

RESOLUTION NO. R-97-238

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA CONSENTING TO THE MERGER OF MEDITRUST, A MASSACHUSETTS BUSINESS TRUST ("MEDITRUST") INTO SANTA ANITA REALTY ENTERPRISES, INC., A REAL ESTATE INVESTMENT TRUST ("SANTA ANITA") AND THE ASSUMPTION BY SANTA ANITA OF THE OBLIGATIONS OF MEDITRUST UNDER THAT CERTAIN LOAN AGREEMENT DATED AS OF DECEMBER 1, 1995, BY AND BETWEEN MANATEE COUNTY, FLORIDA AND MEDITRUST; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF THAT CERTAIN ASSUMPTION AGREEMENT, AUTHORIZING THE PROPER OFFICERS TO DO ALL THINGS NECESSARY OR ADVISABLE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on December 21, 1995, Manatee County, Florida (the "County") issued its First Mortgage Revenue Refunding Bonds, Series 1995 (Meditrust Project) in the aggregate principal amount of \$3,475,000 (the "Bonds"); and

WHEREAS, the Bonds were issued pursuant to the terms and provisions of that certain Indenture of Trust dated December 1, 1995 (the "Indenture") by and between the County and The First National Bank of Maryland, as trustee (the "Trustee"); and

WHEREAS, any capitalized term used in this Resolution and not otherwise defined shall have the meaning ascribed to such term in the Indenture; and

WHEREAS, the proceeds of the Bonds were loaned by the County to Meditrust, a Massachusetts business trust (the "Original Borrower") pursuant to the terms and provisions of that certain Loan Agreement dated as of December 1, 1995 (the "Loan Agreement"), by and between the County and the Original Borrower; and



**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:**

SECTION 1. That the Merger and Assumption are hereby approved.

SECTION 2. That the form of the Assumption Agreement (the "Assumption Agreement") presented at this meeting (and attached hereto as Exhibit A) expected to be dated not later than the effective date of the Merger, by and among the County, the Original Borrower, Santa Anita and the Trustee, is hereby approved and adopted by the County, together with such changes, modifications and deletions as may be deemed necessary and appropriate. The Chairman (or, in her absence, the Vice Chairman) or the Clerk is hereby authorized to execute and deliver on behalf of the County, and the Clerk (or, in his absence, any Deputy Clerk) of the County is authorized to affix the Seal of the County and attest to the execution of the Assumption Agreement in the form presented to this meeting together with such changes, modifications and deletions as the officer of the Board executing the same may deem necessary and appropriate with the advice of Bond Counsel and the County Attorney, such execution and delivery to be conclusive evidence of the approval and authorization thereof by the County.

SECTION 3. That the Chairman and Clerk of the Board, the other members of the Board, the Finance Director, the County Attorney, or other agents of the County and the officers, agents and employees of the Trustee are hereby authorized and directed to do all acts and things required of them by the provisions of the Assumption Agreement, and the other documents relating to the Merger and Assumption and also to do all acts and things required of them by the provisions of this Resolution.

SECTION 4. That this Resolution shall take effect immediately upon its adoption.

Passed, ADOPTED AND APPROVED this 4<sup>th</sup> day of November, 1997.

BOARD OF COUNTY COMMISSIONERS,  
MANATEE COUNTY, FLORIDA

(SEAL)

BY: *Donald G. Brown*  
Chairman

Attest: *R. B. Stone, Clerk*  
By: *[Signature]*  
Title: *Deputy Clerk*

11-5-97  
Cert. Copy of Resol. 97-1000 to City/Co. Atty's Office/CA  
Copy to Int. Audit 11-10-97 dv-

## ASSUMPTION AGREEMENT

This ASSUMPTION AGREEMENT (the "Agreement") is made as of the \_\_\_\_ day of November, 1997 by and among MEDITRUST ("Meditrust"), MEDITRUST CORPORATION, formerly doing business as Santa Anita Realty Enterprises, Inc. ("Meditrust Corporation"), Manatee County, Florida (the "Issuer") and The First National Bank of Maryland, as Trustee (the "Trustee").

