CFN: 20170027578 BOOK 30386 PAGE 1132 DATE:01/17/2017 03:30:02 PM HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

This Instrument Prepared by and Return to:

Juan J. Mayol, Jr., Esq. Holland & Knight, LLP 701 Brickell Avenue, Suite 3300 Miami, Florida 33131

LANDSCAPING MAINTENANCE COVENANT

THIS LANDSCAPING MAINTENANCE COVENANT ("Covenant") is made and entered into effective as of this 13 day of 2 way 2016 (last date of execution by the City and Ram) ("Effective Date"), by and between the City of Doral, Florida, a municipal corporation (the "City"), having an address of 8401 NW 53rd Terrace, Doral, Florida 33166, and Ram Columbia Doral LLC, a Delaware limited liability company, having an address of 4801 PGA Boulevard, Palm Beach Gardens, Florida 33418 ("Ram").

WITNESSETH:

WHEREAS, Ram is the owner of that certain parcel of land more particularly described on Exhibit "A," attached hereto and made a part hereof (the "Property"); and

WHEREAS, as part of the development of the Property, Ram has proposed the donation and installation of certain landscaping improvements within the NW 84 Avenue right of way generally between NW 27 Street and theoretical NW 26 Street for the purpose of creating a landscape buffer adjacent to the Property;

WHEREAS, the City is the owner of that certain roadway right-of-way, identified as NW 84 Avenue generally between NW 27 Street and theoretical NW 26 Street (the "Roadway"); and

WHEREAS, Ram desires to place certain irrigation, landscaping, and lighting improvements, as more specifically described in this Covenant, within the Roadway; and

WHEREAS, Ram shall donate and install the Landscaping Improvements on the City Property at its sole cost and expense; and

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. <u>RECITALS</u>. The foregoing recitals are true and correct and are incorporated herein by

reference.

2. IMPROVEMENTS.

- a. Ram is seeking to install irrigation, landscaping, and lighting improvements within a portion of the Roadway in accordance with the applicable governmental permits and regulations (the "Improvements"). Ram shall construct the Improvements within the Roadway in a manner consistent with the plans and specifications, which were prepared by Alex Knight Landscape Architecture and Planning, dated June 17, 2016, and approved by the City on November 23, 2016 (the "Plans"), more specifically detailed in Composite Exhibit "B", which are incorporated herein and made a part hereof by this reference. The Plans may be amended and approved by the City and Ram from time to time.
- b. Ram shall satisfy all State, County and City plan reviews, permitting and construction standards, including, but not limited to, limiting the location where irrigation facilities can be installed and specifying the standards for construction in connection with the installation of the Improvements.
- c. The Improvements shall be maintained in good repair by Ram at all times including, but not limited to, irrigation and lighting systems, at its sole expense. Ram shall be responsible, at its sole expense, for water and electrical services required for the maintenance of the Improvements. Ram shall prevent the Improvements from becoming traffic and pedestrian hazards. In the event the Improvements cannot be repaired, Ram shall promptly submit plans and upon approval by the City and regulatory agencies, replace and install, at its cost, a new system. Ram shall be entitled to enter the Roadway as necessary to perform necessary maintenance, subject to standard permit requirements. The City shall have the right, but not the obligation, to repair the Improvements upon giving Ram 30-days prior written notice of any necessary repairs ("Thirty (30) Day Repair Notice Period"), and Ram's failure to perform the repair within thirty (3)-days after expiration of the Thirty (30) Day Repair Notice Period. The cost of repair shall be charged to and shall be reimbursed by Ram within 30-days of receipt of the invoice from the City.
- d. Ram shall have the right to enter the Roadway for the purpose of constructing and maintaining the improvements. Ram shall secure necessary permits from the City to perform the work and shall notify the Public Works Department of its work schedule and work plans for any nonroutine type work to be conducted.
- 3. <u>RESERVATION OF RIGHTS</u>. The City reserves the right to enter upon the Roadway at any time for any municipal purpose, including, but not limited to, clearing accidents, maintaining the Roadway, and placement of telecommunication cables and equipment. The City, or its agents and licensees, and independent contractors, shall disturb the Improvements as little as possible to accomplish the municipal purpose, and Ram shall be responsible for making any and all repairs and restorations to the landscaping, irrigation, and/or lighting resulting therefrom.

