

# MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)  
OFFICE OF HOUSING & COMMUNITY SERVICES  
555 17 St., Miami Beach, FL 33139, Tel: (305) 673-7260 Fax: (305) 673-7772

August 14, 2019

Miami Beach Community Development Corporation  
Mr. Ahmed Martin, Interim Executive Director  
945 Pennsylvania Avenue, 2<sup>nd</sup> floor  
Miami Beach, FL 33139

**RE: Default of State Housing Initiatives Partnership (SHIP) Program Agreement between the City of Miami Beach ("the City") and Miami Beach Community Development Corporation (MBCDC) for Jefferson Apartments, 542 Jefferson Avenue**

Dear Mr. Martin:

This letter is sent to you as a notification that the above captioned address is currently in default, pursuant to the terms delineated in your contract executed on June 30, 2016, as noted below.

The City monitored various MBCDC projects from June 24 to July 17, 2019 and found that the following unit files had expired leases and did not contain documentation demonstrating annual certifications for 2019: 102, 105, 106, 200, 201, 204, 205, 206, 207, 302, 303, 305, 306, and 308 and some units' expired leases exceeded a period of thirty (30) days. Tenants without income certifications cannot be deemed eligible for rules and regulations until all certification documents are certified and executed.

This letter serves as a notification that the above captioned address is currently in default, pursuant to the terms delineated in your contract executed on March 18, 2005, as noted below.

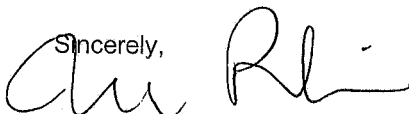
**3. Restrictive Covenants. Owner shall be subject to the following covenants and restrictions:**

(i) Owner must use the Premises as an affordable rental property for a thirty (30) year period, commencing from the date of issuance by the City of Miami Beach Building Department of a Final Certificate of Completion for the construction of the Premises (the "Affordability Period"), and the rents charged and the tenants thereof must qualify under the rules and regulations promulgated by the State of Florida/Florida Housing Finance Corporation, as same may be amended from time to time. In order to further ensure the enforcement of this Section (3), Owner hereby recognizes, agrees, authorizes, and covenants that the Premises shall not be sold, transferred, disposed of, or otherwise conveyed, except upon prior approval of the City, as provided herein.

You are hereby advised that you have thirty [30] days to remedy the issues noted above. This office must receive documentation of remedy via standard mail or electronic mail by September 14, 2019.

If you have any questions, please contact me at (305) 673-7260 or via e-mail at [marcelarubio@miamibeachfl.gov](mailto:marcelarubio@miamibeachfl.gov). We appreciate your prompt attention to this matter to ensure your compliance and prevent the possibility of contractual default.

Sincerely,



Marcela Rubio, HOME/SHIP Program Coordinator

Cc: Maria Ruiz, Department Director  
Michael Liu, Public Housing Community Development Director

Susanne Torriente, Assistant City Manager  
Alba Tarre, Assistant Director

This instrument prepared by:  
Gisela Nanson Torres, Esq.  
Office of the City Attorney  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, Florida 33139

(Space reserved for Clerk of Court)

### DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants (hereinafter the "Covenant"), is made this 30th day of June, 2016 by MBCDC/The Jefferson, Inc., a Florida not-for-profit corporation, a/k/a MBDC/The Jefferson Corporation, whose address is 945 Pennsylvania Avenue, Miami Beach, Florida, 33139 (hereinafter the "Owner").

#### RECITALS:

**WHEREAS**, Owner purchased the property located at 542 Jefferson Avenue, Miami Beach, Florida (hereinafter referred to as the "Premises"), as more particularly described in Exhibit "A", attached hereto and incorporated herein by reference, as evidenced from that certain Warranty Deed, dated May 7, 1997, and recorded in O.R. Book 17663, Page 4674, of the Public Records of Miami-Dade County, Florida; and

**WHEREAS**, said Warranty Deed contained a scrivener's error in Owner's name, in that, the deed depicts Owner's name as MBDC/The Jefferson Corporation, instead of MBCDC/The Jefferson, Inc.; and

**WHEREAS**, Owner is undertaking a project to rehabilitate the Premises for the purpose of providing affordable rental housing for low-income individuals and families (the "Project"); and

**WHEREAS**, the Project will provide for the retention of affordable housing opportunities within the City of Miami Beach for low-income individuals and families; and

**WHEREAS**, pursuant to Miami Beach City Commission Resolution No. 2015-29051, passed and adopted on June 10, 2015, the City of Miami Beach, a public body corporate and politic (the "City") approved funding to the Owner for Owner's rehabilitation of the Premises, in the total sum of \$135,464.15, comprised of \$43,508.85 from FY 2013-2014 SHIP funds and \$91,955.15 from FY 2014-2015 SHIP funds; and

**WHEREAS**, on February 12, 2016 the City was notified by the Florida Housing Finance Corporation that the City must return the FY 2013-2014 SHIP funds to the State of Florida; and

**WHEREAS**, pursuant to Miami Beach City Commission Resolution No. 2016-29358, passed and adopted on April 13, 2016, the City authorized the funding of the \$43,508.85 allocation, as follows: 1) \$26,371 from recaptured FY 2015-2016 SHIP funds; and 2) \$17,138 from recaptured FY 2014-2015 SHIP funds from prior years' homebuyer agreements; and

This instrument prepared by:  
Gisela Nanson Torres, Esq.  
Office of the City Attorney  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, Florida 33139

(Space reserved for Clerk of Court)

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### RECITALS:

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**WHEREAS**, said Warranty Deed contained a scrivener's error in Owner's name, in that, the deed depicts Owner's name as MBDC/The Jefferson Corporation, instead of MBDCDC/The Jefferson, Inc.; and

