OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: December 4, 2007

Agenda Item No. 8(D)(1)(A)

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

R-1297-07

Subject: Resolution Authorizing Execution of a Release of Covenant for Environmentally Endangered Land Owned by George R. Timinsky

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Recommendation
It is recommended that the Board approve the attached resolution authorizing the execution of a Release of Covenant running with the land of George R. Timinsky in favor of Miami-Dade County for the preservation and maintenance of environmentally endangered land.

Scope
The subject property is located at 9000 Arvida Drive in Coral Gables, Miami-Dade County, in Commission District 7 (Commissioner Gimenez).

Fiscal Impact/Funding Source
Prior to release of the covenant, the property owner must pay to the County an amount equivalent to his tax reduction since the 2004 renewal of the land conservation covenant. The amount to be paid to the County is estimated at $70,000.

Track Record/Monitor
Not applicable

Background
Section 25B (Article II) of the Code of Miami-Dade County includes criteria allowing qualifying property owners in Miami-Dade County to voluntarily enter into, and be released from, 10-year conservation covenants with the Board. Each covenanted property receives preferential tax treatment by a substantial reduction in its assessed value from the Property Appraisal Department for preserving and/or maintaining sensitive plant communities by removing exotic vegetation and preserving native species, subject to one or more conservation restrictions.

The subject property is located at 9000 Arvida Drive in Coral Gables. A 10-year covenant was initially approved for the property on December 18, 1984 via Resolution No. R-1722-84 (attached) for a prior owner. The covenant was renewed and recorded in 1994 and in 2004 and currently protects 1.19 acres of the 2.5-acre parcel. In addition, the Board of County Commissioners designated the majority of the forested area on the property as a Natural Forest Community (NFC) in 1984 in a separate action. Any work performed in a NFC requires a permit from the Miami-Dade County Department of Environmental Resources Management (DERM).

Section 25B-17 provides for the release of an environmentally endangered lands covenant and requires that release of said covenant shall only be made to the owner upon payment of the deferred tax liability for the years in which the current covenant or conveyance was in effect.

The present owner was made aware of the obligations of the covenant, yet repeatedly violated both the terms of the covenant as well as Miami-Dade County Natural Forest Community regulations including cease and desist orders from Miami-Dade County for clearing of vegetation and other unauthorized work within the covenanted area. A Notice of Violation was issued by DERM and the enforcement action was subsequently resolved when the property owner entered into a Consent Agreement (Attachment A). This Consent Agreement requires a penalty and corrective actions including the restoration of the NFC area. The site is currently undergoing restoration. Based on noncompliance with the covenant and applicable laws, it is not appropriate for the property owner to receive the property tax reduction and DERM therefore requests the release of the subject covenant on the 1.19 acre parcel. The property owner has also requested the release of this covenant. Release of the covenant in no way diminishes the requirements to restore and preserve the designated NFC on the property.

Based on the above, it is therefore recommended that the Board authorize this Release of Covenant and that any and all back taxes due as a result of this release be paid to the County prior to the issuance of the attached Release of Covenant for the property listed below.

George R. Timinsky
9000 Arvida Drive, Coral Gables, Miami-Dade County, Florida 33156
Tax folio# 03-5106-013-0080

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: December 4, 2007

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 8(D)(1)(A)

Please note any items checked.

_____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(D)(1)(A)
12-04-07

RESOLUTION NO. **R-1297-07**

RESOLUTION AUTHORIZING EXECUTION OF A RELEASE OF COVENANT FOR ENVIRONMENTALLY ENDANGERED LAND OWNED BY GEORGE R. TIMINSKY, DESCRIBED AS GABLE ESTATES NO 4 PB 70 – 99 LOT 3 BLK G LOT SIZE – SUBJECT TO EEL COV PER-R-1892-94 ON 1.19 AC OR 11222-1842 0881 1 COC 24380 – 1320 25203 –1715 0306 1 LOCATED AT 9000 ARVIDA DRIVE, CORAL GABLES, MIAMI-DADE COUNTY, FLORIDA IN FAVOR OF THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board having considered all applicable factors contained within Section 25-B of the Code of Miami-Dade County, hereby determines that release of the covenant would not adversely affect the interest of the public and therefore approves the release of a covenant running with the land of George R. Timinsky, described as Gable Estates No 4 PB 70 – 99 Lot 3 Blk G Lot Size – Subj To EEL Cov Per – R- 1892-94 On 1.19 Acres OR 11222-1842 0881 1 COC 24380-1230 25203-1715 0306 1, Folio No. 03-5106-013-0080 and located at 9000 Arvida Drive, Coral Gables, Miami-Dade County, Florida; authorizes the Mayor to execute same for and on behalf of Miami-Dade County, Florida, and to record the Release of Covenant and related documents in the public records.

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

Bruno A. Barreiro, Chairman **aye**
Barbara J. Jordan, Vice-Chairwoman **aye**

Jose "Pepe" Diaz	**absent**	Audrey M. Edmonson	**aye**
Carlos A. Gimenez	**aye**	Sally A. Heyman	**absent**
Joe A. Martinez	**aye**	Dennis C. Moss	**aye**
Dorrin D. Rolle	**aye**	Natacha Seijas	**aye**
Katy Sorenson	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of December, 2007. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By: **Kay Sullivan**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Robert A. Duvall

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NOTICE OF PUBLIC HEARING ON A RESOLUTION AUTHORIZING A RELEASE OF COVENANT FOR ENVIRONMENTALLY ENDANGERED LAND OWNED BY GEORGE R. TIMINSKY LOCATED AT 9000 ARVIDA DRIVE, CORAL GABLES, MIAMI-DADE COUNTY, FLORIDA

BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

NOTICE IS HEREBY GIVEN pursuant to Section 25B-17 of the Code of Miami-Dade County that the Board of County Commissioners of Miami-Dade County will hold and conduct a Public Hearing for the Release of an Environmentally Endangered Lands Covenant at Property Owned by George R. Timinsky and located at 9000 Arvida Drive, Coral Gables, Miami-Dade County. Such Public Hearing will be held on the 13th day of November 2007 at 9:30 AM at the County Commission Chambers on the 2nd Floor of the Stephen P. Clark Center in Miami, Florida.

Details concerning this Release of Covenant may be reviewed by interested persons at the office of the Miami-Dade County Department of Environmental Resources Management, 701 NW 1st Court, 4th Floor, Miami, Florida 33136.

Oral statements will be heard and appropriate records made. For accuracy of records all important facts and arguments should be prepared in writing in triplicate, with two copies being submitted to the Deputy Clerk of the County Commission at the hearing or mailed to her beforehand (Kay Sullivan, Deputy Clerk), 111 N.W. 1st Street, Stephen P. Clark Center, Suite 210, Miami, Florida 33128; with one copy being submitted beforehand to the Miami-Dade County of Environmental Resources

Management Department, 701 NW 1st Court, Miami, Florida 33136.

A person who decides to appeal any decision made by any Board, Agency, or Commission with respect to any matter considered at its meeting or hearing, will need a record of proceedings. Such person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.

BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

HARVEY RUVIN, CLERK

BY: _____
Deputy Clerk

RELEASE OF COVENANT

Miami-Dade County, Florida, hereby releases the property described in EXHIBIT A attached hereto from the Covenant approved by the Board of County Commissioners on December 13, 1994, via Resolution No. R-1892-94 (EXHIBIT B), and executed by William and Jean Soman. Covenant was re-recorded on December 2, 2004 (EXHIBIT C) in Official Records Book 22870 at Pages 750 – 761, of the Public Records of Miami-Dade County, Florida.

IN WITNESS WHEREOF, the undersigned has caused the Release to be executed this ____ day of _____, 2007.

signed, sealed and delivered
in the presence of:

_____

_____

_____
Carlos Alvarez, Mayor
Miami-Dade County

STATE OF FLORIDA
SS:
COUNTY OF MIAMI-DADE

BEFORE ME, the undersigned authority, personally appeared, who acknowledged that he examined said document and executed same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2007.

_____
NOTARY PUBLIC

MY COMMISSION EXPIRES:

EXHIBIT A
Legal Description

Folio Number: 03-5106-013-0080

Property Address: 9000 Arvida Drive, Coral Gables, Miami-Dade County, Florida

Legal Description:

5-6 55 41
GABLE ESTATES NO 4 PB 70-99
LOT 3 BLK G
LOT SIZE – SUBJ TO EEL COV
PER-R-1892-94 ON 1.19 AC
OR 11222-1842 0881 1
COC 24380-1320 25203-1715 0306 1

EXHIBIT B

Agenda Item No. 7(CCC)
12-13-94

RESOLUTION NO. R-1892-94

RESOLUTION ACCEPTING COVENANTS FOR ENVIRONMENTALLY ENDANGERED LAND PURSUANT TO CHAPTER 25B, CODE OF METROPOLITAN DADE COUNTY AND SECTION 193.501, FLORIDA STATUTES

WHEREAS, the attached Covenants have been submitted pursuant to Chapter 25B of the Code of Metropolitan Dade County, and Section 193.501, Florida Statutes, which Ordinance and Statute provide for beneficial ad valorem tax classifications for outdoor recreational or park land and environmentally endangered lands; and

WHEREAS, the attached Covenants have been executed and are being proffered to this Board for acceptance, as indicated in the manager's memorandum, a copy of which is attached hereto and incorporated herein by reference; and

WHEREAS, this Board finds that the attached Covenants meet the criteria for County acceptance set forth in Chapter 25B,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA, that this Board hereby accepts the attached Covenants; and the Clerk of this Board is directed to promptly record same in the Official

Records of Dade County; to record applicable joinders by mortgagees upon proper execution and review by the County Attorney's Office; and to forward a certified copy of same to the Property Appraiser.

