

MEMORANDUM

Agenda Item No. 11(A)(6)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 19, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution authorizing the Chairperson or Vice-Chairperson of the Board of County Commissioners to execute an amended and restated County Deed for Housing Programs, Inc., a Florida not-for-profit corporation, to increase the maximum sales price from \$205,000.00 to the current maximum sales price authorized pursuant to Ordinance No. 21-80 for single-family homes constructed and sold to qualified households through and in accordance with the Miami-Dade Infill Housing Initiative Program, as amended; and authorizing the County Mayor to take all action necessary to exercise any and all rights set forth in such amended and restated County Deed, and to grant from the effective date of the amended and restated County Deed an additional one-year extension to construct, complete and sell single family homes to qualified homebuyers through the Infill Housing Program

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jean Monestime.



Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 19, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(6)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ 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. 11(A)(6)
7-19-22

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE CHAIRPERSON OR VICE-CHAIRPERSON OF THE BOARD OF COUNTY COMMISSIONERS TO EXECUTE AN AMENDED AND RESTATED COUNTY DEED FOR HOUSING PROGRAMS, INC., A FLORIDA NOT-FOR-PROFIT CORPORATION, TO INCREASE THE MAXIMUM SALES PRICE FROM \$205,000.00 TO THE CURRENT MAXIMUM SALES PRICE AUTHORIZED PURSUANT TO ORDINANCE NO. 21-80 FOR SINGLE-FAMILY HOMES CONSTRUCTED AND SOLD TO QUALIFIED HOUSEHOLDS THROUGH AND IN ACCORDANCE WITH THE MIAMI-DADE INFILL HOUSING INITIATIVE PROGRAM, AS AMENDED; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTION NECESSARY TO EXERCISE ANY AND ALL RIGHTS SET FORTH IN SUCH AMENDED AND RESTATED COUNTY DEED, AND TO GRANT FROM THE EFFECTIVE DATE OF THE AMENDED AND RESTATED COUNTY DEED AN ADDITIONAL ONE-YEAR EXTENSION TO CONSTRUCT, COMPLETE AND SELL SINGLE FAMILY HOMES TO QUALIFIED HOMEBUYERS THROUGH THE INFILL HOUSING PROGRAM

WHEREAS, this Board has recognized that an increase in the maximum sales price is needed to ensure that those making above 50 percent of area median income ("AMI"), but below 140 percent of AMI have a meaningful opportunity to purchase affordable homes; and

WHEREAS, in recognition of that need, this Board adopted Ordinance No. 21-80 on July 20, 2021, which raised the maximum sales price for each of the County's affordable housing programs; and

WHEREAS, Ordinance No. 21-80 authorized the retroactive application of the new maximum sales price to conveyances that had been previously made by this Board upon adoption by this Board of a resolution approving the increased maximum sales price; and

WHEREAS, this Board authorized, in accordance with Resolution No. R-1401-07, the conveyance to Housing Programs, Inc., a Florida not-for-profit corporation (“Housing Programs”), a total of several County-owned properties, including Folio No. 30-3103-023-0110 and Folio No. 30-3104-003-3701, for the purpose of constructing single family homes to be sold to qualified households in accordance with the Miami-Dade Infill Housing Initiative Program (“Infill Housing Program”); and

WHEREAS, this Board authorized several extensions, including those authorized by Resolution No. R-556-17 to Housing Programs to construct the homes and obtain final certificates of occupancy; and

WHEREAS, like other developers conveyed County-owned property, Housing Programs faces the rising costs of developing the properties; and

WHEREAS, in addition to the rising costs of developing the properties, Housing Programs has faced construction and other delays due to permitting issues and vandalism; and

WHEREAS, this Board desires to (i) grant Housing Programs a one-year extension to construct the homes and obtain final certificates of occupancy for the properties associated with Folio Nos. 30-3103-023-0110 and 30-3104-003-3701, and (ii) allow Housing Programs to increase the sales price from \$205,000.00 to the maximum sales price authorized by Ordinance No. 21-80 for the homes to be constructed on the properties associated with Folio Nos. 30-3103-023-0110 and 30-3104-003-3701 conveyed pursuant to Resolution No. R-1401-07,

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

Section 1. This Board adopts the foregoing recitals as if fully set forth herein.

