

OFF. REC. 1816510955

HPB23-0574

1 Lincoln Rd; 11671 Collins Av.
912/23 mchry "Exhibit C"
98K311246 250 JUN 15 1998

This instrument was prepared by (record and return to):

Name: Juan P. Loumiet, Esq.
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(Space reserved for Clerk)

EXECUTION COPY

AGREEMENT

THIS AGREEMENT is made and entered into as of the 11th day of June, 1998, by and among: (1) the CITY OF MIAMI BEACH, a Florida municipal corporation (the "City"); and (2) DI LIDO BEACH HOTEL CORPORATION, a Florida corporation (the "Owner");

Introduction and Background

A. The property that is the subject of this Agreement lies in Miami Beach, Miami-Dade County, Florida. This Agreement, among other things, is intended to and shall constitute a development agreement among the parties pursuant to the Florida Local Government Development Agreement Act and Section 9D-1 of the City's Code.

B. The Owner owns the Di Lido Property and intends to redevelop the current hotel located on the Di Lido Property together with portions of the commercial building also located on the Di Lido Property into a Ritz-Carlton Hotel substantially in accordance with the provisions contained in this Agreement.

C. The City is desirous of constructing and extending its Beachwalk through and across the beach portion of the Di Lido Property in order to provide recreational facilities for its citizens, and desires for the Owner to grant to City a permanent easement for such

THIS INSTRUMENT IS A COUNTERPART ORIGINAL OF THE INSTRUMENT WHICH WAS PREVIOUSLY FILED ON JUNE 16, 1998 UNDER CLERK'S FILE NO. 98R289460 AND WAS INADVERTENTLY MISSING THE LAST PAGE OF EXHIBIT "K". AS SUCH, THIS DOCUMENT WHICH REPRESENTS THE COMPLETE DOCUMENT, INCLUDING THE LAST PAGE, IS BEING RE-RECORDED.

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easement for shore parallel beach access and other public purposes as part of its Planned Development.

D. The City, in cooperation with the Owner, also wishes to make substantial improvements to the Lincoln Road Section and the Di Lido Easement Area and to obtain from the Owner a permanent pedestrian easement for access by the public from the Easterly end of the Lincoln Road Section through the Di Lido Property to the beach and the Owner is willing to grant the Di Lido Easement for public purposes as part of its Planned Development.

E. The City is willing to consider the vacation and abandonment of the Lincoln Road Property in favor of Owner, as the owner of the adjoining Di Lido Property, in exchange for the grant by the Owner to the City of the Lincoln Access Easement, the Owner's grant of the Di Lido Easement and the Owner's commitment to expend funds to prepare the Lincoln Road Plans and to construct the Lincoln Road Improvements.

F. The City is a Florida municipal corporation with powers and authority conferred under the Florida Constitution, the Municipal Home Rule Powers Act, Florida Statutes and the Miami Beach City Charter and Code of Ordinances. The City has all governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal and governmental functions and render municipal services, including the authority to adopt, implement and enforce (together with any other required governmental approvals) comprehensive plans, zoning ordinances, redevelopment plans and other police power and legislative measures necessary to assure the health, safety and general welfare of the City and its inhabitants.

G. Having fully considered this Agreement at two duly conducted public hearings in compliance with Section 163.3225 of the Act, having determined that the Planned Development and this Agreement are in compliance with the Comprehensive Plan and the City's land development regulations as of the date of the approval of this Agreement at the second public hearing, and having further determined that it is in the City's best interest to deal with the issues covered by this Agreement in a comprehensive

manner, in compliance with all applicable laws, ordinances, plans, rules and regulations of the City, while allowing the Owner to proceed in the development of the Planned Development in accordance with existing laws and policies, subject to the terms hereof, the City has agreed to enter into this Agreement with the Owner.

II. The City has determined that the Planned Development and the Lincoln Road Improvements will have certain benefits to the City. The Planned Development and the Lincoln Road Improvements will rehabilitate a key intersection of South Beach. The Planned Development will preserve the architectural scale and historical facade of certain existing structures and the Lincoln Road Improvements will renovate and beautify the presentation of the intersection. The Planned Development is consistent with the City's ongoing redevelopment of the area surrounding the Di Lido Property and will positively influence the character of future development in the City Center-Historic Convention Village Redevelopment and Revitalization Area.

1. All capitalized terms used in this Introduction and Background are defined in Section 3 or elsewhere in this Agreement.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Recitations. The foregoing recitations are true and correct and are incorporated herein by this reference.

2. Authority. This Agreement is entered into pursuant to the authority and procedures provided by the Act and Section 9D-1 of the Code of the City of Miami Beach.

3. Definitions. All capitalized terms in this Agreement shall have the definitions set forth in this Section unless such terms are defined elsewhere in the body of this Agreement.

3.1 "Act" shall mean the Florida Local Government Development Agreement Act (Section 163.3220, *et. seq.*, Florida Statutes (1997)).

3.2 "Approval Period" have the definition set forth in Section 11.2 of this Agreement.

3.3 "Beachwalk" shall mean the City's Beachwalk running North and South along the beach as depicted on the Beachwalk Site Plan.

3.4 "Beachwalk Easement" shall mean a perpetual easement for public pedestrian use (and related easements necessary for the construction and maintenance of the Beachwalk) across the Beachwalk Easement Area for the continuation of the Beachwalk which easement shall be in the form attached hereto as Exhibit "C".

3.5 "Beachwalk Easement Area" shall mean the area described in Schedule "A" of the Beachwalk Easement.

3.6 "Beachwalk Site Plan" shall mean the Beachwalk Site Plan a conceptual drawing of which is attached hereto as Exhibit "D".

3.7 "Comprehensive Plan" shall mean the comprehensive plan which the City has adopted and implemented for the redevelopment and continuing development of the City pursuant to Chapter 163 Part II, of the Florida Statutes.

3.8 "Development Approvals" shall mean all Development Permits and all approvals, consents, permits, special use exemptions or variances as well as other official actions of the federal, state or county governments or other governmental agencies.

3.9 "Development Permits" shall mean any building permit, zoning permit, subdivision approval, zoning certification, special exceptions, variances issued or granted by the City or any other official actions of the City (whether by the City Commission or any City board, department or agency) having the effect of permitting the development of the Planned Development.

3.10 "Di Lido Easement" shall mean a perpetual easement for public pedestrian access from the Easterly end of the Lincoln Road Section running Easterly through the Di Lido Easement Area to the beach for the purpose of providing public access to the beach and Atlantic Ocean from the end of the Lincoln Road Section which easement shall be in the form attached hereto as Exhibit "E".

3.11 "Di Lido Easement Area" shall mean the area described in Schedule "A" to the Di Lido Easement.

3.12 "Di Lido Property" shall mean the parcel of real property described in Exhibit "A" hereto. From and after the Second Closing, the Di Lido Property shall include all of the Owner's right, title and interest in and to the Lincoln Road Property pursuant to the vacation of the Lincoln Road Property as contemplated in Section 7 hereof.

3.13 "Initial Closing" shall have the definition set forth in Section 11.1 of this Agreement.

3.14 "Lincoln Access Easement" shall mean a perpetual easement for public pedestrian and vehicular traffic on, across and through the Lincoln Road Property for the purpose of allowing pedestrian and vehicular traffic to continue to use the Lincoln Road Property which easement shall be in the form attached hereto as Exhibit "F".

3.15 "Lincoln Road Improvements" shall mean the improvements to be made to the Lincoln Road Section and the Di Lido Easement Area as described in Section 8 of this Agreement.

3.16 "Lincoln Road Property" shall mean that portion of Lincoln Road North of the center line of the existing road right-of-way lying East of the Eastern right-of-way line of Collins Avenue and which is contiguous to the Di Lido Property, as more particularly described in Exhibit "B" hereto.

3.17 "Lincoln Road Section" shall mean the portion of Lincoln Road lying East of the Eastern right-of-way line of Collins Avenue.

3.18 "Planned Development" shall mean the reconstruction and redevelopment of the Di Lido Property (as defined in Section 3.12 hereof to include the Owner's right, title and interest to the Lincoln Road Property after the Second Closing), including the existing Di Lido Beach Hotel and portions of the adjoining commercial building, in compliance with the following conditions:

(a) the maximum total square footage of floor area permitted upon the Di Lido Property shall not exceed 407,491.25 square feet measured in accordance with the regulations of the City's zoning ordinance and the maximum permitted floor area ratio upon the Di Lido Property shall be 2.5 measured in accordance with the regulations of the City's zoning ordinance for the purposes of determining population densities and building intensities as required by the Act.

(b) The building height shall be no more than 117 feet to the top of the roof and 142 feet to the highest architectural projection as measured above "grade" as said term is defined in the City's zoning ordinance (Ordinance No. 89-2665, as amended).

(c) The uses permitted in the Planned Development shall be a hotel consisting of up to 400 "keys" (as such term is generally used in the hotel industry) with appurtenant facilities, including, without limitation, (i) facilities for conventions, banquets and other functions; (ii) spa; (iii) beachfront recreational facilities; (iv) restaurants; (v) retail; (vi) parking

facilities; (vii) administrative office space; and (viii) any other hotel or resort related uses permitted under the City's zoning ordinance.

(d) The existing facades of the hotel located on the Di Lido Property and adjoining commercial building shall be substantially preserved in accordance with applicable requirements of the City.

(e) The Planned Development shall include on-site parking for not less than 262 automobiles; provided, however, additional parking may only be provided in accordance with the provisions of the City's zoning ordinance, and shall not effectuate a floor area ratio which exceeds 2.5.

(f) Provided that the Owner obtains all requisite Development Approvals to do so, the Planned Development shall be constructed in substantial conformity with the proposed site plan (including elevations) attached hereto as Exhibit "G" (the "**Proposed Site Plan**"); provided, however, that:

(i) any material deviation (as determined by the City's planning and zoning director) in any of the conditions described above in subsections (a) through (e) or in the Proposed Site Plan shall require the approval of the City commission and a written amendment to this Agreement, if appropriate, in accordance with the requirements of the Act;

(ii) any nonmaterial changes (as determined by the City's planning and zoning director) which are required by the Joint Design, Review and Historic Preservation Board and the Board of Adjustment or any other applicable board or which are initiated by the Owner shall not require the approval of the City commission; and

(iii) any technical changes in the Proposed Site Plan not governed by subsections (f)(i) or (f)(i) above and which are (A) required in order for the Planned Development to be in compliance with any and all applicable laws, codes, rules and regulations of any governmental or regulatory agencies, including, without limitation, the South Florida Building Code and the Americans with Disabilities Act, or (B) otherwise required or necessary, including, without limitation, any changes in connection with ingress and egress and public works, shall be delegated to the appropriate government official of the City for review and approval of any such technical changes.

(g) The Owner shall cause the timely completion of the Planned Development and shall obtain a certificate of occupancy or certificate of completion, as applicable, therefore no later than the date that is five (5) years after the effective date hereof (subject to the Owner's cumulative rights to extend such period under this Agreement).

3.19 "Second Closing" shall have the meaning set forth in Section 11.1 of this Agreement.

4. Beachwalk Easement. The Beachwalk Easement shall be granted by the Owner to the City at the Initial Closing and shall be in the form attached hereto as Exhibit "C". Said grant shall not be affected by the expiration, termination or other treatment of this Agreement and shall be deemed a perpetual easement in accordance with the terms of said instrument.

5. Di Lido Easement. Subject to the terms and conditions of this Agreement, the Di Lido Easement shall be granted by the Owner to the City at the Second Closing and shall be in the form attached hereto as Exhibit "E".

6. Lincoln Access Easement. Subject to the terms and conditions of this Agreement, the Lincoln Access Easement shall be granted by the Owner to the City at the Second Closing and shall be in the form attached hereto as Exhibit "F".

