

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE A LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT (MMOA), ATTACHED AS EXHIBIT 1, BETWEEN THE CITY AND THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), WHICH WOULD CONVEY FULL LANDSCAPE MAINTENANCE RESPONSIBILITIES TO THE CITY, FOR THE ENHANCED LANDSCAPING ON SOUTHBOUND AND NORTHBOUND SR-A1A (COLLINS AVENUE & INDIAN CREEK DRIVE), BETWEEN 32ND STREET AND 35TH STREET WITHIN THE FAENA DISTRICT; AND THE OWNERS OF 3201, 3315, 3400, 3420, 3425 AND 3500 COLLINS AVENUE AND 3301 INDIAN CREEK DRIVE (THE "PROPERTY OWNERS"), AND HAVE ALREADY EXECUTED AN AMENDED DECLARATION OF RESTRICTIVE COVENANTS, ATTACHED HERETO AS EXHIBIT 2, WHICH COVENANT TRANSFERS RESPONSIBILITY TO THE ADJACENT PROPERTY OWNER OF THE LANDSCAPING IMPROVEMENTS AND MAINTENANCE COSTS ASSOCIATED WITH THE MMOA.**

**WHEREAS**, the City of Miami Beach, under Historical Preservation Board (HPB) Order for file no. 7510, required that the proposed development at 3201, 3315, 3400, 3420, 3425, and 3500 Collins Avenue and 3301 Indian Creek Drive, within the "FAENA Overlay District" certain rights-of-way improvements to the sidewalks and landscaping along 32nd through 35th Streets between Collins Avenue and Indian Creek Drive; and along Collins Avenue and Indian Creek Drive between 32<sup>nd</sup> Street and 35<sup>th</sup> Street; and

**WHEREAS**, the Florida Department of Transportation (FDOT) owns Collins Avenue and Indian Creek Drive; and

**WHEREAS**, to install the improvements proposed under the HPB order along Collins Avenue and Indian Creek Drive, FDOT policy requires that the City enter into a Landscape Maintenance Memorandum of Agreement, which would convey maintenance responsibilities for the enhanced features installed along the right-of-way to the City after the project is installed by the developer; and

**WHEREAS**, in turn, the City, in approving the enhanced right-of-way landscaping and sidewalk features, required the City to execute a declaration of restrictive covenants to ensure maintenance and reimbursement to the City of any costs incurred due to the installation of the enhanced landscaping; and,

**WHEREAS**, the covenant was recently amended to ensure that the entire scope of the MMOA is covered by the property owners of 3201, 3315, 3400, 3420, 3425, and 3500 Collins Avenue and 3301 Indian Creek Drive; and

**WHEREAS**, in anticipation of construction, the City approved and the developer recorded the extensive amended declaration of restriction, which would reimburse the City for the enhanced landscaping and sidewalk features, and as such the City's execution of the Landscape Maintenance Memorandum of Agreement, is the process by which to implement the improvements, and the amended covenant is the City's assurance that the developer will be responsible for any costs the City may occur should FDOT contact the City to maintain Collins Avenue or Indian Creek Drive, between 32 and 35<sup>th</sup> Streets; and

**WHEREAS**, the amended covenant is consistent with the requirements of Section 98-166, of the City Code, for the developer to maintain the sidewalks and landscaping fronting the above referenced properties;

**WHEREAS**, the amended covenant also ensures that the developer provide the same standards of maintenance for the City's rights-of-way that are being improved with the enhanced landscaping and sidewalks, along 32 through 35<sup>th</sup> Street between Collins Avenue and Indian Creek Drive; and

**WHEREAS**, the Administration recommends executing the attached Landscape Maintenance Memorandum of Agreement with FDOT.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby authorize the Mayor and City Clerk to execute the attached Landscape Maintenance Memorandum of Agreement (MMOA) between the Florida Department of Transportation (FDOT) and the City, attached as Exhibit 1, between the City and the Florida Department Of Transportation (FDOT), which would convey full landscape maintenance responsibilities to the city, for the enhanced landscaping on southbound and northbound SR-A1A (Collins Avenue and Indian Creek Drive), between 32nd Street and 35th Street within the Faena Overlay District; and the owners of 3201, 3315, 3400, 3420, 3425 and 3500 Collins Avenue; and 3301 Indian Creek Drive (the "Property Owners"), have already executed an amended declaration of restrictive covenants, attached hereto as Exhibit 2, which covenant transfers responsibility to the adjacent property owner of the landscaping improvements and maintenance costs associated with the MMOA.

**PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2017.**

ATTEST:

\_\_\_\_\_  
Rafael Granado, City Clerk

\_\_\_\_\_  
Philip Levine, Mayor

  
City Attorney

5/31/17  
Date