Section 2. Pursuant to section 125.411, Florida Statutes, this Board authorizes the Chairperson or Vice-Chairperson of the Board of County Commissioners to execute the Amended and Restated Deed (“amended deed”) to Housing Programs, in substantially the form attached

hereto as Attachment “A” and incorporated herein by reference, in order to increase the maximum sales price from \$205,000.00 to the current maximum sales price authorized pursuant to Ordinance No. 21-80 for single-family homes that are constructed and sold to qualified households on properties associated with Folio Nos. 30-3103-023-0110 and 30-3104-003-3701, through and in accordance with the Infill Housing Program. Such amended deed shall be executed for the County-owned properties having Folio Nos. 30-3103-023-0110 and 30-3104-003-3701 conveyed pursuant to Resolution No. R-1401-07.

Section 3. This Board further authorizes the County Mayor or County Mayor’s designee to take all actions necessary to exercise any and all rights set forth in the amended deed, including, but not limited to, exercising the County’s option to enforce its reversionary interest after conducting all due diligence, title searches and environmental reviews. In the event that the County Mayor or County Mayor’s designee should exercise the County’s reversionary interest, then the County Mayor or County Mayor’s designee shall execute and record an instrument approved by the County Attorney’s Office in the Public Records of Miami-Dade County and provide a copy of such instrument to the Property Appraiser’s Office. Alternatively, this Board authorizes the County Mayor or County Mayor’s designee to receive on behalf of the County from the developer identified in section 2 of this resolution, after conducting all due diligence, title searches and environmental reviews, deeds which convey any or all of the properties back to the County in the event the developer is unable or fails to comply with the deed restrictions set forth in the amended deed. Upon the receipt of the deed from the developer, the County Mayor or County Mayor’s designee shall record such deed in the Public Records of Miami-Dade County.

Section 4. This Board authorizes the County Mayor or County Mayor's designee to grant Housing Programs one one-year extension from the recording of the amended deed to obtain the final certificate of occupancy for each of the single-family homes to be sold to qualified households through the Infill Housing Program. The grant of such extension shall be in the manner set forth in the amended deed.

Section 5. This Board directs the County Mayor or County Mayor's designee to provide copies of the recorded amended deed to the Property Appraiser.

Section 6. This Board directs the County Mayor or County Mayor's designee to ensure that proper signage is placed on the properties described in the amended deed identifying the County's name and the name of the district commissioner.

Section 7. The County Mayor or County Mayor's designee, pursuant to Resolution No. R-974-09, shall record in the Public Record all deeds, covenants, reverters, and mortgages 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 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 Prime Sponsor of the foregoing resolution is Commissioner Jean Monestime. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman

Oliver G. Gilbert, III, Vice-Chairman

Sen. René García

Sally A. Heyman

Eileen Higgins

Kionne L. McGhee

Raquel A. Regalado

Sen. Javier D. Souto

Keon Hardemon

Danielle Cohen Higgins

Joe A. Martinez

Jean Monestime

Rebeca Sosa

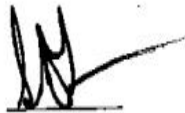
The Chairperson thereupon declared this resolution duly passed and adopted this 19th day of July, 2022. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Shannon D. Summerset-Williams

ATTACHMENT "A"

Instrument prepared by and returned to:
Shannon D. Summerset
Assistant County Attorney
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128

Folio No: See Exhibit "A" attached.

