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RESOLUTION NO. 2016-28

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO SECTION 30-30.15, ENTITLED TRANSFER OF DEVELOPMENT RIGHTS (TDR); TRANSFERRING 85 RESIDENTIAL UNITS FROM 17901 OLD CUTLER ROAD, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT A; TO 17777 OLD CUTLER ROAD, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT B; AND ACCEPTING BY THE VILLAGE, AS A CONDITION THEREOF, THE OWNERSHIP OF PARCELS OF APPROXIMATELY 40± ACRES, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT C, FOR PUBLIC FACILITIES, PARKS, AND CONSERVATION PURPOSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Applicant, 17777 Old Cutler Road, LLC, made an application to transfer the development rights of 85 residential units from 17901 Old Cutler Road (sender site), as more particularly described at Attachment A, to 17777 Old Cutler Road (receiver site), as more particularly described at Attachment B; and

WHEREAS, the sender site is a 22± acre parcel of undeveloped land which contains wetlands, pine up-lands, and native fauna and vegetation; and the receiver site is over 40± acres and is developed with office buildings and is permitted to have multifamily uses; and

WHEREAS, in transferring the development right to the receiver property the applicant has offered and intends to deed the property together with other lands of approximately 40± acres, as more particularly described at Attachment C, to the Village of Palmetto Bay; and

WHEREAS, by transferring the development rights from the sender site and deeding the land to the Village of Palmetto Bay, it becomes available for a passive park and conservation area with only ancillary structures, and the north 1 ½ acres of the 22± parcel, can be made available to locate a much needed fire rescue facility; and

WHEREAS, the request is consistent with and in furtherance of the recognized purpose of the TDR program including the creation to additional opens space, preservation of environmentally sensitive lands, and public facilities; and

WHEREAS, the applicant has agreed to transfer approximately 40± acres of land for the purpose of providing for parks, conservation, and public facilities; and

WHEREAS, once development rights are transferred, they are not available for private development on the sender site; and

WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at Village Hall, 9705 East Hibiscus Street, on March 7, 2016 and May 2, 2016; and

1  
2       **WHEREAS**, the Mayor and Village Council finds, based on substantial competent evidence  
3 in the record, that the application for the transfer of development rights is consistent with the  
4 Village of Palmetto Bay's Comprehensive Plan and the applicable Land Development Regulations;  
5 and,  
6

7       **WHEREAS**, based on the foregoing finding, the Mayor and Village Council determined to  
8 grant the application, as provided in this resolution.  
9

10       **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE**  
11 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**  
12

13       **Section 1.     Quasi-judicial.** A public hearing on the present applications were held on  
14 March 7, 2016, and May 2, 2016, in accordance with the Village's "Quasi-judicial Hearing  
15 Procedures". Pursuant to the testimony and evidence presented during the hearing, the Village  
16 Council makes the following findings of fact, conclusions of law and final order.  
17

18       **Section 2.     Recitals.** The above recitals are true and correct and incorporated herein by  
19 this reference.  
20

21       **Section 3.     Findings of fact.**  
22

23       1.       The transfer of development rights is consistent with the Village's Comprehensive  
24 Plan, as further specified in the Analysis Section of the Village's Staff report.  
25

26       2.       The rules that govern transfer of development rights are at Section 30-30.15 of the  
27 Land Development Regulations. A review of that Code, as evidenced in the analysis of staff, which  
28 is incorporated by reference into this resolution, and after hearing the applicant and applicant's  
29 experts, the Village Council found the request consistent with those criteria.  
30

31       3.       The Village adopts and incorporates by reference the Planning & Zoning  
32 Department staff report, which expert report is considered competent substantial evidence.  
33

34       4.       The applicant has agreed to all conditions in the section entitled Order.  
35

36       5.       The Village Council had no substantive disclosures regarding ex-parte  
37 communications and the applicant raised no objections as to the form or content of any disclosures  
38 by the Council.  
39

40       **Section 4.     Conclusions of law.**  
41

42       The transfer of development rights application was reviewed pursuant to Section 30-30.15(f)  
43 of the Village of Palmetto Bay's Code of Ordinances, and was found to be conditionally consistent.  
44



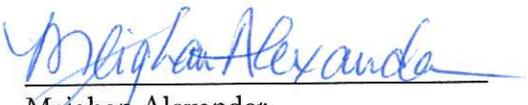
1 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE  
2 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

3  
4  
5   
6 Dexter W. Lehtinen  
7 Village Attorney

8  
9  
10 FINAL VOTE AT ADOPTION:

- 11 Council Member Karyn Cunningham NO
- 12 Council Member Tim Schaffer YES
- 13 Council Member Larissa Siegel Lara YES
- 14 Vice-Mayor John DuBois NO
- 15 Mayor Eugene Flinn YES

16  
17  
18 This Resolution was filed in the Office of the Village Clerk on this 12<sup>th</sup> day of May, 2016.

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25   
26 Meighan Alexander  
27 Village Clerk  
28  
29

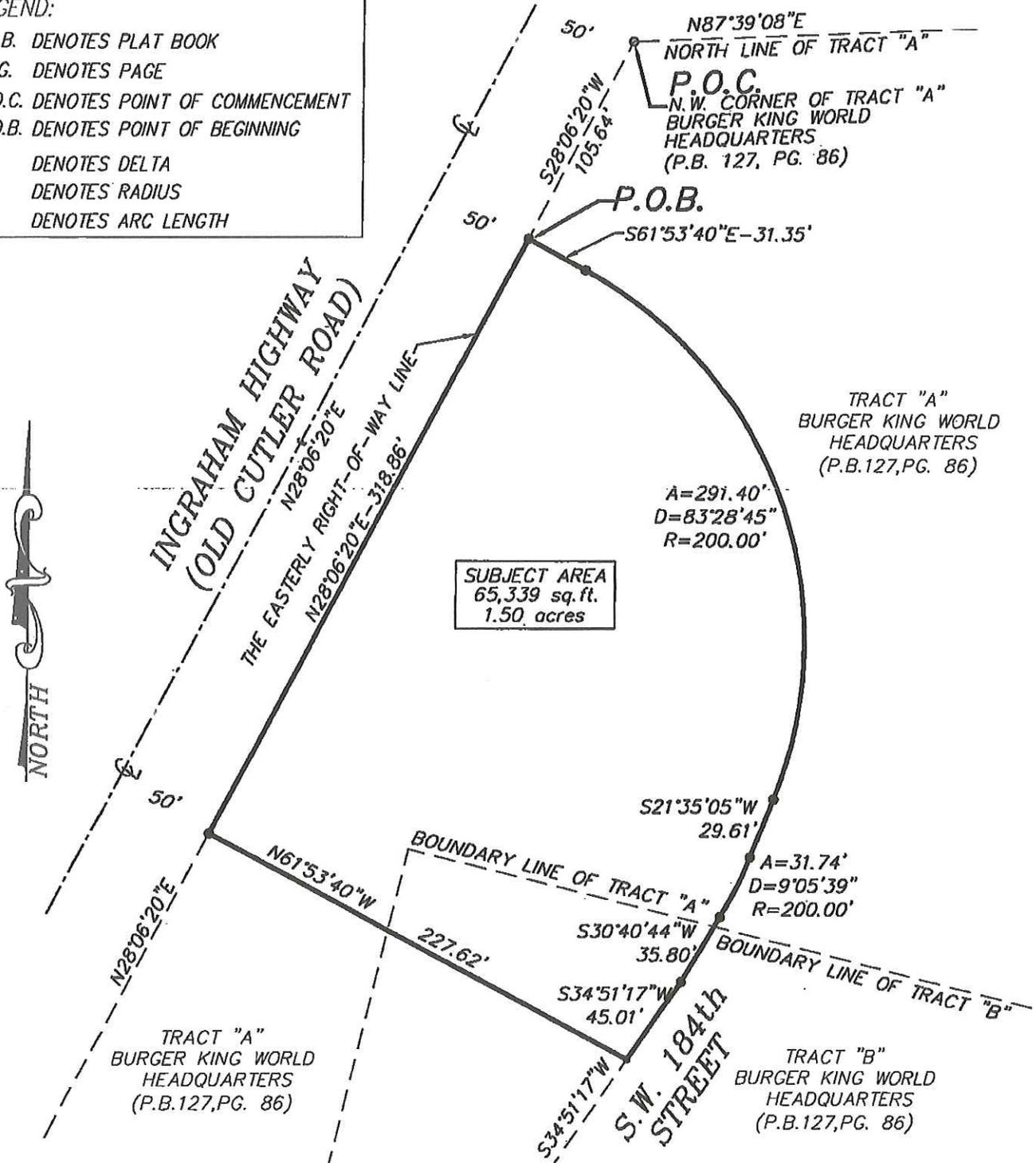


# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## EXHIBIT " — "

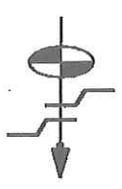
### LEGEND:

- P.B. DENOTES PLAT BOOK
- PG. DENOTES PAGE
- P.O.C. DENOTES POINT OF COMMENCEMENT
- P.O.B. DENOTES POINT OF BEGINNING
- D DENOTES DELTA
- R DENOTES RADIUS
- A DENOTES ARC LENGTH



