MEMORANDUM

TO: The Honorable Mayor and City Commission
FROM: Hans Ottinot, City Attorney
DATE: 12/20/2012
RE: Termination of Declaration of Restrictions

RECOMMENDATION:
The attached Resolution is recommended for approval.

REASONS:
To facilitate the construction of the new project called Jade Signature, the developer for Jade Signature has requested termination of the Declaration of Restrictions that was imposed for the Paramount Project on the same site.

ATTACHMENTS:
- Resolution
- Declaration of Restrictions
RESOLUTION NO. 2012-____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, TERMINATING A DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENT PROVIDED PURSUANT TO THE SITE PLAN APPROVAL OF THE PARAMOUNT PROJECT LOCATED AT 16875-16901 COLLINS AVENUE ATTACHED HERETO AS EXHIBIT “A” ; PROVIDING THE CITY MANAGER AND CITY ATTORNEY WITH THE AUTHORITY TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the properties located at 16875-16901 Collins Avenue have been burdened by Declaration of Restrictions that was imposed pursuant to Resolution No. 06-Z-100, adopted on April 11, 2006; and

WHEREAS, the prior approvals had lapsed due to economic crunch and the inability of that developer to obtain the necessary building permit within the time permitted by the approvals; and

WHEREAS, the property owner has requested that the Declaration of Restrictions be released to facilitate the construction of a new project.

WHEREAS, the City Commission wishes to release and terminate the Declaration of Use and Grant of Easement recorded on April 3, 2007.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AS FOLLOWS:

Section 1. Releasing and Terminating Declarations of Restrictions. The City Commission hereby releases and terminates the Declaration of Restrictions attached hereto as Exhibit “A” imposed on properties located at 16875 and 16901 Collins Avenue.

Section 2. Authority of City Manager and the City Attorney. The City Manager and the City Attorney are hereby authorized to do all things necessary to effectuate this Resolution.

Section 3. Effective Date. This Resolution shall become effective upon adoption.

PASSED AND ADOPTED this ____ day of December, 2012.
ATTEST:

Jane A. Hines, CMC, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

[Signature]

Hans Ottnot, City Attorney

Moved by: ____________________________

Seconded by: __________________________

Vote:

Mayor Edelcup (Yes) (No)
Vice Mayor Aelion (Yes) (No)
Commissioner Gatto (Yes) (No)
Commissioner Levin (Yes) (No)
Commissioner Scholl (Yes) (No)

Norman S. Edelcup, Mayor
DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENT

WHEREAS, Sunny Isles Development Company LLC, a Florida limited liability company ("Owner" or "Grantor"), is the owner of the following described real property (the "Property"), lying, being and situated in Sunny Isles Beach, Miami-Dade County, Florida, and legally described as:

SEE EXHIBIT "A" ATTACHED HERETO

and located at 16875 and 16901 Collins Avenue, Sunny Isles Beach, Florida.

In accordance with Condition IV A (3) of Resolution No. 06-Z-100 adopted by the CITY OF SUNNY ISLES BEACH (the "City" or "Grantee"), on April 11, 2006 (the "Resolution"), and with Condition IV A (5) of Resolution No. 04-Z-85 adopted by the City on June 17, 2004, (the "2004 Resolution") the Owner, its successors and assigns, freely, voluntarily and without duress, makes the following Declaration of Restrictions and Grant of Easements ("Declaration") covering and running with the Property and grants the following easements, as described below:
1. **Intent.** In connection with the Resolution, which approved Application No. Z2005-11 (the "Application"), thus modifying the site plan approved by the 2004 Resolution and granting a setback variance to allow development of a 45 story 232-unit condominium project to be known as "Paramount Beach" (the "Project"), the Owner has agreed to the granting of certain easement rights, as more particularly set forth herein, and has agreed to be bound by certain covenants, restrictions and obligations with respect to the Property.

