

RESOLUTION NO. 03-134

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, PROVIDING RECITALS; APPROVING FIRST AMENDMENT TO DECLARATION OF RESTRICTIONS IN FAVOR OF THE TOWN OF MIAMI LAKES FOR THE PROPERTY KNOWN AS DUNNWOODY LAKES; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE DOCUMENT EVIDENCING THE MODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes approved a Ordinance 02-26 for the rezoning and site plan of the property known as Dunnwoody Lakes, and as part of that approval the owners recorded a Declaration of Restrictions in favor of the Town of Miami Lakes, recorded on November 9, 2002 in Official Records Book 20812 at Page 4767; and

WHEREAS, the owners and the Town Council wish to amend the Declaration of Restrictions to extend the option date for the Fire Department to purchase the Fire Department site; and

WHEREAS, the Town Council finds that the amendment of the Declaration of Restrictions to extend the option date is in the best interest of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing Recitals are true and correct and are incorporated herein by this reference.

Section 2. Approval of First Amendment to Declaration of Restrictions in Favor of the Town of Miami Lakes. The proposed First Amendment to Declaration of Restrictions in Favor of the Town of Miami Lakes, attached here as Exhibit "A" is hereby approved.

Section 3. Authorization of Town Manager. The Town Manager is hereby

authorized to accept and execute the document evidencing this approval, subject to the approval of the Town Attorney as to form and legal sufficiency.

Section 4. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 7 day of May, 2003.

Wayne Slaton
Wayne Slaton
MAYOR

ATTEST:

Beatris M. Arguelles
Beatris M. Arguelles, CMC
TOWN CLERK

Approved as to form and legality for the use and benefit of the Town of Miami Lakes only:

Nancy Freund
Weiss, Serota, Helfman, Pastoriza & Guedes, P.A.
TOWN ATTORNEY

Thomson/Simon

Council voted <u>7-0</u> as follows:	
Mayor Wayne Slaton	<u>[Signature]</u>
Vice Mayor Roberto Alonso	<u>[Signature]</u>
Councilmember Mary Collins	<u>[Signature]</u>
Councilmember Robert Meador	<u>[Signature]</u>
Councilmember Michael Pizzi	<u>[Signature]</u>
Councilmember Nancy Simon	<u>[Signature]</u>
Councilmember Peter Thomson	<u>[Signature]</u>

This instrument prepared by
Brian S. Adler, Esquire
Bilzin Sumberg Baena Price & Axelrod LLP
200 South Biscayne Boulevard, Suite 2500
Miami, Florida 33131-2336

(Space Above For Recorder's Use Only)

**FIRST AMENDMENT TO DECLARATION OF RESTRICTIONS
IN FAVOR OF THE TOWN OF MIAMI LAKES**

KNOW ALL BY THESE PRESENTS that the undersigned are the owners ("Owners") of the following described property (the "Property"), lying, being and situated in the Town of Miami Lakes, Miami-Dade County, Florida, to-wit:

See Exhibit "A"

WHEREAS, the Property is covered by that certain Declaration of Restrictions in favor of the Town of Miami Lakes (the "Town"), recorded on the Property on November 9, 2002 in Official Records Book 20812 at Page 4767, ("Declaration"); and

WHEREAS, paragraph 17 of the Declaration provided an option to the Miami-Dade County Fire Rescue Department for the purchase of an approximate 200' x 200' parcel described on Exhibit "B"; and

WHEREAS, the option was set to expire on April 9, 2003; and

WHEREAS, the Owner and the Town desire to modify the Declaration to extend the option until June 15, 2003.

NOW, THEREFORE, in consideration of the foregoing premises and in compliance with the aforementioned Declaration, the Declaration is hereby modified as follows:

(1) Paragraph 17(b) of the Declaration shall be amended as follows:

FROM: "17. **Sale of Property to Fire Department.**

* * *

b. The Fire Department shall have, until April 9, 2003, an irrevocable option to purchase the Fire Department Site. The Fire Department must exercise this option in writing, to the Owners, their successors or assigns, within this period, or the option automatically expires at which

time the Owners, their successors or assigns, are under no obligation whatsoever to sell the Fire Department Site to the Fire Department and the Fire Department Site will be developed with residential units substantially in accordance with the site plans referenced in paragraph one (1). However, if the Fire Department exercises its option, the Fire Department shall have until October 9, 2003 to close on the Fire Station Site.

If the Fire Department exercises its option referenced in this paragraph 17, the Owners must provide a legal description of the Fire Department Site. The Fire Department shall, at its own expense, secure an appraisal for the Property to determine the fair market value of the Property. In the event the Owners, their successors or assigns dispute the appraisal amount, Owner shall be entitled to obtain an additional appraisal at its own expense. If the two appraisals differ by less than 5%, the Fire Department appraisal shall govern. In the event the appraisals differ by greater than 5%, the Fire Department and Owners shall agree on a third appraisal. The Fire Department and Owners, their successors or assigns shall be bound by either the original Fire Department appraisal or the third appraisal, whichever is greater."

To: "17. **Sale of Property to Fire Department.**

* * *

- b. The Fire Department shall have, until June 15, 2003, an irrevocable option to purchase the Fire Department Site. The Fire Department must exercise this option in writing, to the Owners, their successors or assigns, within this period, or the option automatically expires at which time the Owners, their successors or assigns, are under no obligation whatsoever to sell the Fire Department Site to the Fire Department and the Fire Department Site will be developed with residential units substantially in accordance with the site plans referenced in paragraph one (1). However, if the Fire Department exercises its option, the Fire Department shall have until October 9, 2003 to close on the Fire Station Site.

If the Fire Department exercises its option referenced in this paragraph 17, the Owners must provide a legal description of the Fire Department Site. The Fire Department shall, at its own expense, secure an appraisal for the Property to determine the fair market value of the Property. In the event the Owners, their successors or assigns dispute the appraisal amount, Owner shall be entitled to obtain an additional appraisal at its own expense. If the two appraisals differ by less than 5%, the Fire Department appraisal shall govern. In the event the appraisals differ by greater than 5%, the Fire Department

and Owners shall agree on a third appraisal. The Fire Department and Owners, their successors or assigns shall be bound by either the original Fire Department appraisal or the third appraisal, whichever is greater."

- (3) All other provisions of the Declaration not hereby amended shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed this 18 day of APRIL, 2003.

Signed, witnessed, executed and acknowledged this 18 day of APRIL, 2003.

Witnesses:

[Handwritten Signature]
SR
Lowell S. Dunn

Print Name: *[Handwritten Signature]*
M CANBUCA

Print Name: *Dell Kasen*
DELL KASEN

[Handwritten Signature]
Betty L. Dunn

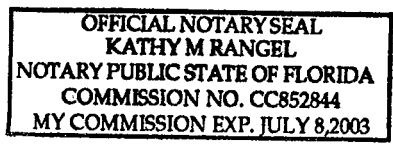
Print Name: *[Handwritten Signature]*
M CANBUCA

Print Name: *Dell Kasen*
DELL KASEN

STATE OF FLORIDA }
COUNTY OF MIAMI-DADE } ss:

The foregoing instrument was acknowledged before me this 18 day of APRIL, 2003 by LOWELL S. DUNN who is personally known to me or produced a valid driver's license as identification.

Notary Public
Sign Name: *Kathy M Rangel*
Print Name: KATHY M RANGEL
My Commission Expires: 7-8-03
Serial No. (None, if blank): CC852844
[NOTARIAL SEAL]

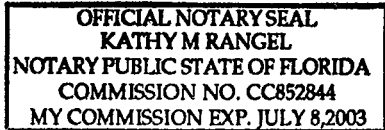


STATE OF FLORIDA }
COUNTY OF MIAMI-DADE } SS:

The foregoing instrument was acknowledged before me this 18 day of APRIL, 2003 by BETTY L. DUNN who is personally known to me or produced a valid driver's license as identification.

Notary Public
Sign Name: Kathy M Rangel
Print Name: _____

My Commission Expires: 7-8-03



Serial No. (None, if blank): CC852844
[NOTARIAL SEAL]

This Amendment to modify the Declaration of Restrictions recorded in Official Records Book 20812 at Page 4767 was approved by the Town of Miami Lakes Town Council on the 7 day of May, 2003. This modification is approved as to form and legal sufficiency this 7 day of May, 2003.

Witnesses:
Nancy Stroud
Print Name: Nancy Stroud
Beatrice M. Arsuellas
Print Name: Beatrice M. Arsuellas

TOWN OF MIAMI LAKES
By: [Signature]
Title: Town Manager

EXHIBIT "A"

LEGAL DESCRIPTION

Description of a portion of land being and lying in Section 16 Township 52 South, Range 40 East in Dade County, Florida, more particularly described as follows:

The southeast one quarter of Section 16, Township 52 South, Range 40 East;

Less

Commence at the southeast corner of the above mentioned Section 16, thence S89°34'49"W along the south line of Section 16 for a distance of 1441.84 feet to the point of beginning; thence N00°25'11"W for 140.00 feet; thence S89°34'49"W for 1203.11 feet to a point on the west line of the southeast quarter of Section 16; thence along said line S02°37'29"E a distance of 140.10 feet; thence N89°34'49"E for 1197.72 feet to the point of beginning.

Containing 156.20 acres more or less.

EXHIBIT "B"

LEGAL DESCRIPTION OF THE PROPOSED FIRE STATION SITE

A PORTION OF LAND LYING AND BEING AT THE SE ¼ OF SECTION 16,
TOWNSHIP 52 SOUTH, RANGE 40 EAST IN MIAMI-DADE COUNTY, FLORIDA;
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SE CORNER OF SAID SECTION 16; THENCE S89°34'49"W,
ALONG THE SOUTH LINE OF THE SE ¼ OF SAID SECTION 16 FOR A
DISTANCE OF 553.30 FEET TO A POINT; THENCE N00°25'11"W FOR 50.00 FEET
TO THE POINT OF BEGINNING; THENCE CONTINUE N00°25'11"W FOR 205.00
FEET; THENCE S89°34'49"W FOR 183.65 FEET; THENCE S 29°27'42"W FOR 32.70
FEET; THENCE S00°25'11"E FOR 176.55 FEET TO A POINT ON A LINE 40 FEET
NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SE ¼ OF
SECTION 16; THENCE N89°34'49"E ALONG THE PREVIOUSLY DESCRIBED
LINE FOR 200.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.94
ACRES MORE OR LESS.

Re. 03-134