



January 7, 2019

To: Planning Board Members

Cc: Tom Mooney, Michael Belush, Tui Munday, and Eve Boutsis

From: 1500 Ocean Drive Condominium Association, Inc.

Re: Royal Palm Hotel – 1545 Collins Avenue – Modification Hearing – Planning Board January 22, 2019 Meeting – File PB 17-108 (f/k/a File No. 2032)

Dear Planning Board Members,

This letter states the position of the 1500 Ocean Drive Condominium Association, Inc. (the “Association”) concerning your upcoming Modification Hearing as to the Royal Palm Hotel (the “Hotel”). The Association represents the 114 residential units in our condominium building, which is located immediately to the south of the Hotel.

This Modification Hearing was last before you at your November 27, 2018 meeting, at which time it was continued to your meeting this month. At that November meeting, the Planning Department’s Staff Report dated that day (the “November Staff Report”) recommended modifications to the existing Modified Conditional Use Permit as last approved by you on April 25, 2017 (the “MCUP”).

There has been no suggestion that the factual claims, as of the time of the November meeting, were not correct. For that reason, we believe that the recommendations, in the new Staff Report for this month’s meeting, will also be unchanged. Accordingly, our Association respectfully requests that you adopt the MCUP modifications which were recommended to by the Planning Department in its November Staff Report.

At that time, the Planning Department explained its reasoning as follows:

“As indicated previously, staff believes that the current CUP conditions are somewhat ambiguous and that additional clarity through modifications would be appropriate in this particular instance. In this regard, the revised conditions proposed by the 1500 Condominium Association do address the specificity of loading locations and on site operational management, and are clearer and less ambiguous than the existing conditions. Staff believes that they are reasonable and would not present an unfair burden on the applicant”. (November Staff Report, Page 2, sixth paragraph – emphasis supplied).

So, the Planning Department proposes very modest, limited, narrow, specific, targeted amendments – solely for the purpose of creating “additional clarity” and “specificity”, in order to make the MCUP “clearer and less ambiguous”.

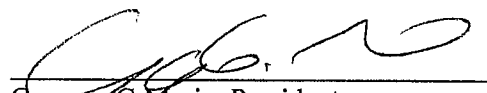
Those objectives are beneficial to the parties and, importantly, are beneficial to Code Compliance which currently is left to administer ambiguous conditions.

We respectfully request that you adopt the minor amendments proposed by the Planning Department.

Respectfully submitted,

1500 OCEAN DRIVE CONDOMINIUM ASSOCIATION, INC.

By:



Gregory G Mario, President

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RECORDS RETURN TO:
HOLLAND & KNIGHT
ATTORNEYS AT LAW
701 BRICKELL AVENUE, SUITE 13000
MIAMI, FLORIDA 33131

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RECIPROCAL ACCESS, USE, DEVELOPMENT
AND EASEMENT AGREEMENT

THIS RECIPROCAL ACCESS, USE, DEVELOPMENT AND EASEMENT AGREEMENT ("Agreement") is made this 21ST day of OCTOBER, 1997, by and between RDP ROYAL PALM HOTEL LIMITED PARTNERSHIP, a Florida limited partnership ("RDP"), JEFFERSON PLAZA, LTD., a Florida limited partnership ("Jefferson"), THE CITY OF MIAMI BEACH, FLORIDA, a municipality of the State of Florida (the "City of Miami Beach"), and the MIAMI BEACH REDEVELOPMENT AGENCY, a public body corporate and politic (the "Agency") (the City of Miami Beach and the Agency are referred to herein collectively, and jointly and severally, as the context requires or permits, as the "City").

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WITNESSETH:

WHEREAS, RDP has entered into a letter of intent with the City ("City") to lease from the City certain property ("RDP Property") located in the City of Miami Beach, County of Dade, State of Florida, which is more particularly described on Exhibit "A" attached hereto, and which is being developed into a 422 room full service hotel and related amenities (the "Hotel");

WHEREAS, Jefferson owns certain property ("Jefferson Property") located adjacent to the RDP Property in the City of Miami Beach, County of Dade, State of Florida, which is more particularly described on Exhibit "B" attached hereto, and which is being developed into a 113 unit residential condominium ("Condominium"), together with retail space ("Retail").

WHEREAS, RDP, City and Jefferson desire to enter into this Agreement in order to provide for the joint development of portions of the RDP Property and Jefferson Property, and for the use by condominium owners of certain amenities available to guests of the Hotel, all in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, RDP, City and Jefferson agree as follows:

1. Design and Location. The design of the Hotel and its placement and location on the RDP Property as indicated on the site plans attached as Exhibit "C" (the "Site Plan") attached hereto, including, but not limited to, the design of the glazed drum as the terminus to the northerly Ocean Drive vista, the number of rooms, amenities, layout and location, is hereby accepted and approved by Jefferson subject to its approval of final plans (the "Plans") which confirm that the terminus (tower) has been moved west sufficiently so that neither the tower nor any building (including the tower) will protrude eastward of a 45 degree line originating from the centerline of the balcony of the "B North" unit on the Jefferson Property, except for the encroachment shown on attached Exhibit "C" which shall not exceed eight (8) feet. Prior to commencing construction, RDP will provide an architect's certificate and, upon completion of construction, RDP will provide a certified survey of this point to confirm the requirement of the 45 degree line has been met (subject to the eight (8) foot permitted encroachment

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shown on Exhibit "C"). RDP will submit the Plans to Jefferson for its approval, which shall not be unreasonably withheld or delayed, and will not build the Accessway or the Hotel without Jefferson's approval of the Plans. RDP agrees to develop the Hotel in substantial compliance with the Plans, provided however, in no event shall any portion of any building (including the tower), be farther east than the ° line, except for the eight (8) foot permitted tower encroachment, or as shown on Exhibit "C." RDP, the City of Miami Beach and the Agency agree to Jefferson's 45 degree sight line and further agree that no portion of any building whatsoever shall ever be built or shall ever protrude eastward of the 45 degree line (except for the permitted tower encroachment as shown on Exhibit "C"). After the Plans are approved by Jefferson, no other approvals or consents from Jefferson shall be required or necessary for RDP to build the Hotel in substantial compliance with the Plans, provided, with respect to the Accessway construction, the requirements of this Agreement must be met, including without limitation, the Letter of Credit. Notwithstanding anything herein to the contrary, the provisions of this Paragraph are presently vested rights in favor of Jefferson upon execution of this Agreement and shall not be terminated for any reason whatsoever, shall be binding upon the successors and assigns of the parties hereto in perpetuity, regardless of whether the Accessway is ever built.

2. Hotel Services.

A. RDP intends to provide the following amenities and services at the Hotel: pools, cabana and beach service, health club, room service and laundry service (collectively "Amenities and Services"). RDP agrees to make the Amenities and Services available to "Owners," as defined below, of residential condominium units in the Condominium, at the same cost that guests ("Guests") of the Hotel pay or are charged for such Amenities and Services, and at no cost if included in the base room rate, provided, however, that an Owner shall be required to pay cash or use a credit card accepted by the Hotel as and when any such Amenities and Services are used by the Owner and shall not be entitled to "room charging" privileges. RDP will issue appropriate identification cards for each residential unit in the Condominium. The Owners shall present the identification cards any time they desire to use the Amenities and Services and they must otherwise comply with all security and use requirements established by RDP and/or the Hotel operator for all users of the Amenities and Services. RDP may require that each of the Owners sign a reasonable release in connection with their use of the Amenities and Services. Notwithstanding the foregoing, the operator of the Hotel may temporarily suspend the availability to the Owners of all or any portion of the Amenities and Services, except for room service and laundry, for up to three (3) consecutive days at any one time (but not more than thirty-six (36) days in the aggregate during any calendar year), provided that: (i) the projected occupancy of the Hotel on any such day is at least 90%; and (ii) notice of the suspension of such services is provided to the Owners listed on the most recent roster furnished to RDP pursuant to subparagraph D hereof, at least 24 hours in advance of such time.

B. Neither Jefferson nor any Owner shall have any right to participate in RDP's decision (or the decision of any hotel manager) to offer (or continue to offer) any Amenities and Services, to charge fees for the Amenities and Services or the

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amount of any such fees. Furthermore, nothing contained herein shall create any obligation on RDP to construct, operate and maintain any or all of the Amenities and Services, which shall be in RDP's sole discretion. Notwithstanding anything to the contrary herein, (1) any of the Amenities and services which are offered to the general public will be offered in at least an equal manner to Owners, and no fees or charges will be imposed on Owners in excess of those imposed on Hotel guests; and (2) no Owner shall be entitled to maid service or to free or discounted meals (which are not included in the "room service" portion of the Amenities and Services), parking, transportation or any other services and amenities commonly made available to guests at the Hotel (inasmuch as they may be included in, or taken into consideration when determining, the room rate and not separately charged) other than the Amenities and Services, unless they are also made available on the same basis to other members of the general public (in which event they shall also be provided on a no less favorable basis to the Owners.).

C. At all times while using the Amenities and Services, each Owner shall abide by all the rules and regulations governing the use of the Amenities and Services as they may be determined from time to time by Hotel. Failure on the part of any Owner to pay all fees, assessments and charges, or to follow the rules and regulations, shall result in the immediate suspension of the privileges outlined herein of such Owner until the Owner's payment or compliance. A second violation of the rules and regulations shall forever terminate the current Owner's privileges outlined herein provided, however, that such privileges will be reinstated for subsequent Owners.

D. For purposes of this paragraph 2, "Owner" shall mean (1) the individual owner(s) of a residential unit in the Condominium; (2) the Owner's tenants and temporary guests; (3) stockholders, partners or fiduciaries of a corporation, partnership or trust, as the case may be, that owns a residential unit in the Condominium; and (4) any such person's spouse, children, parents and grandchildren. In no event, however, shall the term "Owner" be deemed to exceed two (2) persons per bedroom per unit (excluding dens, living rooms, dining rooms, family rooms and the like). Jefferson shall provide a roster of its Owners to RDP, which shall be updated as required to reflect any and all changes of Owners, at a minimum on an annual basis, commencing on the date the Hotel begins accepting guests and on July 1 of each year thereafter.

3. Joint Accessway.

A. RDP agrees to pay for the cost to construct an accessway ("Accessway") substantially in accordance with the plans attached hereto as Exhibit "D". RDP will commence construction of the Accessway by no later than November 1, 1999, will diligently continue with construction thereof without interruption, and will complete construction of the Accessway within nine (9) months from the date of commencement. If RDP has not commenced construction or completed construction within the timeframes set forth herein, Jefferson's sole remedy shall be to draw upon the letter of credit provided under subparagraph 10G and, RDP, City and any successors-in-interest thereto, shall at all times continue to have the right in perpetuity to commence and

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complete construction of the Accessway in the manner provided for and subject to the conditions, approvals and requirements (including, without limitation, the Letter of Credit) provided in this Agreement, which right shall continue to exist notwithstanding any defaults hereunder or otherwise. The rights of RDP, City and any successors-in-interest thereto to construct the Accessway in the manner provided for and subject to the conditions, approvals and requirements (including, without limitation, the Letter of Credit) provided in this Agreement is a presently vested right in favor of RDP and the City upon execution of this Agreement which shall not be terminated for any reason whatsoever and shall be binding upon the successors and assigns of the parties hereto in perpetuity. The Accessway will be approximately fourteen (14') feet wide and will join a proposed ramp ("Ramp") being built by Jefferson on the northern side of the Jefferson Property with the southern side of the Hotel. RDP also agrees to design and construct the Accessway in coordination with Jefferson. In this regard, RDP and Jefferson will cause their design consultants to coordinate with each other their respective designs. The Plans for the Accessway shall be approved by Jefferson, which approval shall not be unreasonably withheld or delayed. All costs incurred for maintenance, repair, replacement and reconstruction of the Accessway, including any personal property related thereto, shall be paid by RDP unless proceeds of insurance are collected related thereto as provided below. Costs incurred for maintenance, repair, replacement and reconstruction of the Ramp, including any personal property related thereto, shall be paid by Jefferson unless proceeds of insurance are collected related thereto as provided below. RDP shall be responsible for all permits and approvals and anything whatsoever related to or required in connection with the Accessway and modifications to the Ramp related thereto, including without limitation, all governmental approvals and all costs and expenses related thereto, and reimbursement of Jefferson's out-of-pocket costs, including legal, architectural and other fees. Jefferson has the right of approval, which shall not be unreasonably withheld, of the Accessway's location, design and construction and Plans and any applications for permits relating to the Accessway, and any other matters on Jefferson's Property. Provided Jefferson consents and approves the applications for the permits, Jefferson agrees, at no cost or liability to Jefferson, to reasonably cooperate, and if necessary join in, with the filing of the applications. RDP will indemnify, defend and hold harmless Jefferson with respect to claims, causes, liabilities, costs and expenses, including attorneys fees, related to the Accessway, and any applications Jefferson joins in in connection therewith or as required hereunder. Each party will indemnify, defend and hold harmless the other party with respect to claims, causes, liabilities, costs and expenses, including attorneys' and other professional fees, relating to the use of the Ramp by any truck or in connection with any deliveries to or from, or trash removal from, the indemnitor's property.