This Amended and Restated County Deed shall supersede and replace the County Deed recorded in Official Record Book 30575 Pages 1435-1443 of the Public Records of Miami-Dade County on June 15, 2017, the County Deed recorded in Official Record Book 28526 Pages 1955-1959 of the Public Records of Miami-Dade County on March 3, 2013, the County Deed recorded in Official Record Book 29294 Pages 2428-2432 of the Public Records of Miami-Dade County on September 3, 2014, and County Deed recorded in Official Record Book 30101 Pages 2408-2413 of the Public Records of Miami-Dade County on June 6, 2016 as to Folio Nos. 30-3103-023-0110 and 30-3104-003-3701 only.

AMENDED AND RESTATED COUNTY DEED

THIS AMENDED AND RESTATED DEED, made this ____ day of _____, 2022 by **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, (hereinafter "County"), whose address is: Stephen P. Clark Center, 111 N.W. 1 Street, Miami, Florida 33128-1963, and **HOUSING PROGRAMS, INC.**, a Florida not-for-profit corporation (hereinafter "Developer"), whose address is 16499 NE 19th Ave Suite 212 Miami, Florida 33162, or its successors and assigns.

RECITALS

WHEREAS, the real properties as more fully described in Exhibit "A" were conveyed to Developer through certain County Deeds recorded in Official Record Book 28526 Pages 1955-1959 of the Public Records of Miami-Dade County on March 3, 2013, Official Record Book 29294 Pages 2428-2432 of the Public Records of Miami-Dade County on September 3, 2014, Official Record Book 30101 Pages 2408-2413 of the Public Records of Miami-Dade County on June 6, 2016, and in Official Record Book 30575 Pages 1435-1443 of the Public Records of Miami-Dade County on June 15, 2017; and

WHEREAS, Developer previously applied for an increase in the sales price cap for the completion of development of the affordable housing on the Property and the County has agreed to the increase the sales price cap from \$175,000 to \$205,000.00; and

WHEREAS, Developer agreed to develop and sell the Infill lots in accordance with the updated provisions contained in the Code of Miami-Dade County, Article VII, Section 17-121 through 17-128.1; Imp006Cementing Order No. 3-44; and Infill Housing Initiative Program Guidelines; and

WHEREAS, on February 7, 2017, the Miami-Dade Board of County Commissioners (the "Board") adopted Ordinance No. 17-8, which amended Chapter 17, Article VII of the Code of Miami-Dade County, which is more commonly known as the Miami-Dade Infill Housing Initiative Program ("Infill Housing Program"); and

WHEREAS, the Board also adopted Resolution No. R-145-17, which amended Implementing Order No. 3-34 related to the administration of the Infill Housing Program, and which approved the Infill Housing Initiative Program Guidelines; and

WHEREAS, prior the adoption of Ordinance No. 17-8 and Resolution No. R-145-17, the Board authorized the conveyance of certain County-owned properties (the "Properties"), which are more fully described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, Developer wishes to develop the Properties and sell the homes constructed on the Properties in accordance with the Infill Housing Program, as amended by Ordinance No. 17-8 and Resolution No. R-145-17; and

WHEREAS, the Board adopted Resolution No. R-556-17, which approved Developer's request for price increase and extension; and

WHEREAS, the Board subsequently adopted Resolution No. R-394-20 which granted an additional extension to The Developer,

WITNESSETH:

That the County, for and in consideration of the sum of Ten Dollars and No/100 (\$10.00) to it in hand paid by Developer, receipt whereof is hereby acknowledged, has granted, bargained, and sold to Developer, their successors and assigns forever, the following described land lying and being in Miami-Dade County, Florida (hereinafter the "Property"):

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

THIS CONVEYANCE IS SUBJECT TO all zoning, rules, regulations and ordinances and other prohibitions imposed by any governmental authority with jurisdiction over the Property; existing public purpose utility and government easements and rights of way and other matters of record; taxes for the year of closing and subsequent years and the following restrictions:

1. That the Properties shall be developed with affordable housing, as defined by and in accordance with the requirements of the Infill Housing Initiative Program established in Sections 17-121 through 17-128 of the Code of Miami-Dade County, Implementing Order No. 3-44, and the Miami-Dade County's Infill Housing Initiative Guidelines. Developer shall sell such affordable housing to qualified homebuyers whose income range is established up to 140% of the most recent median family income for the County reported by the United States Department of Housing and Urban Development. Prior to such conveyance, a restrictive covenant, in a form approved by the County in its sole discretion, shall be executed by each qualified homebuyer, and such restrictive covenant shall be recorded in the public records of Miami-Dade County.

