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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 14(A)(5)

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

DATE: September 7, 2016

FROM: Abigail Price-Williams County Attorney

SUBJECT: Resolution authorizing the Mayor to execute a public school concurrency proportionate share mitigation development agreement between Miami-Dade County, the School Board of Miami-Dade County, Florida, and applicant, Karis Village, LLC, to address public school concurrency

Resolution No. R-831-16

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.

Abigail Price-Williams
County Attorney

APW/cp

MEMORANDUM

(Revised)

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

DATE: September 7, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 14(A)(5)

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**

_____ **Statement of social equity 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. 14(A)(5)
9-7-16

RESOLUTION NO. R-831-16

RESOLUTION AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXECUTE A PUBLIC SCHOOL CONCURRENCY PROPORTIONATE SHARE MITIGATION DEVELOPMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY, THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, AND APPLICANT, KARIS VILLAGE, LLC, TO ADDRESS PUBLIC SCHOOL CONCURRENCY

WHEREAS, Chapter 163.3180, Florida Statutes, requires local governments that apply concurrency to public education facilities to include principles, guidelines, standards, and strategies, including adopted levels of service, in their comprehensive plans and interlocal agreements; and

WHEREAS, Objective EDU-2 of the Educational Element of Miami-Dade County's Comprehensive Development Master Plan (CDMP) sets forth the County's concurrency standards, as required by State law, and Policies CIE-3C and EDU-2A of the Miami-Dade County CDMP establish level of service standards for public schools; and

WHEREAS, Miami-Dade County and the School Board of Miami-Dade County, Florida, entered into an Interlocal Agreement for Public School Facility Planning, which was adopted by the County by Resolution No. R-423-09, setting forth more detailed standards for satisfying public school concurrency requirements; and

WHEREAS, Section 9.2(e) of that Interlocal Agreement requires review for public school concurrency at time of application for final plat, site plan, or functional equivalent; and

WHEREAS, on April 6, 2016, Karis Village, LLC (Applicant) filed with the County an Administrative Site Plan Review, process number A2016000015, seeking to develop 88 multi-family residential units (Proposed Development); and

WHEREAS, the School Board reviewed the impact of the Proposed Development on each of the three school levels (elementary, middle, and senior high schools) and determined that the Proposed Development does not meet the level of service standard because adequate public school facility capacity is not available or programmed within the next three years for eleven (11) of the elementary school students generated by the Proposed Development; and

WHEREAS, for an application that fails to achieve or maintain the level of service standard for public school concurrency, the CDMP and the Interlocal Agreement provide for public school concurrency to be satisfied through several options for proportionate share mitigation, which require the Applicant to execute a legally binding commitment to provide mitigation proportionate to the demand the Proposed Development creates for public school facilities; and

WHEREAS, where proportionate share mitigation is required, Section 9.2(e) of the Interlocal Agreement and CDMP Policy EDU-2C(b) require a Public School Concurrency Proportionate Share Mitigation Development Agreement to be entered into between the School Board, the Board of County Commissioners, and the Applicant prior to issuance of the final plat, site plan, or functional equivalent; and

WHEREAS, the Applicant has agreed to the terms of the attached Public School Concurrency Proportionate Share Mitigation Development Agreement, which provides for monetary proportionate share mitigation to address deficiencies in the elementary public school level of service standard as a result of the Proposed Development; and

WHEREAS, the School Board approved the Public School Concurrency Proportionate Share Mitigation Development Agreement on August 10, 2016,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby authorizes the Mayor or Mayor's designee to execute the Public School Concurrency Proportionate Share Mitigation Development Agreement, in substantially the form attached hereto as Exhibit A, between Miami-Dade County, the School Board of Miami-Dade County, Florida, and Karis Village, LLC, to address public school concurrency.

The Prime Sponsor of the foregoing resolution is Commissioner Dennis C. Moss. It was offered by Commissioner **Dennis C. Moss**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** 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	**absent**
Sally A. Heyman	**aye**	Barbara J. Jordan	**absent**
Dennis C. Moss	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**absent**
Juan C. Zapata	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of September, 2016. 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.

Lauren E. Morse

This instrument prepared by
Ana Rijo-Conde
Miami-Dade County Public Schools
1450 NE 2Avenue, Room 525
Miami, Florida 33132

After Recording return to:
Ana R. Craft, Esquire
School Board Attorney's Office
1450 NE 2nd Avenue, #430
Miami, FL 33132

PUBLIC SCHOOL CONCURRENCY PROPORTIONATE SHARE MITIGATION DEVELOPMENT AGREEMENT

THIS PUBLIC SCHOOL CONCURRENCY PROPORTIONATE SHARE MITIGATION DEVELOPMENT AGREEMENT ("**Agreement**"), is made and entered this _____ day of _____, 2016, by and between **THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA**, a body corporate and political subdivision of the State of Florida, hereinafter referred to as "**School Board**" or "**School District**," whose address is 1450 NE 2ND Avenue, Miami, Florida 33132; **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "**County**", whose address is 111 NW First Street, Miami, Florida 33128; and **KARIS VILLAGE, LLC,** a Florida Limited Liability Company, hereinafter referred to as "**Applicant or Developer,**" joined by the property owners, whose address is1398 SW 1st Street, 12th Floor, Miami, Florida 33135. The School Board, County and Applicant are sometimes referred to in this Agreement individually as "**Party**" and collectively as the "**Parties**."