B. Each party grants to the other, and its guests, invitees, licensees, employees, contractors, subcontractors and vendors (collectively "Permittees") a perpetual, non-exclusive easement for vehicular traffic over and across the Accessway. Jefferson also grants to RDP, City and their Permittees a perpetual non-exclusive easement for vehicular traffic over and across that portion of the Ramp which is necessary for, and which leads to the entrance to, the Accessway. Furthermore, each party grants to the other and their Permittees such perpetual non-exclusive easements of ingress and egress over and across the private roads, streets, accessways, loading

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areas and driveways on the RDP Property and the Jefferson Property, as the case may be, as may be necessary or required to reach and utilize the Ramp and the Accessway from the public roads serving the Hotel, and Condominium/and Retail portions of the Jefferson Property, unless otherwise specifically stated elsewhere herein. Jefferson hereby grants RDP and City a perpetual non-exclusive easement to permit the existence, location and use of the Accessway as and to the extent contemplated herein and subject to compliance with all requirements and approvals provided herein. The easements arising under this subparagraph shall not become operative until a final Certificate of Occupancy (or other evidence of completion) has been issued for the Accessway.

C. Jefferson will grant limited reasonable access to its property for the construction of the Accessway only. RDP must submit a written request for Jefferson's reasonable approval at least seven (7) business days in advance of the proposed commencement date, including but not limited to, a schedule of operations to take place and the time each activity will start and finish. Jefferson will be allowed seven days to review and respond. If Jefferson fails to respond within seven (7) business days of receipt of written request, it will be deemed to have approved such request. In no event shall the construction of the Accessway be allowed to impede, stop or interfere with the construction or permanent operations of the Jefferson Property and most specifically the Ramp.

D. Maintenance of the Accessway and the Ramp shall be performed by Jefferson and RDP so as not to impede operations of each respective facility. In the event of the failure of either party to maintain or repair the Ramp or the Accessway as required herein, impedes the operation of the other party's property, and if the party obligated to perform such maintenance or repair fails to commence such maintenance or repair within 7 days of receipt of written notice from the other party, or fails to continue such maintenance and repair with due diligence until completion, the other party may perform such maintenance or repair at the cost of the non-performing party, with the cost thereof to be reimbursed within 30 days of receipt of a bill with a copy of supporting invoices. In the event the failure to maintain or repair constitutes an emergency, the 7-day period set forth above will be shortened to 3 business days.

E. RDP will not place or permit any items whatsoever, including without limitation, equipment, trash, refuse or unsightly items, on the Accessway or the Ramp.

4. Consents. Jefferson and RDP have each obtained the consents to this Agreement from their respective mortgage lenders, which have agreed to join herein. RDP and Jefferson represent to each other that there are no other parties required to consent to or join into this Agreement for it become fully effective.

5. Insurance.

A. Each party will, at its sole cost and expense, maintain comprehensive general public liability insurance against claims for personal injury or

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death and property damage occasioned by accident occurring upon, in or about the Accessway and the Ramp such insurance in each case to afford protection to the limit of not less than \$5,000,000 in respect of injury or death to any number of persons arising out of any one (1) accident. RDP will also at all times keep the Accessway insured, at its sole expense, against loss or damage by fire, windstorm, flood, explosion, damage from vehicles, vandalism and malicious mischief, and such other risks as are from time to time included in "extended coverage" endorsements available in Dade County, Florida, and in an amount not less than ninety percent (90%) of its actual full replacement cost. Jefferson will at all times keep the Ramp insured, at its sole expense, against loss of damage by fire, windstorm, flood, explosion, damage from vehicles, vandalism and malicious mischief, and such other risks as are from time to time included in "extended coverage" endorsements available in Dade County, Florida, and in an amount not less than 90% of the actual full replacement cost of the Ramp.

B. Except as provided in subparagraph C, below, each party will indemnify and save the other party harmless from and against any and all claims, actions, damages, liabilities and expense in with loss of life, personal injury or damage to property, or any of them, occasioned wholly or in part by any act or omission of such indemnitor and its employees and affiliates, unless the other party is found to be legally responsible for the injury, loss or damage.

C. No party shall be liable to the other party or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage even though such loss or damage might have been occasioned by the negligence of such party or its Permittees. However, if by reason of the foregoing waiver, either party is unable to obtain any such insurance without the payment of an additional premium therefor, such waiver shall be deemed not to have been made by such party.

6. Binding Effect. The restrictions, obligations and easements contained within this Agreement shall be deemed covenants running with the land and shall be binding upon, and shall inure to the benefit of all parties to this Agreement and their respective successors in title. In the case of Jefferson, after recordation of a Declaration of Condominium affecting the Condominium, its successor in title with respect to the Condominium shall be deemed to be the Condominium Association. This Agreement may be modified, amended, changed or altered only by a written instrument signed and approved by the parties hereto, their successors in title. Notwithstanding the foregoing, all rights granted herein to RDP shall immediately inure to the City, provided however, that the City shall not exercise any such rights during any period when RDP is doing so and shall withdraw any prior exercise thereof upon the exercise of such rights by RDP.

7. Recording. This Agreement shall be recorded in the Public Records of Dade County, Florida.

8. Default. In the event of a default under this Agreement, and if such default continues for 30 days after written notice from the non-defaulting party (or in the event

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of an emergency, then such lesser period of time as may be reasonable under the circumstances) or if the default is of such a nature that it cannot be cured within 30 days and the defaulting party fails to in good faith commence and diligently pursue, without interruption until completion, the curing of the default within 30 days, then the non-defaulting party may exercise any legal and/or equitable remedies (other than termination of this Agreement), including specific performance, afforded under Florida law. Notwithstanding the foregoing, in the event of a default by RDP under this Agreement, Jefferson shall not exercise any of its remedies hereunder unless such default remains uncured for 60 days after the City has been provided with written notice from Jefferson setting forth the nature of such default, or if the default is of such a nature that it cannot be cured within 60 days, unless the City fails to in good faith commence within sixty (60) days to diligently pursue, without interruption until completion, the curing of the default. The non-defaulting party shall send a copy of any notices under this Paragraph to any mortgagee of the defaulting party for which said party has provided it the mortgagee(s) its name and address, in the manner provided in paragraph 9. Any such mortgagee shall have the same notice period and opportunity to cure defaults as is provided to the City. Notwithstanding the foregoing, in the event of an emergency, any party to this Agreement may take such corrective actions as may be reasonably necessary, without regard to the above notice and cure provisions, provided that such party shall notify the other parties thereof as soon thereafter as reasonably possible.

9. Notices. Any notices required or permitted to be given under this Agreement shall be delivered by hand, mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, or delivered by a nationally recognized overnight delivery service, and addressed as described below (or such other address as may be provided by either party by written notice as provided herein); notices shall be deemed effective only upon receipt or refusal of delivery.