2. **Grant of Easement.** Owner does hereby grant and convey to the City the following non-exclusive easements (collectively, the "Easements"): (i) a fifteen foot (15') wide beach access easement located on the northern edge of the Property, exactly as described in the attached Exhibit "B" (the "North Beach Access Easement" or the "Primary Beach Access Easement"); (ii) a fifteen foot (15') wide beach access easement along the south property line, exactly as described in the attached Exhibit "C" (the "South Beach Access Easement"); the two beach access easements shall collectively be referred to as "the Beach Access Easements." The Beach Access Easements shall be for pedestrian ingress to and egress from Collins Avenue to the public beach on the northermost and southermost ends of the Property and shall be designed exactly as shown on the Site Plan and as represented by the Applicant and recommended by staff to the Sunny Isles Beach City Commission at the public hearing held on April 11, 2006; (iii) The Beach Access Easements maybe used for vehicular ingress and egress for fire, police, health, sanitation and other public service personnel and vehicles employed and utilized by the City over the driveways and pathways as they may exist from time to time; (iv) a ten-foot (10') landscaping streetscape easement pursuant to the City Streetscape Master Plan, exactly as described on the attached Exhibit "D" (the "Streetscape Easement"), and (v) the 10,000 square foot public oceanfront park easement exactly as described on the attached Exhibit "E" (the "Oceanfront Park"). The Beach Access Easements and Oceanfront Park shall be fully accessible to the public on a twenty-four (24) hour basis, and shall be clearly designated by means of signage approved in writing by the City Manager or its designee, as amenities open to all members of the public.

3. **Design, Construction, Maintenance, Insurance and Restoration of Easements and Improvements.**

(A) **Design and Construction.**

Owner and its successors and assigns or any condominium or master owners’ association managing the common areas of the Property, shall have the exclusive right to design, build, furnish and maintain any and all improvements not shown on the site plans approved by the Resolution (including but not limited to landscaping, irrigation and lighting) located within the Easements, subject to the approval of the City Manager, in his sole and reasonable discretion. The design of any and all materials to be used and of any and all improvements within the Easements shall be presented to the City for its approval prior to construction of such improvement, which approval shall not be unreasonably withheld or delayed. The Beach Access Easements shall be paved, and shall contain lighting. The Beach Access Easements and the Oceanfront Park shall be fully landscaped and equipped with public amenities including, but not limited to, the inclusion of one foot shower, one regular shower, one bench and one water fountain on the North Beach Access Easement and one bench on the South Beach Access Easement (the “Public Amenities”), the location, design and construction of which shall be...
subject to the approval of the City Manager or its designee. The design and construction of the Streetscape Easement shall comply with the City Streetscape Master Plan, as approved by the City. Prior to the issuance of the Certificate of Occupancy, Owner shall plant landscaping on the Streetscape Easement as required pursuant to the City’s Streetscape Master Plan or as otherwise approved by the City. If the landscaping dies or fails to thrive during the first two years from completion of the initial installation of the landscaping, Owner shall replace it with landscaping of equivalent species and size.

B) Maintenance.

Owner and its successors and assigns or any condominium or master owners’ association managing the common areas of the Property shall at all times maintain the Easements, including but not limited to the Landscaping Streetscape Easement, any and all Public Amenities, and all improvements which may be constructed on the Easements from time to time, including but not limited to the showers, foot bath and drinking water fountain, in perpetuity, in good condition and in a safe, clean and attractive manner and to a standard reasonably acceptable to the City Manager. After any landscape or other installation within the Easements or any subsequent repairs and/or maintenance thereof, the Owner shall restore the surface of the Easements, as applicable, as near to its original conditions as may be possible, all within a reasonable time after the installation, repair and or maintenance of such activity described above. In the event that the Owner fails to restore or commence restoration and diligently pursue same, after receipt of thirty (30) days’ written notice from City to Owner of such failure, then the City may restore the Easements to their required condition (the “City’s Right to Restore”) and thereafter the Owner shall reimburse City for the reasonable costs of such restoration within thirty (30) days following receipt by the Owner of a reasonably documented invoice (the “Invoice”) for same. In the event reimbursement is not received by the City within the required time, City may then place a lien against the Property for the cost as documented in the Invoice. Grantor agrees that the City’s lien shall be on a parity with special assessment liens and superior to all other liens excepting those of taxing authorities.

