

## MEMORANDUM

Agenda Item No. 8(K)(2)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

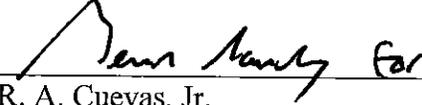
**DATE:** June 2, 2015

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

**SUBJECT:** Resolution authorizing the County Mayor, pursuant to Section 125.379(2), Florida Statutes, and subject to receipt of payment in the amount \$96,609.15 from Personal Paradise Developers, Inc., to remove one property from the Infill Housing Initiative Program and to execute a partial release of reverter and deed restrictions encumbering such property; and directing the County Mayor, pursuant to Section 125.379(2), Florida Statutes, to deposit such payment in an account earmarked for the Infill Housing Initiative Program

Resolution No. R-488-15

The accompanying resolution was prepared by the Public Housing and Community Development Department and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson.

  
\_\_\_\_\_  
R. A. Cuevas, Jr.  
County Attorney

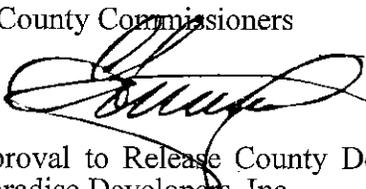
RAC/smm

# Memorandum



**Date:** June 2, 2015

**To:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Recommend Board Approval to Release County Deed Covenant for Infill Lot  
Conveyed to Personal Paradise Developers, Inc.

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## **Recommendation**

It is recommended that the Board of County Commissioners (Board) adopt the attached resolution to:

- 1) Authorize the County Mayor or the County Mayor's designee, pursuant to Section 125.379(2), Florida Statutes, and subject to receipt of payment from Personal Paradise Developers, Inc. ("Personal Paradise") in the amount of \$96,609.15 ("Release Payment"), to remove one property (the "Property") previously conveyed to Personal Paradise from the Infill Housing Initiative Program ("Infill Housing Program");
- 2) Authorize the County Mayor or the County Mayor's designee, subject to the receipt of the Release Payment, to execute and record a Release of Reverter and Deed Restrictions; and
- 3) Direct the County Mayor or the County Mayor's designee, pursuant to Section 125.379(2), Florida Statutes, to deposit the Release Payment into an account earmarked for and used by the Infill Housing Program.

## **Scope**

Upon approval of the attached resolution, the County Mayor or the County Mayor's designee will be authorized to execute and record a Release of Reverter and Deed Restrictions, which will release the reverter and other deed restrictions encumbering the Property, including the restriction pertaining to the construction and sale of an affordable single family home. Further, the County Mayor or the County Mayor's designee will be authorized to accept the Release Payment from Personal Paradise. The Property is located in Commission District 3, represented by Commissioner Audrey M. Edmonson.

## **Fiscal Impact/Funding Source**

Personal Paradise will pay to the County \$96,609.15 for the Property, which will be deposited into an account to be established for and used by the Infill Housing Program.

## **Track Record/Monitor**

This project will be monitored by Jorge R. Cibran, AIA, Director, Facilities and Development, Public Housing and Community Development ("Department").

**Background**

The County awarded and conveyed County-owned surplus property located at 166 N.E. 28 Street, Miami, Florida (Folio 01-3125-005-0030) to Personal Paradise to develop through the Infill Housing Program pursuant to Resolution No. R-1230-03 adopted on November 4, 2003. The Property was conveyed to Personal Paradise subject to the County's reversionary interest and certain deed restrictions, which include compliance with all the requirements of the Infill Housing Program, the construction of a single family home on the Property and the sale of such home to a qualified homebuyer.

After the Property was conveyed it was discovered that the Property was not suitable for a single family home due to a right-of-way dedication making the lot too small (3,500 square feet) for development. It is the intent of Personal Paradise to sell the Property for \$135,000.00 to a joint venture comprised of the Fifteen Group, Adler Development, and Encore Housing ("Developer"), to allow the Developer to make one (1) contiguous tract of land for their development of Midtown 29 Apartments, which the Developer plans to build on approximately two (2) acres of land between N.E. 28 Street, N.E. 29 Street, N.E. 2 Avenue, and the FEC Railway). The Developer plans to develop the Property as a mixed-use project including approximately 300 residential market-rate rental units and approximately 10,000 square feet of retail space. The Developer estimates the construction costs for the project to be approximately \$50 million, and an annual property tax to be approximately \$1.1 million once completed. The Developer is not seeking any public money for the project, impact fee waivers/reductions, or deferrals. The Developer anticipates creating approximately 150 construction jobs during the two-year construction phase and 30 permanent jobs once completed. The Developer also estimates the total permit and impact fees will be approximately \$4.3 million, including approximately \$1.3 million for Miami-Dade County roads, approximately \$400,000.00 for Miami-Dade County Public Schools, and approximately \$350,000.00 in fees to the Miami-Dade County's Water and Sewer Department.

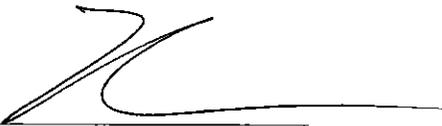
The County administration believes it is in the County's best interest to accept a payment from Personal Paradise of \$96,609.15 for the unbuildable lot, as further enumerated below, as consideration for the County removing the Property from the Infill Housing Program and releasing the Property from the reverter and deed restrictions. The County will continue to retain its reversionary interest in the remaining two properties conveyed to Personal Paradise by the County Deed.

Upon receipt of the Release Payment from Personal Paradise, the County will deposit these funds into an account to be used solely for the Infill Housing Program, which is an unfunded program, in accordance with Section 125.379(2), Florida Statutes.

**Unbuildable lot:**

<b>Folio</b>	<b>Address</b>	<b>Value</b>	<b>Zoning</b>	<b>District</b>
01-3125-005-0030	166 NE 28 Street		Comm/Res	3
Sales Price of lot (Personal Paradise to Adler)		\$135,000.00*		
Less costs paid by Personal Paradise for purchase of lot, and reasonable carrying costs incurred for 11 years:				
Purchase price - \$1,000.66				
Development research (water/sewer, tax cards, architectural, building dept. - \$2,000.00				
Lot maintenance - \$19,800.00				
Quiet Title Suit - \$850.00				
General Liability Insurance - \$1,500.00				
Appraisal - \$350.00				
Closing Costs Real estate commission - \$8,272.50				
Taxes on deed - \$1,447.69				
Recording fees - \$20.00				
Title evidence - \$150.00				
Attorney fees - \$3,000.00				
Total of above carrying costs -		(\$38,390.85)		
Total amount Personal Paradise will pay to the County		\$96,609.15		

\*According to the February 27, 2014 appraisal received from Modern Appraisal Group, Inc. the appraised value of the Property was determined to be \$7,000.00.

  
 Russell Benford  
 Deputy Mayor



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** June 2, 2015

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

**SUBJECT:** Agenda Item No. 8(K)(2)

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_\_, 3/5's \_\_\_\_\_, unanimous \_\_\_\_\_) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(K)(2)  
6-2-15

RESOLUTION NO.    R-488-15

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE, PURSUANT TO SECTION 125.379(2), FLORIDA STATUTES, AND SUBJECT TO RECEIPT OF PAYMENT IN THE AMOUNT \$96,609.15 FROM PERSONAL PARADISE DEVELOPERS, INC., TO REMOVE ONE PROPERTY FROM THE INFILL HOUSING INITIATIVE PROGRAM AND TO EXECUTE A PARTIAL RELEASE OF REVERTER AND DEED RESTRICTIONS ENCUMBERING SUCH PROPERTY; AND DIRECTING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE, PURSUANT TO SECTION 125.379(2), FLORIDA STATUTES, TO DEPOSIT SUCH PAYMENT IN AN ACCOUNT EARMARKED FOR THE INFILL HOUSING INITIATIVE PROGRAM

**WHEREAS**, Miami-Dade County (the "County") conveyed to Personal Paradise Developers, Inc. ("Personal Paradise"), a Florida for-profit corporation, by County Deed, a copy of which is attached hereto as Exhibit "A" and incorporated by reference, one County-owned surplus property located at 166 N.E. 28th Street, Miami, Florida (Folio 01-3125-005-0030) (the "Property") through the County's Infill Housing Initiative Program ("Infill Housing Program"); and

**WHEREAS**, this Board is satisfied that Personal Paradise has made good faith efforts to develop the Property; and

**WHEREAS**, this Board is also satisfied the Property cannot be developed under the Infill Housing Program; and

**WHEREAS**, Personal Paradise has offered to pay the County \$96,609.15 (the "Release Payment") for the Property in consideration for the County's removal of the Property from the Infill Housing Program and releasing such property from the County's reversionary interest and the deed restrictions contained in the County Deed; and