Notices to RDP

RDP Royal Palm Hotel Limited
701 Brickell Avenue, Suite 2040
Miami, FL 33131
Attention: S.P. "Chip" Newell
Telephone: (305) 530-3140
Facsimile: (305) 530-3145

Copy to

Berman Wolfe & Rennert, P.A.
100 S.E. 2nd Street, Suite 3500
Miami, FL 33131
Attention: Leon J. Wolfe, Esq.
Telephone: (305) 577-4177
Facsimile: (305) 373-6036

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Notices to Jefferson

Jefferson Plaza Ltd.
2665 S. Bayshore Drive
Suite 302
Coconut Grove, FL 33133
Attn: Jean-Marc Meunier
Ph: (305)858-7749
Fax: (305)859-7579

Copy to

Rubin Baum Levin
2500 1st Union Financial Center
Miami, FL 33131
Attn: John C. Sumberg
Ph: (305)350-2364
Fax: (305)374-7593

Notices to the City:

City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139
Attn: City Manager
Fax: (305)673-7782

Notices to the Agency:

1700 Convention Center Drive
Miami Beach, Florida 33139
Attn: Executive Director
Fax: (305)673-7782

Copy to:

Bloom & Minsker
800 Brickell Avenue, Suite 1100
Miami, Florida 33131
Attn: Joel N. Minsker, P.A.
Ph: (305)371-6800
Fax: (305)371-5760

10. Miscellaneous Provisions.

A. In the event any term or provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determined, and the remainder of this Agreement shall be construed to be in full force and effect.

B. Each party has participated fully in the negotiation and preparation of this Agreement with full benefit of counsel. Accordingly, this Agreement shall be not more strictly construed against either party.

C. The captions in this Agreement are for the convenience of reference only and shall not be deemed to alter any provision of this Agreement.

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D. Any time period provided for in this Agreement which shall end on a Saturday, Sunday or legal holiday shall extend to 5:00 p.m. of the next full business day.

E. This Agreement constitutes the entire Agreement and the full and complete understanding of the parties hereto. All prior agreements and understandings, whether written or oral, are superseded, terminated and of no further force and effect. No modification of this Agreement shall be effective unless and until executed by the parties hereto and joined in by the holder(s) of any mortgages of the Jefferson Property and the RDP Property, which consents shall not be unreasonably withheld.

F. In the event of any litigation hereunder, the prevailing party shall be entitled to recover all costs, expenses and fees, including attorneys fees through all appeals.

G. Notwithstanding anything herein to the contrary, and regardless of whether the Accessway is ever built, RDP will be responsible for all "Reconstruction Costs", as hereafter defined. "Reconstruction Costs" shall consist of all reasonable construction costs, including without limitation soft costs, and fees of consultants such as architects, attorneys and others related to (1) modification to the Ramp to accommodate the Accessway prior to the commencement of construction or (2) reconstructing the Ramp back to its originally designed state and (3) any work related to the Accessway in connection therewith (throughout this Agreement, this work regarding the Accessway shall be deemed to be included in any reference to the design or construction work relating to reconstruction of the Ramp)(all of the foregoing are collectively referred to as "Reconstructive Work"). RDP shall deliver to Jefferson a sight draft irrevocable letter of credit (the "Letter of Credit"), issued by an institution reasonably acceptable to Jefferson by October 24, 1997. The Letter of Credit shall be in the amount of \$100,000, which shall be subject to adjustment as hereafter provided, shall name Jefferson as the beneficiary and shall provide for draws to be made in Dade County, Florida, which shall be used in the event that Reconstructive Work is necessary. The Letter of Credit shall remain outstanding and shall be renewed until 30 days after the Accessway is completed and a final certificate of completion (or other appropriate evidence of completion reasonably acceptable to Jefferson) therefor is obtained. Jefferson shall have the right to draw on the Letter of Credit: (1) if the Accessway is not commenced by November 1, 1999, or if a final certificate of completion (or other appropriate evidence of final completion reasonably acceptable to Jefferson) is not issued within nine (9) months after commencement of construction; or (2) if at any time the Letter of Credit has less than 30 days remaining prior to its expiration; or (3) if any governmental rule, regulation order or request or agency requires Jefferson to perform Reconstructive Work (including if failure to do so would violate any governmental rule, regulation, request, order or citation) or (4) if RDP fails to pay any invoice for Reconstructive Work within fifteen (15) days after it is submitted by Jefferson. In the event Jefferson draws upon the Letter of Credit, any sums in excess of the Reconstruction Costs shall be promptly returned to RDP, or its successor, as applicable, and RDP and its successors shall be liable for any such expenses which exceed the amount of the Letter of Credit. In the event RDP or its successor desires to

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commence construction of the Accessway, after the Letter of Credit has been drawn down, such party shall furnish a new letter of credit to Jefferson, which shall be the same in form and substance as the Letter of Credit, and which may be drawn upon if any of the conditions in subparagraphs (1), (2), (3) or (4) above occur. The Accessway shall be built at the location shown and in accordance with the Plans, and any revision, including without limitation, with respect to location, angle, direction, or construction from that shown in the Plans shall be subject to the prior written consent of Jefferson, which shall not be unreasonably withheld or delayed. Upon completion of the Accessway, the Letter of Credit, or any replacement thereof (if not drawn), shall be returned to party providing such instrument, and in all events such parties shall be responsible for any excess costs of the Reconstructive Work. The failure of RDP, or any successor thereof, to deliver the Letter of Credit (or any subsequent letter of credit) within the time required hereunder shall constitute a default under paragraph 8 hereof, provided however, notwithstanding anything to the contrary in this Agreement, including without limitation, in Section 8, that the time period for curing such default shall be limited to fifteen (15) days, which time period shall run concurrently for all parties entitled to cure such default including the City and Mortgagee. In no event shall the failure to furnish any letter of credit required hereunder allow Jefferson to terminate the right to construct the Accessway, and Jefferson's sole remedy shall be to construct the Ramp or restore it to its originally designed state. Notwithstanding anything to the contrary herein, Jefferson shall not be obligated to join in any applications for permits, and no construction shall be commenced with respect to the Accessway, prior to delivery to Jefferson of the Letter of Credit (or any subsequent letter of credit) (even if during RDP's, the City's or a lender's cure period). RDP shall furnish Jefferson RDP's application for a set-back variance along the south boundary and Jefferson shall have the right to consent, which consent shall not be unreasonably withheld or delayed, and upon its consent shall join in RDP's application for a set-back variance along its southern boundary regardless of whether the Letter of Credit has been delivered to Jefferson if Jefferson has been furnished the set-back application and RDP has requested Jefferson's to consent thereto prior to the time the Letter of Credit (or any subsequent letter of credit) is due hereunder. RDP shall increase the amount of the Letter of Credit, or provide an additional letter of credit, in form identical to the Letter of Credit, within fifteen (15) days after receipt from RDP of a revised estimate of the cost of the Reconstructive Work. Jefferson's revised estimate of the cost of the Reconstructive Work shall be the total of the following (1) the actual invoices submitted to Jefferson for the initial redesign of the Ramp to accommodate the Accessway pursuant to this Agreement; (2) the reasonable estimates from Jefferson's contractor of the cost of the modifications to the Ramp to accommodate the Accessway pursuant to this Agreement; (3) the reasonable estimates of Jefferson of the cost of any future redesign of the Ramp to its originally designed state; (4) the reasonable estimates of Jefferson of the Reconstruction Costs required to construct the Ramp to its originally designed state and work relating to the Accessway in connection therewith.