RECITALS:

WHEREAS, the Applicant [joined by all of the fee simple property owners (also referred to herein as "**Property Owner**")], is the Developer of that certain tract of land

(consisting of, collectively, Folio #s 3069120000270, 3069120000280, 3069120000300) located in unincorporated Miami-Dade County, more particularly described on **Exhibit "A"**, attached hereto and incorporated herein (the "**Property**"). The location of the Property described in **Exhibit "A"** is further illustrated within a Sketch To Accompany A Legal Description, certified to the School Board, appearing in **Exhibit "B"**; and

WHEREAS, the Applicant has submitted an application seeking approval to develop not more than 88 multifamily residential dwelling units on the Property (the "**Development Proposal**"); and

WHEREAS, the School Board and the County entered into that certain Interlocal Agreement for Public School Facility Planning Between Miami-Dade County And Miami-Dade County Public Schools, dated May 4, 2009 (adopted and executed by the County on May 7, 2009), to implement public school concurrency and to coordinate the approval of residential development with the provision of adequate public school facilities ("**ILA**"), incorporated herein by reference; and

WHEREAS, the Applicant has filed an application with the County for Administrative Site Plan Review ("**ASPR**") approval (ASPR Process Number A2016000015 dated April 6, 2016); and a T-Plat application (T- 23787 dated April 19, 2016) incorporated herein by reference, which require School Facility Capacity availability for each student generated by the Development Proposal at each of the three school levels (i.e. elementary, middle and senior high school); and

WHEREAS, the Parties agree that: (1) adequate School Facility Capacity is not available for eleven (11) of the elementary school students generated by the proposed

residential dwelling units, at the Level of Service Standard within the Concurrency Service Area in which the Development Proposal is located, to accommodate the anticipated number of public school students that the Development Proposal will generate; (2) the needed School Facility Capacity for the applicable Concurrency Service Area is not available in any contiguous Concurrency Service Areas within the same Geographic Area; and (3) available School Facility Capacity will not be in place or under actual construction within three (3) years after the approval of the Development Proposal; and

WHEREAS, the Parties agree that authorizing these new residential dwelling units will result in a failure of the Level of Service Standard for School Facility Capacity in the applicable Concurrency Service Area, or will exacerbate existing deficiencies in Level of Service Standards; and

WHEREAS, the Parties agree that Public School Concurrency shall be satisfied by the Applicant's execution of this legally binding Agreement and full compliance therewith, to provide mitigation proportionate to the demand for Public School Facilities to be created by these new residential dwelling units; and

WHEREAS, the Parties agree that the Applicant has selected as the Proportionate Share Mitigation option, the full capital cost of a public school project, comprised of one (1) elementary school classroom of twenty-two (22) student stations ("**Monetary Proportionate Share Mitigation**"), which will be added to the first three (3) years of the School District's Facilities Work Program; and

WHEREAS, the Parties further agree that the Applicant shall pay the Monetary Proportionate Share Mitigation funding as further stipulated herein; and

WHEREAS, The School Board of Miami-Dade County, Florida, has authorized the execution of this Agreement in accordance with Board Item F-4, Board Action No. _____, at its meeting of August 10, 2016; and

WHEREAS, the County, at its meeting of _____, 2016, duly passed and adopted on that date, Resolution No._____, authorizing the appropriate County officials to enter into this Agreement; and

WHEREAS, the Applicant has duly approved this Agreement, and represented to the School Board and to the County, and hereby confirms, that Stephanie Berman, as Manager of C4 Karis Village, LLC, a Florida limited liability company, the authorized member of Karis Village, LLC, a Florida limited liability company, has been and is hereby fully authorized to execute this Agreement on behalf of Karis Village, LLC, pursuant to written consent issued _____; and

WHEREAS, Salina Jivani, as President of OCA Corp., as Trustee of 14356 Land Trust Dated October 28, 2013; Ludvin Hasbun, as Manager of Sunexuz Investment LLC, a Florida limited liability company; and Belinda Zeigler f/k/a Belinda Thomas, joined by her spouse, John L. Zeigler, Jr., have duly approved this Agreement, and represented to the School Board and to the County, and hereby confirm, that they have been and are hereby fully authorized to execute this Agreement.

NOW, THEREFORE, in Consideration of the Sum of Ten Dollars ($10.00), the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, hereby agree as follows:

1. **INCORPORATION OF RECITALS.** The foregoing recitals are true and correct and are hereby incorporated into this Agreement by this reference as if fully set forth herein.

2. **DEFINITION OF MATERIAL TERMS.** Any terms that are not defined herein are defined as set forth in the ILA.

3. **LEGALLY BINDING COMMITMENT.** The Parties agree that this Agreement constitutes a legally binding commitment by the Applicant to provide Monetary Proportionate Share Mitigation for the Development Proposal for the Property sought to be approved by the County.

