

ITEM # 5
(REPLACEMENT EXHIBIT 3)

ADDITIONAL MATERIAL
10:00 REGULAR MEETING
APRIL 22, 2014

SUBMITTED AT THE REQUEST OF
PUBLIC WORKS DEPARTMENT

Return recorded copy to:
Broward County Real Property Section
115 S. Andrews Ave. Room 326
Fort Lauderdale, Florida 33301

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS ("Declaration") is made this ____ day of _____, _____, by HENDERSON BEHAVIORAL HEALTH, INC., a Florida not-for-profit corporation, and its successors and assigns ("OWNER")

W I T N E S S E T H:

WHEREAS, OWNER is the fee title owner of the parcel of real property located in Broward County, Florida, as described on Exhibit "A," attached hereto and made a part hereof ("Property"); and

WHEREAS, the Property was conveyed to OWNER by Broward County, a political subdivision of the State of Florida ("COUNTY") for nominal consideration subject to the covenants, restrictions, and other requirements as hereinafter set forth; and

WHEREAS, OWNER, on behalf of itself and each successor and assign of OWNER acquiring any interest in any portion of the Property, intends and declares that the Property is and shall be held, transferred, sold, conveyed, leased, mortgaged, used, and improved subject to the covenants, restrictions, and other requirements, as hereinafter set forth,

NOW, THEREFORE, the OWNER declares that the Property shall be held, transferred, sold, conveyed, leased, mortgaged, used and improved only subject to these Covenants and Restrictions, which run in favor of COUNTY, and other requirements, all as hereinafter set forth.

1. The foregoing recitations are true and correct and are hereby incorporated herein by this reference.
2. Restrictive Covenants. OWNER, on behalf of itself and each successor and assign of OWNER acquiring any interest in any portion of the Property, hereby declares and agrees, through acceptance of such conveyance, that the Property shall be subject to the following covenants and restrictions, which covenants and restrictions shall be covenants running with the land:

The Property shall be used solely for the purpose of providing services related to a crisis stabilization unit (in accordance with Section 394.875, Florida Statutes, or successor statute) for as long as OWNER continues to receive adequate funding to provide crisis stabilization services from the State of Florida or Broward County. The parties agree that adequate funding is provided as of the date of this Declaration. The provision of adequate funding for future crisis stabilization services shall include funding to maintain no fewer than 23 beds at substantially the same level of service as is currently provided with existing funding sources from the State of Florida or Broward County. In the event of a lack of adequate funding in future fiscal years, which shall be determined by OWNER's providing to COUNTY documentation demonstrating to the reasonable satisfaction of the COUNTY the lack of available funding from either the State of Florida or Broward County to meet the required service levels described above, then the Property shall be used solely for the purposes of providing alternate behavioral services.

3. OWNER shall have the option at any time to sell, convey, or transfer the Property to any person or entity provided that either:
 - (i) The covenants, restrictions and easements contained herein shall remain effective; or
 - (ii) OWNER uses the proceeds derived from such transaction (net of costs and fees associated therewith) to purchase another property, which property shall be subject to the approval of COUNTY, and which approval shall not be unreasonably withheld or delayed, in order to establish a facility for the purposes of providing the services subject to the restrictions set forth in Paragraph 2 herein. OWNER agrees that the covenants, restrictions, and easements contained herein shall attach to the new property and be released from the Property subject to this Declaration. COUNTY and OWNER agree to execute such documents for recording to effectuate this intent simultaneously with the purchase of another property.
4. Except in the event of a transaction under Section 3(ii) above, the restrictions, covenants, rights, and privileges granted, made, and conveyed herein shall run with the Property (collectively "covenants, restrictions and easements"). These covenants, restrictions and easements shall be binding on all persons and entities acquiring title to or use of the Property, or any portion thereof, and all persons and entities claiming under them.
5. OWNER agrees that it shall be obligated to timely undertake and satisfactorily complete such improvements and perform such maintenance obligations on the

Property as are described on Exhibit "B" of this Declaration. In the event the Owner acquires another property as contemplated by this Declaration, the capital improvements and maintenance obligations set forth on Exhibit "B" shall be required to the extent applicable.