NOT TO SCALE

SHEET 1 OF 2 SHEETS



*Schwabke-Shiskin & Associates, Inc.*  
 LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025  
 PHONE No.(954)435-7010 FAX No. (954)438-3288  
 ORDER NO. 203019  
 DATE: JULY 14, 2014  
 THIS IS NOT A " BOUNDARY SURVEY"  
 CERTIFICATE OF AUTHORIZATION No. LB-87

PREPARED UNDER MY SUPERVISION:  
  
 JOSE G. HERNANDEZ ASSISTANT VICE-PRESIDENT  
 FLORIDA PROFESSIONAL LAND SURVEYOR No. 6952

REVISIONS

# LEGAL DESCRIPTION TO ACCOMPANY SKETCH

## EXHIBIT " " "

A PORTION OF TRACT "A" AND TRACT "B", "BURGER KING WORLD HEADQUARTERS", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 127 AT PAGE 86, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID TRACT "A"; THENCE SOUTH 28 DEGREES 06 MINUTES 20 SECONDS WEST, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INGRAHAM HIGHWAY (OLD CUTLER ROAD), FOR A DISTANCE OF 105.64 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE RUN SOUTH 61 DEGREES 53 MINUTES 40 SECONDS EAST FOR A DISTANCE OF 31.35 FEET TO THE POINT OF CURVATURE WITH A CIRCULAR CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 200.00 FEET; THENCE ALONG SAID CURVE TO THE RIGHT FOR AN ARC DISTANCE OF 291.40 FEET THROUGH A CENTRAL ANGLE OF 83 DEGREES 28 MINUTES 45 SECONDS TO A POINT OF TANGENCY; THENCE SOUTH 21 DEGREES 35 MINUTES 05 SECONDS WEST FOR A DISTANCE OF 29.61 FEET TO THE POINT OF CURVATURE WITH A CIRCULAR CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 200.00 FEET; THENCE ALONG SAID CURVE TO THE RIGHT FOR AN ARC DISTANCE OF 31.74 FEET THROUGH A CENTRAL ANGLE OF 9 DEGREES 05 MINUTES 39 SECONDS TO A POINT OF TANGENCY; THENCE SOUTH 30 DEGREES 40 MINUTES 44 SECONDS WEST FOR A DISTANCE OF 35.80 FEET; THENCE SOUTH 34 DEGREES 51 MINUTES 17 SECONDS WEST FOR A DISTANCE OF 45.01 FEET; THENCE NORTH 61 DEGREES 53 MINUTES 40 SECONDS WEST FOR A DISTANCE OF 227.62 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF INGRAHAM HIGHWAY (OLD CUTLER ROAD); THENCE NORTH 28 DEGREES 06 MINUTES 20 SECONDS EAST, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INGRAHAM HIGHWAY (OLD CUTLER ROAD), FOR 318.86 FEET TO THE POINT OF BEGINNING.

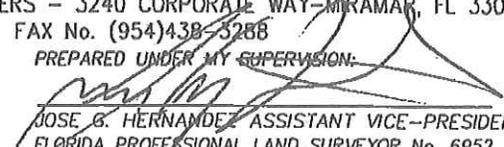
SAID PARCEL OF LAND CONTAINS 65,339 SQUARE FEET MORE OR LESS (1.50 ACRES MORE OR LESS)

LYING AND BEING IN SECTION 35, TOWNSHIP 55 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA.

### NOTES:

- 1) BEARINGS SHOWN HEREON REFER TO AN ASSUMED BEARING OF NORTH 28°06'20" EAST, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INGRAHAM HIGHWAY (OLD CUTLER ROAD).
- 2) ORDERED BY: GROUPER FINANCIAL, INC.
- 3) AUTHENTIC COPIES OF THIS SKETCH AND LEGAL DESCRIPTION MUST BEAR THE EMBOSSED SEAL OF THE ATTESTING PROFESSIONAL LAND SURVEYOR.

SHEET 2 OF 2 SHEETS

	<p><i>Schwabke-Shiskin &amp; Associates, Inc.</i>                  LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025                  PHONE No.(954)435-7010 FAX No. (954)438-5288                  ORDER NO. <u>203019</u>                  DATE: <u>JULY 14, 2014</u>                  THIS IS NOT A " BOUNDARY SURVEY"                  CERTIFICATE OF AUTHORIZATION No. LB-87</p>	<p>REVISIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td> </td></tr> </table>							
<p>PREPARED UNDER MY SUPERVISION:                    JOSE G. HERNANDEZ ASSISTANT VICE-PRESIDENT                  FLORIDA PROFESSIONAL LAND SURVEYOR No. 6952</p>									

# Attachment B Receiver Site



# Attachment C Donation Site