4. CORRECTION OF UNSAFE CONDITION.

- a. The Improvements shall be maintained in a safe condition at all times by Ram. In the event the City determines that an unsafe or dangerous condition exists in the Roadway, which is caused, in whole or in part, by the failure to maintain or to restore the Improvements, the City has the right, after giving Ram 30-days prior written notice ("Thirty (30) Day Unsafe Condition Notice Period") and said condition is not cured by Ram within Thirty (30) days after expiration of the Thirty (30) Day Unsafe Condition Notice Period, to cure, repair, correct or modify the Improvements and the affected Roadway at Ram's expense.
- b. If the City determines that the unsafe or dangerous condition is of a nature that threatens public safety or damage to property, the City has the right under its police powers and the authority hereunder to take immediate action to remedy the situation. The City shall give notice of the unsafe or dangerous condition and the corrective action to Ram as soon as is practicable. Ram shall, to the extent covered by this Covenant, reimburse the City for any and all costs associated with any such corrective action taken by the City.
- 5. <u>INDEMNIFICATION AND HOLD HARMLESS</u>. Ram shall indemnify, defend and hold the City, and its officers and employees, harmless for any claim, investigation, settlement, judgment or expense, including, but not limited to, reasonable attorney's fees and costs necessarily incurred, arising out of or relating to any claim for death or bodily injury, property damage, including, without limitation, damage to the right-of-way, or personal injury that is allegedly caused, in whole or in part, by Ram's construction and maintenance, or the failure of Ram to maintain, the Improvements ("Ram's Indemnity"). Ram's Indemnity shall not apply to any work performed by the City pursuant to Paragraphs 3 and 4 above, but shall cover repairs and restorations performed by Ram following work performed by the City
- 6. <u>INSTALLATION OF IMPROVEMENTS</u>. Ram shall install all Improvements pursuant to the Plans and to the extent required pursuant to applicable City of Doral and Miami-Dade County Codes.
- 7. SPECIAL ASSESSMENT LIEN. Any cost incurred by the City to maintain or repair the Improvements, either incident to a corrective action or upon the failure of Ram to maintain or repair the system after receipt of written notice by the City, or to correct a dangerous or unsafe condition, or any cost incurred by the City to defend or pay any claim, investigation, settlement, judgment or expense, including reasonable attorney's fees and costs necessarily incurred, arising out of or relating to any claim for death or bodily injury, property damage, including damage to the Roadway, or personal injury that is allegedly caused in whole or in part by the construction and maintenance, or the failure to maintain the Improvements shall constitute a lien against the Property. The lien shall have the status and priority of a special assessment lien, and shall take precedence over mortgages on the property. The City shall have the right and the power to record the lien if the cost is not paid within 30 days of issuing the invoice for costs and to thereafter enforce the lien by foreclosure and by any other lawful means.
 - 8. <u>DURATION OF RIGHTS AND OBLIGATIONS</u>. The rights, powers and obligations

under this Covenant shall run with the property for (thirty) 30 years from the Effective Date and shall bind the successors, assigns and heirs of Ram after which time it shall be automatically extended for successive periods of ten (10) years unless an instrument has been recorded agreeing to release, amend, or modify this Covenant in whole, or in part, as provided below.