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

James Burke	absent	Miguel Diaz de la Portilla	aye
Betty T. Ferguson	aye	Maurice A. Ferre	aye
Bruce Kaplan	absent	Gwen Margolis	absent
Natacha S. Millan	aye	Dennis C. Moss	aye
Alexander Penelas	aye	Pedro Reboredo	aye
Katy Sorenson	aye	Javier D. Souto	aye

Arthur E. Teele, Jr. aye

The Chairperson thereupon declared the Resolution duly passed and adopted this 13th day of December, 1994.

DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISIONERS

COUNTY COMMISSIONERS DADE COUNTY FLORIDA

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney
as to form and legal sufficiency.

MEMORANDUM

Agenda Item No. 7(CCC)

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: December 13, 1994

SUBJECT: Resolution Accepting Environmentally Endangered Lands Covenants

FROM: Joaquin G. Avino, P.E., P.L.S.
County Manager

RECOMMENDATION

It is recommended that the attached resolution accepting covenants for environmentally endangered land exemptions be approved as recommended by the Department of Environmental Resources Management.

BACKGROUND

Chapter 25-B (Article II) of the Dade County Code was approved by the Board of County Commissioners pursuant to Ordinance 79-105 on December 4, 1979. This Ordinance allows qualifying property owners in Dade County to enter into a 10 year covenant with the Board, stipulating that their property will be preserved and/or maintained in its natural state, subject to one or more conservation restrictions. The purpose of the ordinance is to provide an economic incentive for owners of environmentally endangered lands, such as hammocks, pinelands and freshwater wetlands, to preserve their land, thereby maintaining the land's natural resource values. This is particularly significant in the rural areas of Dade County where many property owners have an economic incentive to clear forested lands and replace them with fruit groves or vegetable crops, thereby qualifying for an agricultural tax exemption.

Upon execution of the covenant and approval by the Board, the covenanted property will receive a preferential tax treatment by receiving a substantial reduction in its assessed value, from the Dade County Property Appraiser, in accordance with the criteria in Section 193.501,(3)(a), Florida Statutes. This will result in a significant tax savings to the property owner.

County Commission approval must be granted for an endangered land covenant on or before December 31 of the year application is made in order for the property owner to receive the preferential tax treatment the following years. In the event that a property owner breaches any portion of the covenant,

the property owner is then liable for all back taxes (i.e. taxes that would have been required had the endangered land assessment not been obtained), plus state mandated interest penalties on the back taxes.

The Department of Environmental Resources Management (DERM) is responsible for evaluating all applications for environmentally endangered land tax exemptions. Factors which are considered by DERM in reviewing applications include the ecological significance and integrity of a site, if a site can be farmed and the owner can therefore receive an agricultural tax exemption, or if a site can be further subdivided and developed. Existing zoning for each application is confirmed and the potential for future development is also considered by DERM. Once it has been determined that a site meets the minimum threshold for ecological significance and integrity, the application and covenant are submitted to the Board for approval.

The following applications meet the above criteria for endangered lands designation; therefore, the Director of DERM is recommending approval of covenants for these properties:

New Applications:

1. Jeffrey and Cynthia Stone
   17200 S.W. 264 Street
   (1.6 acres Pine Rockland/ transitional Hammock)

2. Keith and Pam Hendriksen
   17025 S.W. 162 Avenue
   (1.6 acres Pine Rockland)

3. Bruce Schaffer and Pamela Moon
   S.W. 190 Avenue and 267 Street
   (3.6 acres Pine Rockland)

4. John Bolash
   23015 S.W. 120 Avenue
   (1.36 acres Pine Rockland)

5. Izetta Hilliard
   20250 Plummer Drive
   (2.1 acres Pine Rockland)

6. William and Sandra Henning
   34141 S.W. 217 Avenue
   (3.60 acres Pine Rockland)

7. Florida Realty Property Trust
Tracts 18 and 32 of Section 18,
Township 54 South, and Range 39 East,
(20 acres Freshwater Wetlands)

8. Fred and Eva Rawicz
Approximately S.W. 210 Street and 142 Avenue
(5.0 acres Pine Rockland)

Covenant Renewals:

9. William and Joan Soman
9000 Arvida Drive
(1.17 acres Hammock)

10. Paul and Judith Radice
16375 S.W. 256 Street
(2.0 acres Pine Rockland)

11. Carolyn M. Kern
18600 S.W. 157 Avenue
(4.1 acres Pine Rockland)

EXHIBIT C

CFN 2004R1070653
OR Bk 22870 Pgs 0750 - 761 (12pgs)
RECORDED 12/02/2004 14:44:34
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