C) Insurance

Owner, including its successor and assigns, shall maintain, during the term of this Declaration, the insurance specified below. A Certificate of Insurance shall be provided to the City of Sunny Isles Beach's City Manager prior to the effective date of this Declaration as provided in Paragraph Four (4) of this Declaration. No modification, change or cancellation of insurance shall be made without thirty (30) days' written advance notice to the City Manager, with a copy to the City Attorney.

Public Liability Insurance on a comprehensive basis in an amount not less than One Million Dollars combined single limit and an aggregate of not less than Two Million Dollars for bodily injury and property damage. The policy shall list the City as an additional insured. The policy shall include Products Liability coverage if and when applicable. No modification, change, or cancellation of insurance shall be made without thirty (30) days written advance notice to the City Manager with a copy to the City Attorney. The Public Liability Insurance coverage shall include those classifications as listed in Standard Liability Insurance Manuals, which are applicable to the operations of Owner, its successor and assigns in the performance of...
this Declaration. All insurance policies required above shall be issued by companies authorized
to do business under the laws of the State of Florida. Such companies shall have a general policy
holders' rating of "A" or better and a financial rating of not less than "Class V" as reported by
Best's Key Rating Guide, published by A.M. Best Company, latest edition. This insurance shall
be in effect as long as this Declaration exists. Failure to continue to provide the insurance
coverage shall constitute a violation of this Declaration.

Compliance with the foregoing requirements shall not relieve Owner, its successors or
assigns of its liability and obligations under this section or any other portion of this Declaration.

The City reserves the right to reasonably amend the insurance requirements by the
issuance of a notice in writing to Owner, its successors or assigns.

4. **Effective Date.** These grants of easement shall not become effective until the
City issues a final certificate of use, and occupancy for the development approved under the
Resolution, as modified by any subsequent substantial compliance approval, or as such other
plans are approved at public hearing consistent with this Declaration.

5. **Reservation.** Grantor hereby reserves all rights of ownership in and to the
property underlying the Easements (the "Easement Parcels") which are not inconsistent with this
Declaration, including, without limitation: (a) the right to grant further non-exclusive easements
on, over, under and/or across the Easement Parcels (i.e., utility and/or access easements); (b) the
right to use the Easements for all uses not interfering or inconsistent with the uses permitted
herein, including, but not limited to: vehicular access and ingress and egress to, over, and from
the Easement Parcels and the Property; service access to, over and from the Easement Parcels
and the Property; installation, maintenance and use of utility facilities and access therefore and
maintenance thereof; the right to conduct any activity upon the Easements which promotes the
security of the Easements or the Property or any persons or property located thereon as long as
public access to the beach through the Easement Parcels is continuously maintained, and the
right to construct and maintain any signs within the Easements as may be permitted by
applicable law; and (c) the exclusive right subject to the City's Right to Restore, to design,
build, furnish and maintain any and all improvements (including, but not limited to, landscaping
and lighting) located within the Easements. Prior to its exercise of those rights set forth in (a),
(b) or (c) of this Paragraph Five (5), other than the granting of such easement to governmental or
quasi-governmental authorities or departments, or to Grantor's future successors or assigns,
Grantor shall obtain the written approval of the City Manager, who shall determine, in his/her
sole and reasonable opinion, whether the proposed grant, use, or other activity is inconsistent
with the grant of easements set forth herein and in Resolution Nos.06-Z-100 and 04-Z-85.

