

MEMORANDUM

Agenda Item No. 8(F)(9)

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

DATE: April 20, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving a Settlement Agreement with the Village of Palm Bay Homeowner's Association, Inc. ("Palm Bay"), a Florida not-for-profit corporation, and approving a Declaration of Restrictive Covenants and conveyance to Palm Bay of County-owned unimproved property located at 901 SW 7 Place, Florida City, Florida, in lieu of foreclosure, at no cost to the County; authorizing the County Mayor to execute the Settlement Agreement and Declaration of Restrictive Covenants, and to exercise all other rights contained therein; authorizing the Chairperson or Vice-Chairperson of the Board of County Commissioners to execute a County Deed

Resolution No. R-285-21

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



Geri Bonzon-Keenan
County Attorney

GBK/uw

Memorandum



Date: April 20, 2021

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

From: Daniella Levine Cava
Mayor

A handwritten signature in cursive script that reads "Daniella Levine Cava".

Subject: Settlement Agreement between Miami-Dade County and the Village of Palm Bay Homeowner's Association, Inc., Pertaining to County-owned Real Property Located at 901 SW 7 Place, Florida City, Florida – Folio No.: 16-7825-018-1700

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the County Mayor or the County Mayor's designee to execute the Settlement Agreement between Miami-Dade County (the County) and the Village of Palm Bay Homeowner's Association, Inc. (Palm Bay), a Florida not-for-profit corporation, pertaining to a 3,457 square foot unimproved County-owned property located at 901 SW 7 Place, Florida City, Florida (Property) as shown in the attached Summary Report (Attachment 1). The resolution does the following:

- Authorizes the County Mayor or the County Mayor's designee to execute the attached Settlement Agreement (Attachment 2) for the purposes of resolving a foreclosure action and cancelling outstanding homeowner association fees in the amount of \$10,808.45, which continue to accrue, as well as accumulated interest, costs of litigation, and attorney's fees, in exchange for the conveyance of the Property to Palm Bay;
- Authorizes the conveyance, pursuant to section 125.38, Florida Statutes, of the Property to Palm Bay by County Deed (Exhibit B to Attachment 2) for the community interest and welfare purpose of using the property as open green space for use of residents and visitors, including as a dog park, or alternatively for the provision of affordable or workforce housing, subject to the recording of a Declaration of Restrictive Covenants (Exhibit A to Attachment 2);
- Authorizes the County Mayor or the County Mayor's designee to execute the attached Declaration of Restrictive Covenants in favor of Miami-Dade County (Exhibit A to Attachment 2) restricting the sole use of the Property as "designated open space" to be used by all occupants of Palm Bay and visitors, or as a dog park, or in the alternative, for the purpose of building an affordable housing dwelling unit or workforce housing unit; and
- Authorizes the Chairman or the Vice Chairman of the Board to execute the County Deed, consistent with Florida Statutes.

Scope

The Property is located in Commission District 9, which is represented by Commissioner Kionne L. McGhee.

Written notice has been provided to the District Commissioner.

Fiscal Impact/Funding Source

The conveyance of this Property will eliminate the County's obligation to pay the outstanding homeowner association fees and other costs in the amount of \$10,808.45 and any future association fees, and will eliminate the County's obligation to cut the grass, which costs approximately \$1,200.00 per year.

Track Record/Monitoring

Compliance with the Settlement Agreement, the conveyance of the Property and compliance with the Declaration of Restrictive Covenants will be monitored by Margaret Araujo, Chief Real Estate Officer, Internal Services Department.

Delegation of Authority

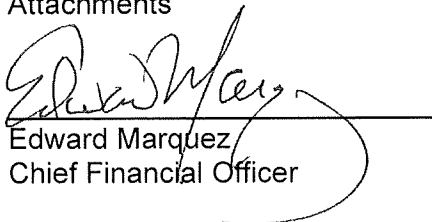
Authorizes the County Mayor or the County Mayor's designee to execute the Settlement Agreement and the Declaration of Restrictive Covenants and exercise any and all rights conferred therein, and authorizes the Chairman or the Vice Chairman of the Board to execute the County Deed, consistent with Florida Statutes, to convey the Property to Palm Bay.

Background

The County acquired the Property on May 11, 2015, by Escheatment Tax Deed resulting from the prior owner's non-payment of ad valorem taxes. The Property is located within the Village of Palm Bay community, which is managed by the Village of Palm Bay Homeowner's Association, Inc., a Florida not-for-profit corporation, organized for the purpose of promoting community interest and welfare. Although the County acquired this Property by Escheatment Tax Deed, the County is not exempt from paying Homeowner's Association (HOA) maintenance fees, which are currently \$100.00 per month, notwithstanding that the Property is unimproved. Palm Bay filed a foreclosure suit against the County to collect the outstanding HOA fees that have accrued since the Property escheated to the County, or in the alternative, to obtain a judgment compelling an auction of the Property. A foreclosure auction could result in a judgment against the County for the difference between the amount Palm Bay recovers from a sale of the Property and the amounts owed for unpaid maintenance fees, accumulated interest, costs of litigation, and attorney's fees. The County reached a settlement with Palm Bay to cancel the accrued fees, costs, interest, and attorney's fees, in exchange for the conveyance of the Property to Palm Bay, subject to a recorded Declaration of Restrictive Covenants which will restrict the use of the Property as "designated open space" or "dog park" to be used by all occupants of Palm Bay and visitors, or for the development of the Property as an affordable dwelling unit or workforce housing unit. It is noted that the Property is very small in size and irregularly shaped, which limits its ability to be developed with a single family home.

The Board of County Commissioners previously declared this Property surplus by Resolution No. R-1004-17 and authorized the sale by public bid for no less than 75% of the Property Appraiser's current market value, which equates to \$15,557. The Property is on the County list of surplus properties available for purchase, but there has been no interest from the public to purchase it. The conveyance of this Property to Palm Bay will eliminate the County's pending and future financial obligations to Palm Bay and the on-going obligation to maintain it.

Attachments


Edward Marquez
Chief Financial Officer

Attachment 1

PROPERTY APPRAISER SUMMARY REPORT



OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 1/17/2020

Property Information	
Folio:	16-7825-018-1700
Property Address:	901 SW 7 PL Florida City, FL 33034-5629
Owner	MIAMI DADE COUNTY ISD RE MGMT
Mailing Address	111 NW 1 ST STE 2460 MIAMI, FL 33128 USA
PA Primary Zone	9300 PLANNED UNIT DEVELOPMENT
Primary Land Use	8080 VACANT GOVERNMENTAL : VACANT LAND - GOVERNMENTAL
Beds / Baths / Half	0 / 0 / 0
Floors	0
Living Units	0
Actual Area	0 Sq.Ft
Living Area	0 Sq.Ft
Adjusted Area	0 Sq.Ft
Lot Size	3,457 Sq.Ft
Year Built	0



Assessment Information			
Year	2019	2018	2017
Land Value	\$20,742	\$20,742	\$12,099
Building Value	\$0	\$0	\$0
XF Value	\$0	\$0	\$0
Market Value	\$20,742	\$20,742	\$12,099
Assessed Value	\$9,201	\$8,365	\$7,605

Benefits Information				
Benefit	Type	2019	2018	2017
Non-Homestead Cap	Assessment Reduction	\$11,541	\$12,377	\$4,494
County	Exemption	\$9,201	\$8,365	\$7,605

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

Short Legal Description	
VILLAS OF PALM BAY	
PB 145-26 T-18452	
LOT 1 BLK 21	
LOT SIZE 3457 SQ FT	
FAU 16-7825-000-0070 & 0090	

Taxable Value Information			
	2019	2018	2017
County			
Exemption Value	\$9,201	\$8,365	\$7,605
Taxable Value	\$0	\$0	\$0
School Board			
Exemption Value	\$20,742	\$20,742	\$12,099
Taxable Value	\$0	\$0	\$0
City			
Exemption Value	\$9,201	\$8,365	\$7,605
Taxable Value	\$0	\$0	\$0
Regional			
Exemption Value	\$9,201	\$8,365	\$7,605
Taxable Value	\$0	\$0	\$0

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
05/11/2015	\$0	29621-2617	Corrective, tax or QCD; min consideration
02/01/2002	\$0	20235-3669	Sales which are disqualified as a result of examination of the deed
06/01/1993	\$1,100,000	15986-0226	Deeds that include more than one parcel

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

Version:



OFFICE OF THE PROPERTY APPRAISER

Generated On : 1/17/2020

Property Information

Folio: 16-7825-018-1700

Property Address: 901 SW 7 PL

Roll Year 2019 Land, Building and Extra-Feature Details

Land Information					
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
Total Value Land	PUD	9300	Square Ft.	3,862.00	\$23,172
TV Size Adjustment (-)	PUD	9300	Square Ft.	-405.00	(\$2,430)

Building Information						
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value

Extra Features			
Description	Year Built	Units	Calc Value

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Version:



OFFICE OF THE PROPERTY APPRAISER

Generated On : 1/17/2020

Property Information

Folio: 16-7825-018-1700

Property Address: 901 SW 7 PL

Full Legal Description
VILLAS OF PALM BAY
PB 145-26 T-18452
LOT 1 BLK 21
LOT SIZE 3457 SQ FT
FAU 16-7825-000-0070 & 0080
OR 20235-3669 02 2002 4

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
05/11/2015	\$0	29621-2617	Corrective, tax or QCD; min consideration
02/01/2002	\$0	20235-3669	Sales which are disqualified as a result of examination of the deed
06/01/1993	\$1,100,000	15986-0226	Deeds that include more than one parcel

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Version:

Attachment 2

SETTLEMENT AGREEMENT

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

VILLAGE OF PALM BAY HOMEOWNERS
ASSOCIATION, INC., a Florida not for profit
corporation,

CASE NO.: 19-36934 CA 01

GENERAL JURISDICTION DIVISION

Plaintiff

v.

MIAMI-DADE COUNTY,

Defendant.

