



CFN 2013R0628689
OR Bk 28765 Pgs 3452 - 3481; (30pgs)
RECORDED 08/09/2013 11:34:59
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

This instrument prepared by, and after recording return to:

Name: Neisen O. Kasdin, Esq.
Address: Akerman Senterfitt
One Southeast Third Avenue
25th Floor
Miami, FL 33131

(Space reserved for Clerk)

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration"), made this 15th day of JANUARY, 2013, by 4701 North Meridian LLC ("4701 LLC"), Surprise Lake Partners LLC ("Surprise Lake LLC") and West 47th Court Associates LLC ("West 47th LLC and, together with 4701 LLC and Surprise Lake LLC, and collectively, the "Owner"), in favor of the City of Miami Beach, Florida, a municipality of the State of Florida ("City"), and Nautilus Area Homeowners Association, Inc., the Lake View Subdivision Homeowners Association, Inc., and the Orchard Park Association (the "Associations").

W I T N E S S E T H :

WHEREAS, the Owner holds fee-simple title to certain property in the City of Miami Beach, Florida, (i) located at 4701 North Meridian Avenue, Miami Beach, Florida, legally described in Exhibit "A" attached hereto and made a part hereof ("HD Property"), title to

which is held by 4701 LLC, (ii) certain parcels adjacent to West 48th Street, Miami Beach, Florida, legally described in Exhibit "B" attached hereto and made a part hereof ("RM-1 Property"), title to which is held by Surprise Lake LLC, (iii) certain parcels adjacent to West 47th Court and N. Meridian Avenue, Miami Beach, Florida, legally described in Exhibit "C" attached hereto and made a part hereof, title to which is held by West 47th LLC ("RS-4 Property"), and (iv) submerged lands adjacent to the HD Property and the RM-1 Property, Miami Beach, Florida, legally described in Exhibit "C-1" attached hereto and made a part hereof (the "Submerged Lands"), title to which is held by 4701, LLC (the HD Property, the RM-1 Property, the RS-4 Property and the Submerged Lands are hereby collectively referred to as the "Property");

WHEREAS, the Owner seeks to change the HD Property's comprehensive plan designation from PF-HD, "Public Facilities - Hospital District" to RM-1, "Low Density Multi Family Residential" (Land Use Element) and/or "Residential Multifamily, Low Intensity" (Future Land Use Map), and zoning classification from HD "Hospital District" to RM-1, "Residential Multifamily, Low Intensity" (Zoning District and Map) (together, "Comprehensive Plan and Zoning Amendments"); and



WHEREAS, the Owner is desirous of making a binding commitment to assure that the Property shall be developed in accordance with the provisions of this Declaration;

NOW, THEREFORE, the Owner voluntarily covenants and agrees that the Property shall be subject to the following restrictions that are intended and shall be deemed to be covenants running with the land and binding upon the Owner of the Property, its successors in interest and assigns, as follows:

1. The recitals and findings set forth in the preamble of this Declaration are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.

2. The maximum allowable height of three (3) Villas on the RM-1 Property shall not exceed thirty-three (33) feet above the base flood elevation and the remainder of the Villas shall not exceed thirty-six (36) feet above base flood elevation. Any mechanical equipment or other items identified in Subsection 142-116 (a) shall not be visible from 48th Street or the properties on Lake View Drive directly across the canal from the Villas.

3. The Property shall only be developed for residential use, with a maximum density of 137 total units, based on the following maximum density for each property: the maximum density of the HD Property shall not exceed 122 residential dwelling units; the maximum density of the RM-1 Property shall not exceed 8 residential



dwelling units; and the maximum density of the RS-4 Property shall not exceed 7 residential dwelling units. No portion of the Property may be developed, constructed or used for any commercial purpose, including, without limitation, a restaurant, coffee shop, or sundry shop, although a private dining club for the exclusive use of the residences would be allowed if permitted by the City. Any gym or spa may only be located in the HD Property and shall only be available as an amenity to residents of the Property; no public use of or membership in any gym or spa shall be permitted. Other than guests or invitees of the residents, there shall be no public access to spas, gyms, meeting rooms, banquet rooms, or any other facilities located within the HD Property. Additionally, no promoter, corporate or commercially sponsored or ticketed events will be permitted whether by resident, guest or invitee, and no "Special Events" pursuant to the Miami Beach City Code may be held on the Property and the Owner will not seek or authorize applications for such permits. Any such use of the Property and its facilities is subject to the provisions of this Declaration, including but not limited to the provisions of Paragraphs 9, 10 and 11 below.