**WHEREAS**, Owner is undertaking a project to rehabilitate the Premises for the purpose of providing affordable rental housing for low-income individuals and families (the "Project"); and

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**WHEREAS**, on February 12, 2016 the City was notified by the Florida Housing Finance Corporation that the City must return the FY 2013-2014 SHIP funds to the State of Florida; and

**WHEREAS**, pursuant to Miami Beach City Commission Resolution No. 2016-29358, passed and adopted on April 13, 2016, the City authorized the funding of the \$43,508.85 allocation, as follows: 1) \$26,371 from recaptured FY 2015-2016 SHIP funds; and 2) \$17,138 from recaptured FY 2014-2015 SHIP funds from prior years' homebuyer agreements; and

**WHEREAS**, Owner and the City have entered into three separate SHIP Agreements of even date (the "SHIP Agreements"), with respect to FY 2014-2015 SHIP funds, in the amount of \$91,955.15; FY 2014-2015 SHIP funds, in the amount of \$17,138; and FY 2015-2016 SHIP funds, in the amount of \$26,371; and

**WHEREAS**, the SHIP Agreements memorialize the terms and conditions of said SHIP funds, and which funds are committed to be utilized by Owner in the rehabilitation of the Premises to accomplish the stated purposes of the Project; and

**WHEREAS**, the City desires, and Owner hereby acknowledges and agrees, to impose certain provisions of the SHIP Agreements as covenants and restrictions upon the Premises and any improvements located or hereinafter to be made thereon.

**NOW, THEREFORE**, Owner voluntarily covenants and agrees that the Premises located in the City of Miami Beach, Miami-Dade County, Florida, and legally described in **Exhibit "A"** attached hereto, shall be subject to the following restrictions that are intended and shall be deemed to be covenants running with the land and binding upon Owner, and its successors in interest and assigns, as follows:

1. The findings set forth in the Recitals of this Covenant are hereby adopted by reference and incorporated herein as if fully set forth in this Section.

2. The City of Miami Beach (City) funds, in the amount of One Hundred Thirty-Five Thousand Four Hundred Sixty-Four Dollars and 15/100 (\$135,464.15) (the "Funds"), are committed to be utilized by the Owner in the rehabilitation of the Premises, in order to provide affordable housing for tenants that is consistent with the rules and regulations promulgated by the State of Florida/Florida Housing Finance Corporation, as same may be amended from time to time; and the rents charged and the tenants thereof shall qualify under the rules and regulations promulgated by the State of Florida, as same may be amended from time to time. In consideration of these funds, the Premises shall be subject to the following restrictions for a period of thirty (30) years (Affordability Period), which period shall commence upon the date of issuance by the City of Miami Beach Building Department of a Final Certificate of Completion for the renovation and rehabilitation of the Premises for the stated use and purposes contemplated by the Project.

3. Restrictive Covenants. Owner shall be subject to the following covenants and restrictions:

(i) Owner must use the Premises as an affordable rental property for a thirty (30) year period, commencing from the date of issuance by the City of Miami Beach Building Department of a Final Certificate of Completion for the construction of the Premises (the "Affordability Period"), and the rents charged and the tenants thereof must qualify under the rules and regulations promulgated by the State of Florida/Florida Housing Finance Corporation, as same may be amended from time to time. In order to further ensure the enforcement of this Section (3), Owner hereby recognizes, agrees, authorizes, and covenants that the Premises shall not be sold, transferred, disposed of, or otherwise conveyed, except upon prior approval of the City, as provided herein.

(ii) If at any time during the Affordability Period, the Premises are no longer used as an affordable rental property by the Owner, then the Owner will be required to re-

pay the Funds, in full, together with all interest thereon, and any and all other amounts as may then be or become due pursuant to the SHIP Agreements.

(iii) The Funds, together with all interest thereon, and any and all other amounts which may become due and payable to the City under the SHIP Agreements, shall remain a lien superior in dignity to all other subsequent liens, titles, claims, Agreements, and/or other encumbrances, until satisfied in the manner provided in this Covenant, or in the SHIP Agreements.

4. **IT IS SPECIFICALLY ACKNOWLEDGED BY THE PARTIES HERETO THAT THE PREMISES ARE TO BE USED, OPERATED, AND MAINTAINED ONLY AS AN AFFORDABLE HOUSING RESIDENTIAL RENTAL PROPERTY, AND FOR NO OTHER PURPOSE. USE OF THE PREMISES FOR PURPOSES OTHER THAN AS AN AFFORDABLE HOUSING RESIDENTIAL RENTAL PROPERTY SHALL BE DEEMED A DEFAULT UNDER SECTION 3 HEREOF.**

5. The foregoing covenants and restrictions shall be considered and construed as covenants and restrictions running with the land, and the same shall bind all persons claiming ownership of all, or any portion of, the Premises. The Owner hereby acknowledges and agrees that the City is intended to be the sole beneficiary of this Covenant, and nothing in this Covenant shall confer upon any person or entity, other than the City, any rights or remedies under or by reason of this Covenant.

6. The Owner shall not release or amend this Covenant without the prior written consent of the City.

7. Invalidation of any of these covenants by a court of competent jurisdiction shall in no way affect any of the other covenants, which shall remain in full force and effect.

8. This Covenant shall be recorded in the Public Records of Miami-Dade County, Florida, at the cost of the Owner.

9. It is understood and agreed that, upon 48 hours prior notice, any official of the City may have the right at any time during normal working hours of entering and investigating the use of the Premises, to determine whether the conditions of this Covenant and the requirements set forth herein, are being complied with.