### WITNESSETH:

WHEREAS, Meditrust and the Issuer entered into a certain Loan Agreement (the "Loan Agreement") dated as of December 1, 1995, whereby the Issuer agreed to loan to Meditrust the proceeds of the Issuer's \$3,475,000 First Mortgage Revenue Refunding Bonds, Series 1995 (Meditrust Project) (the "Bonds"); and

WHEREAS, the Bonds were issued pursuant to an Indenture of Trust dated as of December 1, 1995 between the Issuer and the Trustee (the "Indenture"); and

WHEREAS, as security for or in connection with the issuance of the Bonds, Meditrust also executed certain other agreements and documents (the "Financing Documents" as defined in the Indenture); and

WHEREAS, of even date herewith, Meditrust is merging with and into Santa Anita Realty Enterprises, Inc. (the "Merger") and Santa Anita Realty Enterprises is changing its name to Meditrust Corporation; and

WHEREAS, in connection with the Merger, Meditrust Corporation will assume full, complete and unconditional responsibility for all of Meditrust's debts, obligations and liabilities under the Financing Documents including but not limited to any liabilities arising from the provisions of Section 6.2 of the Loan Agreement, whenever, wherever and however arising (the "Assumed Liabilities"); and

WHEREAS, the Issuer and the Trustee have consented to the Merger, contingent upon the satisfaction of the terms and conditions set forth in Section 6.1 of the Loan Agreement, including Meditrust Corporation's execution of this Agreement to confirm the assumption of the Assumed Liabilities;

NOW, THEREFORE, in consideration of one dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Meditrust, Meditrust Corporation, the Issuer and the Trustee agree as follows:

1. Defined Terms. Defined terms not defined herein shall have the meanings ascribed to them in the Loan Agreement. The term "Financing Documents" shall include the

Lease. The term "Material Adverse Effect" shall mean an effect resulting from any circumstance or event of whatever nature (including any adverse determination in any litigation) which does, or could reasonably be expected to, materially and adversely (i) impair the validity or enforceability of this Agreement or the Financing Documents, (ii) impair the ability of Meditrust Corporation to pay or perform its obligations hereunder or (iii) cause an event of default under any Financing Document.

2. Assumption of Assumed Liabilities. Effective on and as of the date hereof, regardless of the current status of Meditrust's obligations under the Financing Documents or Meditrust Corporation's knowledge, or lack of knowledge, as to such status, Meditrust Corporation hereby irrevocably, completely and unconditionally assumes all of the Assumed Liabilities, whenever, wherever and however arising, including, without limitation, Meditrust's obligations to make payment of principal, interest and fees as provided in the Loan Agreement and the other Financing Documents.

3. Definition of "Company" in Loan Documents. The parties hereto agree that from this date forward the term "Company," wherever appearing in the Financing Documents, means and refers to Meditrust Corporation, as if it were a signatory to the Financing Documents as the borrower thereunder.

4. Representations and Warranties of Meditrust Corporation. After giving effect to the Merger and the transactions contemplated thereby, Meditrust Corporation hereby represents and warrants to the Issuer and the Trustee as follows:

(a) Organization, Power and Authority. Meditrust Corporation is a validly existing self-administered REIT and a corporation validly existing and in good standing under the laws of the State of Delaware. Meditrust Corporation is qualified to do business in each jurisdiction in which such qualification is necessary in view of its business and operations or the ownership of its properties, including but not limited to the State of Florida.

(b) Authority. The execution, delivery and performance by Meditrust Corporation of this Agreement is within Meditrust Corporation's powers, have been duly authorized by all necessary action, and do not and will not (a) require any consent or approval of the shareholders of Meditrust Corporation not obtained, (b) contravene Meditrust Corporation's Certificate of Incorporation or other charter document, or (c) result in a breach of or constitute a default under the Loan Agreement or any other indenture or loan or credit agreement or any other agreement, lease or instrument to which Meditrust Corporation is a party or by which it or its properties may be bound or affected, the default under or breach of which would have a Material Adverse Effect. Meditrust Corporation is not in default under any such indenture, agreement, lease or instrument, which default would result in or cause any Material Adverse Effect.

(c) Binding Obligations. This Agreement, the Loan Agreement and the other Financing Documents, when issued and delivered for value received or when assumed by Meditrust Corporation, constitute the legal, valid and binding obligations of Meditrust

Corporation enforceable against it in accordance with their respective terms, except as the same may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally or general principles of equity.

(d) Permits. Meditrust Corporation possesses all material permits, authorizations, licenses, approvals, waivers and consents, the failure of which would have a Material Adverse Effect, all of which are in full force and effect.

(e) Statutory Compliance. Except where non-compliance would not have a Material Adverse Effect, Meditrust Corporation is in material compliance with all material laws existing on the date hereof of all tribunals applicable to it, its properties and assets and the business conducted by it.

(f) Other Defaults. Meditrust Corporation is not in default, after giving effect to any applicable notice, grace or cure periods, in the performance, observance or fulfillment of any of the material obligations, covenants or conditions contained in any indenture, mortgage, deed of trust, lease, agreement, document or instrument to which it is a party or by which it or its properties and assets are bound, where such default would have a Material Adverse Effect.