7. Vacation of Lincoln Road. The Owner has submitted an application to the City for the vacation of the Lincoln Road Property. The City shall consider and process the Owner's application for vacation of the Lincoln Road Property within sixty (60) days from the date that a completed application is submitted to the City (subject to noticing requirements and scheduling restrictions applicable to the City's commission hearings). Provided that the vacation is granted, then, subject to the effectuation thereof, the Lincoln Road Property shall be included within the Di Lido Property to form a single site for the Planned Development for purposes of floor area ratio calculations and the permitted floor area ratio for the Di Lido Property shall be 2.5. Provided that the vacation is granted, the City shall deliver to Owner all instruments reasonably required to effectuate the vacation of the Lincoln Road Property, including, without limitation, a quit claim and the vacation shall become effective at the time of the Second Closing. The Owner has heretofore paid a fee to the City in the amount of \$5,000.00 in connection with the application for vacation of the Lincoln Road Property. The City acknowledges receipt of such fee and agrees that such fee shall be credited against the amount that Owner is obligated to expend for the Lincoln Road Improvements as provided in Section 8 of this Agreement.

8. Lincoln Road Improvements. In consideration for the grant of the Di Lido Easement and the economic contribution described in this Section, the City agrees that with respect to the Lincoln Road Improvements:

(a) The Owner shall direct the construction process and be responsible for entering into all contracts necessary for the construction of the Lincoln Road Improvements and shall secure all required permits and approvals for the Lincoln Road Improvements on its own behalf and, to the extent appropriate, on behalf of the City and with the City's cooperation.

(b) The Owner (at its expense) shall cause all designs, drawings and plans, including any revisions and enhancements thereto (the "**Lincoln Road Plans**"), which are necessary for the construction of the Lincoln Road Improvements consistent with the Owner's financial commitment as described herein (except to the extent that Owner may elect to increase such financial commitment as provided herein) to be prepared by an architect selected by the Owner and which is mutually acceptable to the City (such approval by the City shall not be unreasonably withheld or delayed). The City shall have the right to the prior review and approval of the Lincoln Road Plans (which approval shall not be unreasonably withheld or delayed). The parties acknowledge that the final design shall reflect the overall design theme of the Lincoln Road Revitalization Project. The Lincoln Road Plans shall provide for or contain certain requirements as follows:

(i) The existing geometry of the Lincoln Road Section shall be substantially followed in the design of the Lincoln Road Improvements. No change in the location of the sidewalks, curbs and gutters shall be permitted without the consent of the City;

(ii) Ingress and egress (driveways) to the Planned Development, and access through the median strip designed to accommodate convenient vehicular access to and from the driveways for the Planned Development so long as the existing geometry is not substantially altered;

(iii) Appropriate vehicular turn around at the East end of the Lincoln Road Section within the existing right-of-way;

(iv) Lighting;

(v) Landscaping;

(vi) Irrigation for landscaping;

(vii) Sidewalk;

(viii) City-approved street signage; directional signage, beach access signage and similar signs (excluding private signage);

(ix) Improvements to the Di Lido Easement Area, including lighting, sidewalks and landscaping.

(c) The Owner shall expend no less than \$500,000.00 for the Lincoln Road Plans, the required permits and approvals for, and the

construction of the Lincoln Road Improvements which sum shall be reasonably allocated between the Di Lido Easement Area and the Lincoln Road Section to provide an adequate level of Lincoln Road Improvements to each; provided, however, that the Owner, at its option, may expend additional funds to enhance and/or revise the Lincoln Road Plans (subject to the review and approval of the City which approval shall not be unreasonably withheld or delayed). Whatever level of improvements is undertaken by the Owner must be completed at the Owner's expense, even if at a cost of more than \$500,000.00. Owner acknowledges and agrees that the City shall have no financial commitment whatsoever with respect to the planning, permitting or construction of the Lincoln Road Improvements. Upon the completion of the Lincoln Road Improvements, the Owner will provide the City with evidence that the Owner has expended not less than \$500,000.00 in connection with the Lincoln Road Improvements.

(d) The Lincoln Road Improvements must be completed by the date of the issuance of a final certificate of occupancy or certificate of completion, as applicable, for the Planned Development. Upon the issuance a final certificate of occupancy or certificate of completion, as applicable, for the Planned Development, the Owner shall assign to the City any warranties provided by contractors engaged by the Owner in the construction of the Lincoln Road Improvements.

(e) On or before the commencement of construction of the Lincoln Road Improvements, the Owner shall obtain an appropriate performance bond covering the Lincoln Road Improvements in which the City is named as dual obligee. Said performance bond shall be in the amount of the cost of the Lincoln Road Improvements but in no event less than \$500,000.00.

(f) The City shall have the right (but not the obligation) to regularly inspect and monitor the design, permitting and construction process with respect to the Lincoln Road Improvements. In the event that any aspect of said process is not proceeding in accordance with the Lincoln Road Plans or if the quality of the construction is materially deficient, then the City shall promptly notify the Owner in writing specifying any deviations from the Lincoln Road Plans and/or any deficiencies in the construction. The Owner shall have a reasonable period of time in which to cure the noted deficiencies or provide a satisfactory response. If the Owner does not cure the noted deficiencies or provide a response reasonably satisfactory to the City, then the City shall have the right to cure such deficiencies at the Owner's cost. The Owner shall make no representations or warranties with respect to the Lincoln Road Improvements; provided, however, that the Owner shall assign to the City

any warranties of any of the contractors and subcontractors engaged by the Owner in the construction of the Lincoln Road Improvements.

(g) Notwithstanding the foregoing provisions in this Section 8 concerning the Owner's responsibility for the Lincoln Road Improvements, in the event that the City determines, prior to the Owner's commencement of the preparation of the Lincoln Road Plans, that it is in the best interest of the City to accelerate the construction of the Lincoln Road Improvements and to perform all of Owner's obligations under this Section 8, then the City and the Owner shall reasonably cooperate with each other to take all actions necessary so that the City may reasonably do so. Any such agreement will require that the Owner contribute \$500,000.00 to the City in lieu of Owner's obligations under this Section 8.

9. Zoning and Other Approvals.

9.1 Development Permits. Certain provisions of this Agreement will require that the City and/or its boards, departments or agencies take certain governmental actions, acting in their governmental capacity and issue Development Permits in order to accomplish and satisfy the following:

(a) The vacation of the public right-of-way for the Lincoln Road Property and the inclusion of 49,531.25 square feet of floor area development rights from the Lincoln Road Property to the Di Lido Property as a result thereof;

(b) The authorization of the Lincoln Road Improvements;

(c) The construction of the Planned Development; and

(d) all actions necessary to consummate the Initial Closing and Second Closing.

All Development Permits shall be issued subject to and conditioned upon the Second Closing.

9.2 Applications for Development Approvals. Promptly following the effective date of this Agreement, the Owner will initiate and diligently pursue all Development Approval applications which were not previously initiated. The City shall process all Development Permit applications in a timely fashion and the City shall cooperate with the Owner (at no cost to the City) in processing all necessary Development Approvals from federal, county and state agencies as needed. All applications for Development Permits shall be made under the presumption that the vacation of the Lincoln Road Property has been approved by the City and the City hereby authorizes the Owner to submit applications for the

Development Permits on that basis. No extension of any time period herein shall be deemed to be an extension of any time periods contained within the Development Approvals.

9.3 Laws Governing this Agreement. The City's laws and policies governing the development of the Di Lido Property at the time of the execution of this Agreement by both the parties hereto shall govern the development of the Di Lido Property for the duration of this Agreement. The City may apply subsequently adopted laws and policies to the Planned Development only as otherwise permitted or required by the Act.

9.4 Comprehensive Plan, Zoning and Other Approvals. As provided above, the parties recognize and agree that certain provisions of this Agreement will require the City and/or its boards, departments or agencies, acting in their governmental capacity, to consider governmental actions, as set forth in this Agreement. All such considerations and actions shall be undertaken in accordance with established requirements of state statute and City ordinances, in the exercise of the City's jurisdiction under the police power. The parties further recognize and agree that these proceedings shall be conducted openly, fully, freely and fairly in full accordance with law and with both procedural and substantive due process to be accorded the applicant and any member of the public. Nothing contained in this Agreement shall entitle the Owner to compel the City to take any such actions, save and except the consents, if applicable, to the filing of such applications for Development Permits or other required Development Approvals, as more fully set forth herein, and to timely process such applications.

10. Termination of Certain Title Matters. At the Owner's discretion, the City shall execute any appropriate instruments and take all necessary action to join with the appropriate parties in terminating or amending the following matters:

(a) Agreement dated as of July 24, 1949 between Harry Sirken, Thomas Corporation, a Florida corporation and the City, recorded under Clerk's File No. Y-63658 and in Deed Book 3169, at Page 17 regarding the approval by the City of a canopy projecting from the commercial building on the Di Lido Property;

(b) Agreement dated as of July 28, 1949 between Harry Sirken, Thomas Corporation, a Florida corporation and the City, recorded under Clerk's File No. Y-63674 and in Deed Book 3169, at Page 258 regarding a ten foot internal set back in the Di Lido Property; and

(c) Orders of Board of Adjustment of the City recorded in Official Records Book 16315, at Page 5123, Official Records Book 16878, at Page 998, and Official Records Book 16504, at Page 575 which orders relate to certain variances requested by Owner as part of its plans to

construct certain improvements on the Di Lido Property. Said improvements were never constructed.

Owner represents that it is the successor in interest to the parties referenced in items in (a) and (b) above other than the City. Owner agrees that it shall use its best efforts to obtain a letter from any existing mortgagees approving the termination of the above items if the City deems that such approval is necessary.

11. Effectiveness: Conditions to Initial Closing and Second Closing, and Deliveries

11.1 Within fifteen (15) days of the effective date of this Agreement, an initial closing (the "**Initial Closing**") shall be held at a mutually convenient time and place, at which closing the Owner shall grant the Beachwalk Easement to the City. Provided that (i) the Initial Closing has taken place, (ii) the vacation of the Lincoln Road Property has been approved by the City as provided in Section 7 to be effective at the Second Closing, (iii) the Owner, the City and any other necessary parties have theretofore executed a termination of that certain Lincoln Road Street End Agreement dated as of March 14, 1994 between the City, the Owner and Crescent Heights XXX, Inc., a Florida corporation, which the Owner and the City are willing to execute, (iv) the Owner has obtained all Development Approvals (and same remain valid and in effect, although some may be conditioned upon the occurrence of the Second Closing and certain permits may not be issued until the Second Closing) required to commence construction of the Planned Development within the Approval Period (or, at Owner's option, waived the condition of obtaining any Development Approvals not required to obtain a building permit and commence construction of the Planned Development by such date), (v) the Owner and its lender shall be in a position to close on financing in an amount which is adequate to fund the development of a Ritz-Carlton Hotel on the Di Lido Property, but in no event less than \$50,000,000.00 (the "**Financing**"), with such closing to take place simultaneously with the Second Closing, (vi) the Owner shall have entered into an arm's length industry-standard operating agreement with The Ritz-Carlton Hotel Company, L.L.C. for the Di Lido Property for a term of no less than twenty (20) years which requires that the portion of the Di Lido Property to be used as a hotel to be operated in accordance with the quality standards generally in effect for Ritz-Carlton hotels as of the execution date of this Agreement (the "**Operating Agreement**") and shall have delivered to the City a copy of a memorandum reflecting certain basic terms of said agreement which memorandum shall have been recorded in the Public Records of Miami-Dade County, and (vii) the Owner is ready, willing and able to deliver the items described in Sections 11.3 and 11.4, respectively, then, promptly thereafter, the Owner shall provide notice to the City that such conditions have been satisfied (the "**Closing Notice**") and within fifteen (15) days after the date that the Closing Notice is received by the City, a second closing (the "**Second Closing**") shall be

held at a mutually convenient time and place, at which closing each party hereto shall comply with their respective obligations herein at the Closing.