4. Subject to the restrictions set forth in Paragraphs 2 and 3 above, subject to approval by the City of Miami Beach Design Review Board, the requirements of the Code of the City of Miami Beach, conditions imposed by permit and subject to the following

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restrictions, the Owner may develop up to eight (8) single-family villas on the RM-1 Property (each, a "Villa"):

- a) Each Villa shall be constructed upon a lot containing a minimum of 7,500 square feet of gross area;
- b) Each Villa shall be constructed upon a lot having a minimum width of fifty (50) feet;
- c) A maximum building height of the lesser of thirty-three (33) feet above base flood elevation for three (3) Villas and thirty-six (36) feet above base flood elevation for the remainder of the Villas, or three (3) stories;
- d) The third story of each Villa shall encompass no more than forty (40) percent of the allowable building footprint;
- e) A front yard setback of twenty (20) feet for the first story and thirty (30) feet for the second and third stories;
- f) The sum of the side interior yards shall be at least twenty-five (25) percent of the lot width;
- g) The rear setback shall be fifteen (15) percent of the lot depth, provided that the setback shall be no less than twenty (20) feet, and no more than fifty (50) feet;
- h) The floor area of each Villa shall not exceed 6,000 square feet of enclosed building area (excluding underground garage); and
- i) Although Villas are detached, they are joined by an underground garage.

Owner shall not develop the RM-1 Property with any improvements other than up to eight (8) Villas and an underground parking structure.

5. The Owner shall, at its own expense, and prior to the issuance of any certificate of use or occupancy for the Property, improve the existing green space located at the intersection of West 48th Street, West 47th Court, and Meridian Avenue, provided that the

City of Miami Beach agrees to the improvement and eliminates the existing metered parking adjacent to the Property. The green space shall be enlarged as described on the attached Exhibit "D" if approved by the appropriate governmental authorities.

6. Prior to the issuance of any certificate of use or occupancy for the Property, if authorized by the City of Miami Beach, and, if necessary, Miami-Dade County, the Owner shall reduce the width of West 48th Street, and construct a roadway median, improve landscaping, and expand sidewalks within the road right-of-way for the segments of West 48th Street and N. Meridian Avenue adjacent to the Property. As part of this proposed roadway reconfiguration, Owner shall also use reasonable commercial efforts to obtain the agreement of the Miami-Dade Transit agency to remove the bus stop currently located adjacent to the HD Property and relocate any bus routes currently serving the Property to Alton Road or other major arterial roads. Other than the proposed improved enlarged green space as discussed in paragraph 5 above, Owner shall not directly or indirectly propose or apply for the closure or vacation of the right of way, or any portion thereof, for West 48th Street between Alton Road and N. Meridian Avenue.

7. The Owner shall not be permitted to develop improvements on the Property intended for use as rental apartments. Without limiting the foregoing, the Owner's initial conveyance of



residential dwelling units on the Property shall be through an offering to the general public either as attached residential condominium units, or as fee simple villas or single-family homes, subject to the applicable government approvals.

8. Notwithstanding the restriction contained in Paragraph 7 of this Declaration, individual condominium unit owner(s) and individual Villa or single-family home owners may rent their units or homes, as applicable, provided that any such leases shall not be for a period of less than six (6) months and one day. There shall be no short term rentals, as defined by Section 142-905 (b)(5) and 142-1111 (a) of the Code of the City of Miami Beach, permitted anywhere on the Property at any time.

9. The Owner shall prohibit social functions on all outdoor decks and terraces between 11:00 P.M. and 8:00 a.m., seven (7) days a week. No outdoor bar counters shall be permitted on the common amenity pool deck on the Property.

10. The Owner shall prohibit all noise, as defined in Chapter 46, Article IV, "Noise" of the Code of the City of Miami Beach, Florida, as amended (the "noise ordinance"), including the use of speakers on all outdoor decks and terraces, the roof, and dock areas in a manner that is plainly audible at a distance of 100 feet from the building. The Owner shall prohibit all noise, as defined in the noise ordinance, including the use of all speakers on all outdoor



decks and terraces, the roof, and dock areas between the hours of 11:00 P.M. and 8:00 a.m., seven (7) days a week. Any outdoor speakers located on the HD Property that are not for emergency services shall be limited to ambient, background music only. "Ambient background music" means music, whether live or recorded, which does not interfere with normal conversation.

11. A violation of the noise ordinance shall be deemed a material violation of this Declaration of Restrictions and subject to the remedies as described in sections 46-158 through 46-160, Code of the City of Miami Beach, Florida, and/or the enforcement provisions of this Declaration. This provision applies to the entirety of the Property, including without limitation all outdoor decks and terraces, the roof, and any docks and boats moored at the docks.