H. The Accessway shall be designed and constructed by RDP so as to collect, route and process all storm water runoff from the Accessway including but not limited to the water run off that will come from the Ramp over the point where the concrete slabs of the Ramp and Accessway are joined or abut together. The storm

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water runoff on the Accessway shall not discharge into the Ramp. RDP and Jefferson agree to coordinate and cooperate to obtain the necessary calculations from Coastal Systems International to confirm that the additional water runoff from the Ramp can be accommodated by the Accessway and the costs for any new engineering by Coastal Systems International will be borne by RDP.

I. Jefferson's structural engineer has designed the Ramp to accommodate a 250 pounds per square foot live load. RDP must design and construct the Accessway as mutually agreed to by RDP's and Jefferson's consultants, without use of the support "haunches" in the Ramp. RDP will be responsible for any costs relating to redesign, construction, reconstruction or modification of the Ramp if the 250 P.S.F. live load is not sufficient for the Accessway. Jefferson is not obligated to change the live load requirements of the Ramp to accommodate the Accessway.

J. RDP and Jefferson agree to coordinate striping and vehicular signage on the Ramp and Accessway and each party shall install and maintain (and bear the cost of) such striping and signage on such party's respective property as required by law.

K. RDP and Jefferson agree to coordinate with each other, and if necessary, adopt such rules and regulations regarding the use of the Ramp and Accessway as shall be necessary to ensure the continued and unimpeded use of the Ramp and Accessway for their respective intended purposes, including, but not limited to the following: (1) hotel employees shall not walk on the Ramp for access to the employee entrance; and (2) delivery vehicles to the Hotel shall not block or park or stand on the Ramp or residential garage entrance of the Condominium and delivery vehicles to the Condominium shall not block or park or stand on the Accessway or the Hotel's loading or trash dock entrance. With respect to (2), above, RDP shall have an initial forty-five day move-in period after the Hotel has received a certificate of occupancy within which oversized delivery vehicles may drive over but not park on the Ramp, provided same do not unreasonably or significantly interfere with the use of the Ramp for its intended purpose by Jefferson, condominium owners, retail tenants or the guests, invitees, licensees, employees, contractors or subcontractors and vendors of any of the foregoing for its intended purpose. RDP will have deliveries only at the times permitted pursuant to the delivery schedule attached (as Exhibit "E"). RDP agrees to reasonably cooperate with Jefferson in amending the schedule in the future when the most efficient schedule of delivery times is determined by the manager's of the Condominium and Retail portions of the Jefferson Property.

L. Notwithstanding any of the terms of this Agreement to the contrary, in the event the ability of any party hereto to perform any of its obligations hereunder is prevented or delayed by reason of strikes, lockouts, sit-downs, material or labor restrictions by any governmental authority, unusual transportation delays, riots, floods, washouts, explosions, earthquakes, fire, storms, unusual weather (including wet grounds or inclement weather which prevents construction), acts of the public enemy, wars, insurrections and any other cause not reasonably within the control of such party, and which by the exercise of due diligence such party is unable, wholly or in part, to prevent or overcome such delay (any of which is deemed a "Force Majeure Event"), then the deadline by which such party must perform such obligation shall be extended

OFF. REC. 18170PG1167

for a number of days equal to the number of days of delay in performance caused by the Force Majeure Event.

M. Each party agrees to provide the other party an estoppel letter certifying whether or not any money is owed hereunder pursuant to Paragraph 3.D. and whether or not, to the best of the certifying party's knowledge, the other party is in breach of any of its obligations hereunder.

N. Each party agrees to execute any documents reasonably necessary to carry out the purposes of this Agreement provided same shall be at no cost or liability to said party.

IN WITNESS WHEREOF, RDP and Jefferson have executed this Agreement as of the date indicated above.

WITNESS:

RDP ROYAL PALM HOTEL LIMITED
PARTNERSHIP, a Florida limited partnershipBy: PADC Hospitality Corporation I, a Florida
corporation

Lawrence A. Long
Print Name: LAWRENCE A. LONG

Alexander I. Tachmfs
Print Name: ALEXANDER I. TACHMFS

By: [Signature]
Its: [Signature]
Print Name

JEFFERSON PLAZA, LTD., a Florida limited
partnership,By: Jefferson Plaza Management L.C.,
a Florida limited liability company

John C. Sumbly
Print Name: John C. Sumbly

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION
PATRICIA BRAYSHAW

By: [Signature]
Its: Manager

W. H. Hall 10/21/97
Redevelopment Agency Date
General Counsel

Lawrence A. Long
Print Name: LAWRENCE A. LONG

Alexander I. Tachmfs
Print Name: ALEXANDER I. TACHMFS

MIAMI BEACH REDEVELOPMENT AGENCY

By: [Signature]
Seymour Gelber, Chairman

ATTEST

By: Robert Parcher
Robert Parcher, Secretary

-12-

OFF. REC. 18170PG1168

for a number of days equal to the number of days of delay in performance caused by the Force Majeure Event.

M. Each party agrees to provide the other party an estoppel letter certifying whether or not any money is owed hereunder pursuant to Paragraph 3.D. and whether or not, to the best of the certifying party's knowledge, the other party is in breach of any of its obligations hereunder.

N. Each party agrees to execute any documents reasonably necessary to carry out the purposes of this Agreement provided same shall be at no cost or liability to said party.

IN WITNESS WHEREOF, RDP and Jefferson have executed this Agreement as of the date indicated above.

WITNESS:

RDP ROYAL PALM HOTEL LIMITED
PARTNERSHIP, a Florida limited partnership

Print Name: _____

By: PADC Hospitality Corporation I, a Florida
corporation

Print Name: _____

By: _____
Its: _____
Print NameJEFFERSON PLAZA, LTD., a Florida limited
partnership,Print Name: John C. SunbergBy: Jefferson Plaza Management L.C.,
a Florida limited liability companyPrint Name: Petering BrayshawBy: [Signature]
Its: Manager

MIAMI BEACH REDEVELOPMENT AGENCY

Print Name: _____

By: _____
Seymour Gelber, Chairman

ATTEST:

Print Name: _____

By: _____
Robert Parcher, Secretary

-12-

OFF. REC. 1817061169

CITY OF MIAMI BEACH

Lawrence A. Gelber
 Print Name: LAWRENCE A. GELBER

By: [Signature]
 Seymour Gelber, Mayor

Alexander I. Tachikawa
 Print Name: ALEXANDER I. TACHIKAWA

ATTEST:
[Signature]
 By: Robert Panch
 Robert Panch, Secretary
**APPROVED AS TO
 FORM & LANGUAGE
 & FOR EXECUTION**

STATE OF FLORIDA)
) SS:
 COUNTY OF DADE)

[Signature] 10/21/97
 City Attorney Date

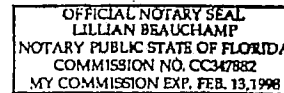
The foregoing instrument was acknowledged before me this 21st day of October, 1997, by R. Donahue Pebles, as President of PADC HOSPITALITY CORPORATION I, a Florida corporation, as general partner of RDP ROYAL PALM HOTEL LIMITED PARTNERSHIP, a Florida limited partnership, on behalf of said limited partnership. He/She is personally known to me or has produced a State of Florida driver's license as identification.

Sign Name: Lillian Beauchamp
 Print Name: Lillian Beauchamp
 NOTARY PUBLIC

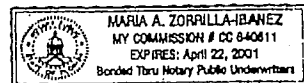
My Commission Expires:
 Serial Number, if any:

[NOTARIAL SEAL]

STATE OF FLORIDA)
) SS:
 COUNTY OF DADE)



The foregoing instrument was acknowledged before me this 20th day of October, 1997, by JEAN-MARC MEUDIER as MANAGER of JEFFERSON PLAZA MANAGEMENT L.C., a Florida limited liability company, as general partner of JEFFERSON PLAZA, LTD., a Florida limited partnership, on behalf of said limited partnership. He/She is personally known to me or has produced a State of Florida driver's license as identification.



Sign Name: Maria A. Zorrilla-Ibanez
 Print Name: Maria A. Zorrilla-Ibanez
 NOTARY PUBLIC

-13-

OFF.
REC. 18170PG1170

CITY OF MIAMI BEACH

Print Name: _____

By: _____
Seymour Gelber, Mayor

ATTEST:

Print Name: _____

By: _____
Robert Parcher, SecretarySTATE OF FLORIDA)
COUNTY OF DADE) SS:

The foregoing instrument was acknowledged before me this _____ day of _____, 1997, by _____ as _____ of PADC HOSPITALITY CORPORATION I, a Florida corporation, as general partner of RDP ROYAL PALM HOTEL LIMITED PARTNERSHIP, a Florida limited partnership, on behalf of said limited partnership. He/She is personally known to me or has produced a State of _____ driver's license as identification.

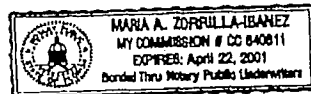
Sign Name: _____
Print Name: _____
NOTARY PUBLIC

My Commission Expires:
Serial Number, if any:

[NOTARIAL SEAL]

STATE OF FLORIDA)
COUNTY OF DADE) SS:

The foregoing instrument was acknowledged before me this 20th day of October, 1997, by JEAN-MARC MEUNIER, as HANDLER of JEFFERSON PLAZA MANAGEMENT L.C., a Florida limited liability company, as general partner of JEFFERSON PLAZA, LTD., a Florida limited partnership, on behalf of said limited partnership. He/She is personally known to me or has produced a State of _____ driver's license as identification.



Sign Name: Maria A. Zorrilla-Ibanez
Print Name: Maria A. Zorrilla-Ibanez
NOTARY PUBLIC

-13-

OFF.
REC. 18170P1171My Commission Expires:
Serial Number, if any:

[NOTARIAL SEAL]

STATE OF FLORIDA

) SS:
)

COUNTY OF DADE

The foregoing instrument was acknowledged before me this 21st day of October, 1997, by Seymour Gelber, as Chairman and Robert Parcher, as Secretary of MIAMI BEACH REDEVELOPMENT AGENCY, a public body corporate and politic on behalf of such public body. They are personally known to me or have produced a State of Florida driver's license as identification.

Sign Name: Lillian BeauchampPrint Name: Lillian Beauchamp

NOTARY PUBLIC

My Commission Expires:
Serial Number, if any:

OFFICIAL NOTARY SEAL
LILLIAN BEAUCHAMP
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC347882
MY COMMISSION EXP. FEB. 13, 1998

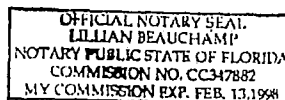
[NOTARIAL SEAL]

OFF.
REC: 18170PG1172STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

The foregoing instrument was acknowledged before me this 21st day of October, 1997, by Seymour Gelber, as Mayor and Robert Parcher, as City Clerk of THE CITY OF MIAMI BEACH, a municipal corporation of the State of Florida, on behalf of such municipal corporation. They are personally known to me or have produced a State of Florida driver's license as identification.

Sign Name: Lillian Beauchamp
Print Name: Lillian Beauchamp
NOTARY PUBLIC

My Commission Expires:
Serial Number, if any:



[NOTARIAL SEAL]

CONSENTS AND JOINDERS

The undersigned, as mortgage lenders to JEFFERSON and RDP, respectively, hereby consent to and join in the foregoing Reciprocal Access, Use, Development and Easement Agreement.

Jefferson's Mortgage Lender:

OCEAN BANK *WAE*

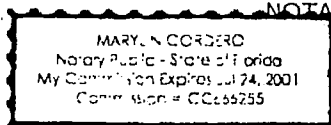
By: Jorge L. Alvarez
Its: VICE PRESIDENT

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

The foregoing instrument was acknowledged before me this 20 day of October, 1997, by Jorge L. Alvarez, as VICE PRESIDENT of OCEAN BANK, a on behalf of said . He/She is personally known to me or has produced a State of driver's license as identification.

Sign Name: Marylen Cordero
Print Name: MARYLEN CORDERO
NOTARY PUBLIC

My Commission Expires:
Serial Number, if any:



[NOTARIAL SEAL]

OFF.
REC. 18170PC1173

EXHIBIT LIST

Exhibit "A"	Legal Description of RDP Property (First Whereas Clause)
Exhibit "B"	Legal Description of Jefferson Property (Second Whereas Clause)
Exhibit "C"	Plans for RDP's Development (Paragraph 1)
Exhibit "D"	Accessway Plans (Paragraph 3.A.)
Exhibit "E"	Delivery Schedule (Paragraph 10.K.)

