

# **ITEM #49**

(Declaration of Restrictive Covenant and Agreement to Record Declaration)

## **ADDITIONAL MATERIAL PUBLIC HEARING**

**MARCH 20, 2018**

**SUBMITTED AT THE REQUEST OF**

**PLANNING COUNCIL**

Prepared by and return to:

Name: Nectaria M. Chakas, Esq.  
Lochrie & Chakas, P.A.  
Address: 1401 E. Broward Boulevard  
Suite 303  
Ft. Lauderdale, FL 33301

SPACE ABOVE THIS LINE FOR PROCESSING DATA

### **DECLARATION OF RESTRICTIVE COVENANTS**

This DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by BRIDGE ACQUISITION, LLC a Delaware limited liability company (*Actual ownership entity subject to change prior to recordation of this Declaration*) ("Declarant") for the benefit of BROWARD COUNTY, FLORIDA, a political subdivision of the State of Florida ("County").

#### **W I T N E S S E T H:**

WHEREAS, Declarant (and the other owners that have executed a joinder to this Declaration) are the fee simple owners of approximately 10.6 acres of land located at 3033 and 3233 SW 12<sup>th</sup> Avenue (formerly known as 1300 SW 32<sup>nd</sup> Court) in the City of Ft. Lauderdale ("City") more particularly described in Exhibit A attached hereto and made a part hereof ("Property"); and

WHEREAS, County approved an application to change the Property's land use designation under the County Land Use Plan (Application PC 17-15) from Community Facility to Commerce ("Land Use Amendment"); and

WHEREAS, the Property abuts SW 12<sup>th</sup> Avenue a public right-of-way which has access into the residential community to the north the Property; and

WHEREAS, in an effort to mitigate traffic impacts, Declarant agrees to restrict vehicular access from/to the north of the Property into the residential neighborhood; and

NOW, THEREFORE, in consideration of the promises and covenants herein contained, Declarant hereby declares that the Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, and regulations hereinafter set forth, all of which shall run with the Property and any part thereof and which shall be binding upon all parties having any right, title or interest in such property or any part thereof, their heirs, successors and assigns.

1. Recitals. The recitals set forth above are true and correct and are incorporated herein by reference.

2. Development Access. Any new development constructed on the Property will not be permitted to access the Property from the north on SW 12<sup>th</sup> Avenue to prevent vehicles from traveling through the residential community; provided however, vehicles accessing the Property may continue to utilize SW 12<sup>th</sup> Avenue traveling to/from the south through the commercial/industrial areas.

3. Amendments, Releases and Termination. This Declaration shall not be modified, amended or released as to any portion of the Property except by written instrument, executed by the then owner or owners of the portion of the Property affected by such modification, amendment, or release and approved in writing by County. The appropriate governmental authority of County shall execute a written instrument effectuating and acknowledging such modification, amendment or release. Any amendment, modification or release of this covenant shall be recorded in the Public Records of Broward County, Florida.

4. Recordation and Effective Date. This Declaration shall not become effective and shall not be recorded in the Public Records of Broward County, Florida, until after all necessary approvals by County of the requested application and the expiration of all appeal periods or, if an appeal is filed, the conclusion of such appeal in a manner that does not affect County's approval of the application. Once recorded, this Declaration shall run with the land for the sole benefit of County and shall bind all successors-in-interest with respect to the Property.

5. Enforcement. This covenant shall not give rise to any other cause of action by any parties than County, and no parties other than County shall be entitled to enforce Section 2. Any failure by County to enforce this Declaration shall not be deemed a waiver of the right to do so thereafter.

6. Severability. If any court of competent jurisdiction shall declare any section, paragraph or part of this Declarant invalid or unenforceable, then such judgment or decree shall have no effect on the enforcement or validity of any other section, paragraph, or part hereof, and the same shall remain in full force and effect.

7. Captions, Headings and Titles. Articles and paragraph captions, headings and titles inserted throughout this covenant are intended as a matter of convenience only and in no way shall such caption, heading or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of this covenant.

8. Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Florida and venue for any litigation arising hereunder shall lie in the Seventeenth Judicial Circuit in and for Broward County, Florida.

9. Notice. Any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery or by certified mail, return receipt requested, postage prepaid to the address of the Property owner as reflected on the tax assessor's records for the affected Property.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, Declarant has executed this Declaration on the day first above written.

**WITNESSES:**

**DECLARANT:**

BRIDGE ACQUISITION, LLC, a Delaware limited liability company

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_ as \_\_\_\_\_ of BRIDGE ACQUISITIONS, LLC, a Delaware limited liability company, freely and voluntarily on behalf of said corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification or is known to me personally.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed, printed or stamped name of Notary Public  
My Commission Expires:

**EXHIBIT A**

THE PROPERTY

**All of Parcel A of “SCHOOL SITE 0410” according to the Plat thereof as recorded in Plat Book 147, Page 39 of the Public Records of Broward County, Florida.**

**AGREEMENT TO RECORD DECLARATION  
OF RESTRICTIVE COVENANT**

**THIS AGREEMENT TO RECORD RESTRICTIVE COVENANT** (this "Agreement") is entered into on this \_\_\_ day of \_\_\_\_\_, 2018 by BRDIGE ACQUISITION, LLC, a Delaware limited liability company corporation (the "DEVELOPER") and BROWARD COUNTY, a political subdivision of the State of Florida.

**RECITALS:**

**WHEREAS**, the Developer is the contract purchaser of real property consisting of 10.6 acres located at 3033 and 3233 SW 12<sup>th</sup> Avenue (formerly known as 1300 SW 32<sup>nd</sup> Court), Fort Lauderdale Florida and legally described as:

**All of Parcel A of "SCHOOL SITE 0410" according to the Plat thereof as recorded in Plat Book 147, Page 39 of the Public Records of Broward County, Florida (the "Property").**

**WHEREAS**, the Property is the subject of an application to change the land use designation for the Property under the County Land Use Plan (Application PC 17-15) from Community Facility Commerce ("Land Use Amendment"); and

**WHEREAS**, in order to achieve approval of the Land Use Amendment, Developer has agreed to record an instrument agreeing to restrict vehicular access to the from the north of the site on SW 12<sup>th</sup> Avenue no later than 30 days after acquiring fee simple title to the Property; and

**NOW THEREFORE**, in consideration of the mutual terms, conditions, promises and covenants hereinafter set forth, Developer, County agree as follows:

1. Recitals. The recitals set forth above are true and correct and are incorporated herein by reference.

2. Recordation of restriction limiting access to the Property. Developer agrees to record a Declaration of Restrictive Covenant which prohibits access to and from the north of the Property. Developer agrees to record the Declaration, in a form acceptable to the County Attorney, no later than 30 days of acquiring fee simple title to the Property.

**IN WITNESS WHEREOF**, the parties have made and executed this Agreement: COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on \_\_\_\_ day of \_\_\_\_\_, 2018 and DEVELOPER signing by and through its \_\_\_\_\_ duly authorized to execute same.

**Attest:**

**BROWARD COUNTY**, by and through its Board of County Commissioners

\_\_\_\_\_  
Bertha Henry, Broward County Administrator,  
as Ex-Officio Clerk of the Broward County  
Board of County Commissioners

By: \_\_\_\_\_  
Beam Furr, Mayor

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018

Approved as to form by  
ANDREW J. MEYERS  
Broward County Attorney  
Governmental Center, Suite 423  
115 S. Andrews Avenue  
Fort Lauderdale, FL 33301  
Telephone: (954) 357-7600

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**WITNESSES:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

**DECLARANT:**

BRIDGE ACQUISITION, LLC, a Delaware limited liability company

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_ as \_\_\_\_\_ of BRIDGE ACQUISITION, LLC, a Delaware limited liability company, freely and voluntarily on behalf of said corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification or is known to me personally.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed, printed or stamped name of Notary Public  
My Commission Expires: