



MATTHEW W. MCMURTREY

*Shareholder*

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MAIN NUMBER: 407-843-4600



August 17, 2023

Palm Bay City Council  
120 Malabar Rd., SE  
Palm Bay, FL 32907

In Re: PLAT OF PALM BAY POINTE EAST (the “Property”)

Council Members:

Pursuant to the requirements of Florida Statutes, Chapter 177, and the City of Palm Bay Land Development Code, please be advised that based upon our review of that certain Property Information Report, File No. 110071035, issued by First American Title Insurance Company, dated as of July 29, 2023 (the “Title Report”), the fee simple marketable title of the Property, the legal description of which is attached hereto as **Exhibit “A”** and incorporated herein, is vested in:

**KIMAYA, LLC**, a Delaware limited liability company.

In our opinion, and based on review of the Title Report, title to the Property is subject to the following matters and exceptions:

1. Taxes and assessments for the year 2022 are paid.
2. Mortgage and Security Agreement from KIMAYA, LLC, a Delaware limited liability company to Cypress Bay Farms, LLC, a Florida limited liability company recorded January 12, 2023 in Official Records Book 9695, Page 1757, Public Records of Brevard County, Florida.
3. Right-Of-Way Agreement for easement granted to Florida Power & Light Company recorded April 8, 1958 in Official Records Book 93, Page 634 as affected by Supplement to Right-of-Way Agreement recorded May 18, 1961 in Official Records Book 384, Page 21 and Subordination of Utility Interests and Agreement for Reimbursement for Additional Facility Relocation by and between the City of Palm Bay and Florida Power & Light Company recorded April 18, 2016 in Official Records Book 7594, Page 723, Public Records of Brevard County, Florida.



4. Right-Of-Way Agreement for easement granted to Florida Power & Light Company recorded April 8, 1958 in Official Records Book 93, Page 642, Public Records of Brevard County, Florida.
5. Terms and conditions for Drainage Easement by and between Cypress Bay Farms, LLC, a Florida limited liability company and the City of Palm Bay recorded January 20, 2016 in Official Records Book 7533, Page 233, as affected by First Amendment to Drainage Easement recorded March 28, 2016 in Official Records Book 7578, Page 943 and Second Amendment and Restatement of Drainage Easement recorded August 19, 2019 in Official Records Book 8517, Page 560 and Revised Stormwater Facility and Drainage Easement No. 4 recorded October 8, 2020 in Official Records Book 8880, Page 871, Public Records of Brevard County, Florida.
7. Stormwater Facility and Access Easement South of Pond 2 by and between Cypress Bay Farms LLC, a Florida limited liability company and the City of Palm Bay recorded October 8, 2020 in Official Records Book 8880, Page 861, Public Records of Brevard County, Florida.
8. Utilities and Drainage Easement Agreement recorded January 12, 2023 in Official Records Book 9695, Page 1773, Public Records of Brevard County, Florida.
9. Stormwater Drainage Easement in favor of Kimaya, LLC, a Delaware limited liability company recorded January 26, 2023 in Official Records Book 9704, Page 2005, Public Records of Brevard County, Florida.
10. Terms and conditions for Resolution by Board of Supervisors of San Sebastian Drainage District recorded March 14, 2006 in Official Records Book 5616, Page 7231 and New Boundary for San Sebastian Drainage District recorded March 14, 2006 in Official Records Book 5616, Page 7224, Public Records of Brevard County, Florida.
11. Plan of Reclamation of San Sebastian Drainage District recorded March 14, 2006 in Official Records Book 5616, Page 7319, Public Records of Brevard County, Florida.
12. Transportation Impact Fee Application-For-Credit Agreement by and between the City of Palm Bay, Florida and Cypress Bay Farms, LLC, a Florida limited liability company, its successors and assigns recorded February 18, 2016 in Official Records Book 7552, Page 193, Public Records of Brevard County, Florida.
13. