## **MEMORANDUM**

GOC

Agenda Item No. 3C

TO:

Honorable Chairman Esteban L. Bovo, Jr.

and Members, Board of County Commissioners

DATE:

November 14, 2017

FROM:

Abigail Price-Williams

County Attorney

SUBJECT:

Resolution waiving

Administrative Order 8-4 as it relates to review by the Planning Advisory Board; declaring

surplus a 22,100 square

foot parcel of County-owned real property located at 85 W. Enid Drive, Key Biscayne, Florida; authorizing the conveyance of same to the Village of Key Biscayne, a municipal

Biscayne, a municipal corporation organized and existing under the laws of the

State of Florida, in accordance with Florida Statutes Section

125.38 for a price of

\$1,400,000.00; authorizing the Chairperson or Vice Chairperson of the Board to execute a County

Deed for such purpose;

authorizing the County Mayor to take all actions necessary to accomplish such conveyance and

to enforce the provisions set forth

in said county deed

The accompanying resolution was prepared by the Internal Services Department and placed on the agenda at the request of Prime Sponsor Commissioner Xavier L. Suarez.

bigar Price-Williams

County Attorney

APW/lmp

## Memorandum



Date:

December 5, 2017

To:

Honorable Chairman, Esteban L. Bovo, Jr.

and Members, Board of County 26 mmissioners

From:

Carlos A. Gimenez

Mayor

Subject:

Declaring as Surplus County-Owned Real Property Located at 85 W Enid Drive, Key

Biscayne, Florida, and Authorizing Conveyance to the Village of Key Biscayne

#### RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution, which authorizes the following actions:

- Declares as surplus a 22,100 square foot parcel of County-owned property, located at 85 W Enid Drive, Key Biscayne, FL, (Folio No. 24-5205-001-0020) and shown on the attached Summary Report (Attachment 1);
- Authorizes conveyance of this property to the Village of Key Biscayne (the "Village") for a price
  of \$1,400,000, in accordance with Florida Statutes 125.38; and
- Waives Administrative Order No. 8-4 as it relates to review by the Planning Advisory Board because the property is located within the Village of Key Biscayne.

#### SCOPE

The property is located in Commission District 7, which is represented by Commissioner Xavier L. Suarez. In accordance with Resolution No. R-380-17, written notice of this item was provided to the District Commissioner.

#### FISCAL IMPACT/FUNDING SOURCE

The conveyance of this property will generate \$1,400,000 in revenue to the County.

## TRACK RECORD/MONITOR

Elva Marin of the Internal Services Department, Real Estate Development Division, is managing the conveyance of this property on behalf of the Water and Sewer Department.

#### **DELEGATION OF AUTHORITY**

Authorizes the County Mayor or the County Mayor's designee to convey the property to the Village at a cost of \$1,400,000, take all actions necessary to accomplish the conveyance of the property, and authorizes the Chairperson or Vice Chairperson of the Board to execute a County Deed (Exhibit "B" to the Resolution) for such purpose.

### BACKGROUND

The County acquired this 22,100-square-foot parcel of land in 1979 by Warranty Deed from General Waterworks Corporation for use as a pump station. On November 18, 1986, the Board approved Resolution No. R-1517-86, which authorized the conversion of the pump station to a Team Police Office to serve the residents of Key Biscayne. In 1991, the Village incorporated and entered into an Interlocal Agreement with the County which included a provision that the County would lease the property for a police station to the Village for a period of 30 years at a rental rate of \$1.00 per year. On October 5, 1993, pursuant to Resolution No. R-1275-93, the Board approved a retroactive lease agreement between the County and the Village for the police station. The lease commenced on June 15, 1993, and was for a period of 30 years at a rental rate of \$1.00 per year.

In 2002, the Village requested the County's approval to demolish the police station and replace it with a motor vehicle parking lot for the new village hall and police station that was being built on adjacent



Honorable Chairman, Esteban L. Bovo, Jr. and Members, Board of County Commissioners Page 2

land owned by the Village. Resolution No. R-1022-02, approved by the Board on August 15, 2002, authorized an amendment to approve the Village's request to demolish the police station and utilize the property for a municipal vehicle parking lot. In addition, the amendment reduced the term of the lease from 30 years to 14 years and granted the Village an option to purchase the property at any time during the term of the lease at a purchase price to be established by appraisals at the time of purchase. In 2006, the Village notified the County of its intent to purchase the property, and an appraisal was obtained by the County, which valued the property at \$2,400,000. The Village and the County could not reach an agreement on the price, and the transaction did not transpire. The Village continued occupying the property on a month-to-month basis as a holdover tenant.

The Village desires to continue utilizing the property as a municipal parking lot and has agreed to pay the County \$1,400,000 for the property. The County hired an independent State-certified appraiser to determine the market value of the property based on two development scenarios: 1) as a developable site and 2) as unavailable for development. Attached is the Appraisal dated March 6, 2016 (Attachment 2), which concluded that the market value as a developable site was \$4,350,000, and the market value as a non-developable site was \$1,400,000. The property is being sold for the restricted value of \$1,400,000 because the Village will use it for public or governmental parking, or for a use permitted under Section 125.38 of the Florida Statutes. Permitted uses under Section 125.38 include public uses and/or uses that promote community interest and welfare. The Village is required by the deed to obtain written approval from the County Mayor or County Mayor's designee before the property can be used for anything other than parking. The deed excludes commercial and/or profitmaking uses, and prohibits the Village from assigning, leasing, conveying, or transferring the property without the prior consent of the Board.

The Internal Services Department circulated the property to all County departments to determine whether the County has a present or future need for the property, and none was determined.

Attachments

Edward Marque Deputy Mayor



# OFFICE OF THE PROPERTY APPRAISER

**Summary Report** 

Generated On: 5/19/2017

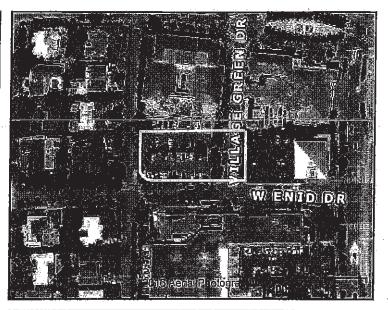
Property Information	
Folio:	24-5205-001-0020
Property Address:	85 W ENID DR Key Biscayne, FL 33149-2026
Owner	MIAMI-DADE COUNTY WATER AND SEWER
Mailing Address	3071 SW 38 AVE MIAMI, FL 33146-1520
PA Primary Zone	8000 COMMUNITY FACILITIES.
Primary Land Use	8065 VACANT GOVERNMENTAL : PARKING LOT
Beds / Baths / Half	0/0/0
Floors	0
Living Units	0
Actual Area	0 Sq.Ft
Living Area	0 Sq.Ft
Adjusted Area	0 Sq.Ft
Lot Size	22,100 Sq.Ft
Year Built	0

Assessment Information				
Year	2016	2015	2014	
Land Value	\$2,210,000	\$1,547,000	\$1,547,000	
Building Value	\$0	\$0	\$0	
XF Value	\$90,376	\$71,176	\$71,968	
Market Value	\$2,300,376	\$1,618,176	\$1,618,968	
Assessed Value	\$1,779,993	\$1,618,176	\$1,618,968	

Benefits Information				
Benefit	Туре	2016	2015	2014
Non-Homestead Cap	Assessment Reduction	\$520,383		
County	Exemption	\$1,779,993	\$1,618,176	\$1,618,968
Notes Net all bana	51111-1	te ell Texable V	Jaluan Ga Ca	

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	School Board, City, Regional).	7	
ı	Inote: not an penelits are applicable to an	Taxable values (i.e. County,	

Short Legal Description	The state of the s
BISCAYNE KEY ESTS PB 50-61	
TRACT A LESS E179FT	
LOT SIZE 221.00 X 100.00	