12. The HD Property shall be developed substantially in accordance with the site plan approved by the City of Miami Beach Design Review Board at its January 8, 2013 hearing under Design Review File No. 22942 (the "HD Property Site Plan"). Notwithstanding the foregoing, the Owner may obtain approval from the Planning Director, or his designee, for minor modifications to an approved site plan (including the HD Property Site Plan) consistent with the procedures contained in Section 118-260 of the City's Code of Ordinances ("Section 118-260"). The Owner must obtain approval from



the Design Review Board for substantial modifications, which are those modifications not enumerated under Section 118-260(a)(1)-(8). However, unless this Declaration is modified consistent with Paragraph 18, the Owner shall not modify an approved site plan (including the HD Property Site Plan) by increasing density, floor area ratio, or height, or decreasing setbacks, parking spaces, or open space.

13. This Declaration supersedes all prior covenants and agreements running with the land.

14. Dock Conditions.

- ~~(a) Any docks (including slips, mooring, and/or finger piers) located on or adjacent to the HD or RM-1 Property, including the Submerged Lands, may only be sold or rented to owners or renters in the Property, while they maintain that status. Each dock or slip may only be sold or rented to a single owner or renter in the Property. Provided, however, that no docks can be sold to a renter in the Property, and docks may only be used by residents of the Property, their guests and invitees. Guests or invitees shall not use the docks or slips for a period in excess of seven (7) consecutive days and in no event more than thirty (30) days during any calendar year.~~
- (b) No commercial marina or docks shall be permitted on or adjacent to the Property.
- (c) The mooring of commercial vessels shall be strictly prohibited along the HD Property or the RM-1 Property, or on or adjacent to the Submerged Lands.
- (d) Only marginal docks shall be located on the Submerged Lands adjacent to the RM-1 Property and adjacent to the west 545 feet of the north boundary of the HD Property (hereinafter, the "N HD Property Boundary"). Such marginal docks shall be constructed parallel to the north boundary of the RM-1 Property, and parallel to the N HD Property Boundary, and such structures



shall not extend into the canal for a distance exceeding ten (10) feet from the seawall on the north edge of the RM-1 Property and the N HD Property Boundary. In addition, the seaward side yard setbacks for such marginal docks shall not be less than seven and one-half feet. Owner must obtain all necessary governmental approvals for such structures, but no application for a conditional use or other approval shall be filed to permit a marginal dock to extend beyond the maximum projection set forth in this subparagraph.

- (e) Only marginal docks shall be located on the Submerged Lands adjacent to the south 216 feet of the east boundary of the HD Property (hereinafter, the "SE HD Property Boundary"). Such marginal docks shall be constructed parallel to the SE HD Property Boundary, and such structures shall not extend into the canal or Surprise Lake for a distance exceeding ten (10) feet from the seawall on the east edge of the HD Property. Owner must obtain all necessary governmental approvals for such structures, but no application for a conditional use or other approval shall be filed to permit a marginal dock to extend beyond the maximum projection set forth in this subparagraph.
- (f) Finger piers and associated perpendicular mooring may be constructed on the Submerged Lands located between (i) the Submerged Lands located adjacent to the N HD Property Boundary, and (ii) the Submerged Lands located adjacent to the SE HD Property Boundary (such area is hereinafter referred to as the "Perpendicular Mooring Area"). Such structures may extend into Surprise Lake a distance not to exceed thirty-five (35) feet from the seawall; provided, however, mooring piles for each finger pier may be located at a distance not to exceed forty (40) feet from the seawall. Owner must obtain all necessary governmental approvals for such structures, but no application for a conditional use or other approval shall be filed to permit finger piers and associated perpendicular mooring to extend beyond the maximum projection set forth in this subparagraph.
- (g) No vessel shall be docked or moored so that its projection into the waterway would be beyond the following maximum permissible linear projections from the seawall: adjacent to the RM-1 Property, no more

than fifteen (15) feet; adjacent to the SE HD Property Boundary, no more than fifteen (15) feet; and adjacent to the Perpendicular Mooring Area, no more than forty (40) feet. No application for a conditional use or other approval shall be filed to permit any vessel to extend beyond the maximum projection set forth in this subparagraph.