6. **Indemnification.** The Grantor, its successors and assigns, hereby agree, for
separate good and valuable consideration the receipt and sufficiency of which are hereby
acknowledged, to jointly and severally indemnify, defend and hold harmless the Grantee, (and all
of its members, officers, directors, employees, successors and assigns, and consultants) against
any and all liabilities, damages, claims, costs or expenses whatsoever (including all reasonable
attorney's fees and cost whether suit be brought or any appeals be taken therefrom) arising from,
growing out of or connecting in any way to the Declaration or any activity carried on in the
Easements, including but not limited to the failure of the Grantor to maintain the Easements.
7. **Valet Parking: Payment of Voluntary Mitigation Fee; Compliance with Conditions included in Resolution No. 04-Z-85.** Owner shall provide 24-hour valet parking services for owners of the Property's condominium units and their guests. Owner shall pay to the City the voluntary mitigation fee of three hundred thousand dollars ($300,000.00) to be used for park purposes, as may be determined by the City Commission, prior to the issuance of the Building Permit for the Project. Owner shall comply with all conditions approved and included in City Resolution No. 04-Z-85 as modified by Resolution 06-Z-100.

8. **City Inspection.** As further part of this Declaration, it is hereby understood and agreed that any official inspector of the City of Sunny Isles Beach Building and Zoning Department, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the Property to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

9. **Covenant Running with the Land.** This Declaration on the part of the Owner shall constitute a covenant running with the land and shall be recorded in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the Owner, and its heirs, successors and assigns (including, without limitation, any ensuing condominium association or operator of the Property) until such time as the same is modified or released. These restrictions, during their lifetime, shall be for the benefit of, and limitation upon, all present and future owners of the Property. However, nothing contained in this Declaration shall create a public dedication of all or any portion of the Property.

10. **Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded, after which time it shall be extended automatically for successive periods of ten (10) years each unless an instrument signed by a majority of the, then, owners of the Property has been recorded agreeing to change, the Declaration in whole, or in part, provided that the Declaration has first been modified or released by the City in the manner set forth in this Declaration.

11. **Modification, Amendment, Release.** The Easements granted in this Declaration shall be perpetual in duration, and shall not be changed, altered or amended except by instrument in writing executed by the Owner or a majority of the then owners and the City and their respective successors and assigns, provided that the same is also approved by the City Commission after public hearing. Any ensuing operator or condominium or master owners' association with valid authority to act on behalf of the majority of the owners of the Property may execute the amending instrument upon submission of proof of authority to act on behalf of a majority of the owners. Should this Declaration be so modified, amended or released, the City Manager or such authorized designee shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

12. **Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants, terms or provisions of this Declaration. The prevailing party in any action or suit, pertaining to or arising out of this Declaration, shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court...
may adjudge to be reasonable for the services of his attorney at trial and appellate levels. This enforcement provision shall be in addition to any other remedies available at law or in equity or both.

13. Authorization for Department of Building and Zoning to Withhold Permits and Inspections. In the event of a failure to comply with the terms of this Declaration, in addition to any other remedies available, the City is hereby authorized to withhold any further permits and refuse to make any inspections or grant any approvals, until such time as the failure to comply is cured.

14. Election of Remedies. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

15. Severability. Invalidation of any one of these covenants, by judgment or Court, or law, shall in no way affect any of the other provisions of this Declaration, which shall remain in full force and effect.

IN WITNESS WHEREOF, Grantor has executed this Declaration this 15th of September, 2006.

WITNESSES:

[Signature]
Printed Name: Claiborne Tanor

[Signature]
Printed Name: Nancy Kowalski

Sunny Isles Development Company LLC, a Florida limited liability company

By: [Signature]
Joseph Kodsi, Manager

Date: 9/15/06

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing Agreement was acknowledged before me this 15th day of September, 2006, by Joseph Kodsi, as Manager of Sunny Isles Development Company, LLC, a Florida limited liability company. He is personally known to me.