10. An action to enforce the terms and conditions of this Covenant may be brought by the City and may be by action at law or in equity against any party or person violating or attempting to violate any provision of this Covenant, either to restrain violations or to recover damages. The prevailing party in the action or suit shall be entitled to recover costs and reasonable attorneys' fees, at all levels of trial and appeal. This enforcement provision shall be in addition to any other remedies available under the law.

11. This Covenant is to be construed in all respects and enforced according to the laws of the State of Florida. This Covenant shall be governed by, and construed in accordance with, the laws of the State of Florida, both substantive and remedial, without regard to the principles of conflict of laws. The exclusive venue for any litigation arising out of this Covenant shall be Miami-Dade County, Florida, if in State court, on the U.S. District Court, Southern District of Florida, if in federal court.

IN WITNESS WHEREOF, the Owner has hereunto caused these presents to be signed and, attested by the respective witnesses on this 30 day of June, 2016.

WITNESSES:

Print Name: Dorina Gunther

Print Name: Justina Valle

OWNER:

MBCDC/THE JEFFERSON, INC., a Florida not-for-profit corporation, a/k/a MBDC/THE JEFFERSON CORPORATION

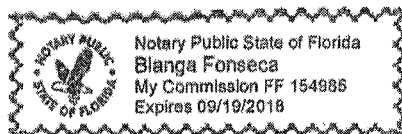
By: Beatriz Cuence-Barbero

Name: Beatriz Cuence-Barbero

Title: President / Executive Director

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing Restrictive Covenant was acknowledged before me this 30 day of June, 2016, by Beatriz Cuence-Barbero as President / Executive Director MBCDC/The Jefferson, Inc., a Florida not-for-profit corporation, a/k/a MBDC/The Jefferson Corporation, on behalf of the corporation. He/she is personally known to me or has produced as identification.



Blanga Fonseca  
Name: Blanga Fonseca  
Notary Public, State of Florida at Large  
My commission expires: 9.19.2018

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

Dal Q. L.  
City Attorney

6/30/16  
Date

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

The Premises shall be defined as the real property (the Land) located at 542 Jefferson Avenue, Miami Beach, Florida, Miami-Dade County, Florida, and legally described as follows:

**Lot 3, Block 84, of OCEAN BEACH, FLA ADDITION NO. 3, according to the Plat thereof, as recorded in Plat Book 2, Page 81, of the Public Records of Miami-Dade County, Florida**

This Instrument Was Prepared By:  
Record and Return to:

Gisela Nanson Torres, Esq.  
Office of the City Attorney  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, Florida 33139

CFN: 20160390382 BOOK 30140 PAGE 2106  
DATE: 07/06/2016 02:20:54 PM  
MTG DOC 474.25  
INTANGIBLE 270.93  
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

### MORTGAGE AND SECURITY AGREEMENT

**THIS MORTGAGE AND SECURITY AGREEMENT** (the "Mortgage" executed this 30th day of June, 2016, by MBDCDC/THE JEFFERSON, INC., a Florida not-for-profit corporation, a/k/a MBDC/THE JEFFERSON CORPORATION, having its principal office located at 945 Pennsylvania Avenue, Miami Beach, Florida (the "Mortgagor") and the **CITY OF MIAMI BEACH**, a Florida municipal corporation (the "Mortgagee"), whose address is 1700 Convention Center Drive, Miami Beach, Florida 33139.

#### WITNESSETH:

That for valuable consideration, and also in consideration of the aggregate sum of money described in the SHIP Agreement for the FY 2014-2015 SHIP funds, in the amount of \$91,955.15; SHIP Agreement for the FY 2014-2015 SHIP funds, in the amount of \$17,138; and SHIP Agreement for the FY 2015-2016 SHIP funds, in the amount of \$26,371 (collectively, the "SHIP Agreements"), executed by Mortgagor in favor of Mortgagee, in the total original principal amount of **\$135,464.15** (the "Funds" provided from the State Housing Initiatives Partnership ("SHIP") Program); including the corresponding Promissory Note (the "Note") and Declaration of Restrictive Covenants (the "Declaration of Restrictive Covenants"), all executed by Mortgagor in favor of Mortgagee relating to the SHIP Agreements, of even date herewith, the Mortgagor does grant, bargain, sell, alien, remise, release, convey and confirm unto the Mortgagee, in fee simple a lien upon and security interest in that certain parcel of real property located in Miami-Dade County, Florida, which is described in Exhibit "A" attached hereto and made a part hereof. Hereinafter said real estate, buildings, improvements (including improvements to be made hereafter), fixtures herein below described and located on said real estate are sometimes collectively referred to as the "Premises".

That the Warranty Deed, dated May 7, 1997, and recorded in O.R. Book 17663, Page 4674, of the Public Records of Miami-Dade County, Florida contained a scrivener's error in Owner's name, in that, the deed depicts Owner's name as MBDC/The Jefferson Corporation, instead of MBDCDC/The Jefferson, Inc. and they are one and the same.

**TO HAVE AND TO HOLD** the Premises and all parts, rights, members and appurtenances thereof, to the use, benefit and behalf of the Mortgagee, its successors and assigns in fee simple forever, and the Mortgagor covenants that the Mortgagor is lawfully seized and possessed of the Premises in fee simple and has good right to convey the same, and that the Mortgagor will warrant and defend the title thereto against the claims of all persons whomsoever, except as hereinafter expressly provided.



**PROVIDED ALWAYS** that if the Mortgagor shall pay unto the Mortgagee all sums required under the terms of the Note, and shall comply with and abide by each and every one of the stipulations, agreements, conditions and covenants contained in the SHIP Agreements, the Declaration of Restrictive Covenants, and as further contained herein, then in such event this Mortgage and the estate hereby created shall cease and be null and void.

The Mortgagor covenants with the Mortgagee as follows:

I.