- (h) The use of any dock for dockage, mooring, storage, servicing or launching of personal watercraft such as jet skis or waverunners shall be prohibited, unless buoys with signage limiting speed, prohibiting wake, and indicating "Manatee Zone" are permanently installed in Surprise Lake by the state or local governmental agency having jurisdiction.
- (i) The only lights permitted shall be those required by Miami-Dade County Department of Regulatory and Economic Resources - Division of Environmental Resources Management (RER-DERM) or its successor agency, the U.S. Coast Guard and any other permitting agency for navigational safety, including but not limited to navigational reflectors on the mooring piles. One electric light equipped with a motion sensor may be installed at the terminal platform for security purposes. Lights and reflectors shall be indicated on the plan and shall be subject to the review of staff prior to the issuance of a building permit, and shall be the minimum height and number required to meet the standards of RER-DERM, the U.S. Coast Guard, or any other permitting agency.
- (j) Lighting associated with, but not limited to, the dock, vessel or marine structures shall be installed in such a manner as to minimize glare and reflection on surrounding properties and not to impede navigation. All lighting shall be erected so as to direct light away from single family residences located across Surprise Lake or the canals from the Property.
- (k) No electric, hydraulic, manual or other type of davit, lift, sling, fixed or floating platform or other system designed to transport a boat, marine vessel or other watercraft between two water heights or above the water level shall be permitted on the docks, slips, finger piers and associated mooring located adjacent to the Property or on the Submerged Lands.

- (l) No more than one (1) vessel of any kind may be moored at each dock, slip or pier. Such vessel shall be registered in the name of the owner or renter of the dock, slip or pier.
- (m) No more than twenty-four(24) docks, slips or piers may be constructed adjacent to the RM-1 Property and the HD Property, or on the Submerged Lands. Provided, however, the total number of docks, slips or piers may be increased up to forty-one (41) upon Owner's compliance with both of the conditions set forth below:
 - (i) Owner shall obtain approval for, and shall install three (3) signs, each of which shall be substantially similar in size and content to the signs currently posted on bridges at the entrances to Surprise Lake, stating "Manatee Zone / Slow Speed / Minimum Wake ". One sign shall be posted at the west end of the marginal docks adjacent to the RM-1 Property and shall face north; one sign shall be posted on the marginal docks adjacent to the SE HD Property Boundary and shall face east; and one sign shall be posted at the end of a finger pier in the Perpendicular Mooring Area and shall face east.
 - (ii) Owner shall secure the establishment of a regular patrol program by marine law enforcement services, hereinafter referred to as "Services", which shall be in addition to the level of law enforcement services currently provided by the City of Miami Beach, Miami-Dade County, and the Florida Fish and Wildlife Conservation Commission, or their successor agencies. The Services shall specifically include a regular program for law enforcement officer(s) of any of the foregoing agencies (or a combination thereof) to patrol the waters of Surprise Lake a minimum of four (4) times between sunrise and sunset on Saturday, Sunday and holidays¹, and the enforcement of all applicable laws. The Services, within the Surprise Lake area, shall include, as applicable, enforcement of State

¹ Holidays shall include the following: New Year's Eve, New Year's Day, Martin Luther King's Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, and Christmas Day.



statutes, administrative rules, City and County ordinances related to vessel operation, marine resource protection, and manatee protection; assist in the investigation, apprehension, and prosecution of violators of existing boat and manatee protection speed zones; and assist through such enforcement in educating boaters about manatee and boater safety issues. In the event the Services are discontinued or the frequency of patrol decreases below the levels set forth in this subparagraph, all use of the additional docks, slips or piers permitted by these subparagraphs (m)(i) and (ii)(i.e., the docks, slips or piers added over and above the initial 24 slips) shall be subject to revocation or other remedy after hearing by a hearing officer designated by the City Manager, or other remedy determined by mediation between the parties to the Covenant.

- (n) Owner has submitted or will submit to all of the governmental agencies with permitting jurisdiction over dock construction, an application or applications (collectively, the "Marina Application") to locate eight (8) slips to be constructed as marginal mooring in the Submerged Lands adjacent to the RM-1 Property; twelve (12) slips to be constructed as marginal mooring in the Submerged Lands adjacent to the N HD Property Boundary; five (5) slips to be constructed as marginal mooring in the Submerged Lands adjacent to the SE HD Property Boundary; and sixteen (16) slips to be constructed as perpendicular mooring in the Perpendicular Mooring Area (collectively, the foregoing description of docks shall be referred to as the "Proposed Mooring Plan.") Construction of the Proposed Mooring Plan is contingent upon Owner's compliance with both of the conditions set forth in subparagraph 14(m), above. Owner will process the Marina Application with due diligence and in good faith (including agreeing to commercially reasonable mitigation of any adverse impacts) in order to obtain approvals of the Proposed Mooring Plan. If, after the Owner undertakes such efforts with due diligence and in good faith, any of the applicable governmental agencies refuse to approve the Proposed Mooring Plan,

due to the presence of benthic resources or other similar reasons, then the Perpendicular Mooring Area may be extended a maximum of forty (40) feet to the west along the north boundary of the HD Property, and a maximum of eighty-one (81) feet to the south along the east boundary of the HD Property, in order to allow construction of a maximum of forty-one (41) docks on the Submerged Lands adjacent to the Property. In such event, all other provisions of this Paragraph 14 shall be applicable to such construction, including but not limited to the provisions of Subparagraph 14(m), above.