11.2 In the event that, for any reason, the conditions to the Second Closing described in Section 11.1 above have not been satisfied by the date that is two (2) years from the effective date of this Agreement (such period being referred to as the "Approval Period"), then either the City or the Owner, may elect to terminate this Agreement by providing written notice to the other party; provided, however, that to the extent applications seeking any Development Approvals are still pending hearing or appeal at the expiration of such initial period, then the Approval Period may be extended, at the Owner's option, for an additional one (1) year (in which case the term of this Agreement shall simultaneously be extended by one (1) year by providing written notice of the extension to the City prior to the expiration of the original Approval Period). In the event that Owner elects the option to extend the Approval Period as above provided, then, if at the end of such extension period all the Development Approvals still have not been obtained, then either the Owner or the City shall have the option to terminate as provided above. At any time after the expiration of the Approval Period (as same may be extended if that be the case) and prior to the City's receipt of a Closing Notice, the City may issue a notice to Owner terminating this Agreement; provided, however, that if the City has received a Closing Notice and has not theretofore issued a notice of termination, then the City shall not have the right to issue a notice of termination and shall have no further right to terminate this Agreement. In the event that all of the requisite Development Approvals have been timely obtained, but some or all of them are being challenged by third parties or appeal periods have not expired so that they have not become final at a time when the Approval Period (as the same may have been extended) is expiring, then the City and the Owner may agree to consider the desirability and advisability of further extending the Approval Period (and simultaneously the term of this Agreement), provided that such consideration and the determination thereof shall be in the sole and exclusive discretion of each of such respective parties and any such consideration shall be processed as an amendment to this Agreement. In the event that this Agreement is terminated as provided in this Section, then the obligations that are to be performed at the Second Closing shall terminate and the parties hereto shall have no further obligations under this Agreement.

11.3 At the Second Closing, the City shall execute and/or deliver to Owner the following items:

- (a) all instruments reasonably required to effectuate the vacation of the Lincoln Road Property, including, without limitation, a quit claim deed.

(b) all applicable Development Permits, unless the Owner has waived the condition that it receive all or any portion of the Development Permits (to the extent waivable), in which case, only those Development Permits the receipt of which the Owner has not waived.

(c) at the Owner's discretion, all instruments reasonably required by the Owner to effectuate the termination or amendment of the matters described in Section 10.

11.4 At the Second Closing, the Owner shall execute and/or deliver (as appropriate) to the City the following items:

(a) the Lincoln Access Easement.

(b) the Di Lido Easement.

(c) the fees and other required items for the Development Permits the receipt of which has not been waived by the Owner.

(d) any subordination agreement which may be required pursuant to Section 12(a) of this Agreement.

(e) at the Owner's discretion, all instruments reasonably required to effectuate the termination or amendment of the matters described in Section 10.

(f) all Development Approvals and all permits and approvals required for the Lincoln Road Improvements.

The closing of the Financing shall take place at the Second Closing.

12. Title. At the Initial Closing and Second Closing the Owner shall grant the Beachwalk Easement, the Lincoln Access Easement and the Di Lido Easement, respectively, in each case free and clear of all liens, encumbrances, rights of occupancy, or other matters except only the following:

(a) any then existing mortgage encumbering the underlying land, provided the holder of any such mortgage shall execute and deliver an appropriate subordination agreement (in a form reasonably acceptable to the City) subordinating the lien and rights of such mortgage holder to the rights of the City and the public;

(b) applicable zoning ordinances and regulations in accordance with this Agreement; and

(c) rights of the public which do not adversely affect the rights granted under the Beachwalk Easement, the Di Lido Easement and the Lincoln Access Easement.

13. "As Is" Condition. Owner agrees to accept the Lincoln Road Property in "as-is" physical condition at the Second Closing without any representation or warranty by the City regarding its physical condition, but, Owner shall not be required to make any physical improvements to, or remediate any defects or problems relating to, the Lincoln Road Property prior to its grant of the Lincoln Road Easement. The City agrees to accept the Beachwalk Easement, the Di Lido Easement with the underlying land and improvements (if any) in "as-is" condition, subject, in the case of the Lincoln Road Property, to Owner's subsequent compliance with the terms of Section 8 of this Agreement. To Owner's best knowledge, without any investigation, there are no hazardous materials or other contaminants present within the proposed Beachwalk Easement Area and the Di Lido Easement Area.

14. Use Restriction. Notwithstanding the expiration of this Agreement and subject to (i) the rights and remedies of any lenders providing financing for the Planned Development, and (ii) the respective rights of the parties to the Operating Agreement to terminate the Operating Agreement for cause, the portion of the Di Lido Property which is to be used as a hotel shall be used and operated as a Ritz-Carlton Hotel for a period of not less than three (3) years after the date of the issuance of a final certificate of occupancy or certificate of completion, as applicable, for the Planned Development.

15. Reservation of Rights. This Agreement shall not affect any rights which may have accrued to any party to this Agreement under all applicable law and each party hereto reserves any and all of such rights.

16. No Permit. This Agreement is not and shall not be construed as a Development Permit, Development Approval or authorization to commence development, nor shall it relieve Owner of the obligations to obtain necessary Development Approvals that are required under applicable law and under and pursuant to the terms of this Agreement.

17. Good Faith; Further Assurances; No Cost. The parties to this Agreement have negotiated in good faith. It is the intent and agreement of the parties that they shall cooperate with each other in good faith to effectuate the purposes and intent of, and to satisfy their obligations under, this Agreement in order to secure to themselves the mutual benefits created under this Agreement; and, in that regard, the parties shall execute such further documents as may be reasonably necessary to effectuate the provisions of this Agreement; provided, that the foregoing shall in no way be deemed to inhibit, restrict or require the exercise of the City's police power or actions of the City when acting in a quasi-judicial capacity. Wherever in this Agreement a provision requires cooperation, good faith or similar effort to be undertaken at no cost to a party, the concept of no cost shall not be deemed to include any cost of review (whether legal or otherwise),

attendance at meetings, hearings or proceedings and comment and/or execution of documents, all such costs to be borne by the party receiving a request to so cooperate, act in good faith or so forth.

18. Consistency with the City's Master Plan. The City has adopted and implemented the Comprehensive Plan. The City hereby finds and declares that the provisions of this Agreement dealing with the Di Lido Property are consistent with the City's adopted Comprehensive Plan and land development regulations (subject to all applicable Development Approvals).

19. Concurrency. The City hereby finds and declares that, based on the letter from David Plummer & Associates, Inc., dated as of March 23, 1998, a copy of which is on file with the City Clerk's office, the Planned Development meets concurrency with respect to roads and the traffic generated by the Planned Development would not exceed the traffic impact of the existing on-site uses. Therefore, no further traffic impact study for the purpose of concurrency determination is required and no traffic mitigation plan (other than minor mitigation necessary for circulation and other site specific issues) is necessary because the Planned Development is concurrent with respect to roads in that there will be no degradation in the level of service resulting from the redevelopment of the Di Lido Property. Additionally, the City hereby finds and declares that the Planned Development meets concurrency with respect to sanitary sewer, solid waste, drainage, potable water, parks and recreation, and mass transit.

20. Recording of the Development Agreement. Within fourteen (14) days after the City executes this Agreement, the City shall record this Agreement with the Clerk of the Circuit Court of Miami-Dade County. The Owner shall submit a copy of the recorded Agreement to the State of Florida's land planning agency within fourteen (14) days after this Agreement is recorded. This Agreement shall become effective only after (i) it has been recorded in the public records of Miami-Dade County, and (ii) thirty (30) days have elapsed after the State of Florida land planning agency's receipt of a copy of the recorded Agreement. The Owner agrees that it shall be responsible for all recording fees and other related fees and costs related to the recording and delivery of this Agreement as described in this section. The provisions hereof shall remain in full force and effect during the term hereof, and, subject to the conditions of this Agreement, shall be binding upon the undersigned, and all successors in interest to the parties to this Agreement. Whenever an extension of any deadline is permitted or provided for under the terms of this Agreement, at the request of the either party, the other party shall join in a short-form recordable memorandum confirming such extension to be recorded in the public records of Miami-Dade County.

21. Term of this Agreement. If this Agreement is formally approved by the City Commission after public hearing, then the City shall promptly take all appropriate actions and the City and Owner shall execute and deliver this Agreement thereafter in accordance with all requirements of law. Subject to the extension provisions below in this Section and in Sections 11.2 and 35, this Agreement shall terminate on the date

which is five (5) years from the effective date hereof, provided that it may be further extended, after public hearing, by mutual consent of the City and the Owner (at each party's sole discretion); provided further, that if on the expiration date hereof as theretofore extended (if that be the case), the Owner has not completed the construction of the Planned Development and is diligently pursuing same, then the term of this Agreement may be extended for an additional one (1) year period by providing written notice of the extension to the City prior to the expiration of the original term as theretofore extended (if that be the case). No notice of termination shall be required by either party upon the expiration of this Agreement and the parties hereto shall have no further obligations under this Agreement (except as provided in Section 14). All rights to extension of time periods herein shall be cumulative.

22. Presently Permitted Development. The development which is presently permitted on the Di Lido Property subject hereto, including population densities, and building intensities and height, which are the subject to this Agreement are more specifically set forth in Exhibit "H" hereto.

23. Public Facilities to Serve the Di Lido Property. A description of the public facilities that will service the proposed development of the properties subject to this Agreement, including who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of the development is included as Exhibit "I" hereto.

24. Public Reservations and/or Dedications. A description of the reservations and/or dedications of land for public purposes that are proposed under the terms of this Agreement is included as Exhibit "J" hereto.

25. Required Development Permits. Attached and made a part hereof as Exhibit "K" is a listing and description of all local development permits approved or needed to be approved for the development of the Planned Development.

26. Omissions. The parties hereto recognize and agree that the failure of this Agreement to address a particular permit, condition, term, or restriction shall not relieve the Owner of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction notwithstanding any such omission.

27. Notices. Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given if delivered by hand, sent by recognized overnight courier (such as Federal Express) or mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, and addressed as follows:

If to the City at:

City of Miami Beach, City Hall
1700 Convention Center Drive
Miami Beach, Florida 33139

Attn: City Manager,
City Attorney

If to Owner at:

c/o Bruce Lazar, Esq.
Seville Beach Hotel, Suite M
2901 Collins Avenue
Miami Beach, FL 33140
(if not in leave with concierge)

With a copy to:

Juan P. Loumiet, Esq.
Greenberg, Traurig, Hoffman,
Rosen & Quentel P.A.
1221 Brickell Avenue
Miami, Florida 33131

Notices personally delivered or sent by overnight courier shall be deemed given on the date of delivery and notices mailed in accordance with the foregoing shall be deemed given three (3) days after deposit in the U.S. mails. The terms of this Section 27 shall survive the termination of this Agreement.

28. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit. [Note: this paragraph is provided for informational purposes pursuant to Section 404.056(7), Florida Statutes, (1993).]

29. Construction.

(a) This Agreement shall be construed and governed in accordance with the laws of the State of Florida. All of the parties to this Agreement have participated fully in the negotiation and preparation hereof; and, accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto.

(b) In construing this Agreement, the use of any gender shall include every other and all genders, and captions and section and paragraph headings shall be disregarded.

(c) All of the exhibits attached to this Agreement are incorporated in, and made a part of, this Agreement.

30. Severability. In the event any term or provision of this Agreement be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or construed as deleted as such

authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

31. Litigation. In the event of any litigation between the parties under this Agreement for a breach hereof, the prevailing party shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels. The terms of this Section 30 shall survive the termination of this Agreement.

32. Time of Essence. Time shall be of the essence for each and every provision hereof.

33. Entire Agreement. This Agreement, together with the documents referenced herein, constitute the entire agreement and understanding among the parties with respect to the subject matter hereof, and there are no other agreements, representations or warranties other than as set forth herein. This Agreement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought and subject to the requirements for the amendment of development agreements in the Act.

34. CCCL. Pursuant to Section 161.57 of the Florida Statutes, the parties hereto waive any obligation on the part of the others to provide an affidavit or survey meeting the requirements of Chapter 472 Florida Statutes delineating the location of the coastal construction control line on any properties reflected in this Agreement, if applicable. This Section is not intended to diminish in any way the Owner's obligations to obtain any of the Development Approvals.

35. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, riot, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, excluding the financial inability of such party to perform and excluding delays resulting from appeals or rehearings commenced by the Owner (any such causes or events to be referred to herein as a "**Force Majeure**"), shall excuse the performance by such party for a period equal to any such period of prevention, delay or stoppage.