Nancy Kowalski
Notary Public, State of Florida
My Commission Expires: ____________

Paramount Declaration of Restrictions & Grant of Easement
EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

ALL OF THAT TRACT OR PARCEL OF LAND located in Miami-Dade County, Florida, as more particularly described as follows:

Parcel 1

All that part of the North 100 feet of the South 300 feet of Lot 1, TATUM'S OCEAN PARK SUBDIVISION, according to the plat thereof, as recorded in Plat Book 10, Page 64, of the Public Records of Miami-Dade County, Florida, extending from the Erosion Control Line of the Atlantic Ocean, said line recorded in Plat Book 134, Page 47, of the Public Records of Miami-Dade County, Florida, to the East right-of-way of State Road A-1-A (formerly State Road 140), as said road is shown on a Plat thereof, recorded in Plat Book 47, Page 101, Public Records of Miami-Dade County, Florida.

Parcel 2

All that part of the North 100 feet of the South 200 feet of Lot 1, TATUM'S OCEAN PARK SUBDIVISION, according to the plat thereof, as recorded in Plat Book 10, Page 64, of the Public Records of Miami-Dade County, Florida, extending from the Erosion Control Line of the Atlantic Ocean, said line recorded in Plat Book 134, Page 47, of the Public Records of Miami-Dade County, Florida, to the East right-of-way of State Road A-1-A (formerly State Road 140), as said road is shown on a Plat thereof, recorded in Plat Book 47, Page 101, Public Records of Miami-Dade County, Florida.

Parcel 3

The Southerly 100 feet of Lot 1, TATUM'S OCEAN PARK SUBDIVISION, according to the plat thereof, as recorded in Plat Book 10, Page 64, of the Public Records of Miami-Dade County, Florida, said property described as follows:

Bounded on the West by the East right-of-way line of Ocean Boulevard (State Road A-1-A and State Road 140), said road recorded in Plat Book 47, Page 101, of the Public Records of Miami-Dade County, Florida; bounded on the East by the Erosion Control Line of the Atlantic Ocean, said line recorded in Plat Book 134, Page 47, of the Public Records of Miami-Dade County, Florida; bounded on the North by the Northerly line of the Southerly 100 feet of Lot 1; bounded on the South by the Southerly line of referenced Lot 1.
EXHIBIT "B"
North Beach Access Easement
a/k/a Primary Beach Access Easement
LEGAL DESCRIPTION:

An easement lying and being in Lot 1, TATUM'S OCEAN PARK SUBDIVISION, according to the plat thereof as recorded in Plat Book 10, Page 64 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the intersection of the South line of said Lot 1 and the Easterly right of way line of Collins Avenue (State Road A-1-A and State Road 140), said road recorded in Plat Book 47 at Page 101 of the Public Records of Miami-Dade County, Florida; thence N02°31'52"E along said East right of way line of Collins Avenue (State Road A-1-A) for 286.38 feet to the Point of Beginning; thence continue N02°31'52"E along said East right of way line of Collins Avenue for 15.07 feet; thence N86°53'43"E along the North line of the Southerly 300 feet of said Lot 1, for 350.79 feet; thence S01°22'24"E along the Erosion Control Line of the Atlantic Ocean, said line recorded in Plat Book 134, Page 47 of said Public Records of Miami-Dade County, Florida for 15.01 feet; thence S86°53'43"W along the North line of the Southerly 285 feet of said Lot 1, for 351.81 feet to a point on said East right of way line of Collins Avenue, said point also being the Point of Beginning.

SURVEYOR'S NOTES:

- This site lies in Section 11, Township 52 South, Range 42 East, City of Sunny Isles Beach, Miami-Dade County, Florida.
- All documents are recorded in the Public Records of Miami-Dade County, Florida unless otherwise noted.
- Bearings hereon are referred to an assumed value of N 02°31'52"E for the East right of way line of Collins Avenue (State Road A-1-A).
- Dimensions indicated hereon are based on Fortin, Leavy, Skiles, sketch no. 2001-141.
- This is not a "Boundary Survey" but only a graphic depiction of the description shown hereon.