15. Miscellaneous use and operational restrictions.

- (a) All outdoor lighting shall be directed away from single family residences located adjacent to or near the Property. Rooftop lighting fixtures shall be designed to deflect light from spilling over to adjacent and nearby properties. Nighttime illumination for any parking areas shall not exceed the minimum illumination required by code.
- (b) Valet parking for vehicles shall be exclusively for the use of residents of the Property, and their guests. ~~Valet drop-off and pick-up shall take place on the driveways located on the HD Property.~~
- (c) No residential condominium unit, Villa or single family home shall be used for commercial purposes, except for home-based businesses, as permitted by Section 142-1411 of the City of Miami Beach Code.
- (d) Except as may be required for Fire or Building Code/Life Safety Code purposes, no speakers other than for ambient background music shall be affixed to or otherwise located on the exterior of the Property.
- (e) The Owner shall submit an MOT (Maintenance of Traffic) to Public Works Department staff for review and approval prior to the issuance of any building permit for construction on the Property. The MOT shall address any traffic flow disruption due to construction activity on the site.
- (f) No more than sixteen (16) individually owned rooftop decks or terraces shall be constructed on the HD Property, as shown on the plans approved by the Design Review Board. Each rooftop deck or terrace shall only be accessible to the adjacent unit owner. No loudspeakers may be affixed to or otherwise located on

such rooftop deck or terrace. Railings for such decks or terraces shall be installed no closer than four (4) feet from the edge of such deck or terrace. No outdoor live music on the rooftop decks or terraces shall be permitted at any time, inclusive of percussion, musical instrument, or vocal. The rooftop decks or terraces, inclusive of any pool or spa and pool or spa deck, shall be for the exclusive use of residents of the Property and their invitees.

16. Construction management conditions. The following conditions in this Paragraph 16 shall apply to any construction activities on the Property:

- (a) Owner agrees that construction work associated with exterior demolition and foundation pours, shall be limited to Mondays - Fridays, during the permitted hours as defined by Section 46-156(a)(2)b, of the City of Miami Beach Code. None of the foregoing will take place during weekend hours. Provided, however, that demolition and foundation pours may occur on weekends if approved by the City after consultation with the Associations. Interior demolition and construction of the concrete shell is permitted on the weekend so long as the work does not create excess noise or dust, and complies with Section 46-156(a)(2)b.
- (b) During the concrete pouring and building of any concrete structural component of the project, the Owner agrees to maintain a designated person to assist with street clean-up and site maintenance. Owner will ensure that any debris associated with the foregoing will not be placed in any public right-of-way or neighboring properties.
- (c) During construction, the Owner will maintain waste receptacles on-site and will perform daily clean-ups and walk-throughs of the Property to ensure the job-site is maintained in a safe and sanitary condition.
- (d) Construction screens will be maintained around the Property, as necessary, to prevent materially adverse effects on neighboring properties. Although unlikely, any materially adverse effects of construction (dust,



splatter) on to neighboring properties will be cleaned-up in a timely manner (within 24 hours of occurrence or receiving notice of the necessity therefor, whichever is earlier) by the Owner designated individual.

- (e) Except as permitted by the MOT, no vehicles associated with the construction will be parked on the public right-of-way. The MOT will only allow major construction vehicles (3 axles or larger) to be parked within the public right-of-way and only if the Owner demonstrates that it is physically and economically unfeasible to park the vehicle within the Property.
- (f) Owner will assign a full-time superintendent to the construction, whose contact information will be provided to the Associations and owners of neighboring properties and who can be contacted to resolve any questions and address any concerns related to the construction. Such superintendent will have quarterly meetings with the Associations and owners of neighboring properties to be made aware of any concerns of such neighbors related to the construction activities.
- (g) During construction, Owner will provide nighttime security on the site.
- (h) Prior to commencing any substantial construction work, Owner shall submit a bond or other approved instrument to the City of Miami Beach for maintenance and security purposes in accordance with sections 118-801 through 118-803 of the Code of the City of Miami Beach.
- (i) Using commercially reasonable efforts, the Owner must cause to be buried the overhead utility lines on West 48th Street from Alton Road to North Meridian Avenue, and provide the underground connections to the affected residences fronting the same street, as long as the requirements (further outlined below), can be performed for \$200,000 or less. If this overhead to underground conversion is going to cost more than \$200,000, then the decision to proceed with the conversion will be up to the Owner, at its sole discretion, but if the Owner proceeds, ALL financial costs for the conversion, including those in excess of \$200,000 will be borne by Owner. While all of the utility lines going East from the cement utility pole on the North East corner of Alton Road and West 48th



street must be buried, the pole itself is not required to be removed. If the overall underground conversion cost is greater than \$200,000, and the Owner still decides to move ahead with the work, the responsibility of the Owner shall still include, but not be limited to, all work and all costs associated with removal of the utility poles, relocation of all of the utility cables and wires underground, including paying for all deposits, engineering study, fees, securing all permits, supplying all materials, equipment, machinery, paying for all costs incurred for construction/placement of new transformer boxes, all hook ups, structural work, digging, reconnection/rewiring of all lines underground to the affected houses, upgrading any necessary electrical connections/wiring for the affected homes and any and all work that is required to make the transfer of services complete, effective and fully functioning including repairing affected roadwork and landscaping in the aforementioned areas.