EXECUTED as of the date first above written in several counterparts, each of which shall be deemed an original, but all constituting only one agreement.

Signed, sealed and delivered
in the presence of:

[Signature]
Dorothy C. Menante

CITY OF MIAMI BEACH,
a Florida municipal corporation

By: [Signature]
Name: NEISEN O. KASDIN

Attest: [Signature]
Robert Parcher, City Clerk

[Signature]
Bruce E. Lazar

DI LIDO BEACH HOTEL
CORPORATION, a Florida corporation

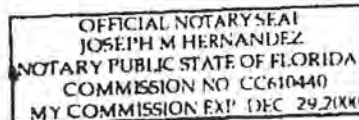
By: [Signature]
Name: Bruce E. Lazar
Title: Vice President

STATE OF FLORIDA)
COUNTY OF DADE) SS:

The foregoing instrument was acknowledged before me this 27th day of May, 1998 by Bruce E. Lazar, as Vice President of Di Lido Beach Hotel Corporation, a Florida corporation, on behalf of the corporation. He is personally known to me or ~~has produced~~ an identification and who did (did not) take an oath.

[Signature]
NOTARY PUBLIC

Typed or Printed Name of Notary
My Commission expires:
Serial No., if any:



OFF.
REC. 1816510975

STATE OF FLORIDA)
)SS:
COUNTY OF DADE)

The foregoing instrument was acknowledged before me this 16th day of June, 1998, by Neuse O. Isidore, as Mayor of the City of Miami Beach, a municipal corporation, on behalf of the Corporation. He is personally known to me ~~or has produced~~ as identification and ~~who did~~ (did not) take an oath.

Lillian Beauchamp
NOTARY PUBLIC

Lillian Beauchamp
Typed or Printed Name of Notary

My Commission expires:

Serial No., if any:

MIAMI/LOUMIET/937889A.3 .h161 DOC/5/27/98

OFFICIAL NOTARY SEAL
LILLIAN BEAUCHAMP
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC736372
MY COMMISSION EXP. APR. 29, 2002

OFF. REC. 1816510976

EXHIBIT "A"

DI LIDO PROPERTY

PARCEL 1:

Lots 18, 19 and 20 in Block 29, of FISHER'S FIRST SUBDIVISION OF ALTON BEACH, a Subdivision of MIAMI-DADE, Florida, according to the Plat thereof, as recorded in Plat book 2, at Page 77, of the Public Records of MIAMI-DADE County, Florida.

ALSO PARCEL 2:

All of Lots 1, 2, 3, 4, 17 and the South Half (S1/2) of Lots 5 and 16, in Block 29, of FISHER'S FIRST SUBDIVISION OF ALTON BEACH, according to the Plat thereof, as recorded in Plat Book 2, at Page 77 of the Public Records of MIAMI-DADE County, Florida, ALSO; Beginning (P.O.B.) at the Northeast corner of the South Half (S1/2) of Lot 5 in Block 29 as the same is shown and designated upon the Plat Florida; thence run in an Easterly direction along the North Line of said South Half (S1/2) of Lot 5 in Block 29 produced to the Erosion Control Line of the Atlantic Ocean, said line recorded in Plat Book 105, at Page 62, of the Public Records of MIAMI-DADE County, Florida; thence run in a Southerly direction along the Erosion Control Line a distance of 280.059 feet to a point, said point being the intersection of the Erosion Control Line and the Centerline of Lincoln Road, as said Road is shown on the above mentioned Plat, produced Easterly; thence run in a Westerly direction along the Centerline of Lincoln Road produced Easterly to an intersection with the Easterly Line of Block 29 produced Southerly; thence run in a Northerly direction along the Easterly line of said Block 29 and its production Southerly, a distance of 278.878 to the Point of Beginning (P.O.B.).

To Be Described as follows:

Unit No. _____, and No. _____, of _____, a Condominium, filed in Official Records Book _____, at Page _____, of the Public Records of MIAMI-DADE County, Florida.

OFF.
REC. 1816510977

EXHIBIT "B"

LINCOLN ROAD PROPERTY

LEGAL DESCRIPTION (Lincoln Road Abandonment):

A portion of land being a part of the platted Lincoln Road right-of-way as shown on FISHER'S FIRST SUBDIVISION OF ALTON BEACH, a Subdivision of Miami-Dade, Florida, according to the plat thereof as recorded in Plat Book 2 at Page 77 of the Public Records of Dade County, Florida. Said land being more particularly described as follows:

Bounded on the South by the platted centerline of Lincoln Road lying Easterly of Collins Avenue as shown on said FISHER'S FIRST SUBDIVISION OF ALTON BEACH.

Bounded on the West by a line 40 feet Easterly of and parallel with the centerline of Collins Avenue as shown on said FISHER'S FIRST SUBDIVISION OF ALTON BEACH.

Bounded on the North by the South line of Block 29 of said FISHER'S FIRST SUBDIVISION OF ALTON BEACH.

AND Bounded on the East by the East line of Block 29 projected Southerly of said FISHER'S FIRST SUBDIVISION OF ALTON BEACH.

OFF. REC. 1816510978

EXHIBIT "C"

BEACHWALK EASEMENT

Prepared by and Return to:

Raul J. Aguila, Esq.
Office of City Attorney
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

GRANT OF PERPETUAL EASEMENT FOR BEACHWALK

THIS GRANT OF EASEMENT (this "**Easement**") is made this ____ day of _____, 1998, by DI LIDO BEACH HOTEL CORPORATION, a Florida corporation (the "**Owner**") having its principal place of business at 155 Lincoln Road, Miami Beach, Florida in favor of the CITY OF MIAMI BEACH, a Florida municipal corporation (the "**City**"), having its principal place of business at 1700 Convention Center Drive, Miami Beach, Florida.

WHEREAS, the Owner owns that certain property situated, lying and being in Dade County, Florida, known as the Di Lido Beach Hotel located at 155 Lincoln Road, Miami Beach, Florida, and as more particularly described in Schedule "A" attached hereto (the "**Property**");

WHEREAS, on or about March 13, 1982, the City entered into that certain Management Agreement for Certain Lands in the City of Miami Beach, Florida (Agreement No. 750-0006), as amended, with the Trustees of the Internal Improvement Trust Fund of the State of Florida, granting the City the right to exercise management authority over the State owned beach east of the Erosion Control Line within the City of Miami Beach, including that certain area landward and seaward of the dune;

WHEREAS, the City is desirous of developing an at-grade public pedestrian walkway, which includes landscaping, lighting, and irrigation, along the landward side of the dune, connecting the existing walkway fronting Lummus Park and the existing elevated wooden boardwalk which currently begins at 21st Street (the "**Beachwalk**"); and

WHEREAS, pursuant to the terms of that certain Agreement dated as of _____, 1998 between the City and the Owner, recorded in Official Records Book _____, at Page _____, of the Public Records of Miami-Dade County (the "**Development Agreement**"), which constitutes a development agreement under the Florida Local Government Development Agreement Act, the Owner has agreed to grant this perpetual easement to the City for use as an at-grade public pedestrian walkway, for the installation and maintenance of landscaping, and for such other public uses which are consistent with the City's development of the Beachwalk, across that certain portion of the Property, approximately fifteen (15) feet in width, running along the dune

line near the eastern boundary of the Property, as same is more particularly described in Schedule "B" attached hereto (the "Easement Parcel").

NOW THEREFORE, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner by these presents hereby grants, sells, and conveys to the City, its successors and assigns, a perpetual easement on, in, and over the Easement Parcel for the purpose of installing, laying, constructing, operating, inspecting, maintaining, repairing, and replacing the Beachwalk and for public pedestrian access to the Beachwalk.

The Owner and the City further agree to the following:

1. The Owner hereby grants to the City its employees, contractors, or representatives, the permanent right and license for purposes of ingress and egress to and from the Easement Parcel for the purposes of laying, constructing, operating, inspecting, maintaining, repairing, and replacing the Beachwalk.
2. The City shall use its best efforts to obtain the necessary permits and approvals from the State of Florida for construction of the Beachwalk; provided, however, that in the event that the City has not secured the necessary permits and approvals and initiated construction of the Beachwalk within the later of (i) three (3) years from the date of execution of this instrument, or (ii) the expiration of the term of the Development Agreement, this Easement and the easement rights granted herein shall automatically terminate.
3. The City shall construct the Beachwalk in substantial conformity with the Beachwalk Site Plan attached hereto as Schedule "C".
4. The City shall deliver notice of its intention to commence construction of the Beachwalk to the Owner not later than thirty (30) days prior to the date set for such commencement.
5. Following the completion of the Beachwalk, the City shall have the sole responsibility and shall bear the total cost for the repair and maintenance of the Beachwalk, except for any repairs or maintenance arising from the negligence of the Owner or any successor thereto.
6. The City shall maintain and repair the Easement Parcel and the portion of the Beachwalk lying thereon in the same manner as it maintains and repairs the remainder of the Beachwalk. The City shall insure and provide security for the Beachwalk in the same manner as it provides security for its public sidewalks and right-of-ways.
7. The Owner reserves unto itself, its successors and assigns, the perpetual right and privilege of:

- a. Right of ingress and egress to and from the Easement Parcel for construction access to the east side of the Property, provided that the Owner has obtained all the necessary permits and approvals from the City and the State for any such construction, and that Owner shall bear the cost for repairing any damage to the Easement Parcel or Beachwalk, resulting from such construction; and
 - b. Unrestricted access to, over, across and in the Easement Parcel, provided that such use does not materially interfere with the continued use of the Easement Parcel as permitted herein.
8. Owner shall not construct or permit to be constructed any structure or obstruction on or over or interfering with the construction, maintenance, or any other aspect of the Beachwalk located upon the Easement Parcel. The City shall not obstruct access to the beach and the Atlantic Ocean from the Property across the Easement Parcel.
 9. Owner covenants, warrants and represents (i) that it is the fee simple owner of the Easement Parcel and has the right, title, and capacity to grant the perpetual easement granted herein, and (ii) Commercial Bank of Florida is the sole lienor and holder of a recorded (or unrecorded) security interest in the Easement Parcel.
 10. This grant of perpetual easement shall inure to the benefit of and be binding upon the heirs, legal representatives, successors and assigns of the parties hereto, as applicable.
 11. In the event that the City abandons or vacates the Beachwalk, then this Easement and the easement rights granted herein shall automatically terminate.
 12. Notices. Any notices required or permitted to be given under this Easement shall be in writing and shall be deemed to have been given if delivered by hand, sent by recognized overnight courier (such as Federal Express) or mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, and addressed as follows:

If to the City at:

City of Miami Beach, City Hall
1700 Convention Center Drive
Miami Beach, Florida 33139

Attn: City Manager,
City Attorney

If to Owner at: c/o Bruce Lazar, Esq.
Seville Beach Hotel, Suite M
2901 Collins Avenue
Miami Beach, FL 33140
(if not in leave with concierge)

With a copy to: Juan P. Louniet, Esq.
Greenberg, Traurig, Hoffman,
Rosen & Quentel P.A.
1221 Brickell Avenue
Miami, Florida 33131

Notices personally delivered or sent by overnight courier shall be deemed given on the date of delivery and notices mailed in accordance with the foregoing shall be deemed given three (3) days after deposit in the U.S. mails. The terms of this Section shall survive the termination of this Easement.

13. Construction.

- (a) This Easement shall be construed and governed in accordance with the laws of the State of Florida. All of the parties to this Agreement have participated fully in the negotiation and preparation hereof; and, accordingly, this Easement shall not be more strictly construed against any one of the parties hereto.
- (b) In construing this Easement, the use of any gender shall include every other and all genders, and captions and section and paragraph headings shall be disregarded.
- (c) All of the exhibits attached to this Easement are incorporated in, and made a part of, this Agreement.

14. Severability. In the event any term or provision of this Easement be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or construed as deleted as such authority determines, and the remainder of this Easement shall be construed to be in full force and effect.

15. Litigation. In the event of any litigation between the parties under this Easement for a breach hereof, the prevailing party shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels. The terms of this Section shall survive the termination of this Easement.

