

RESOLUTION NO. 2018-33

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CORAL REEF PARK AND PALMETTO BAY PARK; PROVIDING FOR RESTRICTIVE COVENANTS RUNNING WITH THE LAND AT BOTH CORAL REEF PARK AND PALMETTO BAY PARK, PROHIBITING THE CONSTRUCTION OF ANY ADDITIONAL TEAM SPORTS FIELDS OR RELATED SUPPORTING FACILITIES FOR THE NEXT TEN YEARS, EXCEPT UPON UNANIMOUS VOTE OF FIVE VILLAGE COUNCIL MEMBERS; AND PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Councilmember David Singer)

WHEREAS, the team sports field facilities currently in existence at Coral Reef Park and Palmetto Bay Park are sufficient for the recreational needs of the community; and

WHEREAS, construction of additional sports ball fields at these parks would be disruptive to adjoining neighbors; and

WHEREAS, a restrictive covenant running with the land with respect to each park would provide assurances to neighbors that no such additional construction would occur within the next ten years, except by unanimous vote of five Village Councilmembers.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA,

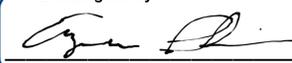
Section 1. (a) The Village Council hereby adopts restrictive covenants running with the land for both Coral Reef Park and of Palmetto Bay, prohibiting new construction of team ball fields and related facilities, for a period of ten years, except by unanimous vote of five Village Councilmembers, as provided in the attached Exhibit "A".

(b) The Manager is authorized and directed to complete and record such covenants with respect to each park.

1 **Section 2.** This Resolution shall take effect immediately upon
2 adoption.

3
4 **PASSED AND ADOPTED** this 5th day of March, 2018.

5
6
7 DocuSigned by:
8 *Missy Arocha*
9 _____
10 Missy Arocha
11 Village Clerk

7 DocuSigned by:
8 
9 _____
10 Eugene Flinn
11 Mayor

12
13 **APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE**
14 **USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:**

15
16
17 DocuSigned by:
18 *Dexter W. Lehtinen*
19 _____
20 Dexter W. Lehtinen
21 Village Attorney

22
23 **FINAL VOTE AT ADOPTION:**

- 24 Council Member Karyn Cunningham YES
- 25 Council Member David Singer YES
- 26 Council Member Larissa Siegel Lara YES
- 27 Vice-Mayor John DuBois YES
- 28 Mayor Eugene Flinn YES

This instrument is prepared by
(and after recording)
please return this instrument to:
Dexter W. Lehtinen
Lehtinen-Schultz PLLC
1111 Brickell Avenue, Suite 2200
Miami FL 33131

Reserved for Recording

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS (the "**Declaration**"), is made this day _____ of _____, 2018, by the Village of Palmetto Bay, a Florida municipality, (the "**VILLAGE**"), in favor of the Citizens of the Village of Palmetto Bay, Florida (the "**THE CITIZENS**").

WHEREAS, the VILLAGE is the fee simple title holder to that certain properties located at _____, Florida, more particularly described on **Exhibit "A"** ("Coral Reef Park") and _____, Florida, more particularly described on **Exhibit "B"** ("Palmetto Bay Park")(hereinafter jointly the "**Property**") attached hereto and incorporated herein, which is the subject of development; and

WHEREAS, in order to assure the THE CITIZENS that the representations made by the VILLAGE to them will be abided by, the VILLAGE freely, voluntarily, knowingly, and without duress, makes the following Declaration of Restrictions covering and running with the Property; and

NOW, THEREFORE, VILLAGE voluntarily covenants and agrees that the Property shall be subject to the following restrictions that are intended and shall be deemed to be a covenant running with the land and binding upon the VILLAGE, and their heirs, successors, and assigns, as follows:

1. **Recitals**. The foregoing recitals are true and correct and are incorporated herein as if repeated at length.

2. **VILLAGE Restrictions**. VILLAGE covenants the following:

a. There shall be no further ball fields (including without limitation, baseball, volleyball, soccer, football, basketball, lacrosse, or any other field sport fields) constructed on the property for the term of the covenant, nor shall there any new facilities supportive of existing ball fields (including without limitations, bathrooms, shelters, lighting polls or equipment, stands, tribunes, bleachers, vending facilities) be constructed during the term of the covenant.

~~b. Except for the ball fields and facilities already existing on the date of this covenant, the Property shall be used as a passive park without~~

Declaration of Restrictions
Coral Reef Park, Palmetto Bay Park

~~further active sports fields.~~

3. **Covenant Running with the Land.** This Declaration on the part of VILLAGE shall constitute a covenant running with the land and shall be recorded, by the VILLAGE and at VILLAGE'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 VILLAGE, and its heirs, successors, and assigns until such time as the Declaration is terminated, modified or released. These restrictions shall run in favor of and to the benefit of the THE CITIZENS. These restrictions during their lifetime shall be for the benefit of, and be a limitation upon, all present and future VILLAGES of the Property and for the public welfare.

4. **Term of Covenant.** The provisions of this Declaration shall become effective upon its recordation in the Public Records of Miami-Dade County, Florida, and shall continue in effect for a period of ten (10) years after the date of such recordation, unless this Covenant is released in accordance with terms in Section 5 below, or rendered null and void as provided in Section 3(d) above.

5. **Modification, Amendment, Release.** An affirmative vote of five council persons (unanimous, and with five votes) of the Village shall be required to approve any Modification, Amendment or Release of this Declaration. This Declaration may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then VILLAGE(s) of the fee simple title to the Property, or any portion thereof.

6. **Enforcement.** Enforcement shall be by the THE CITIZENS by a civil action against any parties or person violating, or attempting to violate, any of the covenants contained herein. This enforcement provision shall be in addition to any other remedies available at law, in equity, or both.

7. **Election of Remedies.** All rights, remedies, and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

8. **Severability.** Invalidation of any one of these covenants by judgment of Court shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect.

9. **Recording.** This Covenant shall be filed of record in the Public Records of Miami-Dade County, Florida by the VILLAGE, at the cost of the VILLAGE. This Declaration shall not be effective or enforceable until recorded.

10. The undersigned represent and warrant that they have the authority to make this agreement and bind the VILLAGE and THE CITIZENS to the terms of this Agreement.

Declaration of Restrictions
Coral Reef Park, Palmetto Bay Park

Exhibit A

Declaration of Restrictions
Coral Reef Park, Palmetto Bay Park

Exhibit B