**WHEREAS**, pursuant to Section 125.379(2), Florida Statutes; the County is authorized to sell property included on the County's affordable housing inventory list established pursuant to Section 125.379(1), Florida Statutes, and to use the proceeds of such sale to increase the local government fund earmarked for affordable housing; and

**WHEREAS**, this Board desires to accept the Release Payment from Personal Paradise and further desires that such Release Payment be deposited into an account earmarked for and to be used by the Infill Housing Program; and

**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:

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

**Section 2.** This Board hereby authorizes the County Mayor or the County Mayor's designee, subject to Section 125.379(2), Florida Statutes, and receipt of the Release Payment from Personal Paradise made payable to Miami-Dade County Board of County Commissioners, to remove the Property from the Infill Housing Program. The County Mayor or the County Mayor's designee, subject to receipt of the Release Payment, is further authorized to execute a Partial Release of Reverter and Deed Restrictions, in substantially the form attached hereto as Exhibit "B" and incorporated by reference.

**Section 3.** This Board directs the County Mayor or the County Mayor's designee, pursuant to Section 125.379(2), Florida Statutes, to deposit the Release Payment into an account earmarked for the Infill Housing Program.

**Section 4.** This Board directs the County Mayor or the County Mayor's designee, pursuant to Resolution No. R-974-09, to record in the public record the Partial Release of Reverter and Deed Restrictions and any other instrument creating or reserving a real property interest in favor of the County and shall provide a copy of such recorded instruments to the Clerk of the Board within thirty (30) days of execution and final acceptance. The Board directs the Clerk of the Board, pursuant to Resolution No. R-974-09, to attach and permanently store a recorded copy of any instrument provided in accordance herewith together with this resolution.

The foregoing resolution was offered by Commissioner **José "Pepe" Diaz** who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

	Jean Monestime, Chairman	aye	
	Esteban L. Bovo, Jr., Vice Chairman	aye	
Bruno A. Barreiro	aye	Daniella Levine Cava	aye
Jose "Pepe" Diaz	aye	Audrey M. Edmonson	aye
Sally A. Heyman	aye	Barbara J. Jordan	aye
Dennis C. Moss	aye	Rebeca Sosa	absent
Sen. Javier D. Souto	aye	Xavier L. Suarez	aye
Juan C. Zapata	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 2<sup>nd</sup> day of June, 2015. 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: **Christopher Agrippa**  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

A handwritten signature in black ink, appearing to read "T. Smith", is written over a horizontal line.

Terrence A. Smith

Exhibit A



CFN 2004R0083853  
DR Bk 22026 Pgs 2567 - 2570 (4pgs)  
RECORDED 02/05/2004 14:45:33  
DEED DOC TAX 18.60  
SURTAX 13.95  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

prepared by and return to:

Dade County GSA  
W. 1 Street, Suite 2460  
Miami, Florida 33128-1907  
Folio No. 01-3125-005-0030, 01-3125-019-3020,  
01-3126-029-0140

## COUNTY DEED

THIS DEED, made this 5<sup>th</sup> day of December, 2003 A.D. by MIAMI-DADE COUNTY, FLORIDA, a Political Subdivision of the State of Florida, party of the first part, whose address is: Stephen P. Clark Center, 111 N.W. 1<sup>st</sup> Street Suite 17-202, Miami, Florida 33128-1963, and PERSONAL PARADISE DEVELOPERS, INC., party of the second part, whose address is 9980 SW 62 Street, Miami, FL 33173:

### WITNESSETH:

That the said party of the first part, for and in consideration of the sum of Three Thousand Two Dollars and No/100 (\$3,002.00) to it in hand paid by the party of the second part, receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said party of the second part, his/her heirs and assigns forever, the following described land lying and being in Dade County, Florida (the "Property"):

**As legally described in Exhibit "A" attached hereto and made a part hereof**

This conveyance is made subject to the following restrictions:

1. Each parcel shall be developed with an affordable single family home that meets the guidelines of the Infill Housing Initiative. The following maximum sale prices are to be used as a guide only and both are subject to change in accordance with applicable funding source guidelines. Currently, the maximum sales price for projects using Surtax funding is \$145,000. The maximum sales price for projects using SHIP funding is \$119,400 (not to exceed \$89.00 per square foot).
2. Build the home(s) to meet or exceed the Minimum Housing Quality Standards for Surtax and Ship funding (See Appendix 4).
3. The property shall be reasonably developed or rehabilitated with affordable housing within one year of conveyance.
4. The Party of the Second Part shall pay all closing costs to purchase the lots and to convey the completed home.
5. That the home shall remain as affordable housing for at least ten (10) years.