16. Time of Essence. Time shall be of the essence for each and every provision hereof.

17. Entire Agreement. This Easement, together with the documents referenced herein, constitute the entire agreement and understanding among the parties with

respect to the subject matter hereof, and there are no other agreements, representations or warranties other than as set forth herein. This Easement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought.

18. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, riot, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, excluding the financial inability of such party to perform shall excuse the performance by such party for a period equal to any such period of prevention, delay or stoppage.

IN WITNESS WHEREOF, the undersigned has caused this grant of perpetual easement to be executed by execution of this instrument as of this _____ day of _____, 1998.

Witnesses:

THE OWNER

Sign Name: _____

Print Name: _____

DI LIDO BEACH HOTEL CORPORATION,
a Florida corporation

Sign Name: _____

Print Name: _____

By: _____

Name:

Title:

CONSENT

The undersigned as lienor, owner and holder of that certain [Mortgage] recorded in Official Records Book _____, Page _____, of the Public Records of Miami-Dade County, Florida, hereby consents to this grant of easement rights as provided herein and subordinates the lien and the effect of its security interest to this Easement.

COMMERCIAL BANK OF FLORIDA, a
Florida banking corporation

Sign Name: _____

Print Name: _____

Sign Name: _____

Print Name: _____

By: _____

Name:

Title:

OFF. REC. 1816570985

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 1998 by _____, as _____ of Di Lido Beach Hotel Corporation, a Florida corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ as identification and who did (did not) take an oath.

NOTARY PUBLIC

Typed or Printed Name of Notary
My Commission expires: _____
Serial No., if any: _____

ACKNOWLEDGED AND ACCEPTED this _____ day of _____, 1998
by:

Witnesses:

CITY OF MIAMI BEACH, FLORIDA, a
municipal corporation

Sign Name: _____
Print Name: _____

Sign Name: _____
Print Name: _____

By: _____
Mayor

ATTEST:

Robert Parcher, City Clerk

OFF. REC. 1816510986

STATE OF FLORIDA)
)SS:
COUNTY OF DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 1998, by _____, as Mayor of the City of Miami Beach, a municipal corporation, on behalf of the Corporation. He is personally known to me or has produced _____ as identification and who did (did not) take an oath.

NOTARY PUBLIC

Typed or Printed Name of Notary

My Commission expires:

Serial No., if any: _____

MIAMI/HERNANDEZ/9465011/35041 DOC 3/2/98

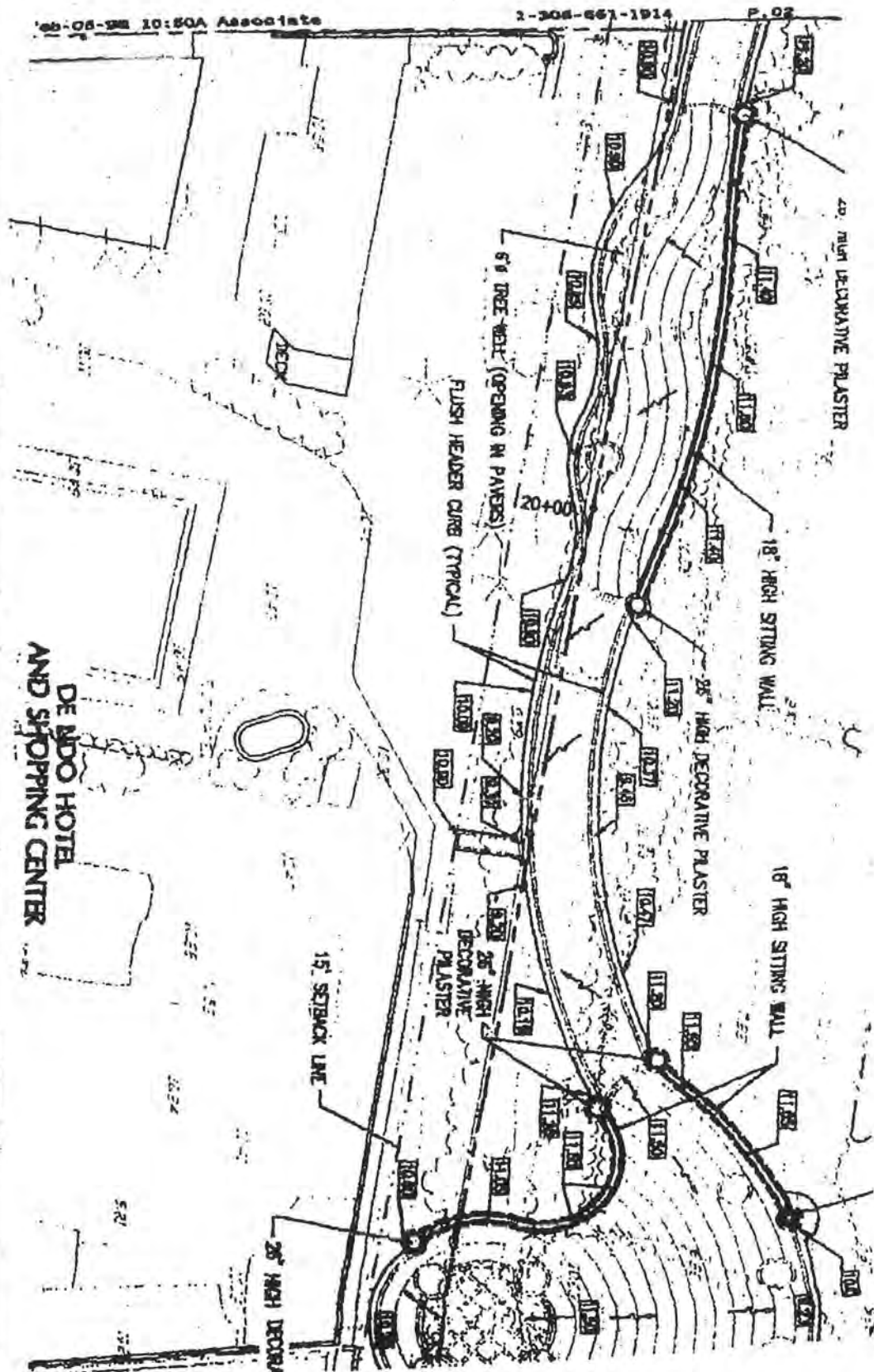
OFF. 1816510987
REC.

EXHIBIT "D"

BEACHWALK SITE PLAN

OFF. REC. 18165P10988

OFF. REC. 18165P10988



OFF. 1816510989
REC.

EXHIBIT "E"

DI LIDO EASEMENT

Prepared by and Return to:

Joseph M. Hernandez, Esq.
Greenberg, Traurig, Hoffman,
Lipoff, Rosen & Quentel, P.A.
1221 Brickell Avenue
Miami, FL 33131

GRANT OF PERPETUAL EASEMENT FOR BEACH ACCESS

THIS GRANT OF EASEMENT (this "**Easement**") is made this ____ day of _____, 1998, by DI LIDO BEACH HOTEL CORPORATION, a Florida corporation (the "**Owner**") having its principal place of business at 155 Lincoln Road, Miami Beach, Florida in favor of the CITY OF MIAMI BEACH, a Florida municipal corporation (the "**City**"), having its principal place of business at 1700 Convention Center Drive, Miami Beach, Florida.

WHEREAS, the Owner owns that certain property situated, lying and being in Dade County, Florida, known as the Di Lido Beach Hotel located at 155 Lincoln Road, Miami Beach, Florida, and as more particularly described in Schedule "A" attached hereto (the "**Property**");

WHEREAS, the City and the Owner entered into that certain Agreement dated as of _____, 1998, recorded in Official Records Book _____, at Page _____, of the Public Records of Miami-Dade County (the "**Development Agreement**"), which constitutes a development agreement pursuant to the Florida Local Government Development Act, Section 163.3220, *et. seq.*, Florida Statutes (the "**Act**") and which contemplates the renovation of the existing hotel and commercial building located on the Property (the "**Planned Development**");

WHEREAS, pursuant to the Development Agreement the Owner has agreed to grant to the City a perpetual easement for the purpose of providing public access from the Easterly end of Lincoln Road to the beach and Atlantic Ocean through that portion of the Property which is approximately twenty (20) feet in width, as more particularly described in Schedule "B" attached hereto (the "**Easement Parcel**") in exchange for, among other things, the issuance of development permits and approvals in order to develop the Planned Development; and

WHEREAS, pursuant to the Development Agreement, the Owner has agreed to construct certain improvements on the Easement Parcel (the "**Improvements**").

NOW THEREFORE, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner by these presents hereby grants, sells, and conveys to the City, its successors and assigns, a perpetual easement on, in, and over the Easement Parcel for the purpose of providing

public access from the Easterly end of Lincoln Road to the beach and Atlantic Ocean and for the purpose of installing, laying, constructing, operating, inspecting, maintaining, repairing, and replacing a public pedestrian walkway in order to provide such public access to the beach and the Atlantic Ocean.

The Owner and the City further agree to the following:

1. The Owner hereby grants to the City its employees, contractors, or representatives, the permanent right and license for purposes of ingress and egress to and from the Easement Parcel for the purposes of laying, constructing, operating, inspecting, maintaining, repairing, and replacing the pedestrian walkway, landscaping, lighting and irrigation, and all other related improvements to be constructed on the Easement Parcel.
2. The City shall have the sole responsibility and shall bear the total cost for the maintenance of the Improvements, except for any repairs or maintenance arising from the negligence of the Owner or any successor thereto.
3. The parties hereto acknowledge and agree that the Easement Parcel and the Improvements thereon are intended to be used and maintained in a manner which is consistent with the standard of maintenance for the Lincoln Road Mall. The City agrees that it shall insure and provide security for the Easement Parcel and the Improvements in the same manner as it provides security for its public sidewalks and right-of-ways.
4. The Owner reserves unto itself, its successors and assigns, the perpetual right and privilege of:
 - a. Right of ingress and egress to and from the Easement Parcel for construction access to the Property, provided that Owner shall bear the cost for repairing any damage to the Easement Parcel or Improvements, resulting from such construction; and
 - b. Unrestricted access to, over, across and in the Easement Parcel, provided that Owner shall not use the Easement Parcel for vehicular traffic and Owner's use of the Easement Parcel shall not materially interfere with the continued use of the Easement Parcel as permitted herein by Grantee and the public.
5. Owner shall not construct or permit to be constructed any structure or obstruction on or over or interfering with the construction, maintenance, or any other aspect of the Improvements located upon the Easement Parcel.

6. Owner covenants, warrants and represents that (i) it is the fee simple owner of the Easement Parcel and has the right, title, and capacity to grant the perpetual easement granted herein, and (ii) _____ is the sole lienor and holder of a recorded (or unrecorded) security interest in the Easement Parcel.
7. This grant of perpetual easement shall inure to the benefit of and be binding upon the heirs, legal representatives, successors and assigns of the parties hereto, as applicable.
8. Notices. Any notices required or permitted to be given under this Easement shall be in writing and shall be deemed to have been given if delivered by hand, sent by recognized overnight courier (such as Federal Express) or mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, and addressed as follows:

If to the City at: City of Miami Beach, City Hall
1700 Convention Center Drive
Miami Beach, Florida 33139

Attn: City Manager,
City Attorney

If to Owner at: c/o Bruce Lazar, Esq.
Seville Beach Hotel, Suite M
2901 Collins Avenue
Miami Beach, FL 33140
(if not in leave with concierge)

With a copy to: Juan P. Loumiet, Esq.
Greenberg, Traurig, Hoffman,
Rosen & Quentel P.A.
1221 Brickell Avenue
Miami, Florida 33131

Notices personally delivered or sent by overnight courier shall be deemed given on the date of delivery and notices mailed in accordance with the foregoing shall be deemed given three (3) days after deposit in the U.S. mails. The terms of this Section shall survive the termination of this Easement.

9. Construction.
 - (a) This Easement shall be construed and governed in accordance with the laws of the State of Florida. All of the parties to this Agreement have participated fully in the negotiation and preparation hereof; and, accordingly, this Easement shall not be more strictly construed against any one of the parties hereto.

- (b) In construing this Easement, the use of any gender shall include every other and all genders, and captions and section and paragraph headings shall be disregarded.
- (c) All of the exhibits attached to this Easement are incorporated in, and made a part of, this Agreement.
10. Severability. In the event any term or provision of this Easement be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or construed as deleted as such authority determines, and the remainder of this Easement shall be construed to be in full force and effect.
11. Litigation. In the event of any litigation between the parties under this Easement for a breach hereof, the prevailing party shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels. The terms of this Section shall survive the termination of this Easement.
12. Time of Essence. Time shall be of the essence for each and every provision hereof.
13. Entire Agreement. This Easement, together with the documents referenced herein, constitute the entire agreement and understanding among the parties with respect to the subject matter hereof, and there are no other agreements, representations or warranties other than as set forth herein. This Easement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought.
14. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, riot, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, excluding the financial inability of such party to perform shall excuse the performance by such party for a period equal to any such period of prevention, delay or stoppage.

IN WITNESS WHEREOF, the undersigned has caused this grant of perpetual easement to be executed by execution of this instrument as of this _____ day of _____, 1998.

Witnesses:

THE OWNER

Sign Name: _____

DI LIDO BEACH HOTEL CORPORATION,
a Florida corporation

Print Name: _____

Sign Name: _____

By: _____

Print Name: _____

Name: _____

Title: _____

OFF. REC. 1816510994

CONSENT

The undersigned lienor, owner and holder of that certain [Mortgage] recorded in Official Records Book _____, at Page _____, of the Public Records of Miami-Dade County, hereby consents to the grant of easement rights as provided herein and subordinates the lien and effect of its security interest to this Easement.

Sign Name: _____
Print Name: _____

Sign Name: _____
Print Name: _____

_____, a

By: _____
Name: _____
Title: _____

OFF.
REC. 1816510995

STATE OF FLORIDA)

) SS:

COUNTY OF DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 1998 by _____, as _____ of Di Lido Beach Hotel Corporation, a Florida corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ as identification and who did (did not) take an oath.

NOTARY PUBLIC

Typed or Printed Name of Notary

My Commission expires: _____

Serial No., if any: _____

ACKNOWLEDGED AND ACCEPTED this _____ day of _____, 1998
by:

Witnesses:

CITY OF MIAMI BEACH, a Florida
municipal corporation

Sign Name: _____

Print Name: _____

By: _____

Mayor

Sign Name: _____

Print Name: _____

ATTEST:

Robert Parcher, City Clerk

OFF.
REC. 1816510996

STATE OF FLORIDA)
)SS:
COUNTY OF DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 1998, by _____, as Mayor of the City of Miami Beach, a Florida municipal corporation, on behalf of the Corporation. He is personally known to me or has produced _____ as identification and who did (did not) take an oath.

NOTARY PUBLIC

Typed or Printed Name of Notary
My Commission expires: _____
Serial No., if any: _____

MIAMI:BERNANDEZ/94691 EX-2550/EX-77798

OFF. REC. 18165P0997

EXHIBIT "F"

LINCOLN ACCESS EASEMENT

Prepared by and Return to:

Joseph M. Hernandez, Esq.
Greenberg, Traurig, Hoffman,
Lipoff, Rosen & Quentel, P.A.
1221 Brickell Avenue
Miami, FL 33131

GRANT OF PERPETUAL EASEMENT (LINCOLN ROAD)

THIS GRANT OF EASEMENT (this "Easement") is made this ____ day of _____, 1998, by DI LIDO BEACH HOTEL CORPORATION, a Florida corporation (the "Owner") having its principal place of business at 155 Lincoln Road, Miami Beach, Florida in favor of the CITY OF MIAMI BEACH, a Florida municipal corporation (the "City"), having its principal place of business at 1700 Convention Center Drive, Miami Beach, Florida.

WHEREAS, the Owner owns that certain property situated, lying and being in Dade County, Florida, known as the Di Lido Beach Hotel located at 155 Lincoln Road, Miami Beach, Florida, and as more particularly described in Exhibit "A" attached hereto (the "Property");

WHEREAS, the City and the Owner entered into that certain Agreement dated as of _____, 1998, recorded in Official Records Book _____, at Page _____, of the Public Records of Miami-Dade County (the "Development Agreement"), which constitutes a development agreement pursuant to the Florida Local Government Development Act, Section 163.3220, *et. seq.*, Florida Statutes (the "Act") and which contemplates the renovation of the existing hotel and commercial building located on the Property (the "Planned Development");

WHEREAS, pursuant to the Development Agreement, the Owner has agreed to grant to the City a perpetual easement for the purpose of providing public pedestrian and vehicular access through and over that portion of Lincoln Road North of the center line of the existing road right-of-way lying East of the Eastern right-of-way line of Collins Avenue and which is more particularly described in Exhibit "B" attached hereto (the "Easement Parcel") in exchange for, among other things, the City vacating its rights in and to the Easement Parcel and the issuance of development permits and approvals in order to develop the Planned Development; and

WHEREAS, pursuant to the Development Agreement, the Owner has agreed to construct certain improvements as described therein (the "Lincoln Road Improvements") in and on that portion of Lincoln Road lying East of Collins Avenue (the "Lincoln Road Section") and on that portion of the Property which the Owner has granted the City certain easement rights in order to provide public access to the beach and the Atlantic Ocean and the City has agreed to construct the Lincoln Road Improvements.

NOW THEREFORE, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner by these presents hereby grants, sells, and conveys to the City, its successors and assigns, a perpetual easement on, in, and over the Easement Parcel for the purpose of providing public pedestrian and vehicular access through and over the Easement Parcel and for the purpose of laying, constructing, maintaining, repairing and replacing the Lincoln Road Improvements.

The Owner and the City further agree to the following:

1. The Owner hereby grants to the City its employees, contractors, or representatives, the permanent right and license for purposes of ingress and egress to and from the Easement Parcel for the purposes of laying, constructing, operating, inspecting, maintaining, repairing, and replacing the public roadway, public sidewalks, landscaping, lighting, utilities and irrigation, and all other related improvements to be constructed on the Easement Parcel. The Owner hereby also grants the City the right to use and occupy the subsurface of the Easement Parcel for any utility or drainage or other use or purpose, including, without limitation, the right to construct, install, maintain and operate therein electrical, telephone, telegraph, telecommunication, gas, gasoline, sewer, water, and drainage fixtures and the Owner grants to the City the right to grant easements to third parties to do the same.
2. Following the completion of the Lincoln Road Improvements, the City shall have the sole responsibility and shall bear the total cost for the repair and maintenance of same, except for any repairs and maintenance arising from the negligence of the Owner or any successor thereto.
3. The City shall provide the same level of maintenance on the Easement Parcel and the improvements thereon as it currently provides for the Lincoln Road Mall. The City agrees that it shall insure and provide security for the Lincoln Road Section in the same manner as it provides security for its public sidewalks and right-of-ways.
4. The Owner reserves unto itself, its successors and assigns, the perpetual right and privilege of:
 - a. Right of ingress and egress to and from the Easement Parcel for construction access to the Property, provided that Owner shall bear the cost for repairing any damage to the Easement Parcel, resulting from such construction;
 - b. Unrestricted access to, over, across and in the Easement Parcel, provided that such use does not materially interfere with the continued use of the Easement Parcel as permitted herein by Grantee and the public; and

- c. Using and occupying, and granting to any parties providing utility service, telephone service and to other similar parties, the right to use and occupy the subsurface of the Easement Parcel for any utility or drainage or other use or purpose which does not materially interfere with the non-exclusive rights herein granted to Grantee, and its authorized invitees, agents, employees, guests, lessees and licensees, including, without limitation, the right to construct, install, maintain and operate therein electrical, telephone, telegraph, telecommunication, gas, gasoline, sewer, water, and drainage fixtures.
5. The parties agree that in connection with each of their respective rights to install and maintain utilities in the subsurface of the Easement Parcel pursuant to this grant of easement, each party (i) shall notify the other of its intention to install, repair or otherwise maintain such utilities, (ii) shall cooperate fully with the other party and take such steps as may be necessary to insure that any such installation, maintenance or repair of said utilities will not interfere with the use or functioning of existing utilities, (iii) shall, to the extent feasible, integrate any proposed installation, maintenance or repair with any proposed work of a similar nature by the other party, and (iv) shall not unreasonably interfere with the use of the Easement Parcel by the other party as permitted under this grant of easement.
6. Owner shall not construct or permit to be constructed any structure or obstruction on or over or interfering with the construction, maintenance, or any other aspect of the Lincoln Road Improvements located upon the Easement Parcel.
7. Owner covenants, warrants and represents that it is the fee simple owner of the Easement Parcel and has the right, title, and capacity to grant the perpetual easement granted herein.
8. This grant of perpetual easement shall inure to the benefit of and be binding upon the heirs, legal representatives, successors and assigns of the parties hereto, as applicable.
9. Notices. Any notices required or permitted to be given under this Easement shall be in writing and shall be deemed to have been given if delivered by hand, sent by recognized overnight courier (such as Federal Express) or mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, and addressed as follows:

If to the City at:

City of Miami Beach, City Hall
1700 Convention Center Drive
Miami Beach, Florida 33139

Attn: City Manager,
City Attorney

If to Owner at:

c/o Bruce Lazar, Esq.
Seville Beach Hotel, Suite M
2901 Collins Avenue
Miami Beach, FL 33140
(if not in leave with concierge)

With a copy to:

Juan P. Loumiet, Esq.
Greenberg, Traurig, Hoffman,
Rosen & Quentel P.A.
1221 Brickell Avenue
Miami, Florida 33131

Notices personally delivered or sent by overnight courier shall be deemed given on the date of delivery and notices mailed in accordance with the foregoing shall be deemed given three (3) days after deposit in the U.S. mails. The terms of this Section shall survive the termination of this Easement.

10. Construction.

- (a) This Easement shall be construed and governed in accordance with the laws of the State of Florida. All of the parties to this Agreement have participated fully in the negotiation and preparation hereof, and, accordingly, this Easement shall not be more strictly construed against any one of the parties hereto.
- (b) In construing this Easement, the use of any gender shall include every other and all genders, and captions and section and paragraph headings shall be disregarded.
- (c) All of the exhibits attached to this Easement are incorporated in, and made a part of, this Agreement.

11. Severability. In the event any term or provision of this Easement be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or construed as deleted as such authority determines, and the remainder of this Easement shall be construed to be in full force and effect.

12. Litigation. In the event of any litigation between the parties under this Easement for a breach hereof, the prevailing party shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels. The terms of this Section shall survive the termination of this Easement.

13. Time of Essence. Time shall be of the essence for each and every provision hereof.

14. Entire Agreement. This Easement, together with the documents referenced herein, constitute the entire agreement and understanding among the parties with respect to the subject matter hereof, and there are no other agreements, representations or warranties other than as set forth herein. This Easement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought.
15. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, riot, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, excluding the financial inability of such party to perform shall excuse the performance by such party for a period equal to any such period of prevention, delay or stoppage.

IN WITNESS WHEREOF, the undersigned has caused this grant of perpetual easement to be executed by execution of this instrument as of this _____ day of _____, 1998.

Witnesses:

THE OWNER

Sign Name: _____
 Print Name: _____

DI LIDO BEACH HOTEL CORPORATION,
 a Florida corporation

Sign Name: _____
 Print Name: _____

By: _____
 Name:
 Title:

CONSENT

The undersigned lienor, owner and holder of that certain [Mortgage] recorded in Official Records Book ____, at Page ____, of the Public Records of Miami-Dade County, hereby consents to the grant of easement rights as provided herein and subordinates the lien and effect of its security interest to this Easement.

Sign Name: _____
Print Name: _____

Sign Name: _____
Print Name: _____

By: _____
Name: _____
Title: _____

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

OFF. REC. 1816501004

The foregoing instrument was acknowledged before me this ____ day of _____, 1998 by _____, as _____ of Di Lido Beach Hotel Corporation, a Florida corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ as identification and who did (did not) take an oath.