- 9. <u>RIGHT-OF-WAY DEDICATIONS</u>. The obligations, conditions, and statements agreed to by Ram pursuant to and contained in this Covenant shall supersede any future dedications of rights-of-way within the Property.
- 10. <u>RECORDING</u>. This Covenant shall be recorded in the records of Miami-Dade County and the Property shall be encumbered by this Covenant.
- 11. <u>ASSIGNMENT, MODIFICATION, AMENDMENT, RELEASE</u>. This Covenant may be assigned, modified, amended or released as to the Property, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the subject property, including joinders of all mortgagees, if any, provided that the same is also approved in writing by the City.
- 12. <u>NOTICES</u>. All notices given or required under this Covenant shall be deemed sufficient if sent by certified mail, return receipt requested; hand-delivery; or delivery by overnight courier to the addresses of the party specified in this Covenant, unless such partyshall specify in writing different address for the giving of notices. Any such notice shall be considered delivered (a) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as nondeliverable, as the case may be, if mailed by certified mail, (b) on the date of hand delivery, or (c) on the first business day after the date of deposit with an overnight courier.
- 13. <u>CONTRACTING OFFICER REPRESENTATIVE</u>. For the purposes of this Covenant, the contracting representatives are as follows:

As to the City:

City of Doral

8401 NW 53rd Terrace Doral, Florida 33166

Attention: Mr. Edward Rojas, City Manager

As to Ram:

Ram Columbia Doral, LLC

4801 PGA Boulevard

Palm Beach Gardens, Florida 33418

Attn: Karen D. Geller, Esq.

Copy to:

Juan J. Mayol, Jr., Esq. Holland & Knight LLP

701 Brickell Avenue, Suite 3300

Miami, Florida 33131

14. <u>INSURANCE</u>. Ram, or the successor in interest to the Property (pursuant to Paragraph 8), shall maintain throughout the period of this Covenant Comprehensive General Liability insurance, All Risk insurance, Commercial Liability Insurance, and coverage for legal liability

for loss or damage to Improvements and the City's right-of-way in accordance with the terms and conditions of this Covenant. During construction, Ram will, or will require its contractor to, maintain Builder's Risk Insurance and Worker's Compensation Insurance. The policies shall have minimum limits no less than \$1,000,000.00 and name the City as an additional insured.

- 15. <u>SIGNATORY AUTHORITY</u>. The officials executing this Covenant warrant and represent that they are authorized by their respective agency to enter into a binding Covenant.
- 16. <u>ASSIGNMENT</u>. All of the easements, covenants, conditions and obligations herein contained shall be binding upon and inure to the benefit of the respective successors and assigns of the parties. This Covenant and all of the rights, duties and obligations herein shall automatically be assigned and assumed by a successor in interest to the Property upon recordation of a deed to the Property.
- 17. <u>SUCCESSORS AND ASSIGNMENT</u>. The rights and obligations created by this Covenant shall be binding upon and inure to the benefit of Ram and the City, their successors and assigns, and shall likewise burden each party according to the terms hereof. This Covenant may be assigned, modified, amended or released as to the Property, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the subject property, including joinders of all mortgagees, if any, provided that the same is also approved in writing by the City.
- 18. <u>NON-WAIVER OF SOVEREIGN IMMUNITY</u>. The City does not waive sovereign immunity, and shall not be liable for the payment of attorney's fees or prejudgment interest.
- 19. <u>JURISDICTION AND VENUE</u>. For the purposes of this Covenant, Florida law shall govern the terms of this Covenant. Venue shall be in Miami-Dade County, Florida.
- 20. <u>ENFORCEMENT</u>. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this Covenant 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 its attorney, including any and all costs for trial, alternate dispute resolution, or appellate proceedings. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Covenant on the date set forth hereinabove.

Signed, sealed and delivered in the presence of:

WITNESS:	CITY OF DORAL,
	a Florida municipal corporation
Witness Comue Ola ? Printed Name	By: (Funky) Name: FOLARO A. POAS Title:
Lourdes Lopez Printed Name	Approved as to form and legal sufficiency for the sole use of the City of Dorel. City Attorney
STATE OF	Vaniel A. Espino - 454
,	Print ivame
)SS COUNTY OF MIAMI-DADE)	** Francisanie
(SS) COUNTY OF MIAMI-DADE I HEREBY CERTIFY that on this aforesaid and in the County aforesaid to tacknowledged before me by	orporation, who is personally known to me or who has
I HEREBY CERTIFY that on this aforesaid and in the County aforesaid to acknowledged before me by Edward CITY OF DORAL, a Florida municipal coproduced as identify WITNESS my hand and official se of, 2016.2013	rake acknowledgments, the foregoing instrument was constructed as a construction, as constructed of the proporation, who is personally known to me or who has



WITNESS: (as to both)	RAM COLUMBIA DORAL LLC, a Delaware limited liability company
Witness Print Name: BONNIE REDDING Witness Print Name: GINA Organ	By: Ram Doral LLC, a Florida limited liability Company, its manager By: Account Staren D. Geller, Vice President By: James W. Stine, Vice President
STATE OF FLORIDA))SS	а
COUNTY OF PALM BEACH)	

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Karen D. Geller and James W. Stine, each as a Vice President of Ram Doral LLC, a Florida limited liability company, as manager of Ram Columbia Doral LLC, a Delaware limited liability company, on behalf of such company. They are personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 11th day of November, 2016.

Typed, printed or stamped name of Notary Public

My Commission Expires:



EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY:

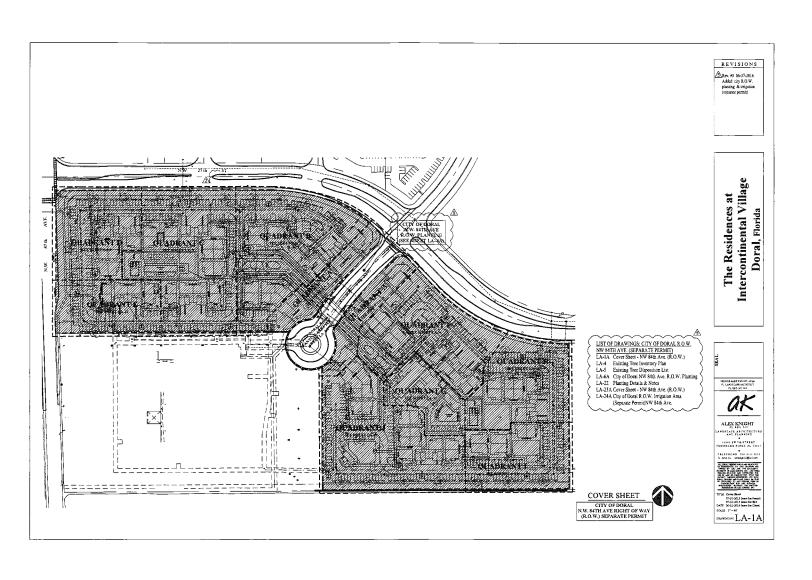
Tract A of the Transal Service Park Plat, as recorded in Plat Book 155, Page 26 of the Public Records of Miami-Dade County, Florida, less and except the southern 460 feet thereof.