1. Payment of Indebtedness and Compliance with SHIP Agreements and Declaration of Restrictive Covenants. The Mortgagor will pay the Note according to the terms thereof and all other sums secured hereby promptly as the same shall become due. Additionally, Mortgagor shall comply with all of the terms and conditions of the SHIP Agreements and Declaration of Restrictive Covenants.
2. Taxes, Liens and Other Charges.
  - (a) In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of debts secured by mortgages or the manner of collecting taxes so as to affect adversely the Mortgagee, the Mortgagor will promptly pay any such tax; if the Mortgagor fails to make such prompt payment or if any such state, federal, municipal or other governmental law, order, rule or regulation prohibits the Mortgagor from making such payment or would penalize the Mortgagee from making such payment or would penalize the Mortgagee if the Mortgagor makes such payment, then the entire balance of the principal sum secured by this Mortgage and all interest accrued thereon shall, without notice, immediately become due and payable at the option of the Mortgagee.
  - (b) The Mortgagor will pay, before the same become delinquent, all taxes, liens, assessments and charges of every character already levied or assessed or that may hereafter be levied or assessed upon or against the Premises and all utility charges, whether public or private; and upon demand will furnish the Mortgagee receipted bills evidencing such payment.
  - (c) The Mortgagor will not suffer any mechanic's, materialmen's, laborer's, statutory or other lien which might or could be prior to or equal to the security interest and mortgage liens of this Mortgage to be created or to remain outstanding upon any part of the Premises.
3. Intentionally Deleted.
4. Insurance. The Mortgagor will keep all buildings and improvements now or hereafter on the Premises insured against loss or damage by fire, extended coverage and other perils, and agrees to deliver said policy or policies to the Mortgagee when issued with the receipts for the payment of the premium therefore; and in the event any sum of money becomes payable under such policy or policies, the Mortgagee shall permit the Mortgagor to receive and use it, or any part thereof, for repair or restoration of the Premises, subject to terms reasonably acceptable to Mortgagee, without thereby waiving

or impairing any equity, lien or right under or by virtue of this Mortgage; and the Mortgagee if it deems necessary may place and pay for such insurance, or any part thereof, without losing, waiving or affecting Mortgagee's option to foreclose for breach of this covenant, or any part thereof, or any right or option under this Mortgage, and every such payment shall bear interest from date thereof until paid at the Default Interest Rate (as defined in the Note), and all such payments with interest as aforesaid shall be secured by the lien hereof. In the event any loss or damage is suffered, Mortgagor shall notify Mortgagee of such loss or damage within seven (7) days after the happening thereof; the failure to give such notice shall constitute a default and the Mortgagee shall have the rights herein given for all defaults.

5. Care of Premises.

- (a) The Mortgagor will keep the improvements now or hereafter erected on the Premises in good condition and repair, will not commit or suffer any waste and will not do or suffer to be done anything which will increase the risk of fire or other hazard to the Premises or any part thereof.
- (b) The Mortgagor will not remove or demolish nor alter the design or structural character of any building (now or hereafter erected), fixture or chattel which are part of the security or other part of the Premises without the prior written consent of the Mortgagee.
- (c) If the Premises or any part thereof is damaged by fire or any other cause, the Mortgagor will give written notice of the same to the Mortgagee.
- (d) The Mortgagee or its representative is hereby authorized to enter upon and inspect the Premises at any time during normal business hours.
- (e) The Mortgagor will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Premises or any part thereof.
- (f) If all or any part of the Premises shall be damaged by fire or other casualty, the Mortgagor will, upon request of the Mortgagee, promptly restore the Premises to the equivalent of its condition immediately prior to such damage, and if a part of the Premises shall be damaged through condemnation, the Mortgagor will, upon request of Mortgagee, promptly restore, repair or alter the remaining part of the Premises in a manner reasonably satisfactory to the Mortgagee.

6. Further Assurances; Modifications. At any time, and from time to time, upon the reasonable request by the Mortgagee, the Mortgagor will make, execute and deliver or cause to be made, executed and delivered, to the Mortgagee, any and all other further instruments, certificates and other documents as may, in the opinion of the Mortgagee, be necessary or desirable in order to effectuate, complete, or perfect or to continue and preserve (i) the obligations of the Mortgagor under the SHIP Agreements, the Note, and corresponding Declaration of Restrictive Covenants, (ii) the security interest of this Mortgage, and (iii) the mortgage lien hereunder.

7. Expenses. The Mortgagor will pay or reimburse the Mortgagee for all reasonable attorney's fees, costs and expenses, of any action, legal proceeding or dispute of any

kind in which the Mortgagee is victorious, affecting the indebtedness secured hereby, this Mortgage or the interest created herein, or the Premises, including but not limited to the foreclosure of this Mortgage, any condemnation action involving the Premises or any action to protect the security hereof; and any such amounts paid by the Mortgagee shall be secured by this Mortgage.

