

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING A FIRST AMENDMENT TO DEVELOPMENT AGREEMENT AMONG F71-1, LLC, F69-1, LLC, LENNAR HOMES, LLC, AND THE TOWN OF MIAMI LAKES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AUTHORIZATION; PROVIDING FOR EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, on March 28, 2011, the Town of Miami Lakes (the “Town”) Council adopted Resolution No. 11-883, which approved a Chapter 163, Florida Statutes, Development Agreement (the "Development Agreement") concerning the future development of certain Property more particularly defined therein as “Parcel A,” “Parcel B,” and “Parcel C;” and

**WHEREAS**, the parties to the original Development Agreement were F71-1, LLC, F69-1, LLC and the Town; and

**WHEREAS**, F71-1, LLC and F69-1, LLC are the legal and equitable owners of those certain parcels of land, located at the Northwest and Northeast corners of Northwest 87 Avenue and Northwest 154 Street within the boundaries of the Town and identified by Miami-Dade County Tax Folio No. 32-2016-000-0020 (“Parcel C” or “Dunnwoody Lake Commercial Area”) and 32-2015-001-0500 (“Parcel B” or “Dunnwoody Forest”), except for the portion of Parcel B comprised of approximately 5.19 acres that was conveyed by F69-1, LLC to the Town and accepted by the Town via Resolution No. 15-1337, as set forth in the deed recorded on March 30, 2016 in Miami-Dade County Official Records Book 30017, Page 3590; and

**WHEREAS**, on January 7, 2016, Lennar Homes, LLC (“Lennar”) acquired from F71-1, LLC and became the developer of that certain parcel of land, located at the Northwest corner of Northwest 87 Avenue and Northwest 154 Street within the boundaries of the Town, as identified by Miami-Dade County Tax Folio No. 32-2016-000-0040 and as identified in Miami-Dade County Official Records at Plat Book 172 Page 35 (“Parcel A” or “Dunnwoody Lake Residential Area”); and

**WHEREAS**, pursuant to Sections 9 and 10 of the Development Agreement, the first developer (“First Developer”) of any of the three parcels identified in the Development Agreement is required to complete certain roadway infrastructure improvements to achieve a transportation final concurrency determination (“Roadway Improvements”); and

**WHEREAS**, after approving the Development Agreement, on February 3, 2015, by Resolution No. 15-1281, the Town commissioned an Alternative to Concurrency Study to encourage multimodal concurrency mitigation to supplement more traditional on and off-site

transportation improvements (such as those contemplated in Section 9(b) of the Development Agreement), and determine methods to allow for the mitigation of transportation impacts of development that will more equitably fund multimodal mobility improvements rather than only automobile related improvements, as well as encourage better quality development and be more business friendly by providing for a simpler and less time-intensive approval process; and

**WHEREAS**, on November 3, 2015, the Town adopted Resolution No. 15-1336, which established that F71-1, LLC could satisfy the Town's transportation concurrency requirements for the development of the Dunnwoody Lake Residential Area by voluntarily selecting from a number of alternatives, including providing for alternative mitigation as set forth in the Alternative to Concurrency Study, if adopted by the Town Council; and

**WHEREAS**, on April 16, 2016, the Town Council adopted Ordinance No. 16-192 (the "Mobility Fee Ordinance"); and

**WHEREAS**, Section 13-2009(g) of the Mobility Fee Ordinance provides that, "a property owner with an existing transportation concurrency determination or determination of vested rights may voluntarily, subject to acceptance by the Town, choose to forego that previous determination and instead be subject to [the] Mobility Fee Ordinance;" and

**WHEREAS**, Lennar requested that the Town reaffirm the findings of Resolution No. 15-1336 by accepting its payment of the applicable mobility fee under the Mobility Fee Ordinance in lieu of the transportation concurrency determination made under the Development Agreement; and

**WHEREAS**, on June 7, 2016, the Town Council adopted Resolution No. 16-1383, confirming that Lennar could satisfy the Town's transportation concurrency requirements for the residential development of the Property by paying the applicable mobility fee under the Mobility Fee Ordinance; and

**WHEREAS**, a dispute has arisen between F71-1, LLC, F69-1, LLC, and the Town concerning F71-1, LLC and F69-1, LLC's remaining obligations regarding the Roadway Improvements, which dispute is pending in Miami-Dade Circuit Court and styled *F71-1, LLC and F69-1, LLC v. Town of Miami Lakes* (Case No.: 2016-015279-CA-01) (the "Breach of Contract Lawsuit"); and