17. This voluntary Declaration shall remain in full force and effect and shall be binding upon the Owner, their successors in interest and assigns, for an initial period of thirty (30) years from the date this instrument is recorded in the public records, and shall be automatically extended for successive periods of ten (10) years, unless modified, amended or released as provided herein.

18. This Declaration may be modified, amended or released as to any portion of the Property by a written instrument executed by the then owners of the fee-simple title to the land to be affected by such modification, amendment or release providing that same has been approved by the City of Miami Beach City Commission, or such other board with jurisdiction over the matter, at a public hearing,

which public hearing shall be applied for by and at the expense of the Owners. In addition to the foregoing, no application for a modification, amendment or release of any provision of this Declaration shall be filed unless the Owner has (a) previously secured the written consent of sixty (60) percent of the owners of condominium units, villas and single-family homes within the Property; and (b) previously secured the written consent of sixty (60) percent of the owners of property located within three hundred fifty (350) feet of the Property; and (c) given written notice of the proposed modification, amendment or release to the Associations.

19. Should this instrument be so modified, amended or released the City Manager, or his successor, or other administrative officer with jurisdiction over the matter, shall execute a written instrument in recordable form effectuating and acknowledging such modification, amendment or release.

20. Invalidation of any provision of this Declaration by judgment of Court shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect.

21. This Declaration shall be executed by the Owner and all other required persons or entities, if any, and submitted to the City Attorney's Office to be held in trust pending adoption of the Comprehensive Plan and Zoning Amendments by the City Commission, and shall be recorded, at the cost of the Owner, in the Public Records



of Miami-Dade County, Florida, no later than five (5) days after the expiration of all appeal periods in which no appeals or other legal challenge has been filed. If an appeal or other legal challenge is instituted against the Comprehensive Plan or Zoning Amendment, then this Declaration shall be recorded within five (5) days of a final non-appealable decision of that appeal and/or challenge upholding the approval of the Comprehensive Plan and Zoning Amendments.

22. It is understood and agreed that any official of the City of Miami Beach has the right at any time during normal business hours to enter and investigate the use of the Property, to determine whether the conditions of this Declaration and the requirements of the City's building, zoning and land development regulations are being complied with.

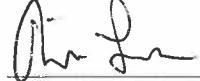
23. An action to enforce the terms and conditions of this Declaration may be instituted by the City, or by any property owner that is aggrieved or adversely affected, as defined in Section 163.3215(2), Florida Statutes (2012) (including that "[t]he alleged adverse interest may be shared in common with other members of the community at large but must exceed in degree the general interest in community good shared by all persons"), and/or the Associations, at law or in equity, against any party or person violating or attempting to violate any provision of this Declaration or provisions of the building, zoning or land development regulations,



either to restrain violations or to recover damages. The prevailing party in the action 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.

IN WITNESS WHEREOF, the undersigned have set their hand and seal this 15 day of January, 2013.

APPROVED



Planning Director

1-16-2013

Date

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

1-16-2013

Date



West 47th Court Associates LLC

Witnesses:

[Signature]
Print name: SANDRA KAHKURA

By:

[Signature]
Print Name: Ophir Steinberg
Title: Managing Member

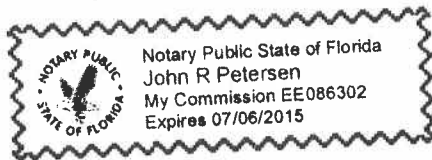
[Signature]
Print name: John Petersen

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

SS:

The foregoing instrument was acknowledged before me this 15th
day of January, 2013, by Ophir Steinberg.
He(she) personally appeared before me, is personally known to me or
produced _____ as identification, and did take an oath.

[NOTARIAL SEAL]



[Signature]
Notary
Print Name: John Petersen
Notary Public, State of Florida
My commission expires: EE086302

[Signature]

Witnesses:

4701 North Meridian LLC

[Signature]
Print name: SANDRA KAMAKURA

By:

Print Name:

Ophir Steinhilber

Title:

Managing Member of Operating Member

[Signature]
Print name: John Petersen

STATE OF FLORIDA)

SS:

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 15th
day of January, 2013, by Ophir Steinhilber.
He(she) personally appeared before me, is personally known to me or
produced _____ as identification, and did take an oath.