4. **MONETARY PROPORTIONATE SHARE MITIGATION.** The Parties agree that the amount of the Monetary Proportionate Share Mitigation shall be Four Hundred Ninety Five Thousand Nine Hundred Sixty Eight Dollars ($495,968.00). The Monetary Proportionate Share Mitigation funds shall be used by the School District to provide for the creation of a classroom of twenty-two (22) elementary school student stations at Caribbean K-8 Center (the "**School Project**"). Upon the full execution of this Agreement by all appropriate Parties and receipt of the Monetary Proportionate Share Mitigation payment, the School District shall record this Agreement, in conformance with the provisions of Article 22, and issue a Finding of Available School Facility

Capacity ("**Finding**") pursuant to the ILA. The duration and effect of this Finding shall be in accordance with the ILA. However, in no event shall this Finding, or any allocation of student seats based on this Finding ("**School Concurrency Allocation**"), continue to be effective if the Applicant fails to perform his/her/its obligations under this Agreement. Conversely, once Applicant has completely performed his/her/its obligations under this Agreement, Applicant shall be entitled to rely on the Finding and School Concurrency Allocation to the extent of the School Capacity provided by the Monetary Proportionate Share Mitigation. Delivery of the Monetary Proportionate Share Mitigation payment shall be made by the Applicant within thirty (30) calendar days following the full and proper execution of this Agreement, unless otherwise extended at the sole and absolute discretion of the School Board or designee (defined hereinafter as Effective Date), by wire transfer or any other method of payment acceptable to the School Board's Office of Treasury Management. In the event Applicant fails to pay the Monetary Proportionate Share Mitigation Payment as provided for herein, the School District, at its sole option, may cancel this Agreement and may credit the reserved seats to the Concurrency Service Area from which they were reserved. Issuance of a Finding by the School District shall be a pre-condition to issuance of building permits by the County for the subject Development Proposal.

5. **EDUCATIONAL FACILITIES IMPACT FEE CREDIT.** As consideration for the Applicant's Monetary Proportionate Share Mitigation specified herein, ***and as further elaborated in Section 6(c) of this Agreement***, the Parties agree that the School District shall provide a credit estimated at One Hundred Thirty Two Thousand Dollars ($132,000.00), toward any Educational Facilities Impact Fees imposed

by Miami-Dade County ordinance for construction of the Development Proposal ("**Impact Fee Credit**"). The final Impact Fee Credit amount shall be determined by the County, pursuant to the then current Miami-Dade County Educational Facilities Impact Fee Ordinance (Chapter 33K, of Miami-Dade County Code of Ordinances), the Interlocal Agreement Between Dade County and The School Board of Dade County, Florida, relating to Educational Facilities Impact Fee Monies, and the Metropolitan Dade County Educational Facilities Impact Fee Administrative Procedures Manual, as each may have been amended or may be amended from time to time. The amount of the Impact Fee Credit will not include any administrative or other fees which the County may impose as part of its administrative process.

6. **MITIGATION BANKING.** The Applicant has selected the Monetary Proportionate Share Mitigation option, which will provide for the cost of construction by the School District of twenty-two (22) elementary school seats, resulting in eleven (11) seats in excess of the eleven (11) seats needed to be mitigated by the Applicant. As such, the Applicant has the right to transfer the excess eleven (11) seats ("**Capacity Credits**") to future residential developments, as set forth in this Agreement. In order for the School District to manage and transfer Capacity Credits for the Applicant, a mitigation bank shall be established in connection with this Development Proposal ("**Mitigation Bank**") for the School Project. The School District shall create and administer the Mitigation Bank as follows:

a. **Monetary Proportionate Share Mitigation Cost.** The Monetary Proportionate Share Mitigation amount of Four Hundred Ninety Five Thousand Nine Hundred Sixty Eight Dollars ($495,968.00) is the cost of the

Monetary Proportionate Share Mitigation option selected by the Applicant, and is derived by multiplying the total number of student stations to be constructed (22 seats), by the student station cost of $22,544.00, which is the construction cost projected by the Florida Department of Education to be in place at the time of construction of the School Project (December 2017) (i.e.22 student stations x $22,544.00 cost per station = $495,968.00). In this Agreement, "**student station**" and "**seat**" shall be used interchangeably unless otherwise specified.

b. Number of Banked Seats. The number of Banked Seats shall be established by determining the excess number of school seats, if any, resulting from construction of the School Project ("**Banked Seats**"), to wit: the number of seats to be constructed (22), less the number of seats needed to be mitigated (11), resulting in eleven (11) Banked Seats for the subject Development Proposal (i.e. 22 seats constructed – 11 mitigated seats = 11 Banked Seats). In this Agreement, **"Banked Seats"** and **"Capacity Credits"** shall be used interchangeably unless otherwise specified.

c. Estimated Educational Facilities Impact Fee Credits. Pursuant to the Miami-Dade County Educational Facilities Impact Fee Ordinance, the Applicant must pay Educational Facilities Impact Fee(s) ("**Impact Fee**") prior to issuance of any residential building permit. However, since the Applicant is required to pay the Monetary Proportionate Share Mitigation payment to the School District prior to obtaining building permits, the School District shall issue the Impact Fee Credit to the Applicant, which the Applicant may present

to the County in satisfaction (in whole or in part) of its Educational Facilities Impact Fee obligation. The amount of the estimated Impact Fee Credit shall be the result of multiplying $1,500.00 (the estimated Impact Fee per residential dwelling unit) by the number of approved units (88 multi-family residential dwelling units), resulting in an estimated Impact Fee Credit amount of $132,000.00 (i.e. $1,500.00 estimated impact fee x 88 residential dwelling units= $132,000.00). The Impact Fee Credit shall not include any administrative or other fees, which the County may impose as part of its administrative process. The Parties understand and agree that the Impact Fee Credit stated herein shall be adjusted to reflect the actual amount assessed by the County for the subject Development Proposal. Adjustment to the Mitigation Banking Cost, as hereinafter defined, shall also be required inasmuch as any adjustment to the Impact Fee Credit will also affect the value of the Banked Seat(s).

