

## INTER-OFFICE CORRESPONDENCE

### MEMORANDUM NO. 2020-15 (SUPPLEMENT)

**TO:** Mayor and Members of the Town Commission

**CC:** William “Mac” Serda, Town Manager  
Sherry D. Henderson, Town Clerk

**FROM:** Donald J. Doody, Town Attorney *DJD*  
Sean M. Swartz, Assistant Town Attorney *SMS*

**DATE:** May 21, 2020

**RE:** Town of Hillsboro Beach (“Town”) / Purchase and Sale Agreement with Winter Sun Investments, LLC (1205/1206 Hillsboro Mile) and Imposition of a Special Assessment

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This memorandum is being sent to supplement Memorandum No. 2020-15 to correct scrivener’s errors.

In light of the Town Commission entering into a Commercial Contract for the purchase of 1205 and 1206 Hillsboro Mile, questions have arisen concerning the procedure and process relied upon relative to the transaction. Questions have also arisen relative to the legal process associated with the special assessment. This memorandum describes the lawful sequence of events undertaken by the Town Commission both with respect to the Purchase and Sale Agreement with Winter Sun Investments, LLC and the related imposition of a special assessment within the Town.

#### **Real Estate Transaction**

In the past, various Town Commissions have contemplated purchasing the vacant land located adjacent to Town Hall. In 2015, the Town Commission took formal action to acquire the vacant land then owned by Secure Horizon, Inc. In fact, a contract was approved by the Town Commission in early 2015 but later terminated. In late 2019, the Town Commission negotiated a potential purchase of the real property located at 1205/1206 Hillsboro Mile. As a result of the negotiations, the following sequence of events took place.

- 1) On December 3, 2019, through the adoption at a public meeting of Resolution No. 2019-66 the Town Commission approved and authorized Town Officials to execute a Commercial Contract with Winter Sun Investments, LLC for the purchase of the real property located at 1205 and 1206 Hillsboro Mile.
- 2) On December 3, 2019, the Town Commission adopted Resolution No. 2019-67. Resolution No. 2019-67 authorized town officials to conditionally waive and release all

existing code violation fines or liens on properties located at 1205 & 1206 Hillsboro Mile, Hillsboro Beach, FL. The action by the Town Commission was consistent with the terms of the Commercial Contract.

3) On December 9, 2019, the Town Commission discussed the potential public purpose for the property at 1205 & 1206 Hillsboro Mile, Hillsboro Beach, FL as part of the beach renourishment efforts.

4) On December 17, 2019, through Resolution No. 2019-69, the Town Commission approved and authorized town officials to execute an agreement with EnviroDesign Associates, Inc. for a Phase I Site Assessment and Demolition Asbestos survey for 1205 & 1206 Hillsboro Mile, Hillsboro Beach, FL.

5) On January 2, 2020, the Town Commission approved the First Amendment to the Purchase and Sale Agreement with Winter Sun Investments, LLC related to open code violations on the real property.

6) On January 21, 2020, the Town Commission adopted Resolution No. 2020-08. Resolution No. 2020-08 supported the acquisition of the real property from Winter Sun Investments, LLC as the beach access point for future beach renourishment projects.

7) On February 25, 2020, the Town Commission adopted Resolution No. 2020-13. Resolution No. 2020-13 confirmed that the Town Commission, prior to granting public access to the property located at 1205 - 1206 Hillsboro Mile shall conduct a survey of all property owners, providing for conflicts, severability and an effective date.

8) On February 25, 2020, the Town Commission adopted Resolution No. 2020-15. Resolution No. 2020-15 authorized the issuance of bonds to finance the purchase of the real property for beach renourishment from Winter Sun Investments, LLC.

9) On March 24, 2020, the Town Commission approved the Second Amendment to the Purchase and Sale Agreement with Winter Sun Investments, LLC to extend the due diligence period.

10) On May 5, 2020, the Town Commission approved the Third Amendment to the Purchase and Sale Agreement with Winter Sun Investments, LLC to further extend the due diligence period to August 17, 2020.