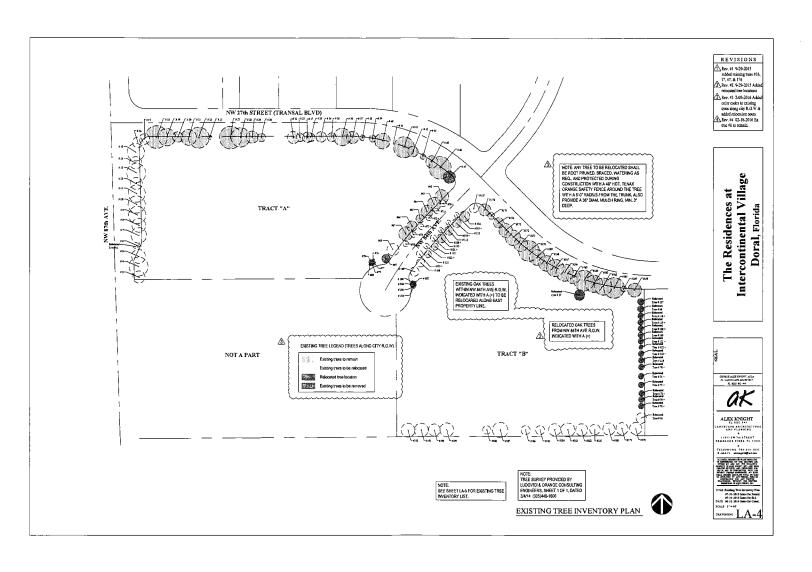
TOGETHER WITH

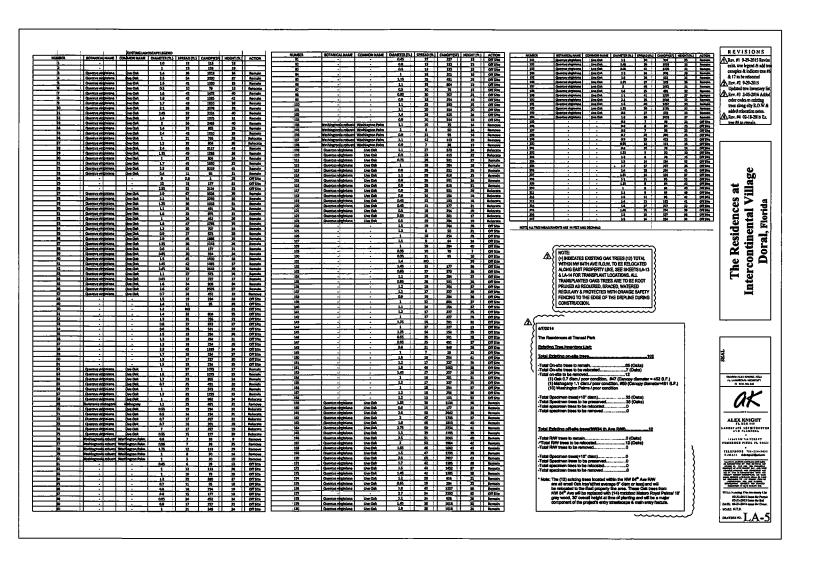
Tract B of the Transal Service Park Plat, as recorded in Plat Book 155, Page 26 of the Public Records of Miami-Dade County, Florida, less and except the western 60 feet thereof.

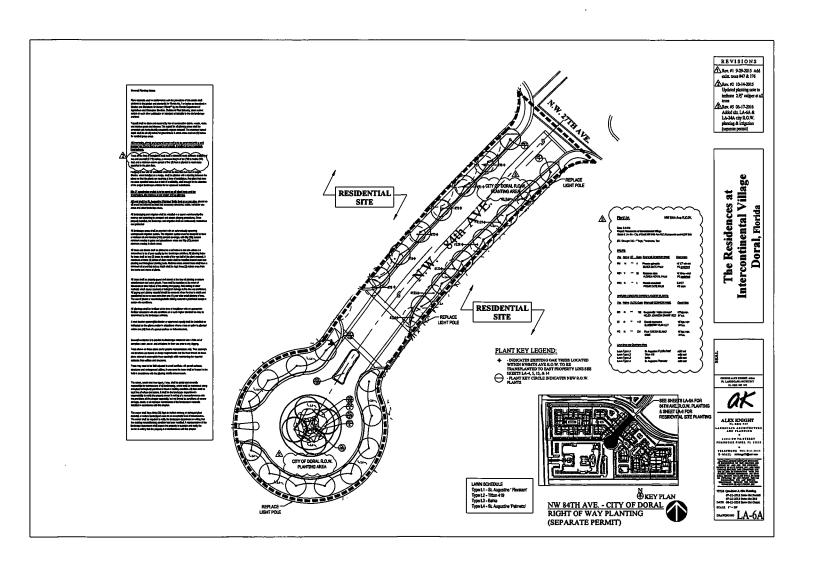
COMPOSITE EXHIBIT B

Description of Roadway:









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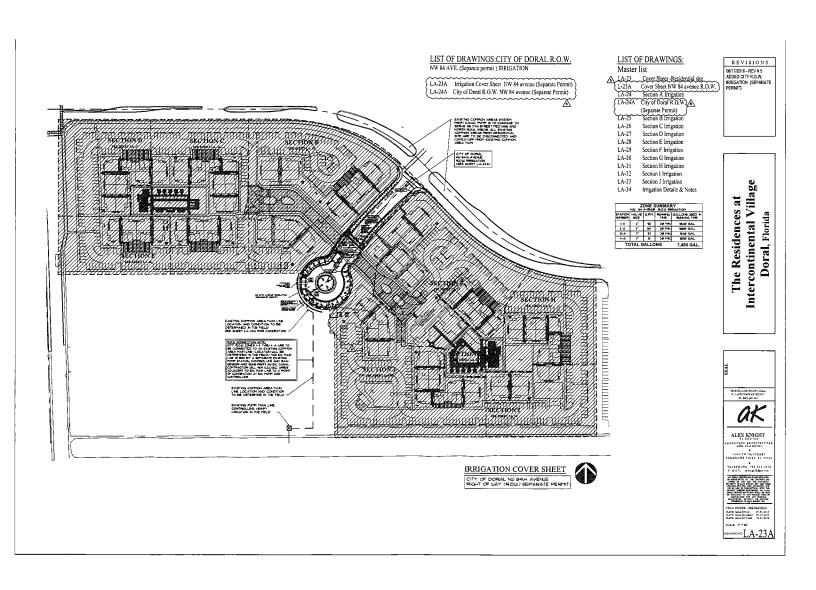
FIRE HYDRANT CLEAR ZONE

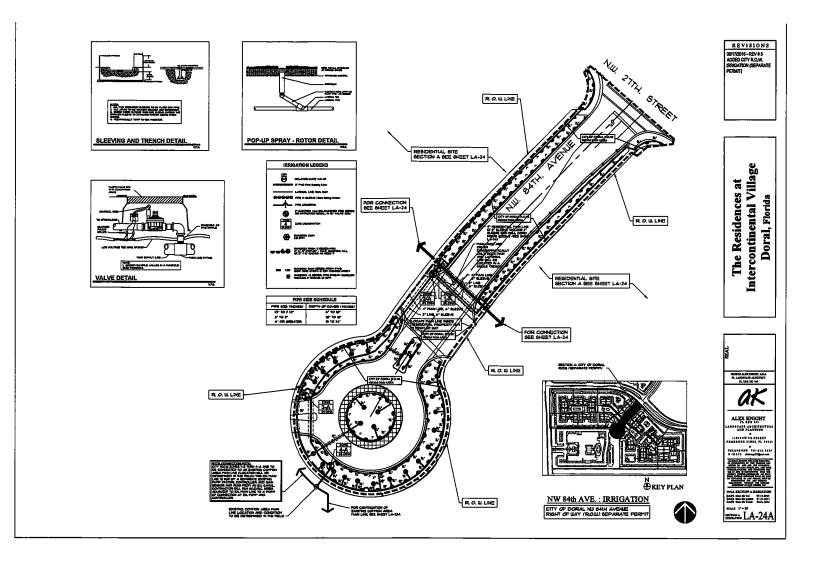
REVISIONS Rev. #2 10-14-2015
Updated planting note to indicate 2½° caliper at trees

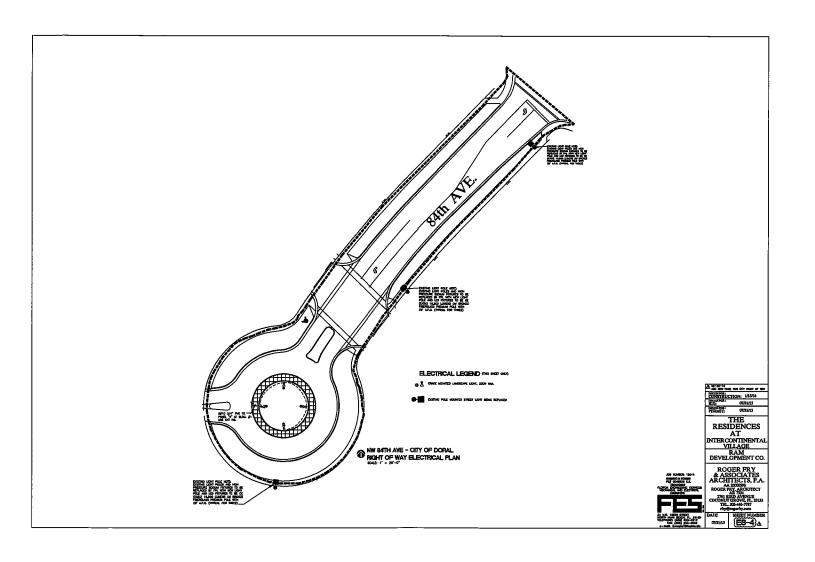
Rev. #8 10-14-2015
Added charification note

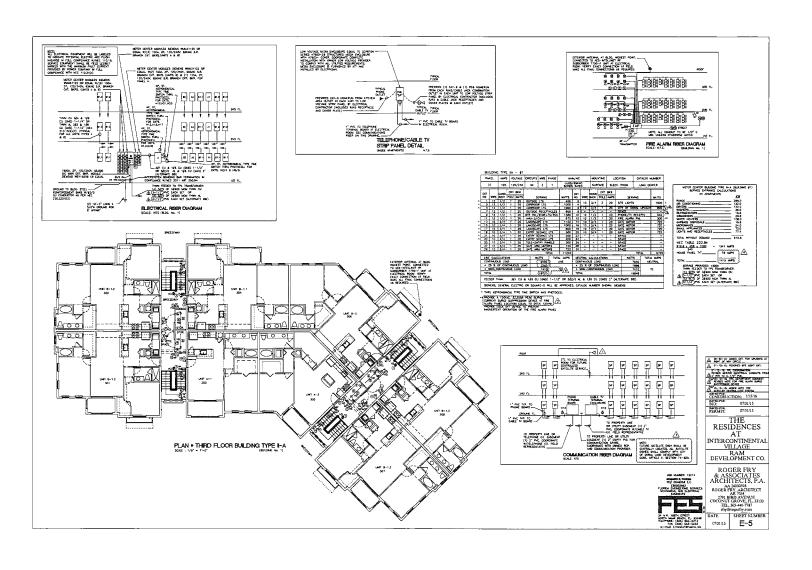
> Intercontinental Village The Residences at Doral, Florida











EXPIRES September 24, 201; FloridaNotaryService.com

JOINDER BY MORTGAGEE TO MAINTENANCE COVENANT

The undersigned, PNC BANK, NATIONAL ASSOCIATION, and mortgagee ("Mortgagee") under that certain Mortgage Security Agreement and Fixture Filing from RAM COLUMBIA DORAL LLC, a Delaware limited liability company, recorded in Official Records Book 29802, Page 860 in the Public Records of Miami-Dade County, Florida, covering all/or a portion of the property described in the foregoing Maintenance Covenant (the "Covenant") does hereby acknowledge that the terms of the agreement are and shall be binding upon the undersigned and its successors in title.

NOW THEREFORE, Mortgagee consents to the recordation of the Covenant.

IN WITNESS WHEREOF, these presents have been executed this i Aday of

Mortgagee makes no warranty or any representation of any kind or nature concerning the Covenant, any of its terms or provisions, or the legal sufficiency thereof, and disavows any such warranty or representation as well as any participation in the development of the Property, and does not assume and shall not be responsible for any of the obligations or liabilities of the Developer contained in the Covenant. None of the representations contained in the Covenant or other documents shall be deemed to have been made by the Mortgagee, nor shall they be construed to create any obligations on the Mortgagee to any person relying thereon. Nothing contained herein shall affect or impair the rights and remedies of the Mortgagee as set forth in the mortgage or in the Covenant.

2016. PNC BANK, NATIONAL ASSOCIATION Print Name: Print Title: Address: One PNC Plaza P1-POPP-19-2 Printed Name 249 Fifth Avenue Pittsburgh, PA 15222-2707 STATE OF FLORIDA Palm Beach COUNTY OF MIAMI-DADE The foregoing instrument was acknowledged before me this 2016, by ______ , as BANK, NATIONAL ASSOCIATION, on behalf of said bank. He/She is personally known to me or has produced as identification. My Commission Expires: **VELVET HOSEIN** MY COMMISSION #FF057130 Notary Public - State of