COVENANT RUNNING WITH THE LAND OF
WILLIAM D. AND JEAN P. SOMAN IN
FAVOR OF THE BOARD OF COUNTY COMMISSIONERS
OF MIAMI-DADE COUNTY, FLORIDA,
CONCERNING ENVIRONMENTALLY
ENDANGERED LAND LOCATED AT
9000 ARVIDA DRIVE, MIAMI-DADE
COUNTY, FLORIDA

The undersigned, William D. and Jean P. Soman, being owner(s) of a parcel of real property legally described as set forth in Exhibit A, attached hereto and incorporated herein by reference, and located at 9000 Arvida Drive, Miami-Dade County, Florida, and furthermore identified for ad valorem tax purposes by all or part of Folio Number 03-5106-013-0080(hereinafter referred to as the "Property") which Property contains the items set forth in Exhibit B, attached hereto and incorporated herein by reference, hereby create(s) a covenant, on behalf of the undersigned owner('s)(s') heirs, successors, assigns and grantees, running with the land to and in favor of the Board of County Commissioners of Miami-Dade County, Florida (hereinafter referred to as the "Board"), their successors and assigns, with respect to the Property, as follows:

1. The covenant created hereby is created pursuant to F.S. 193.501 and Chapter 25B of the Code of Miami-Dade County, Florida.
2. The undersigned owner(s) covenant with the Board that the Property shall be maintained in its present natural state.

E.D.M.S.
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3. The undersigned owner(s) covenant with the Board that the Property shall be and the same is hereby subject to the conservation restriction(s) necessary to maintain the Property in such present state, as set forth in the Management plan attached hereto and incorporated by reference hereto as Exhibit B.

attached hereto and incorporated herein by reference.

4. The undersigned owner(s) covenant(s) and represent(s) that the undersigned owner(s) is/are the owner(s) in fee of the Property and that no other person or other legal entity of any kind whatsoever has any fee interest in the Property.

5. The undersigned owner(s) covenant(s) and agree(s) that the Board of County Commissioners of Miami-Dade County, Florida, through its authorized agents shall have the right, upon written notification to the owner(s) of the Property, to inspect the Property at reasonable times to determine whether the Property is being used and maintained in the manner promised by the undersigned owner(s) in this covenant. Should the County determine after such an inspection that some curative action on the Property is necessary in order to preserve the terms of this covenant, the County shall notify the owner(s) in writing by Certified Mail, return receipt requested, of the particular curative action to be taken by the owner(s) of the Property and the reasons therefor. The owner(s) shall take such curative action within a reasonable time, provided however, the owner(s) shall have the right to appeal such proposed curative action

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to the Board by filing a written objection with the Clerk of the Board by filing a written objection with the Clerk of the Board within thirty (30) days after receipt of written notification of said proposed curative action and the reasons therefor. The undersigned owner(s) covenant(s) and agree(s) that this covenant and the provisions contained herein may be enforced by the Director of the Department of Environmental Resources Management by preliminary and permanent, prohibitory and mandatory injunctions as well as otherwise provided for by law or ordinance.

6. This covenant shall be in full force and effect for a period of ten (10) years commencing from the date of its acceptance by resolution of the Board, and shall be binding upon the undersigned, his/their heirs, legal representatives, estates, successors, grantees, and assigns.

7. After this Covenant is accepted by the Board, the Covenant, together with a certified copy of the Board's resolution accepting the Covenant, shall be promptly filed with the Clerk of Court for recording in the official records of Miami-Dade County and a copy sent to the Property Appraiser.

8. After this Covenant is executed by the owner(s) of the Property and accepted by the Board and during the time this Covenant is in force and effect, the Property Appraiser shall assess the Property for ad valorem tax purposes in conformance with Chapter 25B, Code of Miami-Dade County, and Section 193.501, Florida

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Statutes.

9. After this Covenant is executed by the owner(s) of the Property and accepted by the Board, neither owner(s) of the Property nor anyone with the owner('s)(s') knowledge or consent shall use the Property or modify the present state of the Property in any manner inconsistent with this Covenant without first obtaining a written release from the Board as required by Chapter 25B of the Code of Miami-Dade County.

10. The owner(s) of the Property may be released from this Covenant for the reasons and in accordance with the procedures and conditions set forth in F.S. 193.501 and Chapter 25B of the Code of Miami-Dade County, Florida.

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IN WITNESS WHEREOF, the undersigned have caused this Covenant to be executed this 26 day of July, 2004.

INDIVIDUAL

WITNESSES:
sign
print KENT BENEDICT
sign
print CARO HERNANDEZ
sign
print KENT BENEDICT
sign
print CAROL HERNANDEZ

OWNER(S):
sign
print WILLIAM D SOMAN
Address 9000 ARVIDA DR, CORAL GABLES, FL 33156
sign
print JEAN P. SOMAN
Address 9000 ARVIDA DR, CORAL GABLES, FL 33156

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 26 day of July, 2004, by William D and Jean Soman who is personally known to me or who has produced — as identification and who did take an oath.