SURVEYOR'S CERTIFICATION:

I hereby certify that this "Sketch of Description" was made under my responsible charge on August 16, 2006, and meets the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 61G17-E, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

"Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper"

FORTIN, LEAVY, SKILES, INC., LB3653

By: Daniel C. Fortin, For The Firm
Surveyor and Mapper, LS2853
State of Florida.

EASEMENT LEGAL DESCRIPTION

DESCRIPTION, NOTES, AND CERTIFICATION

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS

FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00000653
180 Northeast 165th Street / North Miami Beach, Florida 33162
Phone 305-653-4493 / Fax 305-651-7152 / Email fls@flasurvey.com

Date 8/16/06
Soldie NO SCALE
Job No. 061560
Dwg No. 1006-156
Sheet 1 of 3
EXHIBIT "C"

South Beach Access Easement
LEGAL DESCRIPTION:

An easement lying and being in Lot 1, TATUM'S OCEAN PARK SUBDIVISION, according to the plot thereof as recorded in Plat Book 10, Page 64 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Beginning at the intersection of the South line of said Lot 1 and the Easterly right of way line of Collins Avenue (State Road A-1-A and State Road 140), said road recorded in Plat Book 47 at Page 101 of the Public Records of Miami-Dade County, Florida; thence N02°31'52"E along said East right of way line of Collins Avenue (State Road A-1-A) for 15.07 feet; thence N86°53'43"E along a line 15.00 feet North of and parallel with said South line of Lot 1 for 370.30 feet; thence S01°22'24"E along the Erosion Control Line of the Atlantic Ocean, said line recorded in Plat Book 134, Page 47 of said Public Records of Miami-Dade County, Florida for 15.01 feet; thence S86°53'43"W along said South line of Lot 1 for 371.32 feet to a point on said East right of way line of Collins Avenue, said point also being the Point of Beginning.

SURVEYOR'S NOTES:

- This site lies in Section 11, Township 52 South, Range 42 East, City of Sunny Isles Beach, Miami-Dade County, Florida.
- All documents are recorded in the Public Records of Miami-Dade County, Florida unless otherwise noted.
- Bearings hereon are referred to an assumed value of N 02°31'52" E for the East right of way line of Collins Avenue (State Road A-1-A).
- Dimensions indicated hereon are based on Fortin, Leavy, Skiles, sketch no. 2001-141.
- This is not a "Boundary Survey" but only a graphic depiction of the description shown hereon.

SURVEYOR'S CERTIFICATION:

I hereby certify that this "Sketch of Description" was made under my responsible charge on August 16, 2006, and meets the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 61G17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

"Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper"

FORTIN, LEAVY, SKILES, INC., LB3653

By: ____________________________
Daniel C. Fortin, For The Firm
Surveyor and Mapper, LS2853
State of Florida.

EASEMENT LEGAL DESCRIPTION

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<td>2001-141</td>
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DESCRIPTION, NOTES, AND CERTIFICATION

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
180 Northeast 168th Street / North Miami Beach, Florida 33162
Phone 305-653-4493 / Fax 305-651-7152 / Email fls@fissurvey.com

Date: 8/16/06
Scale: NO SCALE
Job. No.: 061560
Dwg. No.: 1005-167
Sheet: 1 of 3
SKETCH OF DESCRIPTION

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003553
180 Northeast 169th Street / North Miami Beach, Florida 33162
Phone 305-653-4493 / Fax 305-651-7152 / Email info@flsurvey.com

Drawn By: ACS
Cad. No.: 061252
Ref. Dwg.: 2001-141
Revised: 
Plotted: 8/22/06 3:37p