6. If OWNER breaches any material provision of this Declaration, then OWNER shall pay to the COUNTY the agreed upon appraised value of the Property at the date of execution of this Declaration, which is \$1,000,000.00 (the "Repayment Amount"), subject to the following provisions. For every year (calculated from the date of execution of this Declaration) that OWNER is not in material breach of this Declaration, the Repayment Amount shall be reduced by five percent (5%). Upon expiration of twenty (20) years from the date of execution of this Declaration, with no material breach having occurred, the obligation of OWNER to make payment to the COUNTY under this Section 6 shall cease, and be of no further force and effect. Notwithstanding the foregoing, all remaining terms of this Declaration shall remain in effect and enforceable.
7. Any attempt to lease the Property shall be deemed a breach pursuant to Paragraph 6 above.
8. COUNTY is the beneficiary of these covenants and restrictions, and as such, COUNTY may enforce these covenants and restrictions by action at law or in equity, including without limitation, a decree of specific performance or mandatory or prohibitory injunction, against any person or persons, entity or entities, violating or attempting to violate the terms of these covenants and restrictions.
9. No waiver, modification or termination of this instrument shall be effective unless contained in a written document executed in the manner required by Paragraph 10. Any waiver shall be applicable only to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver. If any covenant, restriction, condition or provision contained in this document is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other covenant, restriction, condition, or provision herein contained, all of which shall remain in full force and effect. This document shall be construed in accordance with the laws of Florida and venue for any dispute over its terms shall be Broward County, Florida.
10. If OWNER desires to use the Property or any portion thereof, for any use other than those permitted hereby, or desires to modify or terminate any of these covenants and restrictions, Owner shall be required to do the following:

OWNER shall, apply to COUNTY for an amendment, or termination, of these

covenants and restrictions as to the particular affected portion of the Property. It shall be the sole discretion of the Broward County Board of County Commissioners whether to modify or terminate these covenants and restrictions as to any portion of the Property, because OWNER accepted these covenants and restrictions as a condition of the conveyance of the Property or any portion thereof as an inducement to the COUNTY to convey title. Any such amendment or termination shall be approved by the Board of County Commissioners of Broward County, Florida, and apply only to such portion of the Property that is specifically referenced in the amendment.

11. This Declaration of Covenants and Restrictions shall become effective upon recordation in the Public Records of Broward County, Florida.

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DECLARATION OF COVENANTS AND RESTRICTIONS

IN WITNESS WHEREOF, this DECLARATION OF COVENANTS AND RESTRICTIONS is executed by HENDERSON BEHAVIORAL HEALTH, INC., signing by and through its authorized to execute same on the _____ day of _____, 20____.

OWNER

HENDERSON BEHAVIORAL HEALTH, INC.

ATTEST:

Secretary

By _____

Print Name _____

Title _____

_____ day of _____, 20____.

(SEAL)

OR

WITNESSES:

Witness 1 Signature

Witness 1 Print/Type Name

Witness 2 Signature

Witness 2 Print/Type Name

DECLARATION OF COVENANTS AND RESTRICTIONS

STATE OF FLORIDA)
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this ____ day of _____, _____, by _____, who is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC:

Signature: _____
Print Name: _____
State of Florida At Large
My Commission Expires: _____
Commission Number: _____
(SEAL)

EXHIBIT "A" to Declaration of Covenants and Restrictions

LEGAL DESCRIPTION

Lot 27 less South 5 feet and less 25 feet road arc tangent to line 5 feet North of South Line of Lot 27 & tangent to the West Line of Lot 27, & Lots 28 thru 30, all less the South 5 feet and Lot 31 the West 38 feet, less South 5 feet, Block 2; NORTH WEST LAUDERDALE, according to the Plat thereof, recorded in Plat Book 25, Page 25, of the Public Records of Broward County, Florida.

Tax folio number 4942-29-04-0600

Street Address: 2677 Northwest 19th Street, Fort Lauderdale, FL

**EXHIBIT "B" to Declaration of
Covenants and Restrictions**

CSU RENOVATIONS

CAPITAL EXPENSES (4 Year Plan)

	2014/15	Year 1	Estimated Cost	Totals
Seal & Paint Exterior Building			\$18,000	
Install Exterior Security Lighting			<u>\$10,000</u>	
		Year 1 Total		\$28,000
	2015/16	Year 2		
Provide Landscaping			\$20,000	
Paint Interior (including wood paneling in visitor's area)			<u>\$10,000</u>	
		Year 2 Total		\$30,000
	2016/17	Year 3		
Resurface Parking Lots/ Re-stripe/ Replace Bumpers			\$28,000	
Replace Entry Gates			\$12,000	
Purchase & Install Hurricane Shutters & Impact Exit Doors			<u>\$25,000</u>	
		Year 3 Total		\$65,000
	2017/18	Year 4		
Re-furnish Client Rooms & Common Areas			\$50,000	
Remodel 1 restroom to make it ADA compliant			\$40,000	
		Year 4 Total		<u>\$90,000</u>
		Four-Year Total		\$213,000.00

Annual Maintenance

Strip & Wax Floors (every 6 Months @ \$2,500)	\$5,000	
Provide Generator Maintenance (Annually)	<u>\$1,500</u>	
Annual Expenditure		\$6,500