	2016	2015	2014
County			
Exemption Value	\$1,779,993	\$1,618,176	\$1,618,968
Taxable Value	\$0	\$0	\$0
School Board	3.		
Exemption Value	\$2,300,376	\$1,618,176	\$1,618,968
Taxable Value	\$0	\$0	\$0
City			
Exemption Value	\$1,779,993	\$1,618,176	\$1,618,968
Taxable Value	\$0	\$0	\$0
Regional			
Exemption Value	\$1,779,993	\$1,618,176	\$1,618,968
Taxable Value	\$0	\$0	\$0

Sales Informati	on		,
Previous Sale	Price	OR Book-Page	Qualification Description

1111

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at http://www.miamidade.gov/info/disclaimer.asp

Version:

## **ATTACHMENT 2**

#### T. SUMMARY OF FACTS AND CONCLUSIONS

The Assignment:

To estimate the market value of the fee simple interest in the appraised property as an unimproved site assuming 1) it is developable to its highest and best use and 2) it is unavailable for development

(use limited to surface use).

Location.

The north side of Enid Drive and the east side of Fernwood Road (85 West Enid Drive), Key Biscayne, Florida.

Site Description:

A rectangular corner parcel containing 22,100 square feet and fronting for 221 feet on the north side of Enid Drive and 100 feet on the east side of Fernwood Road.

Improvement Description:

The appraised property is currently improved with a surface parking lot and entry driveways including paving, drainage, lighting and landscaping. This appraisal specifically excludes these improvements and assumes the property is an unimproved site.

Current Owner:

Miami-Dade County Water and Sewer

2015 Assessment:

Total Assessment:

Land: Improvements:

\$1,547,000 \$ 71,175 \$1,618,176

2015 Taxes:

Current ownership is tax exempt

Zoning:

GU, Government Use, permitting governmental facilities such as schools, offices, police and fire stations and community centers

Future Land Use Designation:

Commercial.

Highest & Best Use:

As a Developable Site:

Commercial development

As Unavailable for Development:

Surface uses such as parking, driveways, storage

and open space



## Market Value Conclusions:

As a Developable Site:

\$4,350,000

As Unavailable for Development: \$1,400,000\*

Effective Date of Valuation:

March 6, 2016

Date of Inspection:

March 6, 2016

Appraisers:

Edward N. Parker, MAI Geoffrey Heath, MAI

This value is subject to the hypothetical condition that the appraised property is unavailable for development and its use would therefore be limited to surface uses.

(Revised)

e e	TO:	Honorable Chairman Esteban L. Bovo, Jr. and Members, Board of County Commissioners	DATE:	December 5, 2017
( <b>*</b>	FROM:	Abigail Price-Williams  County Attorney	SUBJECT:	Agenda Item No.
B	Ple	ease note any items checked.	eri E	:
		"3-Day Rule" for committees applicable if rai	sed	
		6 weeks required between first reading and p	ublic hearing	7
		4 weeks notification to municipal officials req hearing	uired prior (	o public
		Decreases revenues or increases expenditures	without bala	ancing budget
	<u> </u>	Budget required		
		Statement of fiscal impact required		
	· ·	Statement of social equity required		
		Ordinance creating a new board requires deta report for public hearing	ailed County	Mayor's
		No committee review		
	<del></del>	Applicable legislation requires more than a m 3/5's, unanimous) to approve	ajority vote	(i.e., 2/3's,
		Current information regarding funding source balance, and available capacity (if debt is con-	A STATE OF THE STA	

Approved _	Mayor	Agenda Item No.
Veto	<u> </u>	12-5-17
Override		

RESOLUTION NO.