d. **Mitigation Banking Cost**. The Mitigation Banking Cost of $115,984.00 is the total combined value of the eleven Banked Seats, which will be eligible and available for transferring Capacity Credits to future residential development applicants (**"Mitigation Banking Cost"**). The Mitigation Banking Cost is derived by subtracting the estimated Impact Fee Credit ($132,000.00) from the Monetary Proportionate Share Mitigation amount ($495,968.00), less the value of eleven (11) mitigated seats ($247,984.00), resulting in $115,984.00 (i.e. $495,968.00 - $132,000 – 247,984.00 = $115,984.00).

e. **Reimbursable Value of Banked Seats.** At the time that the Monetary Proportionate Share Mitigation payment is made by the Applicant, and after clearance of all funds, the School District shall issue written confirmation to the Applicant validating the number of Banked Seats available for transfer. Capacity Credits may only be transferred to future residential development proposals within the same Concurrency Service Area or adjacent Concurrency Service Areas, and within the same Geographic Area. For purposes of crediting the Applicant for each Banked Seat, the estimated reimbursable value of each Banked Seat has been established at $5,272.00 ("**Estimated Reimbursable Value**"). This Estimated Reimbursable Value is obtained by dividing the Mitigation Banking Cost ($115,984.00), by the twenty-two (22) seats to be created as a result of School Project, resulting in an individual Estimated Reimbursable Value of $5,272.00 per Banked Seat (i.e. $115,984.00 divided by 22 seats = $5,272.00). This Estimated Reimbursable Value shall be adjusted to reflect actual total Educational Facilities Impact Fees assessed by the County, resulting in a final determination by the School District of the actual reimbursable value of each Banked Seat (**"Final Reimbursable Value"**). Applicant hereby authorizes the School District to enter into any required agreement with future developers who may desire to purchase Capacity Credits from the Mitigation Bank, under the terms and conditions set forth herein, and to effectuate the transfer of Capacity Credits accordingly. Payment by the School District to the Applicant for the Final Reimbursable Value of the Banked Seats purchased shall be made within

thirty (30) days after the final amount of the Applicant's Impact Fee Credit has been determined, and a reconciliation of funds is completed by the School District. Property Owners hereby assign, release and quitclaim any and all rights to the aforesaid reimbursement, if any, and hereby authorize the School District to disburse to the Applicant as set forth herein.

f. **Expiration of Capacity Credits**. Capacity Credits may be purchased by future applicant(s) within six (6) years from the date the School Board authorized the execution of this Agreement, which in this instance, is hereby established as August 10, 2016, and subject to expiration of timeframe set forth under Section 17 hereof. After 5:00 PM (Miami Time), August 9, 2022, any remaining Capacity Credits created by the Monetary Proportionate Share Mitigation option shall be deemed expired, and any Banked Seat(s) not yet transferred will be returned to the Concurrency Service Area where the School Project was constructed.

g. **Purchasing of Capacity Credits by Future Applicants**. The School District agrees to make known to all future residential development applicants within the Concurrency Service Area or Adjacent Concurrency Service Areas within the same Geographic Area, the option to purchase Capacity Credits from this Mitigation Bank. Future applicants may purchase Capacity Credit(s) only if the Mitigation Bank(s) has sufficient number of available seats to provide for the entire school capacity deficiency.

h. **Priority of Capacity Credit Transfers.** In the event multiple mitigation banks are created by other applicants, for the same Concurrency Service Area or Adjacent Concurrency Service Areas within the same Geographic Area, the Capacity Credits shall be made available for transfer to future applicants in the order in which the Mitigation Bank has been established and the Banked Seats are readily available for transfer to another residential developer applicant, as set forth in Section 17 of this Agreement.

i. **Annual Reports.** The School District will provide annual reports to the Applicant ("**Annual Reports**"), containing the balance of Banked Seats remaining, if any, and Capacity Credit transfers, if any, prior to July 1 of each year. The School District shall charge an annual administrative fee as may be established in the Procedures Manual for Implementing the Amended and Restated Interlocal Agreement for Public School Facility Planning in Miami-Dade County. The annual administrative fee shall be paid by the Applicant to the School District prior to issuance of the Annual Report. Upon expiration or transfer of all Capacity Credits, the School District shall issue a final report to Applicant ("**Final Report**").

7. **SCHOOL CAPACITY IMPROVEMENT.** The School District agrees to apply the Monetary Proportionate Share Mitigation payment made by the Applicant toward the School Projects described under Section 4 of this Agreement. The School Project will include the Monetary Proportionate Share Mitigation, which will be reflected in the District's Facilities Work Program at the time of its next annual update following

the execution of this Agreement and receipt of the Monetary Proportionate Share Mitigation payment as set forth herein.

8. **EFFECTIVE DATE.** This Agreement shall take effect upon the last of the Parties and Property Owners signing this Agreement, but in no event later than November 4, 2016. Failure to deliver this Agreement to the School Board executed by the Applicant and property owners by September 30, 2016 and by the County by October 20, 2016, may, in the sole discretion of the School District, result in the revocation of the Concurrency Determination issued by the School District on May 16, 2016, incorporated herein by reference.