NOTARY PUBLIC:
sign
print CAROL HERNANDEZ
State of Florida at Large (Seal)
My Commission Expires: 1-20-07

CAROL HERNANDEZ
MY COMMISSION # DD 178654
EXPIRES: January 20, 2007
1-800-3-NOTARY FL Notary Service & Bonding, Inc.

THIS INSTRUMENT PREPARED BY:
DERM-ENVIRONMENTAL RESOURCES MANAGEMENT
33 S.W. 2 AVENUE
MIAMI, FLORIDA 33130

E.D.M.S.
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Exhibit A
Legal Description

Folio Number: 03 5106 013 0080

Property Address: 9000 Arvida Drive, Coral Gables, Florida 33156

Legal Description:
5-6 55 41
GABLES ESTATES NO 4 PB 70-99
LOT 3 BLK G LOT SIZE 2.5 AC-
SUBJ TO EEL COV PER-R-1892-94
ON .82 AC OR 11222-1842 0881 1

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Exhibit B
Hardwood Hammock Management Plan
for William D. & Jean P. Soman

Location: 9000 Arvida Drive, Coral Gables, Florida 33156

Size: 2.5 acres total parcel
1 acre of designated hardwood hammock natural forest community (NFC) (2004)
1.19 acres within the property, which include the 1 acre designated as NFC qualify for an Environmentally Endangered Lands Covenant (2004)

Folio #: 03-5106-013-0080

Forest Type: Hardwood hammock / rockland hammock

Location:

The site is located within Gables Estates and is approximately a 1/8 of a mile west of tidal waters. This property is located inside the urban development boundary (UDB) and is surrounded by residential properties to the north and east side, Old Cutler Road and residential properties to the west and residential properties containing hardwood hammock NFC to the south. The property that borders the southwest half contains .70 acre of hardwood hammock NFC and the property that borders the southeast half contains .45 acres of hardwood hammock NFC.

Property information:

This tropical hardwood hammock also known as a rockland hammock (I will call it hardwood hammock or just hammock throughout the management plan) contains primarily broadleaf, mostly hardwood evergreen trees growing on outcrops of limestone. Under natural conditions this community is rarely subject to fire. Soils over the limestone bedrock are generally thin, composed of marl and/or siliceous sand and organic material. The pH is neutral to acid; organic content is high, primarily on the surface. Fertility is moderate to high, and salinity is generally low. The available water capacity is moderate to high. Primarily these types of hammocks are found in Miami-Dade County from the south entrance of Everglades National Park north to the entrance of the Miami River.

Present condition:

The lot size is 2 ½ acres and one (1) of those acres is designated a hardwood hammock Natural Forest Community (NFC) and .82 of that 1 acre was placed under the Environmentally Endangered Lands Covenant in 1994. The western portion of the property contains the area that is designated NFC and borders Old Cutler Road on the west. A full size tennis court built over twenty years ago borders the NFC along several

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areas but mainly along the eastern edges. The property itself is within Gables Estates. Mr. Soman's landscaper, which is an older gentleman that knows his exotic plants, comes in once a week to control and manage such exotics as Brazilian pepper, tropical almond and non-native vines. The property itself has very little invasive exotic plants. I did note a few red sandalwood (*Adenanthera pavonina*) trees (prohibited species) at the southwest corner of property along Old Cutler Road. The property also contains a small number of scattered Brazilian pepper shrubs that can be easily eradicated. There are a large number of Alexander palms (*Ptychosperma elegans*) growing around the edge of the NFC as well as in some areas in the interior of the NFC. These palms can be easily eradicated by the removal of the mature palms (seed sources) and the hand removal of the small seedlings. The entire property itself has upwards of several hundred Alexander palms, mainly around the pool area (east side of NFC) and on the east side of property, which is not designated as NFC but will be added to the covenanted acreage. Hurricane Andrew damaged a number of trees on the property and the remnants of those trees that were knocked over still lie on the property. Mr. Soman left them right where they fell and did not remove them because he feared that it would cause more damage to the property if he did. This was a very good decision on his part because trying to remove these fallen trees would of have caused a greater impact on the hammock. Many of the trees that were not completely knocked over have taken root again and are still growing in their tilted positions. There are still very large specimen sized live oak trees as well as gumbo limbo trees throughout the property. The NFC does have a diverse canopy and sub-canopy with trees such as mastic, pigeon plum, black ironwood, white stopper, paradise tree, simpson stopper, inkwood and fiddlewood to name a few. The understory was quite open which is typical of hammocks. It contained such understory plant species as wild coffee, firebush and marlberry. The NFC's substrate is undisturbed and the property has very interesting changes in elevation that go from 8 to 18 ft. above sea level. There are several solution holes in the property as well as large natural indentations in the coral rock (larger solution holes). Excavations have been done in these areas in the past to see if any Indian artifacts were located. Overall the property is in very good condition and the .82 acres that was placed under an EEL covenant can now be raised to the one (1) acre of designated NFC hammock that exist on the west side of property as well as an additional .19 acres on the east side of the property which will require a bit more work in the understory and subcanopy to improve its quality. The one (1) acre designated as NFC hammock on the west side of property will require minimal but continual work to be maintained in its current condition.

Conclusion

Overall the hardwood hammock NFC's canopy on this property is quite dense and diverse (see species list). The understory is very open and contains little to no exotic species due primarily to the management practices of the property owners and others. Common native species include live oak, gumbo limbo, mastic, pigeon plum, paradise tree and various members of the stopper family. The substrate throughout the entire property is undisturbed. Only a few very minor patches of disturbed substrate exist around the perimeter.

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Ecological Goals:

1. Maintain open understory to preserve herbaceous hammock species.
2. Promote regeneration and growth of native hardwoods and herbaceous plants.
3. Provide suitable habitat for native wildlife.
4. Eliminate invasive exotic species and encroaching Boston fern and Alexander palms.

Management Goals:

1. Eliminate exotic plant species from interior of hammock to achieve less than 2% exotic sub-canopy cover within two (2) years.
2. Eradicate all invasive exotic plant species from perimeter and prevent recolonization. Ensure that no more than ten (10) square feet of any exotic cover remains.
3. Prevent reproduction of exotic seeds on site within five (5) years. DERM will periodically inspect property to ensure that management goals are achieved.
4. Eradicate all mature Alexander palms (seed sources) as well as seedling from the interior as well as the perimeter of covenanted areas. Eradicate Boston ferns from understory in order to allow regeneration of native herbaceous shrubs and groundcover.
5. Plant sub canopy hardwood plant species such as white & simpson stopper, black ironwood, fiddlewood and spicewood as well as understory plants such as wild coffee, firebush and beautyberry only in the newly designated areas located at the east side of property. These plantings can be done once most of the Alexander palms and Boston ferns have been removed.

Management Techniques and Schedule:

Year 1: Hand removal and herbicide treatment of all invasive species and exotics including: Brazilian pepper and non-native invasive vines as recommended by DERM. Interior exotics should be treated first and work extended out to the perimeters. All exotic seedlings should be hand pulled if possible. Multiple herbicide treatments may be needed. Hand removal of Alexander palms and Boston ferns around the perimeter and interior of the covenanted areas but primarily in the newly covenanted areas located at the east of the property.

Year 2-6: Continue to eradicate exotic and invasive plants and vines. Retreat any resprouting or recolonizing of invasive exotic plants. Planting of new shrubs and trees as mentioned in the management goals above. Please contact Lazaro J. Quintino of the Wetlands & Forest Resources Section for any questions concerning the new planting including species, quantity or location of new plantings.

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Year 6-7: Continue to eradicate exotic and invasive plants and vines. Maintain open understory.

Year 8-10: Continue exotic / invasive eradication and monitor hardwood and herbaceous understory regeneration and health.

Scientific Name	Common Name
Trees	
Quercus virginiana	live oak
Simaruba glauca	paradise tree
Metopium toxiferum	poison wood
Coccoloba diversifolia	pigeon plum
Bumelia salicifolia	willow bustic
Bursera simaruba	gumbo limbo
Mastichodendron foetidissimum	mastic
Ficus aurea	strangler fig
Ficus citrifolia	short leaf fig
Calyptranthes pallens	spicewood
Eugenia axillaries	white stopper
Exothea paniculata	inkwood
Krugiodendron ferreum	black ironwood
Myrica cerifera	wax myrtle
Citharexylum fruitcosum	fiddlewood
Myrcianthes fragrans	Simpson stopper
Palms, palmettos and cycads	
Sabal palmetto	sabal / cabbage palms
Shrubs and woody groundcover	
Psychotria nervosa	wild coffee
Callicarpa americana	beautyberry
Hamelia patens	firebush
Psychotria sulzneri	soft-leaf wild coffee
Ardisia escallonoides	marlberry
Trema micranthum	Florida trema

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Vines

Vitis rotundifolia	muscadine grape
Smilax auriculata	greenbriar

Grasses

Dicanthelium commutatum	variable panicgrass
Tripsacum dactyloides	Fakahatchee grass

Terrestrial Forbs and Ferns

Thelypteris ovata	wood fern

Non-native / Invasive Species

Schinus terebinthifolius	Brazilian pepper
Ardisia elliptica	shoebutton ardisia
Adenanthera pavonina	red sandalwood
Jasminum dichotomum	gold coast jasmine
Schefflera actinophylla	Queensland umbrella
Terminalia catappa	Tropical almond