NOTARY PUBLIC

Typed or Printed Name of Notary
My Commission expires: _____
Serial No., if any: _____

ACKNOWLEDGED AND ACCEPTED this _____ day of _____, 1998
by:

Witnesses:

CITY OF MIAMI BEACH, FLORIDA, a
municipal corporation

Sign Name: _____
Print Name: _____

Sign Name: _____
Print Name: _____

By: _____
Mayor

ATTEST:

Robert Parcher, City Clerk

STATE OF FLORIDA

)

)SS:

COUNTY OF DADE

)

OFF.
REC. 1816501005

The foregoing instrument was acknowledged before me this _____ day of _____, 1998, by _____, as Mayor of the City of Miami Beach, a municipal corporation, on behalf of the Corporation. He is personally known to me or has produced _____ as identification and who did (did not) take an oath.

NOTARY PUBLIC

Typed or Printed Name of Notary

My Commission expires: _____

Serial No., if any: _____

MIAMI/BERNANDEZ/947176/c@%051 DOC. 1/20/98

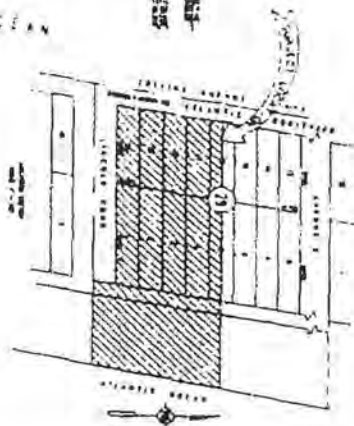
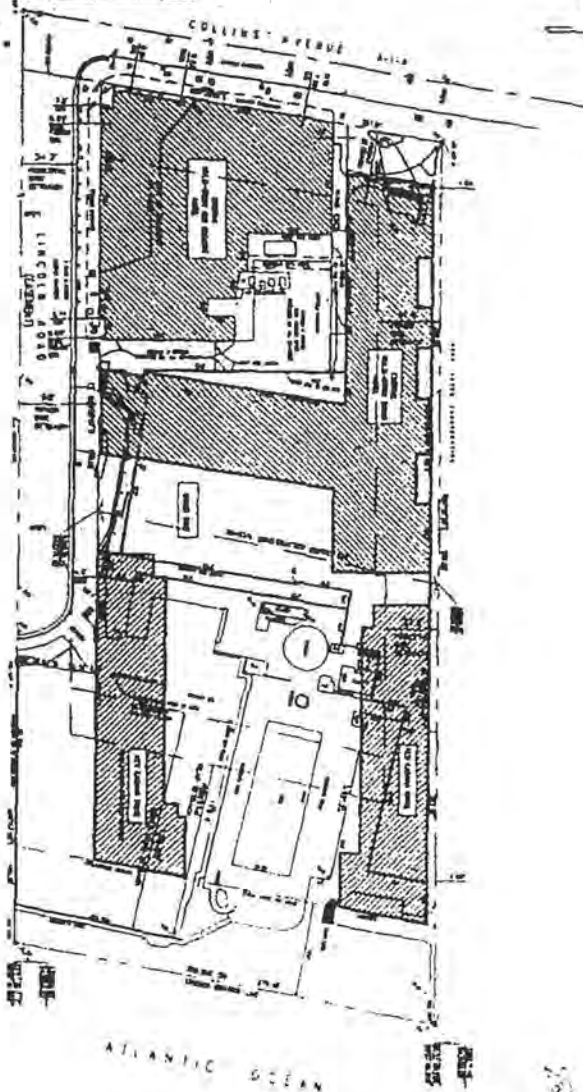
OFF. REC. 18165PC1006

EXHIBIT "G"

PROPOSED SITE PLAN

[illegible][illegible]

The following information is provided for the purpose of identifying the person or persons who are the subject of the report. The information is provided in the form of a list of names, addresses, and telephone numbers. The information is provided in the form of a list of names, addresses, and telephone numbers.



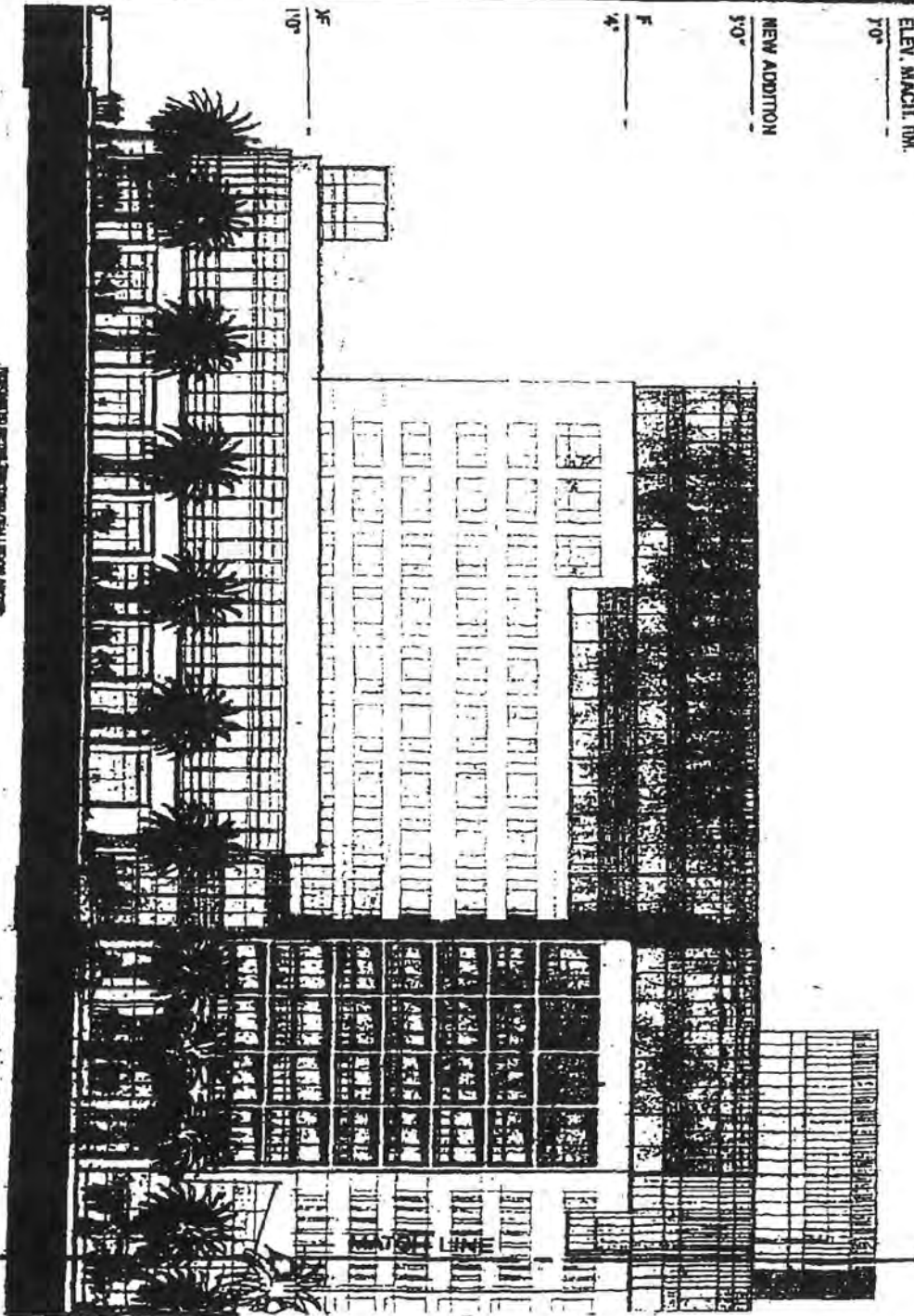
PROPOSED SURVEY

ELEV. MACIL. DM.
70°

NEW ADDITION
50°

F
4°

XF
10°

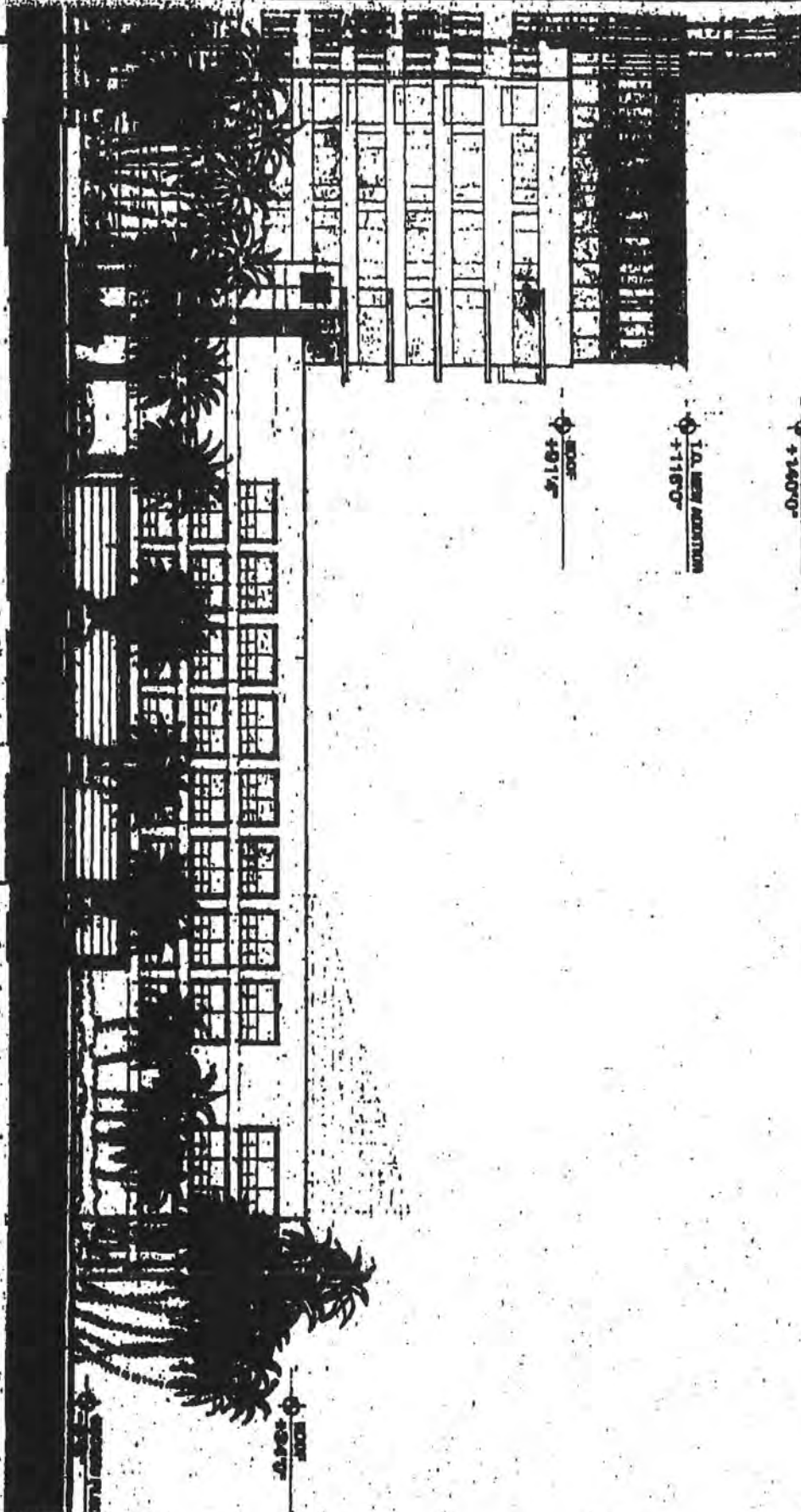


PROPOSED TO BE CONSTRUCTED BY THE RITZ-CARLTON HOTEL

Lincoln Road Elevation (continued)