9. **TERM.** This Agreement shall expire upon the Parties' completion of their performance of all obligations herein or within six (6) years from Effective Date, whichever comes first.

10. **STATUTORY COMPLIANCE.** The Parties agree that this Agreement satisfies the requirements for a binding Proportionate Share Mitigation agreement in Section 163.3180(6)(h)2, Florida Statutes and as provided for in the ILA.

11. **NOTICES AND DELIVERABLES.**

A. All notices or communications and deliverables under this Agreement by any Party to the others shall be sufficiently given or delivered if dispatched by (a) certified U.S. mail, postage pre-paid, return receipt requested, (b) hand delivery, (c) Federal Express or other comparable overnight mail service, (d) telephone facsimile transmission with transmission receipt, or (e) electronic

mail to the following addresses, or as the same may be changed in writing from time to time. Whenever any of the Parties desires to give notice to the others, such notice must be in writing, addressed to the Party for whom it is intended at the place last specified. The place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. Until otherwise designated by amendment to this Agreement, the Parties designate the following as the respective places for giving notice ("**Notice**"):

In the case of Notice or communication to the School Board:

The School Board of Miami-Dade County, Florida
c/o Superintendent of Schools
1450 N.E. Second Avenue, Room 912
Miami, Florida 33132

With copies to:

Miami-Dade County Public Schools
Facilities Planning
Attn: Deputy Chief Facilities & Eco-Sustainability Officer
1450 N.E. Second Avenue, Room 525
Miami, Florida 33132
Arijo@dadeschools.net; and concurrency@dadeschools.net

The School Board of Miami-Dade County, Florida
c/o School Board Attorney
1450 NE 2 Avenue, Suite 400
Miami, Florida 33132
Walter.Harvey@dadeschools.net &
Acraft@dadeschools.net

In the case of Notice or communication to the Applicant:

Paola Roman
1398 SW 1 Street, 12th Floor
Miami, Florida 33135
Phone: 305 371.8300
proman@carrfour.org

With copy to:

Iris V. Escarra and Jorge L. Navarro
Greenberg Traurig, P.A.
333 S.E. 2nd Avenue
Miami, FL 33131
Phone: 305.579.0737
Fax 305.961.5737
escarrai@gtlaw.com

In the case of Notice or communication to the County:

Mark R. Woerner, AICP, Assistant Director
Assistant Director for Planning, Department of Regulatory and Economic Resources
Development Services Division
Miami-Dade County
111 NW 1st Street - 11th Floor
Miami, Florida 33128
Phone: 305-375-2842
Fax: 305-375- 2560
mark.woerner@miamidade.gov

With a copy to:

Dennis A. Kerbel
Assistant County Attorney
Miami-Dade County
111 NW 1st Street – Suite 2800
Miami, Florida 33128
Phone: 305-375-5229
Fax: 305-375-5634
DKERBEL@miamidade.gov

B. For purposes of this Agreement, the Superintendent of Schools or his/her designee shall be the Party designated by the School Board to grant or deny any and all approvals required under this Agreement, including, without limitation, issuance of reports, as provided herein.

C. Except as otherwise provided in this Agreement, any Notice or deliverable shall be deemed received only upon actual delivery at the address set forth above. Notices or deliverables delivered after 5:00 PM (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. "**Day**" as used in this Agreement shall be defined as calendar day, unless otherwise provided. Counsel for the School Board, counsel for the County and counsel for the Applicant may deliver Notice on behalf of the School Board, the County and the Applicant, respectively. Any Party or other person to whom Notices are to be sent or copied may notify the other Parties of any change in name or address to which Notices shall be sent by providing the same pursuant to this provision.

12. **RELEASE.** When all of the Parties' obligations set forth herein are fully paid and performed, each Party shall release all other Parties from this Agreement, and all Parties shall release all other Parties from any and all future claims, costs or liabilities arising out of the provision of Monetary Proportionate Share Mitigation in accordance with this Agreement. These releases shall be simultaneously exchanged and shall be recorded in the Official Records of Miami-Dade County, Florida, evidencing such performance.

13. **VENUE; CHOICE OF LAW; ATTORNEY'S FEES.** This Agreement shall be interpreted and construed in accordance with and governed by the

laws of the State of Florida without regard to its conflicts of laws provisions. Any controversies or legal issues arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be submitted to the jurisdiction of the State Court of the 11th Judicial Circuit, in and for, Miami-Dade County, Florida. The Parties agree that in the event of any dispute of whatever nature relating to this Agreement, venue shall be in Miami-Dade County, Florida. The Parties further agree that, in the event of a dispute among the Parties, each Party shall be responsible for its own attorney's fees and costs through all appeals.

14. **CAPTIONS AND PARAGRAPH HEADINGS.** Captions and paragraph headings contained in this Agreement are for convenience and reference only. They in no way define, describe, extend or limit the scope or intent of this Agreement.

15. **NO WAIVER.** No waiver of any provision of this Agreement shall be effective unless it is in writing, and signed by the Party against whom it is asserted. Any such written waiver shall only be applicable to the specific instance to which it relates, and shall not be deemed to be a continuing or future waiver. The failure of any Party to insist upon strict performance of any of the covenants, provisions or conditions of this Agreement shall not be construed as waiving or relinquishing any such covenants, provisions or conditions, but the same shall continue and remain in full force and effect.

16. **EXHIBITS.** All Exhibits attached hereto contain additional terms of this Agreement, and are incorporated herein by reference.