8. Estoppel Affidavits. The Mortgagor, upon ten (10) days prior written notice, shall furnish the Mortgagee with a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the indebtedness secured hereby and whether or not any off-sets or defenses exist against such principal and interest. The Mortgagee shall provide a similar estoppel affidavit to Mortgagor, upon ten (10) days prior written notice to Mortgagee.
9. Performance by Mortgagee of Defaults by Mortgagor. If the Mortgagor shall default in the payment of any tax, lien, assessment or charge levied or assessed against the Premises; in the payment of any utility charge, whether public or private; in the payment of any insurance premium; in the procurement of insurance coverage and the delivery of the insurance policies required hereunder; in the performance of any covenant, term or condition of any leases affecting all or any part of the Premises; or in the performance or observance of any covenant, condition or term of this Mortgage; then the Mortgagee, at its option, may perform or observe the same, and all payments made or costs incurred by the Mortgagee in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by the Mortgagor to the Mortgagee. The Mortgagee is hereby empowered to enter and to authorize others to enter upon the Premises or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to the Mortgagor or any other person in possession holding under the Mortgagor.
10. Condemnation. If all or any material part of the Premises shall be damaged or taken through condemnation (which term when used in this Mortgage shall include any damage or taking by any governmental authority, and any transfer by private sale in lieu thereof), either temporarily or permanently, the entire indebtedness secured hereby shall at the option of the Mortgagee, become immediately due and payable. The Mortgagee shall be entitled to all compensation awards, and other payments or relief therefore and is hereby authorized, at its option, to commence, appear in and prosecute, in its own or the Mortgagor's name, any action or proceeding relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by the Mortgagor to the Mortgagee, who, after deducting there from all its expenses, including attorney's fees, may release any moneys so received by it to Mortgagor without affecting the lien of this Mortgage or may apply the same to the reduction of the sums secured hereby, and to any prepayment charge herein provided, and any balance of such moneys then remaining shall be paid to the Mortgagor. The Mortgagor agrees to execute such further assignments of any compensation, awards, damages, claims, rights of action and proceeds as the Mortgagee may reasonably require. Notwithstanding the foregoing, Mortgagee shall allow any proceeds or other sums payable from a condemnation proceeding to be applied for restoration of the Premises, subject to such terms and conditions as are reasonably satisfactory to Mortgagee.
11. Hazardous Waste Storage. The Mortgagor covenants with the Mortgagee that the Premises have not been used and will not be used in whole or in part for the storage of

hazardous waste other than in accordance with all applicable governmental requirements.

## II.

1. Default. A default shall have occurred hereunder if:
  - (a) The Mortgagor shall fail to pay in full within fifteen (15) days from when due any installment of principal, interest, or late charges required by the Note, this Mortgage or any other Loan Document (as defined in this Article, Section 1(b));
  - (b) The Mortgagor shall fail to duly observe on time any covenant, condition or agreement of the Mortgage or of any other instrument evidencing, securing or executed in connection with the indebtedness secured hereby, (herein this Mortgage, the Note, the SHIP Agreements, the Declaration of Restrictive Covenants, and said other instruments are sometimes collectively called the "Loan Documents") and such failure remains uncured for a period of thirty (30) days after notice thereof shall have been given by the Mortgagee to the Mortgagor (or for an extended period as may be approved by Mortgagee, through the City Manager, in his sole discretion, if such default stated in such notice can be corrected, but not within such thirty (30) day period, and if the Mortgagor commences such correction within such thirty (30) day period and thereafter diligently pursues the same to completion within such extended period); or
  - (c) Any warranties or representations made or agreed to be made in any of the Loan Documents shall be breached by the Mortgagor or shall prove to be false or misleading in any material respect; or
  - (d) Any lien for labor or material or otherwise shall be filed against the Premises, and such lien is not canceled, removed, transferred, or bonded off within thirty (30) days; or
  - (e) A levy shall be made under any process on, or a receiver be appointed for, the Premises or any other property of the Mortgagor; or
  - (f) The Mortgagor shall file a voluntary petition in bankruptcy, or any other petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation or similar relief for the Mortgagor under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtor; or
  - (g) The Mortgagor shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Mortgagor or of all or any part of the Premises or of any or all of the rents, revenues, issues, earnings, profits or income thereof; or
  - (h) The Mortgagor shall make any general assignment for the benefit of creditors; or
  - (i) In any legal proceeding the Mortgagor shall be adjudged to be insolvent or unable to pay the Mortgagor's debts as they become due; or

- (j) The Mortgagor shall do, or shall omit to do, any act, or any event shall occur, as a result of which any obligation of the Mortgagor, not arising hereunder, may be declared immediately due and payable by the holder thereof; or
  - (k) An Event of Default occurs under the terms of the Loan Documents; or
  - (l) Cross-Default. A default by Mortgagor under any of the SHIP Agreements (as defined herein) that occurs and continues beyond any applicable cure period, shall automatically be deemed a default which continued beyond any applicable cure period under all such SHIP Agreements.
2. Acceleration of Maturity. If a default shall have occurred hereunder, then the whole unpaid principal sum of the Funds secured hereby with interest accrued thereon shall, at the option of the Mortgagee, become due and payable without notice or demand, time being of the essence of this Mortgage and of the Note secured hereby; and no omission on the part of the Mortgagee to exercise such option when entitled so to do shall be considered as a waiver of such right.
3. Right of Mortgagee to Enter and Take Possession.
- (a) If any default shall have occurred and be continuing beyond any applicable grace period, the Mortgagor, upon demand of the Mortgagee, shall forthwith surrender to the Mortgagee the actual possession of the Premises and if, and to the extent permitted by law, the Mortgagee may enter and take possession of the Premises and may exclude the Mortgagor and the Mortgagor's agents and employees wholly therefrom.
  - (b) For the purpose of carrying out the provisions of this paragraph, the Mortgagor hereby constitutes and appoints the Mortgagee the true and lawful attorney in fact of the Mortgagor to do and perform, from time to time, any and all actions necessary and incidental to such purpose and does, by these presents, ratify and confirm any and all actions of said attorney in fact in the Premises.
  - (c) Whenever all such defaults have been cured and satisfied, the Mortgagee shall surrender possession of the Premises to the Mortgagor, provided that the right of the Mortgagee to take possession, from time to time, pursuant to this subparagraph shall exist if any subsequent default shall occur and be continuing.
4. Appointment of a Receiver and Foreclosure.
- (a) If a default shall have occurred hereunder, then the whole indebtedness secured by this Mortgage, with all interest thereon, and all other amounts hereby secured shall, at the option of Mortgagee, become immediately due and payable, and may forthwith or at any time thereafter be collected by suit at law, foreclosure of or other proceeding upon this Mortgage or by any other proper, legal or equitable procedure without declaration of such option and without notice.
  - (b) Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of

application for such receiver and without regard to the then value of the Premises. Such receiver shall have power to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit, and in case of a sale and a deficiency, during the full statutory period of redemption, if any, whether there be redemption or not, as well as during any further times when Mortgagor except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period.