Notary

Print Name:

John Petersen

Notary Public, State of

Florida

My commission expires:

FE086302

[NOTARIAL SEAL]

Notary Public State of Florida

John R Petersen

My Commission EE086302

Expires 07/06/2015

Witnesses:

Surprise Lake Partners LLC

[Signature]
Print name: SANDRA KATAKORA

By: [Signature]

Print Name: Ophir Sternberg

Title: Managing Member of operating Member

[Signature]
Print name: John Petersen

STATE OF FLORIDA)

SS:

COUNTY OF MIAMI-DADE)

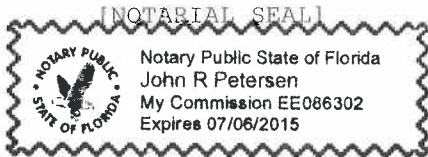
The foregoing instrument was acknowledged before me this 15th
day of January, 2013, by Ophir Sternberg.
He(she) personally appeared before me, is personally known to me or
produced _____ as identification, and did take an oath.

[Signature]
Notary

Print Name: John Petersen

Notary Public, State of Florida

My commission expires: EE 086302



1

IN WITNESS WHEREOF, the undersigned has set his hand and seal
this 15th day of January, 2013.

City National Bank of Florida

By: _____
Name: William T. Gallagher
Title: Senior Vice President

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

The foregoing instrument was acknowledged before me this 15th day of January, 2013 by William T. Gallagher, in his capacity as Senior Vice President of City National Bank of Florida. He personally appeared before me and is personally known to me or produced _____ as identification and did take an oath.

[NOTARIAL SEAL]

Notary [Signature]
Print Name: _____
Notary Public, State of FLA
My commission expires: _____

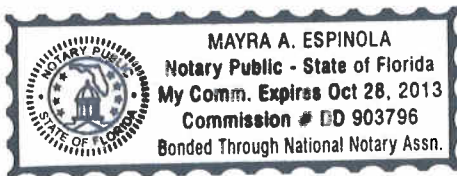


EXHIBIT "A"

Legal Description of HD Property

Lots 8 through 16, Block 10, Nautilus Addition, according to the Plat thereof, recorded in Plat Book 8, Page 130, Public Records of Dade County, Florida.

A handwritten signature in black ink, appearing to be the initials 'JB' or similar, located in the bottom left corner of the page.A handwritten signature in blue ink, appearing to be the initials 'JA' or similar, located in the bottom right corner of the page.

EXHIBIT "B"

Legal Description of RM-1 Property

Lots 1 through 7, Block 10, Nautilus Addition, according to the Plat thereof, recorded in Plat Book 8, Page 130, Public Records of Dade County, Florida.

A handwritten signature in black ink, appearing to be the initials 'AB' or similar, located at the bottom left of the page.A handwritten signature in blue ink, appearing to be the initials 'JH' or similar, located at the bottom right of the page.

EXHIBIT "C"

Legal Description of RS-4 Property

Lots 11 through 17, Block 13, NAUTILUS ADDITION, Plat Book 8, Page 130 of the Public Records of Miami-Dade County, Florida.



EXHIBIT C-1

The following legal description of the Submerged Lands is taken from Exhibit "A" to that certain Quitclaim Deed from Mount Sinai Medical Center of Florida, Inc. to 4701 North Meridian, LLC, dated February 8, 2012, and recorded in Official Records Book 27993 at page 3946 of the Public Records of Miami-Dade County, Florida:

A parcel of submerged land being the Other Property's (as defined below) proportionate share of the water bodies adjacent to the Other Property, the inner boundary of which is coincident with the face of the seawall which runs along the Northwesternly, Northerly and Northeastly boundaries of the Other Property, the Northwesternly boundary being the Northeastly prolongation of the Northwesternly line of Lot 1, Block 10 of said Other Property, the Southeastly boundary being the Northeastly prolongation of the Southeastly line of Lot 16, Block 10 of said Other Property and the outer boundary of which extends out at least 35 feet from the face of the seawall which runs along the Northwesternly, Northerly and Northeastly boundaries of the Other Property, as measured at right angles to the face of said seawall.