17. **AMENDMENTS AND ENCUMBRANCE OF PROPORTIONATE SHARE MITIGATION PAYMENT.** No modification, amendment, or alteration

in the terms or conditions contained herein shall be effective, unless contained in a written document prepared, in recordable form, with the same formality as this Agreement and duly executed by all the Parties to this Agreement. Additionally, this Agreement may be modified only until the earliest of the following times: (a) issuance of the first principal building permit for the Development Project; or (b) the School District Encumbers ("**Encumbers**" shall mean monies committed by contract or purchase order in a manner that obligates the School Board to expend the funded amount upon delivery of goods or the rendering of services provided by a vendor, supplier or contractor for the School Project) any portion of the Monetary Proportionate Share Mitigation payment; or (c) six (6) months after the date that this Agreement is authorized by the School Board; or (d) the Applicant provides written notice to the Parties advising that the Mitigation Bank is to be established and the School District may immediately transfer Banked Seats to other residential development applicants, as set forth in Section 6 of this Agreement. No refunds shall be made thereafter.

18. **COVENANT RUNNING WITH THE LAND.** This Agreement shall constitute a covenant running with the land and shall be recorded by the School Board, at the Applicant's expense, in the public records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon the undersigned Applicant, and its heirs, successors and assigns, until such time as the same expires in accordance with the provisions hereof, or is otherwise modified or released pursuant to an instrument executed on behalf of the Parties.

19. **ASSIGNMENT**. The Applicant may assign its rights, obligations and responsibilities under this Agreement to a third party purchaser of all or any part of fee

simple title to the Property. Any such assignment shall be in writing and shall require the prior written consent of all of the Parties, such consent not to be unreasonably withheld. At the election of the School District, such consent may be conditioned upon the written agreement of the assignee to assume all of Applicant/Assignor's duties and obligations under this Agreement and to comply with conditions and procedures to aid in the monitoring and enforcement of the assignee's performance of the Monetary Proportionate Share Mitigation under this Agreement. The Assignor under such assignment shall furnish the Parties with a copy of the duly executed assignment, in recordable form, within ten (10) days of the date of execution of same. The Parties further agree that an assignment of this Agreement shall only be permitted where (a) the Applicant/Assignor has mitigated for the public school impacts of the subject Property with Monetary Proportionate Share Mitigation payment having been made, (b) this Agreement is being assigned to the purchaser of the subject Property, and (c) the assigned Monetary Proportionate Share Mitigation continues to be used for the subject Property.

20. **DEFAULT**. If any Party fails to perform or observe any of the material terms and conditions of this Agreement for a period of thirty (30) calendar days after receipt of written notice of such default from another Party, the Party giving notice of default may terminate this Agreement by providing the parties with ten (10) days additional written notice. Failure of any Party to exercise its rights in the event of any breach by one or more other Parties shall not constitute a waiver of such rights. No Party shall be deemed to have waived any failure to perform by another Party unless such waiver is in writing and signed by the other Parties. Such waiver shall be limited to the terms specifically contained therein.

21. **COUNTERPARTS.** This Agreement may be executed in three (3) counterparts, each of which when executed and delivered shall be deemed to be an original; however, all such counterparts together shall constitute but one and the same instrument. Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document. The School Board shall be the last party to execute this Agreement.

22. **RECORDING OF DOCUMENTS.** The School District shall record this Agreement and any related documentation, including without limitation, Assignments, if any, and Releases, within thirty (30) days after proper execution thereof and receipt of the document and recordation costs, in the Public Records of Miami-Dade County, Florida. The Applicant shall pay all recordation costs to the School District.

23. **SEVERABILITY.** If any provision of this Agreement is declared invalid or unenforceable by a court of competent jurisdiction, the invalid or unenforceable provision will be stricken from the Agreement, and the balance of the Agreement will remain in full force and effect as long as doing so would not affect the overall purpose or intent of the Agreement.

24. **WAIVER OF TRIAL BY JURY. THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY OR PARTIES WITH RESPECT TO ANY MATTER ARISING UNDER THIS AGREEMENT.**

25. **TIME IS OF THE ESSENCE.** Time is of the essence in the performance of this Agreement.

26. **MERGER CLAUSE.** This Agreement and all Exhibits thereto set forth the entire agreement among the Parties, and it supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, among the Parties.

27. **PUBLIC RECORDS LAWS.** This Agreement shall be subject to Florida's Public Records Laws, Chapter 119, Florida Statutes. The Parties understand the broad nature of these laws and agree to comply with Florida's Public Records Laws and laws relating to records retention. The Parties acknowledge and accept the authority of the School Board and the County to request and authorize audits, inspections, and reviews, including, but not limited to, the authority to access the Developer's and Property Owner's records, its/their legal representatives' and contractors' records with respect to this Agreement and the obligation of the Developer and Property Owners to retain and to make those records available upon request, and in accordance with all applicable laws. Developer and Property Owners shall keep records to show its/their compliance with this Agreement. In addition, Developer's contractors and subcontractors must make available, upon School Board's and County's request, any books, documents, papers and records which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

The Developer, its contractors and sub-contractors shall (i) retain all records for five (5) years after the Effective Date of this Agreement; and (ii) the School Board and the County shall retain records for five (5) years after the expiration, early termination or cancellation of this Agreement.

The Developer and Property Owners shall incorporate this Section 27 into every contract that it enters into relating to the subject Property.