- (c) Mortgagor shall deliver to Mortgagee at any time on its request, upon 48 hours prior notice, all agreements for deed, contracts, leases, abstracts, title insurance policies, muniment of title, surveys and other papers relating to the Premises, and in case of foreclosure thereof and failure to redeem, the same shall be delivered to and become the property of the person obtaining a deed to the Premises by reason of such foreclosure.
- 5. Discontinuance of Proceedings and Restoration of the Parties. In case the Mortgagee shall have proceeded to enforce any right or remedy under this Mortgage by receiver, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adverse to the Mortgagee, then and in every such case the Mortgagor and the Mortgagee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of the Mortgagee shall continue as if no such proceeding had been taken.
- 6. Remedies Cumulative. No right, power or remedy conferred upon or reserved by the Mortgagee by this Mortgage is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

### III.

- 1. Successors and Assigns Included in Parties. Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such parties shall be included and all covenants and agreements contained in this indenture by or on behalf of the Mortgagor and by or on behalf of the Mortgagee shall bind and inure to the benefit of their respective heirs, legal representatives, successors and assigns, whether so expressed or not. Provided, however, that the Mortgagor shall have no right to assign its obligations hereunder without the prior written consent of the Mortgagee, which consent shall not be unduly withheld, conditioned or delayed.
- 2. Headings. The headings of the sections, paragraphs and subdivisions of this Mortgage are for the convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof.
- 3. Invalid Provisions to Affect No Others. If fulfillment of any provision hereof or any transaction related hereto or to the Note, at the time performance of such provisions shall be due, shall involve transcending the limit of validity prescribed by law, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity; and if any

clause or provision herein contained operates or would prospectively operate to invalidate this Mortgage in whole or in part, then such clause or provision only shall be held for naught, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect. Notwithstanding any provision contained herein, the total liability of Mortgagor for payment of interest, including service charges, penalties or any other fees pursuant to this Agreement, shall not exceed the maximum amount of such interest permitted by applicable law to be charged, and if any payments by Mortgagor include interest in excess of the maximum allowable amount then said excess shall be applied to the reduction of the unpaid Funds due pursuant hereto.

4. Number and Gender. Whenever the singular or plural number, masculine or feminine or neuter gender is used herein, it shall equally include the other.
5. Future Advances. (Any loan of money from Mortgagee to Mortgagor made from the date hereof). The total amount of the loan from Mortgagee to Mortgagor may decrease or increase from time to time, but the total unpaid aggregate balance secured by this Mortgage at any one time shall not exceed **\$135,464.15**, plus interest thereon and any disbursements made for the payment of taxes, levies, insurance or other liens on the Premises, with interest on such disbursements.

#### IV.

1. Notice. Any notice or other communication required or permitted to be given hereunder shall be sufficient if in writing and delivered in person or sent by United States Certified Mail, postage prepaid, to the parties being given such notice at the following addresses:

MORTGAGOR: MBCDC/The Jefferson, Inc.  
945 Pennsylvania Avenue  
Miami Beach, FL 33139  
Attention: Executive Director

With a copy to: Legal Services of Greater Miami, Inc.  
Attention: Shahrzad Emami  
3000 Biscayne Boulevard, Suite 500  
Miami, Florida 33137

MORTGAGEE: CITY OF MIAMI BEACH  
1700 Convention Center Drive  
Miami Beach, Florida 33139  
Attention: City Manager

With a copy to: CITY OF MIAMI BEACH  
Office of Housing & Community Services  
1700 Convention Center Drive  
Miami Beach, Florida 33139  
Attention: Director

Any party may change said address by giving the other parties hereto notice of such change of address. Notice given as hereinabove provided shall be deemed given on the date of its deposit in the United States Mail and, unless sooner received, shall be deemed received by the party to whom it is addressed on the third calendar day following the date on which said notice is deposited in the mail, or if an courier system is used, on the date of delivery of the notice.

V.



1. Assignment of Rents and Leases. If Mortgagor defaults under this Agreement, as of the time of default, Mortgagor shall transfer, assign and set over unto Mortgagee all leases, if any, entered into by Mortgagor with respect to all or any part of the Premises, and all renewals, extensions, subleases or assignments thereof, and all other written or oral occupancy agreements, by concession, license or otherwise, together with all of the rents, income, receipts, revenues, issues and profits arising there from. Mortgagee shall have, in addition to all other rights and remedies hereunder, those rights of a mortgagee under Florida Statutes Section 697.07, as now or hereafter in effect.
2. Security Agreement. This instrument also creates a security interest in any and all equipment and furnishings as are considered or determined to be personal property or fixtures, together with all replacements, substitutions, additions, products and proceeds thereof, in favor of the Mortgagee under the Florida Uniform Commercial Code to secure payment of principal, interest and other amounts due Mortgagee now or hereafter secured hereby, and Mortgagee shall also have all the rights and remedies of a secured party under the Florida Uniform Commercial Code, and without limitation upon or in derogation of the rights and remedies created and accorded to the Mortgagee by this Mortgage pursuant to the common law or any other laws of the State of Florida or any other jurisdiction, it being understood that the rights and remedies of Mortgagee under the Florida Uniform Commercial Code shall be cumulative and in addition to all other rights and remedies of Mortgagee arising under the common law or any other laws of the State of Florida or any other jurisdiction.
3. Choice of Law. This Mortgage is to be construed in all respects and enforced according to the laws of the State of Florida.
4. Binding Effect. This Mortgage shall be binding upon and inure to the benefit of the Mortgagor and Mortgagee hereto, and their respective heirs, successors and assigns.