SETTLEMENT AGREEMENT

COME NOW the parties hereto, Plaintiff VILLAGE OF PALM BAY HOMEOWNERS ASSOCIATION, INC., a Florida not for profit corporation ("PALM BAY"), and Defendant MIAMI-DADE COUNTY, a Political Subdivision of Florida ("the COUNTY") (collectively "the PARTIES"), and enter into this Settlement Agreement ("Agreement") with the terms and conditions expressed below:

WHEREAS, Plaintiff PALM BAY is a homeowner association and a Florida not-for-profit corporation, operating pursuant to the provisions of chapter 720, Florida Statutes, and doing business in Miami-Dade County, Florida; and

WHEREAS, PALM BAY filed an action to foreclose, titled *VILLAGE OF PALM BAY HOMEOWNERS ASSOCIATION, INC., a Florida not for profit corporation v. Defendant MIAMI-DADE COUNTY, a Political Subdivision of Florida*, in the Circuit Court of the Eleventh Judicial Circuit of Florida, in case number 19-36934 CA 01 ("hereafter the Action" or "this Action"); and

WHEREAS, the Action concerns property with the legal description:

Lot 1, Block 21, of Villas of Palm Bay, according to the Plat thereof, as recorded in Plat Book 145, at Page 26, of the Public Records of Miami-Dade County, Florida

WHEREAS, the above listed property ("the Property") is otherwise known by folio number 16-7825-018-1700; and

WHEREAS, the Action seeks to foreclose the Property pursuant to Florida Statutes chapter 720 for unpaid monthly maintenance fees (otherwise known as maintenance assessments); and

WHEREAS, the Property is an undeveloped lot; and

WHEREAS, the COUNTY is a political subdivision of the State of Florida; and

WHEREAS, the COUNTY is the current owner of the Property by virtue of a tax escheatment that occurred in 2015 pursuant to Florida Statute section 197.502, evidenced by Official Miami-Dade County Records book 29621 and page 2617; and

WHEREAS, although the Property is undeveloped, monthly maintenance fees accrue each month, which are due and payable to PALM BAY; and

WHEREAS, PALM BAY alleges that the past due arrears owed by the COUNTY for the Property are more than \$10,808.45 plus interest, attorney's fees, and costs; and

WHEREAS, PALM BAY recorded a CLAIM OF LIEN for the alleged arrearages, at Official Miami-Dade County Records book 31449 and page 4797; and

WHEREAS, if judgment were entered for PALM BAY in this Action, the Clerk of Court would attempt to auction the Property; and

WHEREAS, a foreclosure auction may, but will not necessarily result in a sale of the Property; and

WHEREAS, a foreclosure auction that results in a sale of the Property will not necessarily cover the arrearages on the Property, and interest, attorney's fees, and costs; and

WHEREAS, the Parties, in an effort to avoid time consuming and costly litigation, hereby consent to the terms and conditions of this Agreement as delineated below; and

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth in this Agreement, together with such other and good consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

TERMS AND CONDITIONS

1. **Incorporation of Recitals:** The above recitals are true and correct and incorporated into and made a part of this Agreement, and the parties agree and acknowledge that this Agreement and the releases herein are contractual and not merely a recital.

2. **Mutual Obligations:**

- i. **COUNTY Obligations:** Within fifteen (15) days of full execution of this Agreement, the COUNTY shall provide, for PALM BAY's execution, a declaration of restrictive covenants ("Covenant") in substantially the form attached hereto as Exhibit "A;" and within forty-five (45) days of full execution of this Agreement, the COUNTY shall record in the official records of Miami-Dade County the executed Covenant and an executed deed-in-lieu of foreclosure in substantially the form attached hereto as Exhibit "B" which shall convey the Property to PALM BAY.
- ii. **PALM BAY Obligations:** Within thirty (30) days of full execution of this Agreement, PALM BAY shall: execute and return to the COUNTY the Covenant to be recorded, which requires PALM BAY, for a period of thirty (30) years from the full execution of this Agreement, to use the Property solely as "designated open space," or as a "dog park," or in the alternative, to develop

and use, or cause the Property to be developed and used, solely as “affordable housing” or “workforce housing.” As used herein and in the Covenant, “designated open space,” shall mean exterior surface area consisting of an outdoor, at-grade space covered with sod and grass and which may also include landscape materials and trees, community gardens, and non-permanent amenities to complement the space such as benches and trash receptacles, and which shall be accessible to residents and visitors. As used herein and in the Covenant, “dog park” shall mean a “designated open space,” as defined herein, which is specifically authorized for the use of residents and visitors with dogs, and which may also include fencing to enclose the area, and additional non-permanent amenities to complement the space such as covered trash receptacles for disposal of animal waste, bag dispensers for animal waste disposal, water fountains, and which is subject to all regulations applicable to dog parks, dogs, or animals in general, if any, in the duly enacted laws of the State of Florida, Florida City, or duly enacted laws of Miami-Dade County that apply in incorporated areas of Miami-Dade County. As used herein, “affordable housing” shall be defined consistent with any definition of “affordable” provided by Florida Statute section 420.0004, as may be amended from time to time. As used herein, “workforce housing” shall be defined consistent with the definitions of “work-force housing unit or WHU” and “workforce housing target income range” provided in section 33-193.6 of the Code of Miami-Dade County (“the Code”), as amended from time to time. The deed shall be recorded by PALM BAY in the official public records of Miami-Dade County, Florida;

Within forty five (45) days of full execution of this Agreement, PALM BAY shall: dismiss this Action with prejudice; and record a satisfaction of the aforementioned CLAIM OF LIEN, which shall waive the arrearages of monthly maintenance fees and accumulated interest, as well as attorney's fees and costs.