4

The Party of the Second Part (or Successor in Interest), shall pay real estate taxes and assessments on the property or any part thereof when due. Party of the Second Part shall not suffer any levy or attachment to be made, or any material or mechanic's lien, or any unauthorized encumbrance or lien to attach, except:

- a) Any mortgage(s) in favor of any institutional lender for the purpose of financing any hard costs or soft costs relating to the construction of the single family home in an amount(s) not to exceed the value of the Improvements as determined by an appraiser; and
- b) Any mortgage(s) in favor of any institutional lender refinancing any mortgage of the character described in clause a) hereof; in an amount(s) not to exceed the value of the Improvements as determined by an appraiser.
- c) The recordation, together with any mortgage purporting to meet the requirements of clauses (a) or (b) above, of a statement of value by a Member of the American Institute of Real Estate Appraisers (MAI), (or member of any similar or successor organization), stating the value of the single family home is equal to or greater than the amount of such mortgages(s), shall constitute conclusive evidence that such mortgage meets such requirements, and that the right of any re-entry hereunder shall be subject to and limited by, and shall not defeat, render invalid, or limit in any way, the lien of such mortgage. For purposes of this paragraph an "institutional lender" shall mean any bank, savings and loan association, insurance company, foundation or other charitable entity, real estate or mortgage investment trust, pension funds, the Federal National Mortgage Association, agency of the United States Government or other governmental agency. In any event, the term "Institutional lender" shall be deemed to include Miami-Dade County and its respective successors and assigns.

Upon completion of the constructed housing the Party of the Second Part shall provide the County a copy of the Certificate of Occupancy for the constructed housing. Upon receiving the Certificate of Occupancy and proof of compliance with all the deed restrictions listed above, the County shall furnish the Party of the Second Part an appropriate instrument acknowledging satisfaction with all four deed restrictions listed above. Such satisfaction of deed restrictions shall be in a form recordable in the Office of the Clerk of the Circuit Court of Miami-Dade County, Florida.

The Party of the Second Part, its successors or assigns, covenants to maintain the housing constructed on the property as affordable housing for at least ten (10) years from the date of first occupancy, and any deed of conveyance of the completed housing shall contain a restriction stating that the property shall remain as affordable housing for the requisite number of remaining years left on this restriction.

In the event the Party of the Second Part, its successors or assigns, shall violate or otherwise fail to comply with any of the restrictions and covenants set forth herein, the Party of the Second Part, its successors or assigns, shall correct or cure the default/violation within (30) days of notification of the default by the County. If the Party of the Second Part, its successors or assigns, fails to remedy the default within thirty (30) days, the County shall have the right to re-enter and take possession of the property and to terminate and revert in the County the estate conveyed by this Deed to the Party of the Second Part, its successors or assigns, and by such reverter to the County, shall forfeit all monetary investments and improvements without any compensation or right to compensation whatsoever; provided, that any such right of re-entry shall always be subjected to and limited by, and shall not defeat, render invalid, or limit in any way the lien of any valid mortgage or Deed or Trust permitted by this Deed.

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 state of facts concerning the same.

IN WITNESS WHEREOF the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Mayor of said Board, the day and year aforesaid.

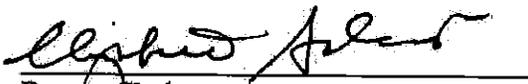


ATTEST:

HARVEY RUVIN, CLERK

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

By:

  
Deputy Clerk

By:

  
Mayor

Approved for legal sufficiency



The foregoing was authorized and approved by Resolution No. R-1230-03 of the Board of County Commissioners of Miami-Dade County, Florida, on the 4<sup>th</sup> day of November, 2003.