IF THE DEVELOPER OR PROPERTY OWNERS HAVE QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119,

FLORIDA STATUTES, AS TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-995-1128, prr@dadeschools.net, and 1450 NE 2 Avenue, Miami, Florida 33132.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have made and executed this Agreement on the respective dates under each signature:

APPLICANT/DEVELOPER

WITNESSES:

Print Name: Victor Santana

Print Name: PAOLA ROMAN

KARIS VILLAGE, LLC, a Florida limited liability company

By: C4 Karis Village, LLC, a Florida limited liability company, its Managing Member

By:

Name: Stephanie Berman

Title: Manager

STATE OF FLORIDA

COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 24th day of Aug., 2016, by Stephanie Berman, as President of C4 Karis Village, LLC, a Florida limited liability company, the managing member of Karis Village, LLC, a Florida limited liability company. He/she is [X] personally known to me or [___] has produced _____ as identification.

JACQUELINE DANA
MY COMMISSION #FF011100
EXPIRES April 23, 2017
(407) 398-0153 FloridaNotaryService.com

(Signature of Notary Public - State of Florida)

Print Name:

My Commission Expires:

[THIS SPACE IS INTENTIONALLY LEFT BLANK]

PROPERTY OWNER

WITNESSES:

OCA CORP., AS TRUSTEE OF 14356 LAND TRUST DATED OCTOBER 28, 2013

By:_____
Salina Jivani, President

_____
Print Name: _____

_____
Print Name: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Salina Jivani, as President of OCA CORP., as Trustee of 14356 Land Trust Dated October 28, 2013. She is [___] personally known to me or [___] has produced _____ as identification.

_____
(Signature of Notary Public - State of Florida)
Print Name:_____
My Commission Expires:_____

[THIS SPACE IS INTENTIONALLY LEFT BLANK]

PROPERTY OWNER

WITNESSES:

_____
Print Name: _____

_____
Print Name: _____

SUNEXUZ INVESTMENT LLC, a Florida limited liability company

By: _____
Ludvin Hasbun, Manager

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Ludvin Hasbun, as Manager of SUNEXUZ INVESTMENT LLC, a Florida limited liability company. He is [___] personally known to me or [___] has produced _____ as identification.

_____
(Signature of Notary Public - State of Florida)
Print Name:_____
My Commission Expires:_____

[THIS SPACE IS INTENTIONALLY LEFT BLANK]

PROPERTY OWNER

WITNESSES:

BELINDA ZEIGLER AND JOHN L. ZEIGLER, WIFE AND HUSBAND

_____
Print Name: _____

By: _____
Belinda Zeigler
f/k/a Belinda Thomas

_____
Print Name: _____

By: _____
John L. Zeigler, Jr.

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Belinda Zeigler and John L. Zeigler, wife and husband. They are [___] personally known to me or [___] has produced _____ as identification.

_____
(Signature of Notary Public - State of Florida)
Print Name:_____
My Commission Expires:_____

[THIS SPACE IS INTENTIONALLY LEFT BLANK]

SCHOOL BOARD

Signed, sealed and delivered
in the presence of:

_____
Print Name:_____

_____
Print Name:_____

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, a body corporate and politic existing under the laws of the State of Florida

By: _____
Name: Alberto M. Carvalho
Title: Superintendent of Schools
Date:_____

Recommended by:

_____
Name: Jaime G. Torrens
Title: Chief Facilities Officer
Date: _____

Recommended by:

_____
Name: Michael Fox
Risk Management & Benefits Officer
Date: _____

Recommended as to financial sufficiency
by:

_____
Name: Leonardo Fernandez
Treasurer
Date: _____

To the School Board:
Approved as to form and legal sufficiency

_____
Name: Ana R. Craft
Assistant School Board Attorney
Date: _____

ACKNOWLEDGMENT

STATE OF FLORIDA)
) **SS:**
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ____ day of _____, 201_, by ALBERTO M. CARVALHO, as Superintendent of Schools, acting on behalf of THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, a public body corporate and politic existing under the laws of the State of Florida, who personally appeared before me, and is [x] personally known to me or [ ] produced _____ as identification, and who further acknowledged that he signed the above instrument with full authority, as set forth therein, on behalf of The School Board of Miami-Dade County, Florida.

[NOTARY SEAL]

Notary:_____
Print Name: _____
My Commission expires: _____

MIAMI-DADE COUNTY :

WITNESSES:

_____

Print Name:_____

_____

Print Name:_____

MIAMI-DADE COUNTY

By: _____

_____, Mayor

____ day of _____, 201_.

ATTEST:

Harvey Ruvin, Clerk

By _____
Deputy Clerk

_____ day of _____, 201_.

APPROVED AS TO FORM AND LANGUAGE AND FOR EXECUTION:

By_____
County Attorney

Date: _____

ACKNOWLEDGMENT

STATE OF FLORIDA)
) **SS:**
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ____ day of _____, 201_, by _____ as Mayor, acting on behalf of Miami-Dade County, a political subdivision of the State of Florida. He/she personally appeared before me, and is [x] personally known to me or [ ] produced _____ as identification, , and who acknowledged that he/she signed the above instrument with full authority, as set forth therein, on behalf of Miami-Dade County, Florida.