CONSTRUCTION COMPANY

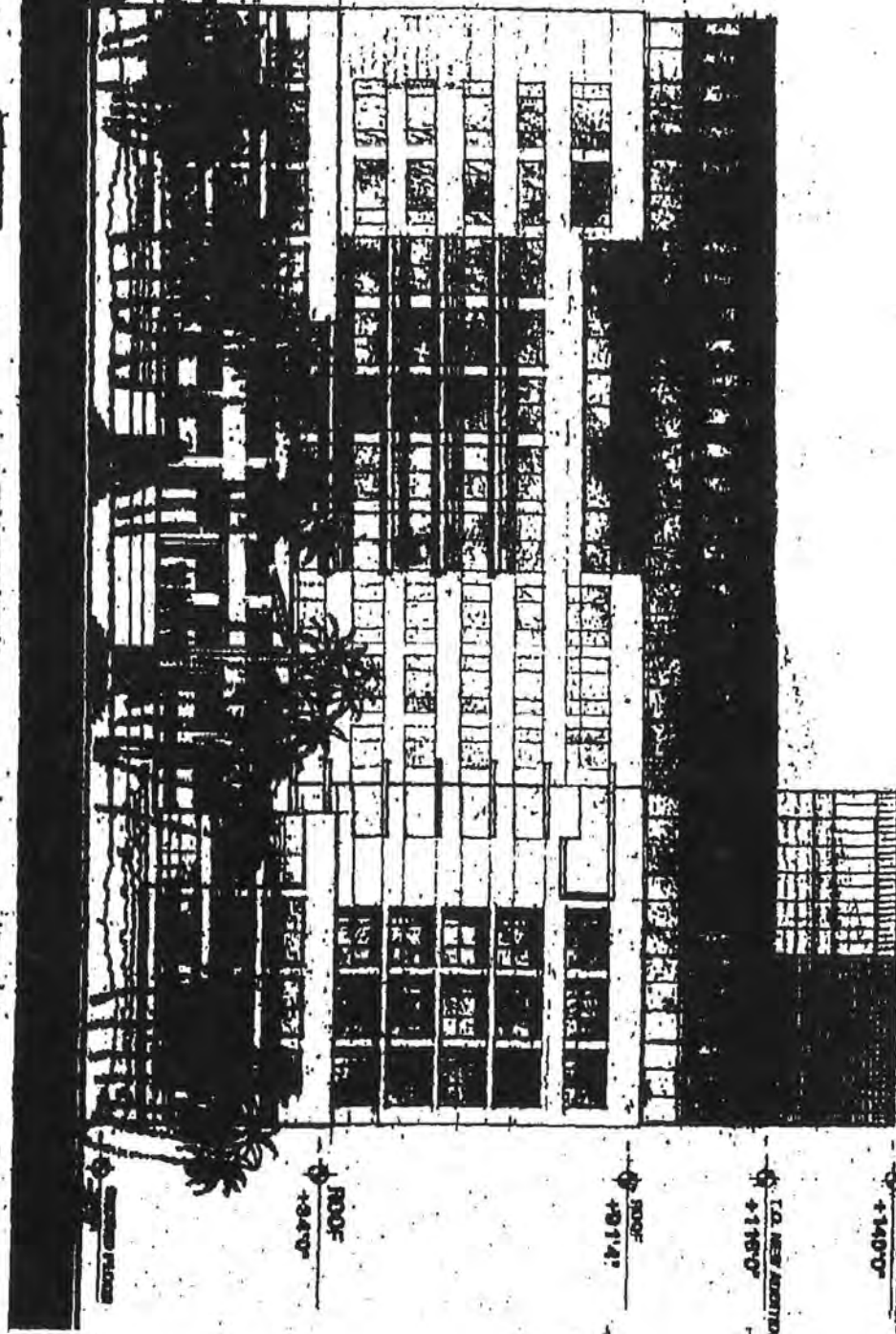
THE RITZ-CARLTON HOTEL, MIAMI BEACH



Proposed Lincoln Road Elevation

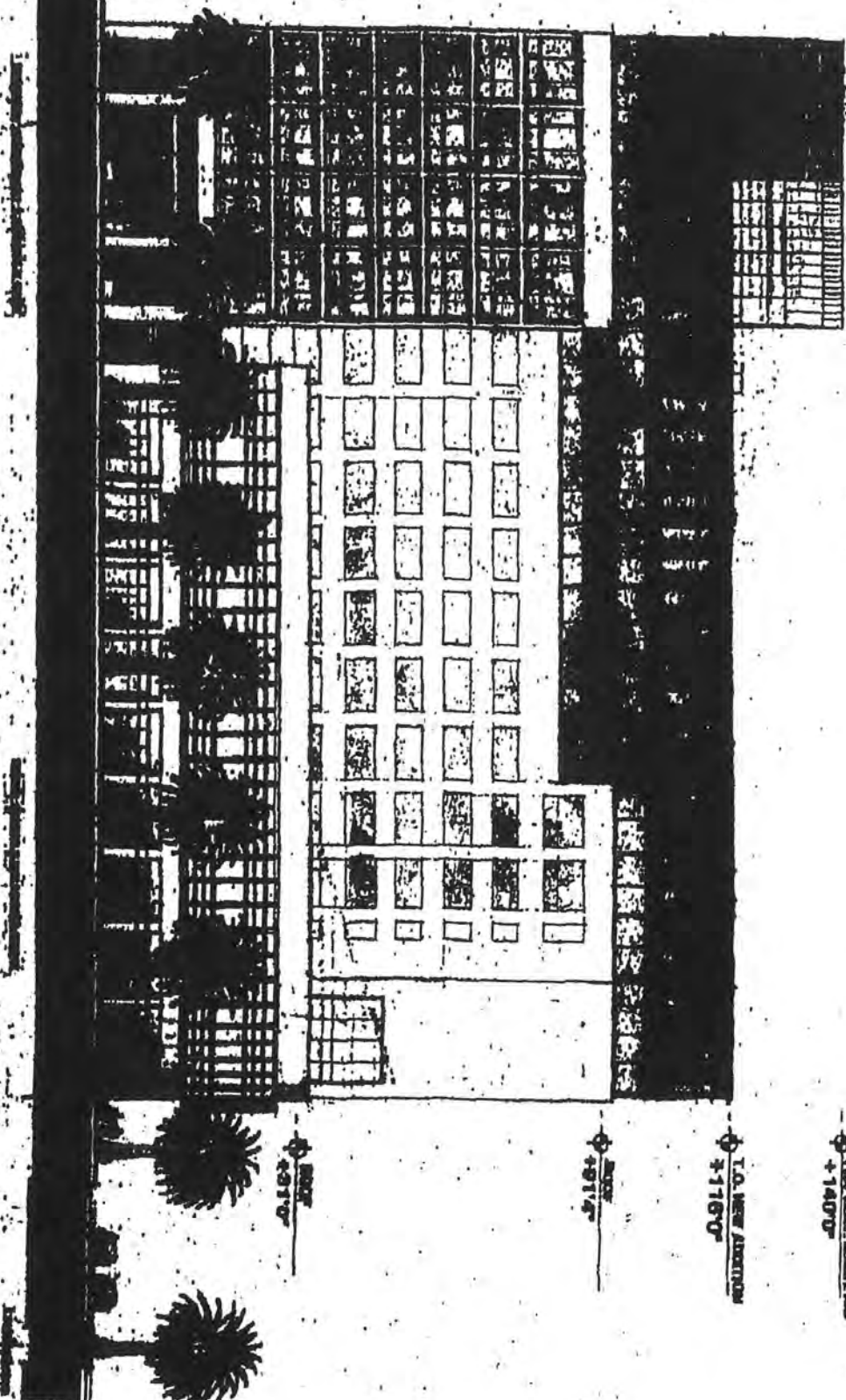
THE RITZ CARLTON HOTEL MIAMI BEACH

OFF. REC. 18165PC1010



Proposed Oceanfront Elevation

OFF. REC. 1816501011



Collins Avenue Elevation

EXHIBIT "H"

PRESENTLY PERMITTED DEVELOPMENT

Existing Zoning:	CD-3, Architectural District
Allowable Floor Area Ratio:	2.5 (Ordinance 98-3107, 6-8. a)
Allowable Existing:	357,960 square feet (based on existing site area)
Building Height Allowed:	Oceanfront lots - 250 feet, if over 100,000 square feet - 300 feet; if over 200,000 square feet - 400; for lots fronting on Lincoln Road the first 25 feet of lot depth shall have a limit of 50 feet after which the height limit shall be as prescribed above (Ordinance 97-3097, Section 6-8.B.7)

[THE FOREGOING REFLECTS THE PRESENTLY PERMITTED DEVELOPMENT FOR PURPOSES OF THE ACT ONLY. THE PLANNED DEVELOPMENT SHALL CONFORM TO THE DESCRIPTION PROVIDED IN SECTION 3.18 OF THIS AGREEMENT.]

EXHIBIT "I"**PUBLIC FACILITIES**

The proposed development will be serviced by those roadway transportation facilities currently in existence as provided by state, county, and local roadways. The proposed development will also be serviced by public transportation facilities currently in existence, as provided by Miami-Dade County, the City of Miami Beach, and such other governmental entities as may presently operate public transportation services within the City of Miami Beach. Sanitary sewer, solid waste, drainage, and potable water services for the proposed development shall be those services currently in existence and owned or operated by Miami-Dade County, the Miami-Dade County Water and Sewer Department, and the City of Miami Beach. The proposed development shall be serviced by those existing educational facilities owned or operated by the Miami-Dade Public Schools District. The proposed development shall be serviced by those existing parks and recreational facilities owned or operated by the United States Government within Miami-Dade County, by the State of Florida, by Miami-Dade County, and by the City of Miami Beach. The proposed development shall be serviced by those existing health systems and facilities operated by the United States Government within Miami-Dade County, by the State of Florida, by Miami-Dade County, and by the City of Miami Beach.

The proposed development will also be serviced by any and all public facilities, as such are defined in Section 163.3221(12) of the Act, that are described in the Comprehensive Plan, specifically including but not limited to those facilities described in the Infrastructure Element and the Capital Improvements Element therein, a copy of which is available for public inspection in the offices of the City Clerk of the City of Miami Beach.

EXHIBIT "J"

PUBLIC RESERVATIONS/DEDICATIONS

1. The vacation of the Lincoln Road Property as described in Section 7 of this Agreement. Provided that the vacation is granted, then, subject to the creation thereof, the Lincoln Road Property shall be included within the Di Lido Property to form a single site for the Planned Development with the area to be measured to the centerline of Lincoln Road for purposes of floor area ratio calculations and the permitted floor area ratio for the Di Lido Property shall be 2.5.

2. The Beachwalk Easement.
3. The Di Lido Easement.
4. The Lincoln Road Easement

EXHIBIT "K"

REQUIRED DEVELOPMENT PERMITS AND VARIANCES

The following constitutes a generalized list of local permits anticipated as necessary to be approved by the terms of this Agreement:

1. Design Review Approvals, pursuant to Section 18 of the City of Miami Beach Zoning Code.
2. Historic Preservation Approvals, pursuant to Section 19 of the City of Miami Beach Zoning Code, including but not limited to Certificate of Appropriateness.
3. Variances, pursuant to Section 16 of the City of Miami Beach Zoning Code, including but not limited to the following:
 - a. Front setback variance
 - b. Side interior pedestal setback variance
 - c. Side interior tower setback variance
 - d. Rear pedestal setback variance
 - e. Variance to permit construction above height of dune
 - f. Ocean front side yard setback
 - g. Variance to permit modification of nonconforming building or use
4. Utility Permits
5. Demolition Permit
6. Building Permits
7. Street vacation Permits
8. Environmental Permits
9. Hazardous Materials Removal Permit, if removal of hazardous materials is found necessary.
10. Coastal Construction Control Line Permit
11. Public Works Permit, Paving and Drainage

OFF.
REC. 18165 PC 1016

12. Public Works Permit, Water and Sewer
13. Certificates of Use and/or Occupancy
14. All other local governmental approvals as may be applicable to the subject property from time to time pursuant to the terms of this Development Agreement.

RECORDED IN OFFICIAL RECORDS BOOK
OF DADE COUNTY, FLORIDA
RECORD VERIFIED ***
HARVEY RUVIN
CLERK CIRCUIT COURT