Other encroaching non-natives

Ptychosperma elegans	Alexander palms
Nephrolepis exaltata	Boston fern

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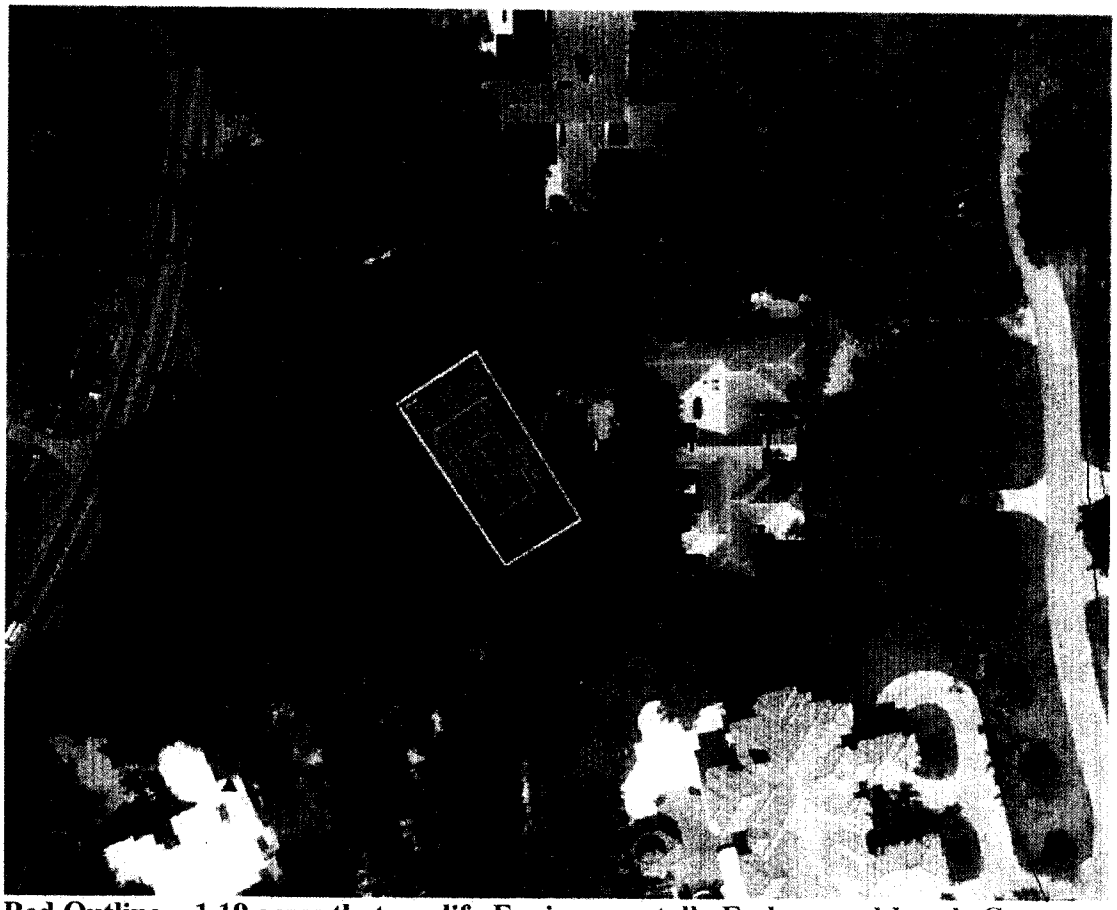

Red Outline = 1.19 acres that qualify Environmentally Endangered Lands Covenant / EELC (Please note that 1 acre within the 1.19 acres mentioned above is designated as Natural Forest Community (NFC)).

Yellow Outline = tennis court

Blue Outline = in ground swimming pool

Black Outline = existing residence

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Attachment A

MIAMI-DADE COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT Complainant, v. George R. Timinsky Respondent.	)	**CONSENT AGREEMENT**

This Agreement, entered into by and between MIAMI-DADE COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT (hereinafter referred to as "DERM"), and George R. Timinsky (hereinafter referred to as "RESPONDENT"), pursuant to Section 24-7(15)(c), of the Code of Miami-Dade County (CMDC), shall serve to redress alleged violations of Section 24-49(1) of the CMDC at the sites located at, near or in the vicinity of 9000 Arvida Drive, Coral Gables, Miami-Dade County, Florida and further identified as folio # 03-5106-013-0080.

DERM finds and RESPONDENT admits the following:

FINDINGS OF FACT

1. DERM is an agency of Miami-Dade County, a political subdivision of the State of Florida which is empowered to control and prohibit pollution and protect the environment including, but not limited to, controlling the removal of trees and protection of tree resources within Miami-Dade County pursuant to Chapter 24 of the CMDC.

2. A review of DERM records for the subject site indicate that understory had been removed at the subject property, which is a Natural Forest Community (NFC), in violation of Section 24-49(1) of the CMDC.

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3. The RESPONDENT hereby agrees to the terms of this Agreement without either admitting or denying the allegation made by DERM in paragraph 2 of this Agreement.