RESOLUTION WAIVING ADMINISTRATIVE ORDER 8-4 AS IT RELATES TO REVIEW BY THE PLANNING ADVISORY BOARD; DECLARING SURPLUS A 22,100 SQUARE FOOT PARCEL OF COUNTY-OWNED REAL PROPERTY LOCATED AT 85 W. ENID DRIVE, KEY BISCAYNE, FLORIDA; AUTHORIZING THE CONVEYANCE OF SAME TO THE BISCAYNE, MUNICIPAL VILLAGE OF KEY Α CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF FLORIDA, IN ACCORDANCE WITH FLORIDA STATUTES SECTION 125.38 FOR A PRICE OF \$1,400,000.00; AUTHORIZING THE CHAIRPERSON OR VICE CHAIRPERSON OF THE BOARD TO EXECUTE A COUNTY DEED FOR SUCH PURPOSE; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTIONS NECESSARY TO ACCOMPLISH SUCH CONVEYANCE AND TO ENFORCE THE PROVISIONS SET FORTH IN SAID COUNTY DEED

WHEREAS, the Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, the County owns a 22,100 square foot parcel of land located at 85 W. Enid Drive, Key Biscayne, Florida (the "Property"); and

WHEREAS, the Village of Key Biscayne (the "Village") has submitted an application to the County, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, requesting that the County convey the Property, more particularly described in the County Deed, attached hereto as Exhibit "B" for the purposes of providing public or governmental parking and/or any other use permitted under Section 125.38 of the Florida Statutes; and

WHEREAS, pursuant to an appraisal prepared by an independent State certified appraiser dated April 11, 2016, the market value of the Property, as restricted, is \$1,400,000.00; and

WHEREAS, pursuant to Administrative Order 8-4, the Internal Services Department has announced the availability of the Property to all County departments to determine if they are interested in the Property, and no County department has expressed an interest in the Property; and

WHEREAS, the Board finds that pursuant to Section 125.38 of the Florida Statutes, the Property is not needed for County purposes and is satisfied that the Property will be utilized by the Village for the benefit of the public and community interest and welfare,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

**Section 1.** The foregoing recitals are incorporated in this resolution and are approved.

Section 2. This Board hereby: (a) waives Administrative Order 8-4 as it pertains to review by the Planning Advisory Board, (b) declares the Property surplus, (c) pursuant to Section 125.38, Florida Statutes, approves the conveyance of same to the Village for a price of \$1,400,000.00, subject to the restrictions that the Village may only use the Property for (i) the purpose of providing public or governmental parking and/or (ii) any other use permitted under Section 125.38 of the Florida Statutes, subject to the written approval or disapproval of the County Mayor or County Mayor's designee to be provided within 90 days of the date of the notice of the proposed change of use from the Village; (d) authorizes the execution of the County Deed in substantially the form attached hereto as Exhibit "B" and incorporated herein by this reference by the Board of County Commissioners acting by the Chairperson or Vice Chairperson of the Board; and (e) delegates to the County Mayor or County Mayor's designee the authority to take all actions necessary to accomplish the conveyance and enforce the provisions set forth in said County Deed.

Section 3. Pursuant to Resolution No. R-974-09, the Board directs the County Mayor or the County Mayor's designee to record the instrument of conveyance accepted herein in the public records of Miami-Dade County, Florida; and to provide a recorded copy of the instrument to the

Agenda Item No. Page No. 2

Clerk of the Board within thirty (30) days of execution of said instrument; and directs the Clerk of the Board to attach and permanently store a recorded copy together with this resolution.

The foregoing resolution was offered by Commissioner who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Esteban L. Bovo, Jr., Chairman Audrey M. Edmonson, Vice Chairwoman

Bruno A. Barreiro Jose "Pepe" Diaz Barbara J. Jordan Jean Monestime Rebeca Sosa Xavier L. Suarez Daniella Levine Cava Sally A. Heyman Joe A. Martinez Dennis C. Moss Sen. Javier D. Souto

The Chairperson thereupon declared the resolution duly passed and adopted this 5<sup>th</sup> day of December, 2017. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:		
	Deputy Clerk	

Approved by County Attorney as to form and legal sufficiency.

