



**CITY OF FORT LAUDERDALE  
City Commission Agenda Memo  
REGULAR MEETING**

**#19-1148**

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**TO:** Honorable Mayor & Members of the  
Fort Lauderdale City Commission

**FROM:** Chris Lagerbloom, ICMA-CM, City Manager

**DATE:** December 3, 2019

**TITLE:** Motion Authorizing Execution of an Amendment to the Declaration Regarding a Maintenance Obligation which will Subordinate the City's Declaration to a New Housing and Urban Development (HUD)-Insured Mortgage Loan Against the Developer's Property Where the Declaration Addresses Special Improvements within the Adjacent Public Right-of-Way for NE 4<sup>th</sup> Avenue and NE 7<sup>th</sup> Street in Association with the Village Place Development Approval - **(Commission District 2)**

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**Recommendation**

It is recommended the City Commission consider a motion authorizing execution of an amendment to the Declaration Regarding Maintenance Obligations ("Declaration") which will subordinate the City's Declaration to a new HUD-insured mortgage loan against the Developer's Property where the Declaration addresses Special Improvements within the adjacent public right-of-way for NE 4<sup>th</sup> Avenue and NE 7<sup>th</sup> Street in association with the Village Place development approval.

**Background**

On July 10, 2012, the City Commission approved Village Place, a six-story residential development consisting of 112 multifamily dwelling units (case 35R12). As part of the development, certain Special Improvements were approved within the public rights-of-way along NE 4<sup>th</sup> Avenue and NE 7<sup>th</sup> Street through a Declaration recorded in the Public Records. These Special Improvements include a new 11-foot 10-inch sidewalk, on street parking, street lights, and landscaping. This Declaration stipulates the Developer's responsibilities regarding the Special Improvements and allows the City to seek remedies if these Special Improvements are not maintained, including filing a Claim of Lien against the owner's property.

In October of this year the Developer informed the City they are seeking to refinance the property through the United States Department of Housing and Urban Development (HUD). HUD informed the applicant that in order to qualify for the refinance of the Developer's Property, the declaration regarding maintenance obligations needs to be subordinate to the HUD-insured mortgage. Effectively, this means that should the Developer violate the terms of the Declaration and the City seeks remedies through a lien,

it would be subordinate to the HUD mortgage until such time as the HUD-insured mortgage is paid down in full.

This is atypical of Declarations the City has entered in the past for similar developments. But, it does not preclude other remedies such as code enforcement, the City making any needed repairs and billing the property owner or filing injunctive relief with the property owner. However, under the subordination, in the event the Mortgagee or HUD forecloses or accepts a deed in lieu of foreclosure on the Owner's Property, the Declaration terminates.

For your review, the Declaration is attached as Exhibit "1" and the Subordination Amendment is attached as Exhibit "2".

### **Resource Impact**

There is no fiscal impact to the City associated with this action.

### **Strategic Connections**

This item supports the *Press Play Fort Lauderdale 2024* Strategic Plan, specifically advancing:

- The Internal Support Focus Area
- Goal 2: Build a leading government organization that manages all resources wisely and sustainably
- Objective: Provide safe, well-maintained, and efficient facilities and capital assets

This item advances the *Fast Forward Fort Lauderdale 2035* Vision Plan: We are Connected.

### **Attachments**

Exhibit 1 – Declaration Regarding Maintenance Obligation

Exhibit 2 – Amendment to Declaration Regarding Maintenance Obligation

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