**WHEREAS**, disputes have also arisen between F71-1, LLC, Town Councilmembers and the Town concerning alleged violations of Chapter 119, Florida Statutes (Florida's Public Records Act), which disputes are pending in Miami-Dade Circuit Court and are styled as follows (collectively, the "Public Records Lawsuits"): *F71-1, LLC v. Ceasar Mestre* (Case No.: 2017-006866-CA-01); *F71-1, LLC v. Manny Cid* (Case No.: 2017-006887-CA-01); *F71-1, LLC v. Tim Daubert* (Case No.: 2017-006885-CA-01); *F71-1, LLC v. Tony Lama* (Case No.: 2017-006891-

CA-01); *F71-1, LLC v. Frank Mingo* (Case No.: 2017-006892-CA-01); and *F71-1, LLC v. Nelson Rodriguez* (Case No.: 2017-006900-CA-01); and

**WHEREAS**, the Town, F71-1, LLC, and F69-1, LLC have agreed to settle the Breach of Contract Lawsuit and the Public Records Lawsuits; and

**WHEREAS**, on July 25, 2017, the Town Council adopted Resolution No. 17-1467 approving and ratifying the terms and conditions of a settlement agreement in the Breach of Contract Lawsuit and the Public Records Lawsuits; and

**WHEREAS**, subsequent to the adoption of Resolution No. 17-1467, the Town, F71-1, LLC, and F69-1, LLC engaged in further settlement discussions and agreed to revise their agreement, which, although approved by the Town Council, had not been executed by any of the parties; and

**WHEREAS**, on October 18, 2017, the Town Council adopted Resolution No. 17-1488 approving and ratifying the terms and conditions of a revised settlement agreement in the Breach of Contract Lawsuit and the Public Records Lawsuits (the “Settlement”); and

**WHEREAS**, the Settlement requires that the Development Agreement be modified to reflect the changes contemplated by the Settlement, which confirm the actions taken by the Town in Resolution No. 16-1383; and

**WHEREAS**, the Town Council has considered the First Amendment to the Development Agreement, attached hereto as Exhibit “A,” at two duly and properly noticed public hearings on November 15, 2017 and December 5, 2017, in compliance with Section 163.3225 of the Florida Local Government Development Agreement Act; and

**WHEREAS**, the Town Council finds that the First Amendment to the Development Agreement is consistent with the Town’s Comprehensive Plan and land development regulations; and

**WHEREAS**, the Town Council has determined that it is in the public interest to address the issues covered by the First Amendment to the Development Agreement in a comprehensive manner and at two public hearings, in compliance with all applicable laws, ordinances, plans, rules and regulations of the Town, while allowing the F71-1, LLC, F69-1, LLC, and Lennar to proceed in the development of the Property in accordance with existing laws and policies, subject to the terms of the First Amendment to the Development Agreement; and

**WHEREAS**, the Town Council finds that is in the best interest of the Town to approve the First Amendment to the Development Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA AS FOLLOWS:**

**Section 1.**     **Recitals.** That the above-stated recitals are hereby adopted and confirmed.

**Section 2.**     **Approval.** The Town Council hereby approves of the First Amendment to the Development Agreement attached hereto as Exhibit “A,” together with such non-material changes as may be acceptable to the Town Manager and approved as to form and legal sufficiency by the Town Attorney.

**Section 3.**     **Authorization.** The Town Manager, the Town Attorney, and litigation counsel at Weiss Serota Helfman Cole & Bierman, P.L. are authorized to take all actions necessary to implement the terms and conditions of the First Amendment to the Development Agreement.

**Section 4.**     **Execution.** The Mayor is authorized to execute the First Amendment to the Development Agreement on behalf of the Town in the form attached hereto as Exhibit “A.”

**Section 5.**     **Effective Date.** This Resolution shall take effect immediately upon adoption.

**[THIS SPACE INTENTIONALLY LEFT BLANK.]**

**PASSED AND ADOPTED** this \_\_\_\_\_ day of December, 2017.

The foregoing Resolution was moved for adoption by \_\_\_\_\_ and seconded by \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

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Manny Cid  
MAYOR

Attest:

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Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

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Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

**EXHIBIT A**  
**(First Amendment to Development Agreement)**