3. **PALM BAY's Release of the County.** For the consideration and promises made herein, Plaintiff PALM BAY, and its successors, executors, agents, employees, assigns, and any and all other persons, firms, corporations, or other entities who may claim by or through Plaintiff PALM BAY, releases and forever discharges the COUNTY and its employees, officers, agents, successors and assigns, attorneys, or otherwise, from any and all claims, causes of action, demands, disputes and rights of whatever nature and kind, known or unknown, that PALM BAY has or claims to have in the past or present against the COUNTY related in any way to the Property and the allegations in the Complaint in this Action.

4. **COUNTY's Release of PALM BAY.** For the consideration and promises made herein, and subject to and except for the respective obligations and agreements of the Parties as set forth in this Agreement, the COUNTY, its successors, executors, agents, employees, assigns, subcontractors, sureties, suppliers, and any and all other persons, firms, corporations, or other entities who may claim by or through the COUNTY, releases and forever discharges Plaintiff PALM BAY and its employees, officers, agents, successors and assigns, attorneys, or otherwise, from any and all claims, causes of action, demands, disputes and rights of whatever nature and kind, known or unknown, related to the Property and the allegations in the Complaint in this Action, that the County has or claims to have in the past or present against Plaintiff PALM BAY.

5. **Effective Date, and Conditions Precedent to Effectiveness of this Agreement.**
The parties agree and acknowledge that this Agreement shall be first executed by PALM BAY and

shall thereafter be conditioned upon approval by the Board of County Commissioners (“the Board”), and if approved by the Board the Agreement shall thereafter be executed by the County Mayor or Mayor’s designee within twenty one (21) days from the date the Agreement is approved by the Board, and thereafter the Agreement shall become effective (“Effective Date”) upon the full execution of the Agreement by both Parties.

6. **Sovereign Rights.** It is expressly understood that notwithstanding any provisions of this Agreement and the COUNTY’s status as a party to this Agreement,

(a) The COUNTY retains all of its sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a county or city under Florida law and shall in no way be estopped from or be liable for withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations of whatever nature, which laws or regulations are or might be applicable to the planning, design, construction, development, or operation of any project on the Property, including but not limited to the rights, obligations, or prohibitions provided in section 8CC-7(d) of the Code of Miami-Dade County which provides that, “Notwithstanding any provision of this Code, no County or municipal officer, agent, employee or Board shall approve, grant or issue any operating permit, license, building permit, certificate of use and occupancy, municipal occupational licenses, platting action, or zoning action to any named violator with (i) unpaid civil penalties; (ii) unpaid administrative costs of hearing; (iii) unpaid County investigative, enforcement, testing, or monitoring costs; or (iv) unpaid liens, any or all of which are owed to Miami-Dade County pursuant to the provisions of the Code of Miami-Dade County, Florida;”

(b) The COUNTY shall not by virtue of this Agreement be obligated to grant any approvals of applications for building, zoning, planning or development under present or

future laws and ordinances of whatever nature applicable to the planning, design, construction, development, or operation of any project on the Subject Property; and

(c) Notwithstanding and prevailing over any contrary provision in this Agreement, any COUNTY covenant or obligation that may be contained in this Agreement shall not bind the Board, the COUNTY's Department of Regulatory and Economic Resources or its successor department, or any other COUNTY, Federal, or State department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the COUNTY or other applicable governmental agencies in the exercise of its police power.

7. **Attorneys' Fees, Costs, and Expenses.** The Parties shall be responsible for their own attorneys' fees, costs, and expenses incurred in connection with the settlement or defenses of their claims against each other in this Action.

8. **Governing Law and Enforcement.** This Agreement shall be construed, interpreted, enforced, and applied in accordance with Florida law without regard to its conflict of laws provisions. The Parties agree that any action to enforce this Agreement shall be brought in state court in Miami-Dade County, Florida.

9. **Construction.** The Parties represent and agree that they have participated equally in the negotiation of the terms and provisions set forth in this Agreement and that no presumptions or inference shall apply against any party hereto to its construction. The Parties declare that they have completely read the terms of this Agreement, that they have discussed the terms of the Agreement with legal counsel of their choice, and that they fully understand and voluntarily accept

the terms for the purpose of making a full and final compromise, adjustment and settlement of claims.

10. **Acknowledgment.** Everyone who signs this Agreement represents by signing it that each has fully reviewed the contents of this documentation, each understands the contents of the documentation, has had advice of counsel regarding the contents and legal effect of this documentation, is not relying on the representations of any other Party or the attorneys for the other Party in entering into this Agreement, executes this Agreement of his/her own free will and accord, and that each agrees to be fully bound by the terms and conditions of this Agreement, and that anyone signing this Agreement in a representative capacity has full authority to execute this Agreement in such representative capacity and to bind legally the Party for whom he or she signs.

