

RESOLUTION NO. 94-889

**RESOLUTION APPROVING MODIFICATION TO
SITE PLAN FOR COSCAN FLORIDA, INC.;
PROVIDING CONDITIONS; PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, on or about June 28, 1984, City National Bank of Miami, as Trustee under Trust Agreement dated March 15, 1968, and known as Trust No. 2-550-60 ("CNB"), COSTAIN FLORIDA, INC. ("Costain") (hereinafter collectively referred to as "Owner") and the TOWN OF GOLDEN BEACH ("Golden Beach"), and others, entered into a settlement agreement (the "Settlement Agreement"), a copy of which is attached hereto; and

WHEREAS, the Settlement Agreement provides that Golden Beach be included in the review process of any plans or modifications thereof which Owner sought to have ultimately approved by Metropolitan Dade County; and

WHEREAS, pursuant to the Settlement Agreement, CNB executed a restrictive covenant (the "Restrictive Covenant") which was recorded amongst the Public Records of Dade County, Florida, in Official Records Book 12195, at Page 3190, a copy of which is attached hereto; and

WHEREAS, the Settlement Agreement and Restrictive Covenant provided for the construction of the property referred to therein in accordance with that certain plan being entitled "Costain Waterways" prepared by Sasaki Associates, Inc., dated June, 1981; and

WHEREAS, on or about February 23, 1988, COSCAN FLORIDA, INC. ("Coscan"), as successor in interest to CNB, and Golden Beach entered into a Partial Modification of Restrictive Covenant (the "Partial Modification") which was recorded amongst the Public Records of Dade County, Florida, in Official Records Book 13588, at Page 579, a copy of which is attached hereto; and

WHEREAS, Coscan has requested Golden Beach to consent to a modification of the "Costain Waterways" plans, as modified by the

Partial Modification to permit two of the parcels of real property described in the Restrictive Covenant as parcels "C" and "D", respectively (the legal description of which are attached hereto), to be developed substantially in accordance with that certain plan entitled "The Pointe at Waterways", as prepared by Robert M. Swedroe, consisting of 18 sheets, dated last revised March 18, 1993 on the Cover Sheet and as follows: through Sheet No. 6, and Sheet No. 9 through No. 17, dated 8-14-92; and Sheets No. 7 and No. 8, dated 8-12-92, with modifications to the plans by Coscan, dated 11-18-92; courtyard homes entitled "Promontory Point at the Waterways", as prepared by the Lessard Architectural Group, Inc., consisting of 9 sheets; "Conceptual Site Plan", as prepared by Robert M. Swedroe and Bradshaw, Gill, Fuster & Associates, dated last revised 10-7-92; Patio Details "The Pointe at the Waterways Rear Patio and Pool Options," as prepared by Bradshaw, Gill Fuster and Associates, dated last revised 10-15-92; Floor plans entitled "The Point at the Waterways", as prepared by Robert M. Swedroe, consisting of 12 sheets, dated received 11-18-92; survey as prepared Leiter & Associates, Inc., dated 8-30-92; Entrance Feature details entitled "The Pointe at the Waterways Gate House Area Concept Design", as prepared by Bradshaw, Gill, Fuster & Associates, dated 11-20-92; Landscaping plans consisting of 15 sheets entitled "The Point at the Waterways", as prepared by Bradshaw, Gill, Fuster & Associates and stamped received on 12-17-92; Sales building plans consisting of three (3) sheets entitled "The Point at the Waterways", as prepared by Robert M. Swedroe and dated 12-1-92; and the Master Site Plan entitled "The Pointe at Waterways", as prepared by Robert M. Swedroe, dated 12-24-92 (collectively the "Plans"); and

WHEREAS, the Plans have been reviewed and approved by Golden Beach, in accordance with the terms and conditions of the Settlement Agreement, the Restrictive Covenant and the Partial Modification; and

WHEREAS, a public hearing of the Town Council was advertised and held, as required by law, and all interested parties concerning

the matter have been given an opportunity to be heard, at which time the applicant submitted the Plans for review; and

WHEREAS, upon due and proper consideration having been given the matter, it is the decision of the Town Council that Plans would not be in conflict with the intent of the Settlement Agreement and/or the Restrictive Covenant and/or Partial Modification regarding the manner in which Parcels C and D may be developed, and therefore, should be approved; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF GOLDEN BEACH, DADE COUNTY, FLORIDA, AS FOLLOWS:

Section 1: Recitals. The aforementioned recitals are true and correct and are incorporated herein by reference.

Section 2: Approval of Site Plan. The Town Council does hereby approve the Plans submitted by Coscan as set forth above;

Section 3: Conditions of Approval. The approval of the Plans is conditioned upon the following:

1. That Parcels C and D be developed and maintained substantially in accordance (as defined by applicable law) with the Plans;
2. That Coscan comply with all applicable conditions and requirements of all of the governmental bodies having jurisdiction over Parcels C and D, including but not limited to submission of the Plans to the Board of County Commissioners of Metropolitan Dade County for approval, if necessary, provided, however, that nothing herein shall infer that Golden Beach has any jurisdiction over or regarding Parcels C and D or any power of enforcement with respect thereto except as may be provided in the Settlement Agreement, the Restrictive Covenant, the Partial Modification and the Second Modification, as all may be amended from time to time;
3. That Coscan enter into a Second Partial Modification of Restrictive Covenant (the "Second Modification"), a copy of which is attached hereto, which Second Modifi-

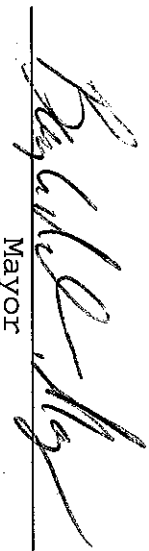
cation shall also be executed by all entities identified as necessary to join in the Second Modification, set forth in a current opinion of title prepared by a competent law firm. In that regard, if all such entities identified in the opinion of title do not join in the Second Modification, then this Resolution shall become void.

Section 4: Effective Date. This Resolution shall take effect upon passage and delivery by Coscan to Golden Beach of a copy of the recorded Second Modification.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH AT ITS
REGULAR MEETING HELD MARCH 13, 1994.

Attest:


City Clerk


Mayor

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