[Signatures appear on following pages]




IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed on the date first above written.

WITNESSES:

  
Print Name: Dorina Gunther  
  
Print Name: Letricia Valle

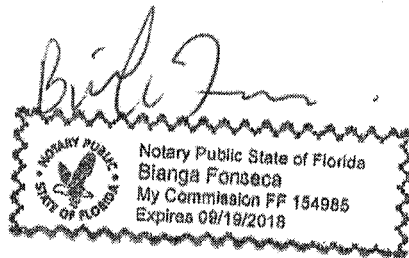
MORTGAGOR:

MBCDC/The Jefferson, Inc., a Florida not-for-profit corporation a/k/a MBDC/The Jefferson Corporation

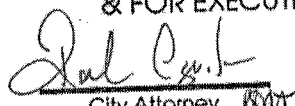

By:   
Name: Beatriz Luence Barba  
Title: President/Executive Director

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )  
STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing Mortgage was acknowledged before me this 30 day of June, 2016, by Beatriz Ariza Barba, President/Executive Director of MBCDC/The Jefferson, Inc., a Florida not-for-profit corporation, a/k/a MBDC/The Jefferson Corporation, on behalf of the corporation. ☒ He/she is personally known to me or ☐ has produced \_\_\_\_\_ as identification.



APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
City Attorney  Date 6/30/16

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**Lot 3, Block 84, of OCEAN BEACH, FLA ADDITION NO. 3, according to the Plat thereof, as recorded in Plat Book 2, Page 81, of the Public Records of Miami-Dade County, Florida**

## PROMISSORY NOTE

(\$135,464.15)

June 30, 2016  
Miami Beach, Florida

FOR VALUE RECEIVED the undersigned, **MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION**, a Florida not-for-profit corporation (hereinafter referred to as "MBCDC") and **MBCDC/THE JEFFERSON, INC.**, a Florida not-for-profit corporation, a/k/a **MBDC/THE JEFFERSON CORPORATION** (hereinafter referred to as "the Jefferson"), each having its principal office at 945 Pennsylvania Avenue, Miami Beach, Florida (MBCDC and The Jefferson shall be collectively referred to herein as the "Maker"); promise to pay to the order of the **CITY OF MIAMI BEACH**, a Florida municipal corporation, together with any other holder of this Promissory Note (the "Holder"), at 1700 Convention Center Drive, Miami Beach, Florida 33139, Attention: City Manager, or such other place as Holder may from time to time designate in writing, the principal sum of One Hundred Thirty-Five Thousand Four Hundred Sixty-Four Dollars and 15/100 (\$135,464.15) (the "Principal Amount"), to be paid in lawful money of the United States of America in accordance with the terms of this Promissory Note (the "Note").

This Note is secured by a Mortgage and Security Agreement (the "Mortgage") of even date herewith from The Jefferson, in favor of Holder, encumbering certain real property located in Miami-Dade County, Florida, consisting of a 27 unit residential apartment building located at 542 Jefferson Avenue (the "Property"). The foregoing Mortgage and Note and all other agreements, instruments and documents delivered in connection with the Mortgage and Note, including the SHIP Agreements (SHIP Agreement for FY 2014-2015 SHIP funds, in the amount of \$91,955.15; SHIP Agreement for FY 2014-2015 SHIP funds, in the amount of \$17,138; and SHIP Agreement for FY 2015-2016 SHIP funds, in the amount of \$26,371) and the Declaration of Restrictive Covenants, all of even date, are collectively referred to herein as the "Loan Documents."

The Jefferson is a wholly-owned subsidiary of MBCDC. The Jefferson and MBCDC have requested the SHIP funds, as memorialized in the Ship Agreements, and are jointly and severally liable for the Principal Amount under this Note.

This Note shall mature upon expiration of the Affordability Period (as said term is defined in the SHIP Agreements). So long as Maker is not in default of any of the Loan Documents, no principal payments shall be due during the "Affordability Period" and no interest shall accrue during the Affordability Period.

Notwithstanding anything to the contrary herein, Holder shall have the right to declare the total unpaid balance hereof to be immediately due and payable, together with interest at the Default Interest Rate, under the following circumstances: 1. upon the sale or transfer of the Property by the Maker during the Affordability Period; 2. upon the failure of Maker to comply with the Loan Documents, including, without limitation, the restrictive covenants incorporated in the SHIP Agreements and the Declaration of Restrictive Covenants; or 3. upon the occurrence of an event of default pursuant to any one of the Loan Documents now or hereafter evidencing, securing or guaranteeing payment of the indebtedness evidenced by this Note. Exercise of this right shall be without notice to Maker or to any other person liable for payment of this Note, as notice of such exercise is expressly waived.

Any payments made hereunder shall be applied first to unpaid costs of collection, servicing fees, and late charges, if any, then to accrued, deferred and unpaid interest and the balance, if any, to the principal balance.

This Note has been executed and delivered in, and is to be governed by and construed under the laws of, the State of Florida, as amended, except as modified by the laws and regulations of the United States of America.

The "Default Interest Rate" shall be eighteen percent (18%) per annum or the maximum interest rate allowed by law, whichever is less.

Any payment under this Note not paid when due (at maturity, upon acceleration or otherwise) shall bear interest at the Default Interest Rate from the date the Principal Amount, or portion thereof, is due until repaid to Holder.