11. **Advice of Counsel.** The Parties represent, by signing this Agreement, they have relied upon the advice of their respective attorneys, who are attorneys of their own choice, and that they have carefully read and understood the terms of this Agreement, and that those terms are fully understood and voluntarily accepted by them. Each Party has made such investigation of the facts pertaining to this Agreement and of all other matters as they deem necessary, and each Party agrees to be fully bound by the terms and conditions of this Agreement.

12. **Binding Effect.** This Agreement shall be binding upon the Parties hereto, their heirs, successors and/or assigns.

13. **Amendment.** No modification, waiver, amendment, discharge or change of this Agreement shall be valid, unless the same is in writing and signed by each of the Parties.

14. **Waiver.** The Parties agree that the waiver of any breach of this Agreement by any party shall not constitute a waiver of any other breach of this Agreement.

15. Headings. The headings used in this Agreement are solely for the convenience of the Parties and not to be used in the interpretation or construction of the Agreement.

16. Survival. The representations, covenants, and agreements of the Parties hereto made in this Agreement shall remain operative and survive the execution and delivery hereof.

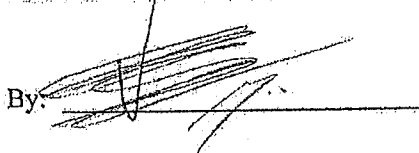
17. Severability. The Parties have attempted to create an Agreement that is lawful and enforceable in all respects. The validity of this Agreement shall not be affected by any subsequent changes in federal, state, or county law, whether through legislation or judicial interpretation, which create, eliminate or change the rights and obligations of the parties. However, if any provision of this Agreement is held to be invalid, void or unenforceable, the balance of the provisions shall, nevertheless, remain in full force and effect and shall in no way be affected, impaired or invalidated.

18. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute a single instrument. Signatures to this Agreement provided electronically shall be deemed original signatures.

19. Further Cooperation. Each of the Parties hereto shall execute such further documents reasonable and necessary in order to carry out the purpose and intent of this Agreement.

IN ACCEPTANCE WHEREOF, Plaintiff VILLAGE OF PALM BAY HOMEOWNERS ASSOCIATION, INC., and Defendant MIAMI-DADE COUNTY have set their respective hands as of the date and year appearing by their respective signatures:

VILLAGE OF PALM BAY
HOMEOWNERS ASSOCIATION, INC.,

By: 

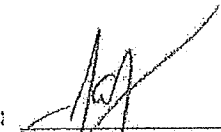
MIAMI-DADE COUNTY, Florida

By: _____
County Mayor or Designee

Print: Victor D. Silva

Title: President

Dated: February 11, 2021

By: 

Jose A. Torres, Esq.,
Attorney for PALM BAY
Cuevas, Garcia & Torres, P.A.
7300 N. Kendall Drive, Suite 680
Miami, FL 33156
jtorres@cuevaslaw.com

Dated: February 11, 2021

Print: _____

Dated: _____, 2021

By: _____

David Sherman, Esq.
Assistant County Attorney
David.ShermanCAO@miamidade.gov
As to Form and Legal Sufficiency

Dated: _____, 2021

EXHIBIT A

DECLARATION OF RESTRICTIVE COVENANTS

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Covenant") is made this _____ day of _____, 2021 ("Effective Date"), by Village of Palm Bay Homeowners Association, Inc. ("Palm Bay") a not-for-profit corporation under the laws of the State of Florida, and Miami-Dade County (the "County"), a political subdivision of the State of Florida.

WHEREAS, Palm Bay and the County, together (collectively referred to hereinafter as the "Parties"), hereby make, declare and impose on the land herein described, this Declaration of Restrictive Covenants (the "Declaration"), and the covenants running with the title to the land contained herein, which shall be binding on the Owners, all heirs, grantees, successors and assigns, personal representatives, mortgagees, and lessees of each of them, and against all persons claiming by, through or under them.

WHEREAS, pursuant to a Settlement Agreement between the Parties, attached hereto as **Exhibit "A"** and made a part hereof, the County has conveyed to Palm Bay a parcel of unimproved real property located at 901 SW 7 Place, Miami, Florida, 33130-3817 with the following folio number: 16-7825-018-1700, and legally described as follows:

Legal Description

Lot 1, Block 21, Villas of Palm Bay, according to the Plat thereof, as recorded in Plat Book 145, at Page 26 of the Public Records of Miami-Dade County

WHEREAS, the Parties hereby agree that the aforementioned Property shall be utilized solely as "designated open space," or as a "dog park," or in the alternative, for development and use solely as "affordable housing" or "workforce housing"; and

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Recitals: the recitals and restrictions set forth in this Covenant are hereby adopted by reference thereto and incorporated herein as fully set forth in this section.

2. Covenant in Lieu of Foreclosure: The Parties agree that this instrument shall remain in effect for a period of thirty (30) years, and any and all conveyances or transfers of all or any portion of the Property by Owners shall be subject to the terms and conditions of this Covenant as if any such grantee, successor or assign were a party hereto or a signatory hereof.
3. Covenant Running with the Land: This Covenant, once approved for legal form and sufficiency by the County Attorney, and accepted and approved by the Miami-Dade Board of County Commissioners and recorded by the Clerk of Courts, shall run with the land and be binding upon the heirs, successors, personal representative and assigns, and upon all owners, future owners, mortgages, and lessees, and others presently or in the future having any interest in the property, such that the Property shall be utilized solely as "designated open space," or as a "dog park," or in the alternative, shall be developed and used solely as "affordable housing" or "workforce housing." As used herein, "designated open space" shall mean exterior surface area consisting of an outdoor, at-grade space covered with sod and grass and which may also include landscape materials and trees, community gardens, and non-permanent amenities to complement the space such as benches and trash receptacles, and which shall be accessible to PALM BAY residents and visitors. As used herein, "dog park" shall mean a "designated open space," as defined herein, which is specifically authorized for the use of residents and visitors with dogs, and which may also include fencing to enclose the area, and additional non-permanent amenities to complement the space such as covered trash receptacles for disposal of animal waste, bag dispensers for animal waste disposal, water fountains, and which is subject to all regulations applicable to dog parks, dogs, or animals in general, if any, in the duly enacted laws of the State of Florida, Florida City, or duly enacted laws of Miami-Dade County that apply in incorporated areas of Miami-Dade County. As used herein, "affordable housing" shall be defined consistent with any definition of "affordable" provided by Florida Statute section 420.0004, as may be amended from time to time. As used herein, "workforce housing" shall be defined consistent with the definitions of "work-force housing unit or WHU" and "workforce housing target income range" provided in section 33-193.6 of the Code of Miami-Dade County ("the Code"), as amended from time to time.
4. Effective Date and Term of Covenant: The provisions of this instrument shall become effective upon approval by the Miami-Dade County Board of County Commissioners and recordation in the Public Records of Miami-Dade County,

Florida, and shall continue in full force and effect for a period of thirty (30) years. In the event of multiple ownership after the approval and recording of the Covenant, each of the subsequent owners shall be bound by the terms, provisions, and conditions of this Covenant.

5. Enforcement: The County is the beneficiary of these covenants and restrictions and as such may enforce these covenants and restrictions by an action in law or in equity, including without limitation a decree of specific performance or mandatory or prohibitory injunction, against any person or persons, entity or entities, violating or attempting to violate the terms of these covenants and restrictions.
6. Inspection: It is understood and agreed between the Parties that any inspector from Miami-Dade County shall have the right at any time during normal working hours to enter and investigate the use of the Property to determine if the conditions of this Declaration of Restrictive Covenants are being complied with.
7. Severability: If any covenant, restriction or provision contained in this Declaration is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other covenant, restriction, condition or provision contained herein, all of which shall remain in full force and effect. This document shall be construed in accordance with the laws of the State of Florida and the venue shall be Miami-Dade County, Florida.

Notice and Contact: Any notice required or permitted under this Declaration shall be in writing and shall be deemed to have been given, delivered and received when either (i) delivered in person to the agents designated herein below for that purpose, (ii) on the first business day after delivery to an overnight courier (e.g. Federal Express, Airborne) as evidenced by the sender's copy, addressed as set forth herein below, or (iii) three (3) days after deposited in the United States Mail, by certified mail, postage prepaid, return receipt requested, addressed to the other party. The addresses of the parties are as follows:

TO MIAMI-DADE COUNTY:

Miami-Dade County
Director
Internal Services Department
111 N.W. First Street, Suite 2460
Miami, Florida 33128

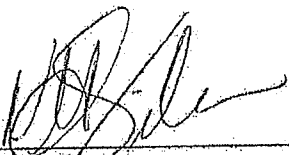
TO VILLAGE OF PALM BAY
HOMEOWNERS ASSOCIATION, INC.:

872 SW 8 Place
Florida City, Florida
33034

With a Copy to:

Village of Palm Bay
Homeowners Association
8200 NW 41 Street, Suite 200
Doral, Florida 33166

IN WITNESS WHEREOF, the Parties have caused this Declaration of Restrictive Covenants to be executed by its duly authorized officers on the date and year below.



Witness Signature
Morayma G. Silva

Witness Name Printed

Village of Palm Bay Homeowners Association
a Florida not for profit corporation

By: 

[Signature]
Name: Victor D. Silva / President

[Print Name / Title]

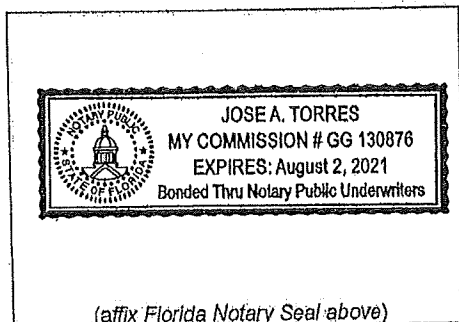
State of Florida
County of Miami-Dade

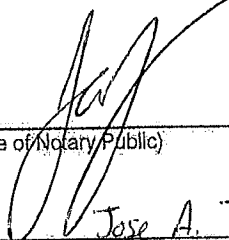
Sworn to (or affirmed) and subscribed before me by means of (how the individual appeared check one): (how the individual appeared check one):