OFF.
REC. 18170P01174*Legal Description**Parcel 1 (Royal Palm Hotel site)*

The South 12.65 feet of Lots 7 and 14, all of Lots 6 and 15, and the North 10 feet of Lots 5 and 16, all in Block 56, FISHER'S FIRST SUBDIVISION OF ALTON BEACH, according to the Plat thereof, as recorded in Plat Book 2, Page 77, Public Records of Dade County, Florida, together with that certain parcel of land lying East and adjacent to the above described parcel, said parcel bounded on the South by the South line of the above described parcel extended Easterly; bounded on the North by the North line of the above described parcel extended Easterly; bounded on the East by the Erosion Control Line of the Atlantic Ocean and bounded on the West by the East line of the above mentioned Block 56; said lands containing 0.9941 acres more or less.

EXHIBIT "A"

OFF. REC. 1817061175

Parcel 2 (Shorecrest Hotel site)

The South 40.00 feet (measured along the lot line) of Lots 5 and 16, and the North one-half of Lots 4 and 17, all in Block 56, FISHER'S FIRST SUBDIVISION OF ALTON BEACH, according to the Plat thereof, as recorded in Plat Book 2, Page 77 of the Public Records of Dade County, Florida, together with that certain parcel of land lying East and adjacent to the above described parcel, said parcel bounded by the South line of the above described parcel extended Easterly, bounded on the North by the North line of the above described parcel extended Easterly, bounded on the East by the Erosion Control Line of the Atlantic Ocean, and bounded on the West by the East line of the above mentioned Block 56; Said lands containing 0.8849 acres more or less.

All lands described above located, lying and being in Section 34 Township 23 South, Range 42 East, City of Miami Beach, Florida.

EXHIBIT "A"

EXHIBIT B

OFF.
REC. 1817061176

All of Lots 1, 2, 3, 18, 19, 20; and the South 1/2 of Lots 4 and 17, all in Block 56, of FISHER'S FIRST SUBDIVISION OF ALTON BEACH, according to the plat thereof, as recorded in Plat Book 2, at Page 77, of the Public Records of Dade County, Florida.

-AND-

A parcel of land adjacent to and immediately East of the above described lands and more particularly described as follows:

Beginning at the S.E. corner of said Lot 1, Block 56, of "FISHER'S SUBDIVISION OF ALTON BEACH"; thence North $7^{\circ} 35' 20''$ East along the Easterly line of said Block 56 for a distance of 177.47 feet to the Northeast corner of the South 1/2 of said Lot 4, Block 56; thence North $88^{\circ} 00' 23''$ East along the Easterly extension of the North line of said South 1/2 of Lot 4 for a distance of 195.26 feet to a point on a line known as the erosion Control Line as recorded in Plat Book 105, at Page 82, of the Public Records of Dade County, Florida; thence South $3^{\circ} 26' 45''$ West along said Erosion Control Line also known as the Bulkhead line as described in Ordinance No. 856, Section 1, of the City of Miami Beach, recorded in Plat Book 74 at Page 4, of the Public Records of Dade County, Florida; for a distance of 175.78 feet; thence South $88^{\circ} 00' 21''$ West along the Easterly extension of the South line of said Lot 1, Block 56, for 208.14 feet to the Point of Beginning, lying and being in the City of Miami Beach, Dade County, Florida.