Date: 8/16/06
Scale: 1" = 60'
Job. No.: 061560
Dwg. No.: 1006-167
Sheet: 3 of 3

NOT SUBDIVIDED

INTERSECTION OF THE SOUTH LINE OF LOT 1
AND THE EASTERN RIGHT OF WAY LINE OF
COLLINS AVENUE (STATE ROAD A-1-A)
TATUMS OCEAN PARK SUBDIVISION
PLAT BOOK 10, PAGE 64

POINT OF BEGINNING

SKETCH TO ACCOMPANY EASEMENT LEGAL DESCRIPTION
EXHIBIT "D"

Streetscape Easement
LEGAL DESCRIPTION:

An easement lying and being in Lot 1, TATUM'S OCEAN PARK SUBDIVISION, according to the plat thereof as recorded in Plat Book 10, Page 64 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Begin at the intersection of the South line of said Lot 1 and the Easterly right of way line of Collins Avenue (State Road A−1−A and State Road 140), said road recorded in Plat Book 47 at Page 101 of the Public Records of Miami-Dade County, Florida; thence N02°31′52″E along said East right of way line of Collins Avenue (State Road A−1−A) for 301.46 feet; thence N86°53′43″E along the North line of the Southerly 300 feet of said Lot 1, for 10.05 feet; thence S02°31′52″W along a line 10.00 feet East of and parallel with said Easterly right of way line of Collins Avenue for 301.46 feet to a point on said South line of Lot 1; thence S86°53′43″W along said South line of Lot 1 for 10.05 feet to the Point of Beginning.

SURVEYOR'S NOTES:

− This site lies in Section 11, Township 52 South, Range 42 East, City of Sunny Isles Beach, Miami–Dade County, Florida.

− All documents are recorded in the Public Records of Miami–Dade County, Florida unless otherwise noted.

− Bearings hereon are referred to an assumed value of N 02°31′52″ E for the East right of way line of Collins Avenue (State Road A−1−A).

− Dimensions indicated hereon are based on Fortin, Leavy, Skiles, sketch no. 2001−141.

− This is not a "Boundary Survey" but only a graphic depiction of the description shown hereon.

SURVEYOR'S CERTIFICATION:

I hereby certify that this "Sketch of Description" was made under my responsible charge on August 16, 2006, and meets the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 61617−8, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

"Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper"

FORTIN, LEAVY, SKILES, INC., LB3653

By:

Daniel C. Fortin, For The Firm
Surveyor and Mapper, LS2853
State of Florida.

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FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATES OF AUTHORIZATION NUMBER: 00006533
180 Northeast 169th Street / North Miami Beach, Florida 33162
Phone 305-653-4493 / Fax 305-651-7152 / Email fls@flsurvey.com

Date: 8/16/06
Scale: NO SCALE
Job No.: 061560
Dwg. No.: 1006−165
Sheet: 1 of 3
EXHIBIT "E"

Oceanfront Park Easement
LEGAL DESCRIPTION:

A portion of Lot 1, TATUM'S OCEAN PARK SUBDIVISION, according to the plot thereof as recorded in Plat Book 10, Page 64 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the intersection of the South line of said Lot 1 and the Easterly right of way line of Collins Avenue (State Road A-1-A and State Road 140), said road recorded in Plat Book 47 at Page 101 of the Public Records of Miami-Dade County, Florida; thence N86°53'43"E along said South line of Lot 1 for 297.56 feet to the Point of Beginning; thence NO2°14'23"E for 26.55 feet; thence S88°07'39"E for 18.83 feet; thence N02°03'36"E for 248.74 feet; thence N87°56'24"W for 18.92 feet; thence N02°03'36"E for 5.79 feet; thence S86°53'43"W for 21.82 feet; thence NO2°31'52"E for 20.10 feet; thence N86°53'43"E along the North line of the Southerly 300 feet of said Lot 1, for 77.38 feet; thence S01°22'24"E along the Erosion Control Line of the Atlantic Ocean, said line recorded in Plat Book 134, Page 47 of said Public Records of Miami-Dade County, Florida for 300.14 feet to a point on said South line of Lot 1; thence S86°53'43"W along said South line of Lot 1 for 73.77 feet to the Point of Beginning.