4. In an effort to expeditiously restore the tree resources on the subject site and to ensure compliance with Chapter 24 of the CMDC and to avoid time-consuming and costly litigation, the parties hereto agree to the following, and it is Ordered:

MITIGATION

5. The RESPONDENT shall, within thirty (30) days of execution of this Agreement, submit to DERM, a planting plan for the restoration of the understory of the NFC at the subject property, along with a timetable for completion of the required restoration, in accordance with the following:
   a. The NFC area shall be demarcated by temporary orange plastic fencing, or a functional equivalent.
   b. Native understory plants in the NFC area shall be allowed to regenerate.
   c. Submittal of a planting plan signed by registered landscape architect or environmental professional knowledgeable in the field of natural area restoration, to be approved by DERM. The planting plan shall identify the location of remaining trees and understory plants, as well as those plants proposed for planting. At a minimum, the planting plan shall provide for the planting of 968 understory and/or groundcover plants native to South Florida (maximum 3 gallon size) with a minimum of 15 species (number of plants of each species and their scientific names will be required). Plants will be placed randomly at 3ft centers, and shall not be planted within any of the existing sinkholes. All work associated with planting shall be performed by hand, and no additional native plants shall be removed or impacted by the work. Respondent will guarantee survival of all planted material for one year after planting.
   d. Procedures for maintaining the restoration area free of exotics and vines for a minimum of five years must be described.
   e. Removal (within 10 days of plan approval) of irrigation pipes and sprinklers.

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f. Respondent shall submit quarterly reports detailing any work performed in the NFC area, levels of exotics, plant survival analysis (to be broken down by plant species), and natural regeneration (species must be identified) for a minimum of five years.

g. Hand removal of any debris (including soils, and rocks, pushed into the existing sinkholes.

h. Respondent will obtain and renew a NFC permit as required by the Miami-Dade County Code for implementation of the plan and any other work in the NFC.

6. DERM shall review the planting plan in paragraph 5 and approve or disapprove the plan. Upon receipt of DERM approval Respondent shall implement the mitigation plan in accordance with DERM's approval.

7. In the event DERM disapproves Respondent' s planting plan, Respondent shall, within fifteen (15) days of receipt of DERM's disapproval, submit an acceptable revised planting plan. Respondent's failure to submit an acceptable planting plan shall subject Respondent to the penalty provisions of paragraph 11 of this Agreement

SETTLEMENT COSTS

8. The RESPONDENT hereby certifies that it has the financial ability to comply with the terms and conditions set forth herein and to comply with the payments specified in this Agreement.

9. DERM has determined that due to the violations of Chapter 24 of the Code of Miami-Dade County, set forth in paragraph 2 above, that settlement costs of $50,000 are appropriate. The RESPONDENT shall within thirty (30) days of the effective date of this Agreement, submit to DERM a $5,000 certified check, **made payable to Miami-Dade County**. Thereafter, RESPONDENT shall submit a $5,000.00 certified check every thirty (30) days until the remaining balance is paid in full. Said payment(s) shall be sent to Department of Environmental Resources Management, c/o Brian MacCallum, 33 SW 2nd Avenue, Suite 1000, Miami, Florida 33130.

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VIOLATION OF REQUIREMENTS

11. If the RESPONDENT fails to comply with the requirements set forth in paragraphs 5, 6 and 7 above, unless the DERM grants the RESPONDENT an extension of time for good cause shown, the RESPONDENT shall pay DERM a penalty of $100.00 for each and every day that the deadline for compliance is exceeded.

12. This Agreement constitutes a lawful order of the Director, Environmental Resources Management and is enforceable in a civil or criminal court of competent jurisdiction. Failure of the RESPONDENT to meet any of the above referenced requirements to the satisfaction of DERM will subject the RESPONDENT to all applicable enforcement and penalty provisions of the Code of Miami-Dade County.

13. In consideration of the complete and timely performance by the RESPONDENT of the obligations contained in this Agreement, DERM waives its rights to seek judicial imposition of damages or criminal or civil penalties for the matters alleged in this Agreement.

14. The terms of this Agreement are not subject to review pursuant to Section 24-11 of the Code of Miami-Dade County, Florida.

15. This Agreement shall become effective on the date of execution by the Director of Environmental Resources Management or his designee.

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06/19/06
Date

George R. Timinsky, Property Owner

BEFORE ME, the undersigned authority, personally appeared George R Timinsky, who after being duly sworn, deposes and says that he has read and agreed to the foregoing.

Subscribed and sworn to before me this 20 day of June, 2006, by George R Timinsky.
(name of affiant)

Personally Known ___ or Produced Identification ✓.
(Check One)

Type of Identification Produced: FL DL

ROBERT PEREZ
Notary Public - State of Florida
My Commission Expires Jan 14, 2010
Commission # DD497638

Notary Public

DO NOT WRITE BELOW THIS LINE - GOVERNMENT USE ONLY

6/21/06
Date

By Joseph I Shilwell
Carlos Espinosa, P.E., Acting Director
Department of Environmental Resources Management

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Witness

Witness

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