### **Special Assessment**

1) On January 7, 2020, the Town Commission adopted resolutions authorizing the Town to engage bond counsel, a financial advisor and a consultant to develop a special assessment methodology. At this public meeting, Mark F. Raymond, Esquire presented to the Town Commission in detail the time-line of events that could lead to the imposition of an assessment and a debt issuance.

- 2) On January 21, 2020, the Town Commission adopted Resolution No. 2020-07. Resolution No. 2020-07 sets forth the determination by the Town Commission to proceed with the acquisition and improvement to the Property.
- 3) On January 21, 2020 the nature and general description of the Project was described in the Plans, Specifications and Cost Estimate, Beach Renourishment Land Acquisition Project which were on file with the Town Clerk and available for review by any interested person at Town Hall.
- 4) Resolution No. 2020-07 stated the estimated maximum cost of the Project without financing costs to be \$15,000,000, and with financing costs to be \$16,680,000 and stated that the Town Commission determined that it is in the best interest of the Town to pay the cost of the Project by imposing, levying and collecting a special assessment.
- 5) On January 21, 2020 there was on file with the Town Clerk and available for public inspection (i) a preliminary assessment roll, entitled Preliminary Master Assessment Methodology Report, Town of Hillsboro Beach Special Assessment Revenue Bonds, Series 2020 Beach Protection Project (the "Preliminary Assessment Methodology") dated January 17, 2020 and prepared by PFM Financial Advisors LLC, describing the lots and lands to be assessed and the amount of benefit to and the assessment against each lot or parcel and (ii) a geographic depiction of the properties to be assessed.
- 6) Resolution No. 2020-07 states that the Preliminary Assessment Methodology and geographic depiction of the properties to be assessed were on file with the Town Clerk and available for public inspection.
- 7) Resolution No. 2020-07 called for a public hearing to be held on February 25, 2020, at 9:00 a.m. at Town Hall, 1210 Hillsboro Mile, Hillsboro Beach, FL 33062, for the purpose of hearing public comments concerning the Project, the cost of such Project and the manner of payment therefor, including the amount of Special Assessments to be levied against property benefitted thereby.
- 8) Resolution No. 2020-07 was published two (2) times in The SunSentinel, on January 23, 2020 and January 30, 2020.
- 9) On January 21, 2020, Resolution 2020-07 was adopted, which called for mailing a notice of public hearing letter to all of the owners of the property to be assessed. On January 23, 2020, the notice was mailed.
- 10) Notice of the public hearing was also given by publication, four (4) times, in The SunSentinel, a newspaper of general circulation in Broward County, Florida, on January 23, 2020, January 30, 2020, February 6, 2020 and February 13, 2020.
- 11) On February 25, 2020, at 9:00 a.m. at Town Hall, the Town Commission met and conducted a public hearing, including testimony from affected property owners as to the propriety and advisability of undertaking the Project and funding the cost thereof with the special assessments.

12) On February 25, 2020, the Town Commission adopted Resolution No. 2020-14. In Resolution No. 2020-14, the Town Commission determined to proceed with the special assessment.

13) On March 3, 2020, the Town Commission adopted Resolution No. 2020-17. Resolution No. 2020-17 provided for the execution of the engagement letter between the Town and Mark Raymond, Esq. as bond counsel.

14) On March 3, 2020, the Town Commission adopted Resolution No. 2020-19. Resolution No. 2020-19 provided for the payoff of the outstanding loan balance with Bank of America for a past beach renourishment project.

15) On April 7, 2020, the Town Commission adopted Resolution No. 2020-27. Resolution No. 2020-27 provided for the execution of a non-ad valorem special assessment agreement between the Town and Broward County.

As you can discern from the timeline above, the process relied upon by the Town Commission has been orderly and very transparent. Any suggestion to the contrary has no merit and is not supported by the facts. Every lawful action taken by the Town Commission relative to the purchase of real property and the imposition of the special assessment has been taken at a public meeting in accordance with a published agenda. The Court hearing on the validation of the special assessment is scheduled for June 23, 2020.

DJD/SMS/mea