SURVEYOR'S NOTES:

- This site lies in Section 11, Township 52 South, Range 42 East, City of Sunny Isles Beach, Miami-Dade County, Florida.
- All documents are recorded in the Public Records of Miami-Dade County, Florida unless otherwise noted.
- Bearings hereon are referred to an assumed value of N 02°31'52"E for the East right of way line of Collins Avenue (State Road A-1-A).
- Dimensions indicated hereon are based on Fortin, Leavy, Skiles, sketch no. 2001-141.
- Lands shown hereon containing 15,150 square feet, or 0.348 acres, more or less.
- This is not a "Boundary Survey" but only a graphic depiction of the description shown hereon.

SURVEYOR'S CERTIFICATION:

I hereby certify that this "Sketch of Description" was made under my responsible charge on August 16, 2006, and meets the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 61G17-5, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

"Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper"

FORTIN, LEAVY, SKILES, INC., LB3653

By: [Signature]

Daniel C. Fortin, For The Firm
Surveyor and Mapper, LS2853
State of Florida.

DESCRIPTION, NOTES, AND CERTIFICATION

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CREDENTIALS

FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00093535
180 Northeast 168th Street / North Miami Beach, Florida 33162
Phone 305-653-4493 / Fax 305-651-7152 / E-mail fls@flsurvey.com
JOINDER BY MORTGAGEE

The undersigned, REGIONS BANK, N.A., an Alabama banking corporation, as successor by merger to Union Planters Bank, N.A. ("Mortgagee"), owner and holder of that certain: (i) Florida Real Estate Mortgage, Assignment of Leases and Rents and Security Agreement, in the original principal amount of $13,040,000.00 executed by SUNNY ISLES DEVELOPMENT COMPANY, LLC, a Florida limited liability company, in favor of UNION PLANTERS BANK, N.A., dated May 29, 2003 and recorded July 2, 2003 in O.R. Book 21389, at Page 3702, as modified by Future Advance and Modification Agreement which provides for a future advance in the amount of $1,960,000.00 increasing the aggregate principal amount to $15,000,000.00, dated December 7, 2005 and recorded December 20, 2005, in O.R. Book 24071, Page 3496; and (ii) UCC-1 Financing Statement in favor of Union Planters Bank recorded July 2, 2003 in O.R. Book 21389, Page 3724 (collectively the "Mortgage") of the Public Records of Miami-Dade County, Florida, encumbering all of the Property described in Exhibit "A" of the foregoing Declaration of Restrictions and Grant of Easements (the "Declaration"), does hereby execute this joinder for the sole purpose of consenting to the recording of the Declaration and subordinating the lien of the Mortgage to the provisions of the Declaration. By its execution hereof, Mortgagee does not make any representations or warranties with respect to any matters set forth in or pertaining to the Declaration or undertake any of the obligations or liabilities contained therein.

IN WITNESS WHEREOF, these presents have been executed this 23rd day of August, 2006.

Signed, sealed and delivered in the presence of:

Name: Susan P. Rabourn
(Corporate Seal)

Name: Melissa Carrillo

By: Kevin Vogel
Name: Vice President
It's: Vice President

[Corporate Seal]

State of FLORIDA
County of PABAL BEACH

The foregoing joinder was acknowledge before me this 23rd day of August, 2006 by KEVIN VOGEL, as VICE PRESIDENT of REGIONS BANK, N.A., an Alabama banking corporation, as successor by merger to Union Planters Bank, N.A. on behalf of the corporation. He/she is personally known to me or has produced personally known identification.

My Commission Expires:

Notary Public

Angela Durrant

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