**PERSONAL PARADISE DEVELOPERS, INC.**  
**EXHIBIT A**

Folio # 01-3125-005-0030  
LOTS 14 & 16 FLAGLER PK PB 4-89

Folio # 01-3125-019-3020  
LOT 1 BLK 16 WYNWOOD PARK PB 5-23

Folio # 01-3126-029-0140  
LOT 15 EDEN PARK PB 7-29

**EXHIBIT "B"**

**PARTIAL RELEASE OF REVERTER AND DEED RESTRICTIONS**

**WHEREAS**, MIAMI-DADE COUNTY, a political subdivision of the State of Florida (hereinafter referred to as the "County"), whose address is 111 N.W. 1<sup>st</sup> Street, Miami, Florida 33128, owns and holds a reverter interest in and to that certain real property, Folio No. 01-3125-005-0030 (hereinafter referred to as the "Reverter Property"), as set forth in that certain County Deed (the "County Deed") dated December 5, 2003, which was recorded on February 5, 2004 in Official Record Book 22026, Pages 2567-2570 of the Public Records of Miami-Dade County, Florida (hereinafter referred to as the "Reverter"); and

**WHEREAS**, the Reverter Property is more particularly described as follows:

Folio No. 01-3125-005-0030  
LOTS 14 & 16, of FLAGLER PK, according to the Plat thereof, as recorded in Plat Book  
4, Page 89 of the Public Records of Miami-Dade County, Florida; and

**WHEREAS**, said County Deed contains certain deed restrictions, which require Personal Paradise Developers, Inc., (hereinafter referred to as "Personal Paradise") to develop the Property by constructing a single family home to be sold to a qualified household in accordance with the requirements of Miami-Dade County's Infill Housing Initiative Program, as more fully described in Section 17-121 *et seq.* of the Code of Miami-Dade County, and Miami-Dade Board of County Commissioners (hereinafter referred to as the "Board") Resolution No. R-1230-03, which was adopted on November 4, 2003 (hereinafter referred to as the "Reverter Property Deed Restrictions"); and

**WHEREAS**, the County Deed references additional properties, identified by separate folio numbers (Folio Nos. 01-3125-019-3020 and 01-3126-029-0140), upon which Miami-Dade County has certain reversionary rights, title, and interests therein (the "Additional Properties"); and

**WHEREAS**, Personal Paradise is unable to develop the Reverter Property and therefore has requested that the County release such property from the Reverter in consideration for receipt of payment in the amount of \$96,609.15 (hereinafter referred to as the "Release Payment") from Personal Paradise; and

**WHEREAS**, on \_\_\_\_\_, 2015, the Board adopted Resolution No. R\_\_\_\_\_ authorizing the County Mayor or the County Mayor's designee to accept the Release Payment from Personal Paradise as consideration for the County releasing the Reverter Property from the Reverter and Reverter Property Deed Restrictions,

**NOW THEREFORE**, for and in consideration of \$96,609.15, and other good and valuable considerations the receipt and sufficiency of which is hereby acknowledged, the County agrees as follows:

1. The foregoing statements are true and correct.
2. The County hereby releases its reverter interest and the Reverter Property Deed Restrictions upon the Reverter Property, Folio No. 01-3125-005-0030, and hereby directs the Clerk

of Miami-Dade County, Florida to release the same of record; provided however, that nothing in this Partial Release of Reverter and Deed Restriction shall in any way impair, alter, or diminish the effect of the County's reverter interest or any other right, title, claim, or interest, on the Additional Properties (Folio Nos. 01-3125-019-3020 and 01-3126-029-0140) encumbered by the County Deed, or any of the rights and remedies of the County under such instrument.

IN WITNESS WHEREOF, the County has executed this Release of Reverter this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

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

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Russell Benford  
Deputy Mayor

Approved for legal sufficiency:

By: \_\_\_\_\_  
Terrence A. Smith  
Assistant County Attorney

**STATE OF FLORIDA**

**COUNTY OF MIAMI-DADE**

I HEREBY CERTIFY that on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, before me personally appeared \_\_\_\_\_, personally known to me as the Deputy Mayor, who is described herein and who executed the foregoing instrument, and he did acknowledge to me the execution thereof for the uses and purposes mentioned and his capacity as Deputy Mayor of Miami-Dade County.

\_\_\_\_\_  
Notary Public  
Print Name \_\_\_\_\_

My Commission Expires:

The foregoing was authorized by Resolution No. R- -15 approved by the Board of County Commissioners of Miami-Dade County, Florida, on the \_\_\_\_\_ day of \_\_\_\_\_, 2015.