

This instrument was prepared by
and after recording return to:

Laura L. Russo, Esq., LLC
2655 Le Juene Road, Suite PH 1-F
Coral Gables, Florida 33134

(Space reserved for Clerk)

**DECLARATION OF
RESTRICTIVE COVENANT**

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, ADRIANA R. MUINOS and WILLIAM I. MUINOS (hereinafter “Owners”), are the fee simple owners of the property located at 1910 Capri Street in Coral Gables, Florida, legally described as:

Lots 11 and 12, Block 83, amended Plat of Coral Gables Part of Granada Section, according to the plat thereof recorded in Plat Book 15, Page 7, in the Public Records of Miami-Dade County, Florida (the “Property”); and

WHEREAS, Property Owners have entered into a Dispute Resolution Agreement with the City of Coral Gables (hereinafter the “City”); and

WHEREAS, Property Owners have agreed to certain conditions regarding the historic home located on Lot 11 and development of any residence on Lot 12; and

WHEREAS, the City requires that this Declaration of Restrictive Covenant (the “Declaration”) be entered into to assure that the current owner and any successors in title abide by the agreed upon conditions in the Dispute Resolution Agreement in any proposed addition of the historic home and in the development of the new building site.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, Owners hereby agree as follows:

1. That the above recitations are true and correct, and are incorporated herein in their entirety;
2. The Parties and all signatories hereto represent and warrant that they have full authorization and legal authority to establish the legally binding rights, obligations, and duties as expressed herein or contemplated hereby.
3. The Property shall be considered two separate building sites subject to the following conditions:

- a. Owners shall not oppose or challenge the historic designation of the entire Property and/or the denial of the request for demolition of the garage of the Property and agree not to claim economic hardship in the future;
 - b. Owners and the City agree that a condition precedent to this Agreement shall be the historic designation of the entire Property by the Historic Preservation Board. In the event that the Historic Preservation Board does not historically designate the Property, this Declaration of Restrictive Covenants shall be deemed null and void and the City agrees to its release.
 - c. Owners agree to demolish the addition to the Property that is not historically significant by applying for a Certificate of Appropriateness to the Historical Resources and Cultural Arts Department and a Demolition Permit to the Building Department.
 - d. The City hereby agrees, pursuant to Section 3-1703(A)(2) of the Zoning Code, that Owners are entitled to Lot 12 as a separate building site; to approve, once the Property is historically designated and the building permit for the proposed addition is issued, the tree removal application submitted by the Owners on July 18, 2017 with tree mitigation as required and approved by the City with respect to Lot 11; and to allow a rear five (5) foot setback on Lot 11 on which the historic house is located.
 - e. Owners agree that the total combined maximum allowable square footage of the historic home on Lot 11 and any residence to be developed on Lot 12 shall be equal to or less than 4,200 square feet, which is the maximum size of a residence that can currently be constructed on the Property if developed as a single building site, and more specifically, Owners agree that the maximum allowable square footage of the residence on each lot shall not exceed 2,100 square feet.
 - f. Owners agree that any proposed development on Lot 12 shall be subject to all reviews, including but not limited to, review by the Board of Architects and the Historic Preservation Board and that included in such reviews will be consideration of whether the proposed development is compatible with the neighborhood.
4. That as further part of this Declaration, it is hereby understood and agreed that any official inspector of the City, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the premises to determine whether or not the requirements of and the conditions herein agreed to are being complied with and adhered to;
 5. This Declaration shall constitute a covenant running with the land and shall be recorded, at the Property Owners' sole expense, in the Public Records of Miami-Dade County, Florida, and shall remain in full force and effect and shall be binding upon Property Owners, their successors and assigns, and upon all mortgagees and lessees

and others presently or in the future having any interest in the Property until such time as the same is modified, released, or terminated, as set forth herein. The restrictions contained herein during the term hereof shall be for the benefit of, and limitation upon, all present and future owners of the Property and for the public welfare;

6. This Declaration is to run with the land and shall be binding on Property Owners, their successors and assigns, and on all parties and all persons having any interest in the Property, for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years, until such time as the same is modified, released or terminated as set forth herein;
7. In the event of any breach of this Declaration, enforcement may be by action at law or in equity, against any parties or persons violating or attempting to violate any covenants herein, either to restrain violations or recover damages. The parties agree that a breach of this Declaration shall create the presumption of irreparable harm for the purposes of any injunctive relief. The prevailing party in any action or suit pertaining to or arising out of this Declaration shall be entitled to recover such sum as the presiding court or body may adjudge to be reasonable for the services of such party's attorney, in addition to any other remedies available at law, in equity or both;
8. In the event the terms of this Declaration are not being complied with, and such noncompliance continues for a period of thirty (30) days following written notice by the City to the parties or persons violating the terms hereof (or such longer period of time as may be reasonably necessary to restore compliance so long as such parties or person are diligently pursuing same), then, in addition to any other remedies available, the City is hereby authorized to withhold any further permits from and refuse to make any inspections or grant any approvals to the Property until such time as there is compliance with this Declaration;
9. All rights, remedies, and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies, or privileges;
10. Where construction has occurred on any portion of the Property, pursuant to a lawful permit issued by the City and inspections made and approval of occupancy given by the City, then such construction, inspection, and approval shall create a rebuttable presumption that the structures thus constructed comply with the intent and spirit of this Declaration;
11. Invalidation of any of the covenants contained herein shall not affect any other provisions, which shall remain in full force and effect;
12. This Declaration may only be modified, released, or terminated as to the Property, or any portion thereof, in accordance with the provisions of Article 5, Division 23, §

2303 *et seq.* of the City's Zoning Code — the provisions of which are hereby incorporated by reference. Any such modification, release or termination of this Declaration as to the Property or any portion thereof shall be by written instrument (in recordable form) executed by the then owner(s) of the Property, or the affected portion(s) thereof, with joinders by their respective mortgagee(s), if any; provided, however, that if any portion of the Property is submitted to the condominium form of ownership or other collective ownership regime, then such instrument shall be executed by the condominium association, property owners' association or other entity governing such condominium or collectively ownership regime in lieu of the individual unit, parcel or lot owners or their mortgagees. Should this Declaration be so modified, released, or terminated, the City shall forthwith execute a written instrument effectuating and acknowledging such modification, release, or termination, which shall be recorded by and at the then property owner's sole expense;

13. Property Owners further agree to indemnify, defend, and hold harmless the City, its commissioners, directors, officers, attorneys, consultants, agents, and employees from and against all actual claims, damages losses, and expenses (including but not limited to reasonable fees and charges of attorneys and other professionals as well as court and arbitration costs) arising out of or resulting, in whole or part, from Property Owner's execution of this Declaration or from any claim or allegation related to the capacity or authority of Owners to execute this Declaration. Moreover, Property Owners agree that nothing in this paragraph 14 shall be considered to increase or otherwise waive any limits of liability, or to waive any immunity, established by Florida Statutes, case law, or any other source of law afforded to the City (including its commissioners, directors, officers, attorneys, consultants, agents, and employees); and

IN WITNESS WHEREOF, the undersigned have set their hands and seals to this

Declaration this _____ day of _____, 2018.

WITNESSES:

Signature

Print Name

Adriana R. Muinos

Owner's Address: 4804 Biltmore Drive
Coral Gables, FL 33146

Signature

Print Name

William I. Muinos

Owner's Address: 4804 Biltmore Drive
Coral Gables, FL 33146

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me by Adriana R. Muinos and William I. Muinos, this _____ day of _____, 2018 who are personally known to me or who have produced _____ as identification.

Notary Public, State of Florida at Large
Print Name: _____
My commission expires: _____

Approved as to form and legal sufficiency:

Miriam S. Ramos, City Attorney
Cristina M. Suarez, Deputy City Attorney
Stephanie M. Throckmorton, Assistant City Attorney