereto in several counterparts, each of which shall be deemed to be an original and all of which shall constitute together but one and the same agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the Guarantor has executed and delivered this Guaranty under seal as of the date first above written.

KEITH L. ("CASEY") CUMMINGS

Address:

Phone: _____

Email: _____

Fax: _____

STATE OF _____

COUNTY OF _____

I certify that the following person appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____.

Date: _____

Notary Public

Name of Notary Printed: _____

My commission expires: _____

(Notary Seal)

Exhibit E
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