[NOTARY SEAL]

Notary:_____
Print Name: _____
My Commission expires: _____

Exhibit "A"

LEGAL DESCRIPTION:

The South 208.5 feet of the West 208.5 feet of the Southwest 1/4 of the Southeast 1/4 of the Southeast 1/4 of Section 12, Township 56 South, Range 39 East, Miami-Dade County, Florida, containing 43449 square feet ± (0.99 acres ±).
Folio No.: 30-6912-000-0280

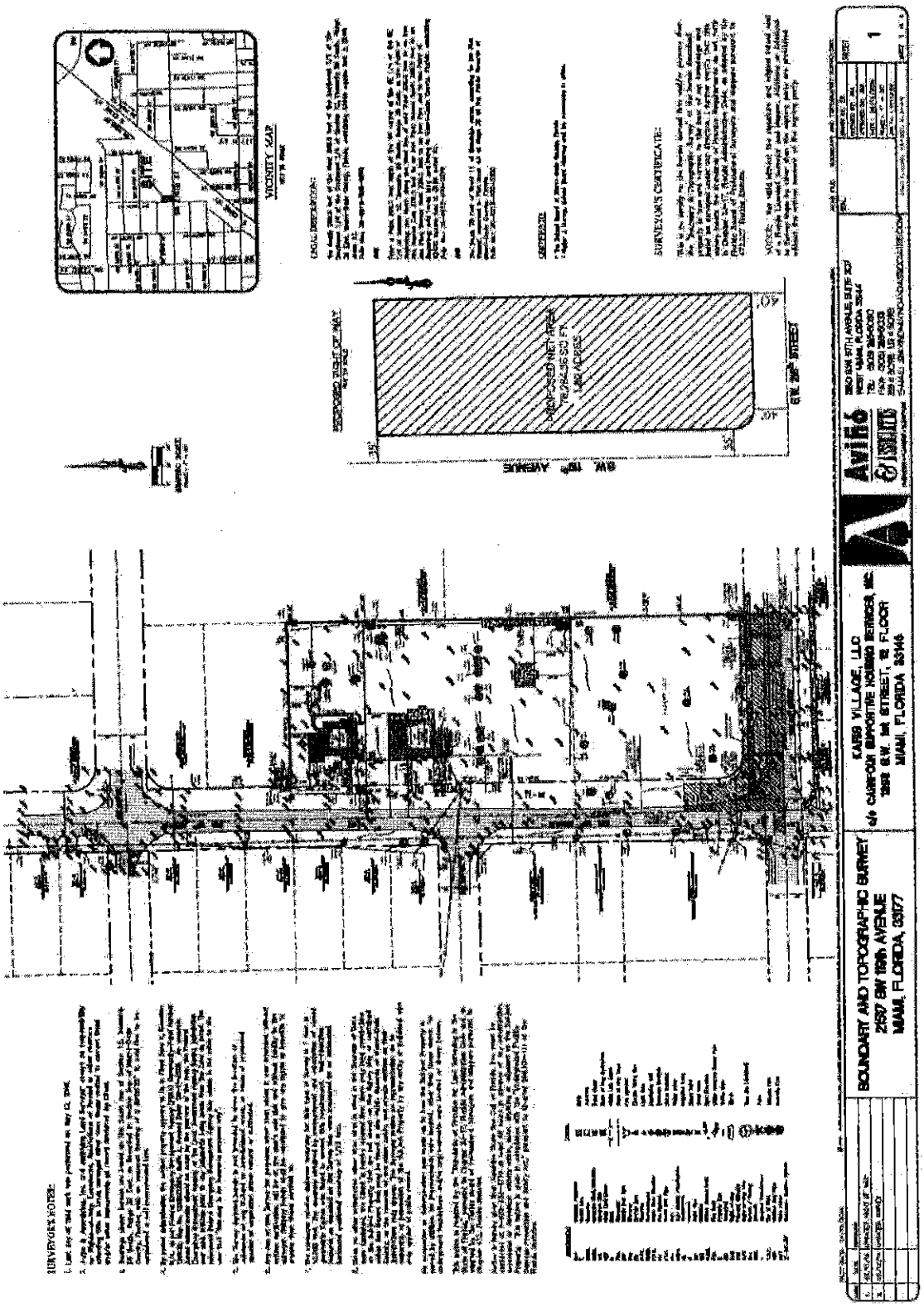
AND

From a Point 208.5 feet North of the SW corner of the SE 1/4 of the SE 1/4 of Section 12, Township 56 South, Range 39 East, as the Point of Beginning; run North along the West line of said Tract 208.5 feet to an Iron Pin; thence East 208.5 feet to an Iron Pipe; thence South 208.5 feet to an Iron Pipe; thence West 208.5 feet to an Iron Pipe and to the Point of Beginning; said lands lying and being in Miami-Dade County, Florida, containing 43475 square feet ± (0.99 acres ±).
Folio No.: 30-6912-000-0270

AND

The South 75 feet of Tract 11 of Randolph Acres, according to the Plat thereof, recorded in Plat Book 43 at Page 26 of the Public Records of Miami-Dade County, Florida.
Folio No.: 30-6912-000-0300

Exhibit "B"


VICINITY MAP
SURVEYOR'S CERTIFICATE:
SURVEYOR'S NOTES:
BOUNDARY AND TOPOGRAPHIC SURVEY
KARIS VILLAGE, LLC
c/o CARIFOUR SUPPORTIVE HOUSING SERVICES, INC.
MIAMI, FLORIDA 33146
Aviño