2. That the Properties shall be developed within one (1) year of the recording of this Deed as evidenced by the issuance of a final Certificate of Occupancy. Notwithstanding the foregoing restriction contained in this Paragraph 2, the County may, in its sole discretion, waive this requirement upon the Board finding it necessary to extend the time frame in which the Developer must complete the homes. In order for such waiver by the County to be effective, the County Mayor or the County Mayor's designee:
 - a. Be given prior to the event of the reverter; and
 - b. Be evidenced by the preparation of a letter executed by the County Mayor or the County Mayor's designee giving such waiver and specifying the new time frame in which the Developer must complete the homes. The letter by the County shall be conclusive evidence upon which any party may rely that the condition of the reverter has been extended to such date as specified in said waiver. If no waiver is recorded and a certificate of occupancy is not issued within one (1) year from the date of this Deed, any party may rely upon the fact that the reverter has occurred and that title has reverted to the County.
3. That the affordable housing developed on the Property shall be sold to a qualified household, as defined in Sections 17-122(n) of the Code of Miami-Dade County, but under no circumstances shall the sales price of the home exceed the County Maximum Sales Price as set forth in the Miami-Dade County Code and existing at the time of sale. In the event the Developer fails to sell the home to a qualified household or sells the home above the County Maximum Sales Price as set forth in the Miami-Dade County Code and existing at the time of sale and the Developer, upon written notification from the County, fails to cure such default, then title to the subject Properties reverts to the County, at the option of the County, as set forth in paragraph 7, and by such reverter to the County, the Developer shall forfeit all monetary investments and improvements without any compensation or right to compensation whatsoever.
4. That for any of the Properties located within the HOPE VI Target Area (hereinafter "Target Area"), the Developer shall comply with the requirements set forth in Resolution No. R-1416-08, including but not limited to providing former Scott/Carver residents the right of first refusal on all units to be sold within the Target Area. The County will provide a list of former Scott/Carver residents in order for the Developer to notify these residents of the availability of homeownership opportunities.
5. That Developer shall not assign or transfer its interest in the Properties or in this Deed absent consent of the Miami-Dade County Board of County Commissioners, with the exception of any conveyance to qualified homebuyers.
6. The Developer shall require that the qualified household purchasing the eligible home execute and record simultaneously with the deed of conveyance from the developer to the qualified household the County's "Affordable

Housing Restrictive Covenant," and include the following language in the deed of conveyance:

"This Property is subject to an "Affordable Housing Restrictive Covenant" recorded simultaneously herewith, which states that the Property shall remain affordable during the "Control Period." The Control Period commences on the initial sale date of the eligible home, which is the date the deed is recorded transferring title from the developer to the first qualified household, and resets automatically every twenty (20) years for a maximum of sixty (60) years. In the event Grantee wishes to sell or refinance the home during the Control Period, Grantee shall obtain prior written approval from the County. Any such sale, transfer or conveyance, shall only be to a qualified household as defined in Section 17-122(n) of the Miami-Dade County Code at or below the maximum sales price as calculated in the restrictive covenant. Should Grantee own this home for twenty consecutive years, Grantee shall automatically be released from the Affordable Housing Restrictive Covenant."