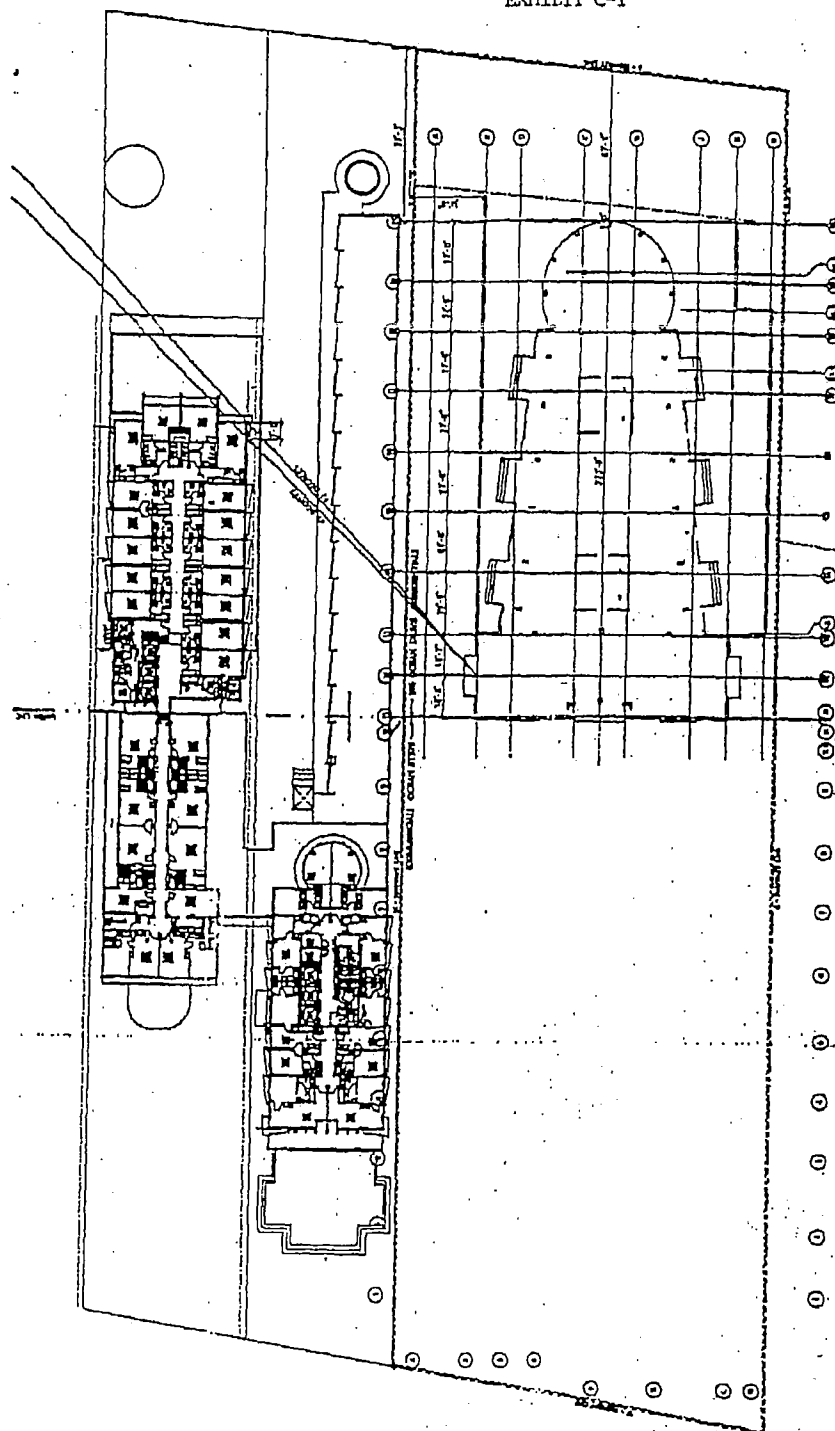
OFF. REC. 18170PC1177

EXHIBIT C

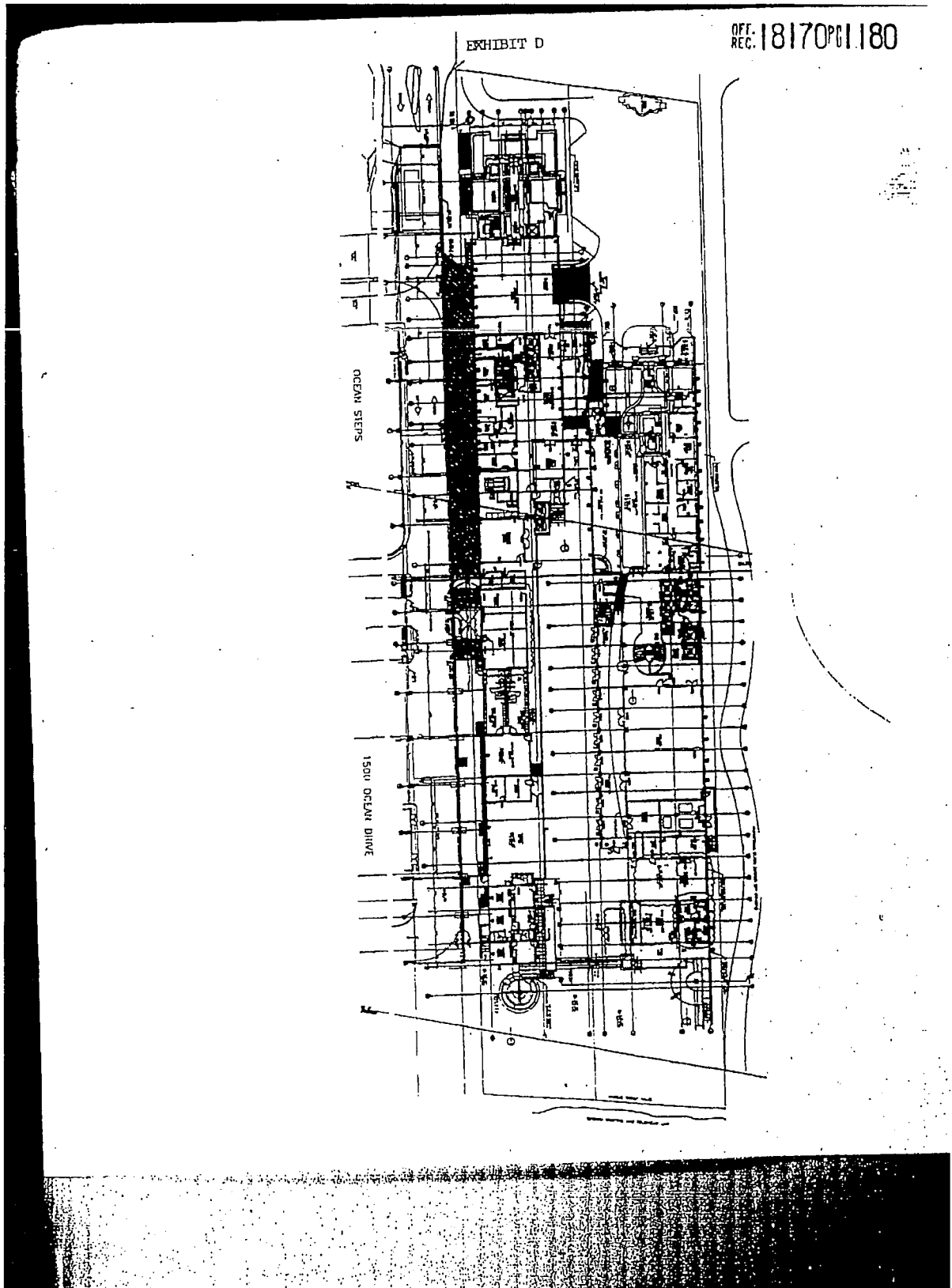
PLANS

<u>Dwg. No.</u>	<u>Title</u>	<u>Latest Date</u>
C-01	Grading and Drainage Plan	6/26/97
C-02	Utility Services Plan	6/26/97
LI-1	Irrigation Plan and Details	8/25/97
LP-1	Planting Plan	8/25/97
LL-1	Lighting Plan	8/25/97
LH-1	Paving Plan	8/25/97
A0.10	Site Plan	8/25/97
A1.01	Parking Level	8/25/97
A1.02	Ground Level	8/25/97
A1.03	Second Level	8/25/97
A1.04	Third Level	8/25/97
A1.05	Fourth Level	8/25/97
A5.01	Building Elevations	8/25/97
A5.02	Shorecrest North Elevation	8/25/97
A5.03	Shorecrest South Elevation	8/25/97
A5.04	Royal Palm North Elevation	8/25/97
A5.05	Royal Palm South Elevation	8/25/97

cc

OFF. REC. 18170PC1179
EXHIBIT C-1

NOTE: THE RELATIONSHIP BETWEEN THE 100 OCEAN DRIVE RESIDENTIAL TOWER AND THE EAST PROPERTY LINES WILL NEED TO BE CONFIRMED WITH AN AS BUILT SURVEY IN ORDER TO IMPROVE THE PRECISION OF THIS DOCUMENT. THE SAME PROCESS WILL BE APPLIED TO THE ROYAL PALM HOTEL TOWER ONCE CONSTRUCTION IS INITIATED TO CONFIRM THE AS BUILT CONDITION. THIS DOCUMENT REPRESENTS THE MOST ACCURATE BUILDING LOCATION REFERENCES AS OF SEPTEMBER 1971.



OFF. REC. 18170 PG 1181

EXHIBIT "E"
DELIVERY SCHEDULE

TO BE AGREED UPON BY JEFFERSON, RDP AND THE CITY

RECORDED IN OFFICIAL RECORDS (11/17/17)
OF DADE COUNTY, FLORIDA
RECORD VERIFIED
HARVEY RUVIN
CLERK CERTIFIED