(g) Taxes. Meditrust Corporation has filed all tax returns and reports required to be filed by it with any and all Federal, state or local governmental bodies, instrumentalities or agencies and has paid in full, made adequate provisions or established adequate reserves for or is contesting in good faith in appropriate proceedings, the payment of all taxes, interest, penalties, assessments or deficiencies shown to be due or claimed to be due on or in respect to such tax returns and reports.

(h) Solvency. Meditrust Corporation is currently, and after giving effect to the transactions contemplated by this Agreement will be, solvent and is not contemplating either the filing of a petition under any Federal or state bankruptcy or insolvency law or the liquidating of all or a major portion of its properties and assets, and Meditrust Corporation has no knowledge of any person contemplating the filing of any such petition against it.

(i) Litigation. Except as set forth on Schedule 6(f) attached hereto or in filings by Santa Anita Realty Enterprises, Inc. with the United States Securities and Exchange Commission, there are no actions, suits or proceedings by or before any tribunal or any arbitration or alternate dispute resolution proceeding, pending or, to the knowledge of Meditrust Corporation or any of its officers, threatened against Meditrust Corporation, its subsidiaries or their properties or assets, which if adversely determined, would have a Material Adverse Effect.

(j) Environmental Protection. Except as set forth on Schedule 6(j) attached hereto, to the best of Meditrust Corporation's knowledge, after due inquiry and investigation:

(1) The business operations of Meditrust Corporation and its subsidiaries and each facility of Meditrust Corporation and its subsidiaries comply in all material respects with all applicable environmental laws except where non-compliance would not have a Material Adverse Effect.

(2) Neither Meditrust Corporation nor, to Meditrust Corporation's knowledge, any subsidiary of Meditrust Corporation or any operator of a facility of Meditrust Corporation or a Meditrust Corporation subsidiary has received any notice or claim to the effect that it is or may be liable to any Person as a result of the release or threatened release of any hazardous materials or any letter or request for information under CERCLA or any other environmental laws which would have a Material Adverse Effect, and none of Meditrust Corporation, any subsidiary of Meditrust Corporation, or any operator of any facility of Meditrust Corporation or a Meditrust Corporation subsidiary is the subject of any investigation by a Federal, state or local governmental instrumentality, body or agency evaluating whether any remedial action is needed to respond to a release or threatened release of any hazardous material or claim, or threatened lawsuit or claim arising under or related to any environmental law which would have a Material Adverse Effect.

(3) None of Meditrust Corporation, any subsidiary of Meditrust Corporation or, to Meditrust Corporation's knowledge, any operator of a facility of Meditrust Corporation or a Meditrust Corporation subsidiary is, nor are any of their properties, assets and operations, subject to any outstanding written order or agreement with any Federal, state or local governmental instrumentality, body or agency or private party respecting any environmental laws which would have a Material Adverse Effect.

(4) None of Meditrust Corporation, any subsidiary of Meditrust Corporation, any operator of a facility of Meditrust Corporation or a Meditrust Corporation subsidiary has filed any notice under any environmental law indicating past or present treatment or disposal of hazardous materials except where non-compliance would not have a Material Adverse Effect, and all of the operations of Meditrust Corporation, any subsidiary of Meditrust Corporation or any operator of a facility of Meditrust Corporation or a Meditrust Corporation facility that involve the generation, transportation, treatment, storage or disposal of Hazardous Materials are in substantial and material compliance with all environmental laws except where non-compliance would not have a Material Adverse Effect.

(k) Lease of Facility. A lease in respect of the Facility is in effect.

5. No Defaults: Release. Meditrust Corporation hereby acknowledges that as of the date hereof neither the Issuer nor the Trustee is in default under or in connection with the Financing Documents. Meditrust Corporation hereby waives any rights that it may now or hereafter have under, in connection with or relating to the Financing Documents against the Issuer or the Trustee for any and all prior acts or omissions and hereby forever releases the Issuer and the Trustee from any liability for any such acts or omissions.



6. Further Assurances. Meditrust Corporation hereby agrees to execute and deliver such other instruments, and take such other action, as the Issuer or the Trustee may reasonably request in connection with the transactions contemplated by this Agreement.

7. Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which shall be deemed to be an original but such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

MEDITRUST

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

MEDITRUST CORPORATION

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

MANATEE COUNTY, FLORIDA

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

THE FIRST NATIONAL BANK OF MARYLAND,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

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Copy to Int Audit 11-10-97