SED

Sarah E. Davis





## VILLAGE OF KEY BISCAYNE

## Office of the Village Manager

A 'illage Cannol
Mayya P, Lindsay, Mayor
James S, Taintor, L'Ac Mayor
Franklin H, Capkin
Luis F, de la Gruz
Theodore Holloway
Michael E, Kelly
Edward London

January 29, 2016

T*illage Manager* John C. Gilbert Mr. Lester Sola, Director Mr. L. Douglas Yoder, Deputy Director Miami-Dade Water and Sewer Department 3071 S.W. 38 Avenue, Suite 508 Miami, Florida 33146

Re:

"GU" Property located at 85 West Enid Drive, Key Biscayne /

Property Acquisition

#### Genilemen:

We have been discussing plans by which the Village of Key Biscayne (the "Village") would acquire by purchase, from the Miami-Dade Water and Sewer Department ("WASD"), the real estate parcel located within the Village as referenced above (the "Property").

By way of brief background, the Village leased the Property beginning in 1993. Since the development of our Village Hall shortly thereafter, the Property has been used as a surface parking lot for our police vehicles, with a few extra spaces for Village staff. In 2002, the lease was amended to include a purchase option in favor of the Village. The purchase option provided that, if the option were exercised, the purchase price for the Property would be determined based on "fair market value", with fair market value being determined "as if the Property was vacant and unimproved by the existing parking lot and/or any other improvements."

Following direction from our Village Council and based on our most recent meeting in December, please consider this letter as the Village's formal request to proceed with the Property sale and conveyance. As discussed at our last meeting, and as confirmed yesterday during Mr. Yoder's conversation with Councilmember Caplan, the Property is located within our "Governmental Use" zoning district and has only been used for a public purpose. It generates no revenue, and never has. Councilmember Caplan re-confirmed at our last meeting, and per your suggestion I hereby re-confirm again, that the Village's intention and plans are to continue to utilize the Property only for a public purpose, consistent with past use. I know you are familiar with the fact that that the Property is an intrinsic part of the Village's municipal complex and will foreseeably remain so.

In terms of proceeding to closing, we acknowledge your thinking in deciding to procure two alternative appraisals, using an appraiser to be selected from the Miami-Dade County list of

approved appraisers. To confirm, one appraisal will be based on the appraisal instruction and agreed-upon valuation benchmark stated above; that is, assuming the Property is vacant and unimproved by the existing parking lot and/or any other improvements. We note that appraisers may be unaccustomed to work instructions based on such a specific valuation assumption. With this in mind and as Councilmember Caplan has broached, we think it prudent to direct the appraiser to assume that the Property in its vacant and unimproved state will remain unchanged (vacant and unimproved) despite possible development allowances under applicable zoning. We suggest that instructions with this degree of clarity will help ensure that the work-product responds to the valuation assumption as intended.

As an alternative to the "vacant and unimproved" appraisal described above, we understand that you will obtain a second appraisal, assuming "highest and best use". This alternative arises in connection with WASD's intent to include a reverter clause in the conveyance deed, which would be triggered if at some point in time the Village ceases to use the Property for a public purpose. We think this is appropriate, as the valuation assumption described above only applies assuming use of the Property for a public purpose.

For our part, we will order alternative appraisals using a County approved appraiser, directing the appraiser using the same assumptions and instructions as noted above (one, assuming unchanging vacant and unimproved for a public purpose, without regard to development potential under our GU or other zoning, and the other, assuming highest and best use). We propose to engage either Waronker & Rosen, Inc. or Cole Appraisal Company, Inc., each of whom are approved appraisers on the County list.

We appreciate and reciprocate Mr. Yoder's thoughts about continuing to cooperate and coordinate efforts, to ensure that the appraisal instructions are clear and consistent. We propose to proceed with our appraisals without delay. Please let us know if you have any concerns.

Thank you again.

Sincerely,

John C. Gilbek Village Manager

cc: Village Council

## EXHIBIT "B"

Instrument prepared by and returned to: Sarah E. Davis, Esq. Miami-Dade County Attorney's Office 111 N.W. 1 Street, Suite 2800 Miami, Florida 33128-1907

Folio No.: 24-5205-001-0020

{SPACE ABOVE THIS LINE RESERVED FOR RECORDING DATA} ------

## COUNTY DEED

THIS COUNTY DEED, made this day of , 2017, by Miami-Dade County, Florida, a political subdivision of the State of Florida, party of the first part (the "County"), whose address is: Stephen P. Clark Center, 111 N.W. 1<sup>st</sup> Street, Suite 2460, Miami, Florida 33128, and Village of Key Biscayne (the "Village"), a municipal corporation organized and existing under the laws of the State of Florida, whose address is: 88 West McIntyre Street, Suite 220, Key Biscayne, Florida 33149.