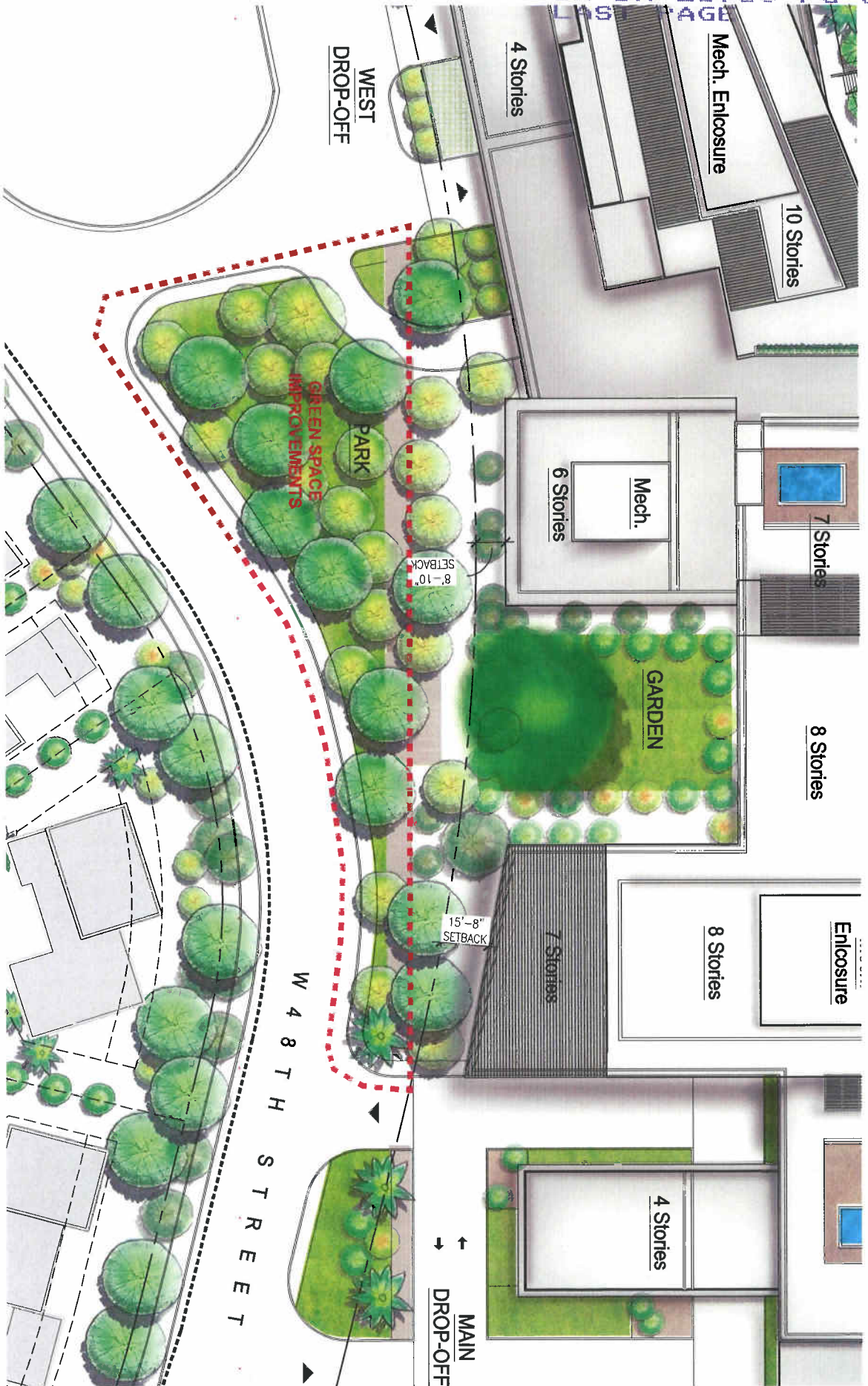
As used herein, the term "Other Property" shall mean the following property (which is not included in the conveyance under this Quitclaim Deed): (i) Lots 9 through 16, inclusive, in Block 10, of NAUTILUS ADDITION, according to the Plat thereof, as recorded in Plat Book 8, Page 130, Public Records of Miami-Dade County, Florida; and (ii) Lots 1 through 8, inclusive, in Block 10, of NAUTILUS ADDITION, according to the Plat thereof, as recorded in Plat Book 8, Page 130, Public Records of Miami-Dade County, Florida.

EXHIBIT "D"

[Plan showing green space enlargement per para. 5.]

F:\ATTO\HELG\Forms covenants\Covenants\Miami Heart\Declaration of Restrictive Covenant 10-3-12 rev.doc

JA



PROJECT #: 12035.00



Enlarged Site Plan

ADD Inc ARCHITECTURE + DESIGN

One Biscayne Tower Suite 1670
Two South Biscayne Blvd, Miami, FL 33131
T 305.482.6700
www.addinc.com

Lic# AA-6001507
Jonathan Cardello
Lic# AP93381

MIAMI HEART

4701 N MERIDIAN AVE MIAMI BEACH, FL

B-16