☒ physical presence ☐ online notarization this 11 day of February, 2021.
(date) (month) (year)

by Victor D. Silva
(name of individual swearing or affirming)
as President for Village of Palm Bay Homeowners Association, Inc.
(type of authority, e.g., Officer, Attorney-in Fact) (Name of party on behalf of whom executed)

Individual identified by: ☒ personal knowledge ☐ satisfactory evidence _____
(type)





(Signature of Notary Public)
Jose A. Torres

(typed, printed, or stamped name of Notary Public)

MIAMI-DADE COUNTY,
a Political Subdivision

By: _____
Daniella Levine Cava
Mayor, Miami-Dade County

Approved for legal sufficiency: _____

The foregoing was authorized by Resolution No.: _____ approved by the Board of
County Commissioners of Miami-Dade County, Florida, on the _____ day of _____,
2021.

EXHIBIT B

DEED

Instrument prepared by and Return To:
Miami-Dade County Internal Services Department
Real Estate Development Division
111 N.W. 1 Street, Suite 2460
Miami, Florida 33128-1907

Folio No. : Portion of 16-7825-018-1700

COUNTY DEED

THIS DEED, made this day of , 2021, by Miami-Dade County, Florida, a political subdivision of the State of Florida, (hereinafter "County"), whose address is: Stephen P. Clark Center, 111 N.W. 1st Street, Suite 17-202, Miami, Florida 33128, and Village of Palm Bay Homeowner's Association, Inc., a Florida not-for-profit corporation (hereinafter "Grantee" or "Palm Bay"), whose address is: 8200 N.W. 41 Street, Suite 200, Doral, Florida 33166.

WITNESSETH:

That the said County, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration to it in hand paid by Grantee, receipt whereof is hereby acknowledged, has granted, bargained and sold to the Grantee, his or her heirs and assigns forever, the following legally described land lying and being in Miami-Dade County, Florida, (hereinafter "Property"):

Legal Description

**Lot 1, Block 21, Villas of Palm Bay, according to the Plat thereof, as recorded
in Plat Book 145, at Page 26 of the Public Records of Miami-Dade County**

This grant conveys only the interest of the County and its Board of County Commissioners in the Property herein described and shall not be deemed to warrant the title or to represent any statement of facts concerning the same. This grant is made subject to the restriction that the Property be utilized solely as an open space in common for all occupants of Palm Bay and the general public, or as a dog park for all occupants and visitors or Palm Bay, or for the purposes of building an affordable housing dwelling or workforce housing unit and for no other purposes pursuant to a Declaration of Restrictive Covenants dated _____ and recorded in Official Record Book ____ Page _____ of the Public Records of Miami-Dade County.

IN WITNESS WHEREOF Miami-Dade County has caused this instrument to be executed in its name by its Board of County Commissioners acting by the Chair or Vice Chair of said board, on 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: _____
Its Chairperson (or Vice Chairperson)

Approved for legal sufficiency: _____

The foregoing was authorized by Resolution No.: _____ approved by the Board of County Commissioners of Miami-Dade County, Florida, on the _____ day of _____, 2021.



MEMORANDUM

(Revised)

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

DATE: April 20, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(F)(9)

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. 8(F)(9)
4-20-21

RESOLUTION NO. R-285-21

RESOLUTION APPROVING A SETTLEMENT AGREEMENT WITH THE VILLAGE OF PALM BAY HOMEOWNER'S ASSOCIATION, INC. ("PALM BAY"), A FLORIDA NOT-FOR-PROFIT CORPORATION, AND APPROVING A DECLARATION OF RESTRICTIVE COVENANTS AND CONVEYANCE TO PALM BAY OF COUNTY-OWNED UNIMPROVED PROPERTY LOCATED AT 901 SW 7 PLACE, FLORIDA CITY, FLORIDA, IN LIEU OF FORECLOSURE, AT NO COST TO THE COUNTY; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE SETTLEMENT AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, AND TO EXERCISE ALL OTHER RIGHTS CONTAINED THEREIN; AUTHORIZING THE CHAIRPERSON OR VICE-CHAIRPERSON OF THE BOARD OF COUNTY COMMISSIONERS TO EXECUTE A COUNTY DEED

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. This Board finds that is in the best interests of the County, for the reasons expressed in the accompanying memorandum, to and does hereby approve: (1) the terms of the Settlement Agreement between Miami-Dade County and the Village of Palm Bay Homeowner's Association, Inc. ("Palm Bay"), a Florida not-for-profit corporation, in substantially the form attached to the accompanying memorandum as Attachment 2 and incorporated herein by reference, at no cost to the County; (2) the conveyance of County-owned unimproved property located at 901 SW 7 Place, Florida City, Florida, (the "property") as shown in Attachment 1 to the accompanying memorandum, in lieu of foreclosure, to Palm Bay via County Deed, in substantially the form

attached as Exhibit B to the Settlement Agreement (Attachment 2 to the accompanying memorandum), as the property is surplus and not needed for a County purpose; (3) the terms of a Declaration of Restrictive Covenants, in substantially the form attached as Exhibit A to the Settlement Agreement (Attachment 2 to the accompanying memorandum), limiting the use of the property to publicly-accessible open space or for the provision of affordable or workforce housing; and (4) authorizes the County Mayor or the County Mayor's designee to execute the Settlement Agreement and Declaration of Restrictive Covenants and exercise and enforce all rights contained therein on behalf of Miami-Dade County.