#### WITNESSETH:

That the said party of the first part, for and in consideration of the sum of One Million Four Hundred Thousand Dollars (\$1,400,000.00), to it in hand paid by the party of the second part, receipt whereof is hereby acknowledged has granted, bargained and sold, to the party of the second part, its successors and assigns forever, the following described lands lying and being in Miami-Dade County, Florida:

### LEGAL DESCRIPTION

Tract A less the east 179 feet, Biscayne Key Estates, as recorded in Plat Book 50, Page 61 of the public records of Miami-Dade County, Florida (the "Property")

This grant conveys only the interest of the County and its Board of County Commissioners in the Property herein described and shall not be deemed to warrant the title or to represent any statement of facts concerning the same.

This grant is made from the County to the Village pursuant to Section 125.38 of the Florida Statutes ("125.38"), and from the date hereof, the Village may only use the Property as follows:

- (i) For the purpose of providing public or governmental parking (the "Parking Use"); and/or
- (ii) Any other uses permitted under 125.38, as may be amended from time to time provided that such alternative use is a governmental use for community interest and welfare purposes ("Permitted Use"). If the Village seeks to use the Property for a Permitted Use other than the Parking Use, the Village shall provide the County Mayor with written notice describing the intended Permitted Use of the Property and must obtain written approval from the County, by the County Mayor or County Mayor's designee, before the Property can be used for any purpose other than the Parking Use. Provided that the Village's intended use of the Property is a Permitted Use, the County shall, no later than 90 business days from receipt of such request, provide such written approval to the Village.

If in the sole and reasonable discretion of the County, the Property ceases to be used for the Parking Use or Permitted Use by the Village, or the Village ceases to exist, or changes or loses its status as a municipal corporation organized and existing under the laws of the State of Florida, or the terms of this deed restriction are violated, the County shall provide sixty (60) days' written notice to the Village to provide the Village an opportunity to cure the default ("Grace Period"). If after expiration of the sixty day Grace Period, the Village has not remedied the default, as determined in the County's reasonable and sole discretion, then the County may exercise any remedy that it may have at law or in equity (including but not limited to injunctive relief but not reverter) to enforce the requirements and restrictions set forth herein, including but not limited to the requirement that the Property be used solely for the Permitted Uses.

The Village shall not assign, lease, convey, or transfer the Property, without the prior written consent of the Miami-Dade County Board of County Commissioners, which may be withheld in its sole and reasonable discretion.

[THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK]
[ONLY THE SIGNATURE PAGE FOLLOWS]

## EXHIBIT "B"

IN WITNESS WHEREOF Miami-Dade County has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairperson or Vice-Chairperson of said Board, the day and year aforesaid.

(OFFICIAL SEAL)	
ATTEST: FLORIDA HARVEY RUVIN, CLERK	MIAMI-DADE COUNTY, BY ITS BOARD OF COUNTY COMMISSIONERS
By:	Ву:
Approved as to Form and Legal Sufficiency:	
Assistant County Attorney	
	o.:approved by the Board of y, Florida, on theday of,

## EXHIBIT "B"

IN WITNESS WHEREOF, the repre	esentative of Village of Key Biscayne has caused this
document to be executed by their respective	and duly authorized representative on this day
of, 2017, and it is hereby approved	I and accepted by same.
ATTEST;	THE VILLAGE OF KEY BISCAYNE
By:Village Clerk	By: Village Manager
Village Clerk	Village Manager
	Printed Name
Approved as to Form and Legal Sufficiency:	
Village Attorney	
The foregoing was authorized by Ordinanc Council on the day of	e No.:approved by the Village