7. That Developer shall pay real estate taxes and assessments on the Properties or any part thereof when due. Developer 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, provided, however, that Developer may encumber the Properties with:
 - 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 Project 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. Any mortgage(s) in favor of any lender that may go into default, lis pendens, foreclosure, deed in lieu of foreclosure, certificate of title or tax deed issued by the government or through court order, the affordable deed restrictions are enforceable and can only be extinguished by the County. The deed restrictions shall run with the land notwithstanding the mortgage or change in ownership for the control period. The affordable deed restrictions apply to the "successors heirs and assigns" of the burdened land owner.
8. The recordation, together with any mortgage purporting to meet the requirements of clauses 7(a) or 7(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 Project 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 reverter 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.

9. If in the sole discretion of the County, one or more of the Properties ceases to be used solely for the purpose set forth in paragraph 1 herein by the Developer, or if the Developer fails to construct the homes described herein in the manner and within the timeframe set forth in paragraph 2 herein, or if the Developer ceases to exist prior to conveyance to the qualified homebuyers, or if any term of this County Deed is not complied with, the Developer shall correct or cure the default/violation within thirty (30) days of notification of the default by the County as determined in the sole discretion of the County. If the Developer fails to remedy the default within thirty (30) days, title to the subject Properties shall revert to the County, at the option of the County upon written notice of such failure to remedy the default. In the event of such reverter, the Developer shall immediately deed such Properties back to the County, and the County shall have the right to immediate possession of such Properties, with any and all improvements thereon, at no cost to the County. The effectiveness of the reverter shall take place immediately upon notice being provided by the County, regardless of the deed back to the County by the Developer. The County retains a reversionary interest in the Properties, which right may be exercised by the County, at the option of the County, in accordance with this Deed. Upon such reversion, the County may file a Notice of Reversion evidencing same in the public records of Miami-Dade County.
10. All conditions and restrictions set forth herein shall run with the land, and shall be binding on any subsequent successors, assigns, transferees, and lessees, of any interest, in whole or in part, in the Properties.

Upon receiving proof of compliance with all of the Deed restrictions listed above, to be determined in the County's sole discretion, the County shall furnish the Developer with an appropriate instrument acknowledging satisfaction with all 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.

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

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

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

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

By: _____
Deputy Clerk

By: _____
Jose "Pepe" Diaz, Chairman

Approved for legal sufficiency:

By: _____
Shannon D. Summerset
Assistant County Attorney

The foregoing was authorized by Resolution No. _____ approved by the Board of County Commissioners of Miami-Dade County, Florida, on the _____ day of _____, 2022.

IN WITNESS WHEREOF, the representative **HOUSING PROGRAMS, INC.**, a Florida not-for-profit corporation, has caused this document to be executed by their respective and duly authorized representative on this 24 day of May, 2022, and it is hereby approved and accepted.

MB
Witness/Attest

James
Witness/Attest

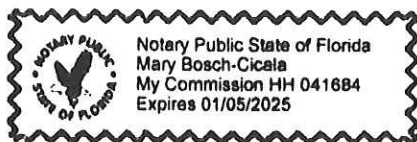
By: S. Simon
Name: ISAAC SIMON
Title: C.E.O

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

THE FOREGOING INSTRUMENT was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 24 day of May, 2022 by Isaac Simon as CEO/President, on behalf of **HOUSING PROGRAMS, INC.**, a Florida not-for-profit corporation. S/he is personally known to me or has produced a Florida Driver's License No. Personally Known as identification.

(SEAL)



MB
MARY Bosch-Cicala
Notary of- State of Florida
Commission Number: HH 041684

EXHIBIT A

Folio	Legal Description
30-3103-023-0110	S5FT OF LOT 29 & ALL LOT 30 & NI OFT OF LOT 31, PHELANS MANOR, thereof, as recorded in Official Records Book 30 at Page 6, of Public Records of Miami-Dade County, Florida.
30-3104-003-3701	LOT 11, BLOCK 53, THE TROPICS AMD PL, thereof, as recorded in Official Records Book 10 at Page 17, of Public Records of Miami-Dade County, Florida.