Time is of the essence. In the event that this Note is collected by law or through attorneys at law, or under their advice therefrom, Maker agrees, to pay all costs of collection, including reasonable attorneys' fees, whether or not suit is brought, and whether incurred in connection with collection, trial, appeal, bankruptcy or other creditors proceedings or otherwise.

Acceptance of partial payments or payments marked "payment in full" or "in satisfaction" or words to similar effect shall not affect the duty of Maker to pay all obligations due under this Note, and shall not affect the right of Holder to pursue all remedies available to it under the Loan Documents.

The remedies of Holder shall be cumulative and concurrent, and may be pursued singularly, successively or together, at the sole discretion of Holder, and may be exercised as often as occasion therefore shall arise. No action or omission of Holder, including specifically any failure to exercise or forbearance in the exercise of any remedy, shall be deemed to be a waiver or release of the same, such waiver or release to be effected only to the extent specifically recited in a written document executed by Holder. A waiver or release with reference to any one event shall not be construed as continuing or as constituting a cause of dealing, nor shall it be construed as a bar to, or as a waiver or release of, any subsequent remedy as to a subsequent event.

Any notice to be given or to be served upon the Maker or the Holder in connection with this Note, whether required or otherwise, may be given in any manner permitted under the Loan Documents.

The term "other person liable for payment hereof" shall include any endorser, guarantor, surety or other person now or hereafter primarily or secondarily liable for the payment of this Note, whether by signing this or another instrument.

Whenever the context so requires, the neuter gender includes the feminine and/or masculine, as the case may be, and the singular number includes the plural, and the plural number includes the singular.

Maker and any other person liable for the payment hereof respectively, hereby (a) expressly waive any valuation and appraisal, presentment, demand for payment, notice of dishonor, protest, notice of nonpayment or protest, all other forms of notice whatsoever, and diligence in collection; and (b) consent that Holder may, from time to time and without notice to

any of them or demand, (i) extend, rearrange, renew or postpone any or all payments, (ii) release, exchange, add to or substitute all or any part of the collateral for this Note, and/or (iii) release Maker (or any co-maker) or any other person liable for payment hereof, without in any way modifying, altering, releasing, affecting or limiting their respective liability or the lien of any security instrument.

BY EXECUTING THIS NOTE, MAKER KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHTS OR THE RIGHTS OF ITS HEIRS, ASSIGNS, SUCCESSORS OR PERSONAL REPRESENTATIVES TO A TRIAL BY JURY, IF ANY, IN ANY ACTION, PROCEEDING OR SUIT, WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE, AND WHETHER ASSERTED BY WAY OF COMPLAINT, ANSWER, CROSSCLAIM, COUNTERCLAIM, AFFIRMATIVE DEFENSE OR OTHERWISE, BASED ON, ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS NOTE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT TO BE EXECUTED IN CONNECTION HERewith OR WITH THE INDEBTEDNESS OR THE RENEWAL, MODIFICATION OR EXTENSION OF ANY OF THE FOREGOING OR ANY FUTURE ADVANCE THEREUNDER. THIS PROVISION IS A MATERIAL INDUCEMENT FOR HOLDER'S EXTENDING CREDIT TO A BORROWER AND NO WAIVER OR LIMITATION OF HOLDER'S RIGHTS HEREUNDER SHALL BE EFFECTIVE UNLESS IN WRITING AND MANUALLY SIGNED ON HOLDER'S BEHALF.


Maker acknowledges that the above paragraph has been expressly bargained for by Holder as part of the transaction with Maker and that, but for Maker's agreement to such paragraph, Holder would not have loaned the Principal Amount to the Maker pursuant to the terms of this Note.

THE PROPER FLORIDA DOCUMENTARY STAMP TAX HAS BEEN PAID ON THIS NOTE AND EVIDENCE OF SUCH PAYMENT APPEARS ON THE MORTGAGE SECURING THIS NOTE.

IN WITNESS WHEREOF, Maker has executed this Note on the day and year first above written.

**MAKER:**

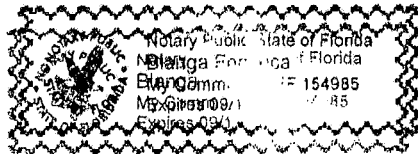
**MBCDC/THE JEFFERSON, INC.,** a Florida  
not-for-profit corporation

  
Beatriz Cuence Barbera President <sup>Executive Director</sup>  
Print Name/title

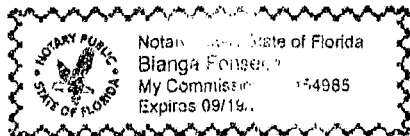
STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing Promissory Note was acknowledged before me this 30 day of June, 2016, by Belkis P. Gonzalez-Barbosa President + Director of MBCDC/The Jefferson, Inc., a Florida not-for-profit corporation on behalf of the corporation. He/she is personally known to me — or has produced — as identification.

Blanca Fonseca  
Name: Blanca Fonseca  
Notary Public, State of Florida at Large  
My commission expires: 9-19-2016



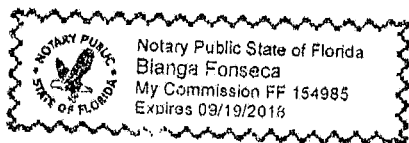
**MIAMI BEACH COMMUNITY  
DEVELOPMENT CORPORATION, INC.**  
a Florida not-for-profit corporation



Cornell Crews  
Cornell Crews, Chairman

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing Promissory Note was acknowledged before me this 30 day of June, 2016, by Cornell Crews, as Chairman of Miami Beach Community Development Corporation, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He/she is personally known to me — or has produced — as identification.



Blanca Fonseca  
Name: Blanca Fonseca  
Notary Public, State of Florida at Large  
My commission expires: 9-19-2016

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

Lawyer 2/30/16  
City Attorney AMT Date