Section 2. Pursuant to section 125.411, Florida Statutes, this Board authorizes the Chairperson or Vice-Chairperson of the Board to execute the County Deed on behalf of Miami-Dade County.

Section 3. Pursuant to Resolution No. R-974-09, this Board: (a) directs the County Mayor or County Mayor's designee to record or ensure the recording in the Public Records of Miami-Dade County, Florida, of the County Deed and Declaration of Restrictive Covenants authorized herein, and to provide a recorded copy of the same to the Clerk of the Board; and (b) directs the Clerk of the Board to attach and permanently store a copy of the executed County Deed and Declaration of Restrictive Covenants together with this resolution. This Board further directs the County Mayor or County Mayor's designee to provide the Property Appraiser's Office with a copy of the executed and recorded County Deed within 30 days of its execution.

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

Jose "Pepe" Diaz, Chairman	aye		
Oliver G. Gilbert, III, Vice-Chairman	aye		
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 20th day of April, 2021. 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: Melissa Adames
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in dark ink, appearing to be "DS" inside a circular flourish.

David Sherman



CFN 2021R0420045
OR BK 32562 Pgs 3736-3737 (2Pgs)
RECORDED 06/14/2021 12:32:43
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Instrument prepared by and Return To:
Miami-Dade County Internal Services Department
Real Estate Development Division
111 N.W. 1 Street, Suite 2460
Miami, Florida 33128-1907

Folio No.: Portion of 16-7825-018-1700

COUNTY DEED

THIS DEED, made this 14 day of June, 2021, by Miami-Dade County, Florida, a political subdivision of the State of Florida, (hereinafter "County"), whose address is: Stephen P. Clark Center, 111 N.W. 1st Street, Suite 17-202, Miami, Florida 33128, and Village of Palm Bay Homeowner's Association, Inc., a Florida not-for-profit corporation (hereinafter "Grantee" or "Palm Bay"), whose address is: 8200 N.W. 41 Street, Suite 200, Doral, Florida 33166.

WITNESSETH:

That the said County, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration to it in hand paid by Grantee, receipt whereof is hereby acknowledged, has granted, bargained and sold to the Grantee, his or her heirs and assigns forever, the following legally described land lying and being in Miami-Dade County, Florida, (hereinafter "Property"):

Legal Description

Lot 1, Block 21, Villas of Palm Bay, according to the Plat thereof, as recorded in Plat Book 145, at Page 26 of the Public Records of Miami-Dade County

This grant conveys only the interest of the County and its Board of County Commissioners in the Property herein described and shall not be deemed to warrant the title or to represent any statement of facts concerning the same. This grant is made subject to the restriction that the Property be utilized solely as an open space in common for all occupants of Palm Bay and the general public, or as a dog park for all occupants and visitors of Palm Bay, or for the purposes of building an affordable housing dwelling or workforce housing unit and for no other purposes pursuant to a Declaration of Restrictive Covenants dated 6-14-21 and recorded in Official Record Book 32562 Page 3711 of the Public Records of Miami-Dade County.



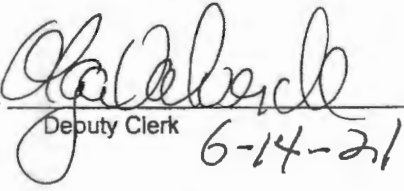
IN WITNESS WHEREOF Miami-Dade County has caused this instrument to be executed
in its name by its Board of County Commissioners acting by the Chair or Vice Chair of said board,
on the day and year aforesaid.

(OFFICIAL SEAL)



ATTEST:

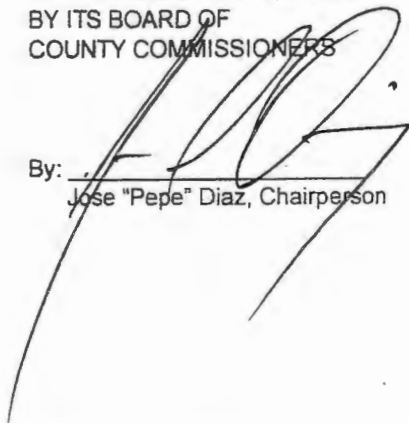
HARVEY RUVIN, CLERK

By: 

Deputy Clerk

6-14-21

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

By: 

Jose "Pepe" Diaz, Chairperson

Approved for legal sufficiency



The foregoing was authorized by Resolution No.: R-285-21 approved by the Board of County Commissioners of Miami-Dade County, Florida, on the 20th day of April 2021.

STATE OF FLORIDA, COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that this is a true and correct copy of the original.

Original

JUL 14 2021

Notary Public
Clerk of the Board of County Commissioners

DC

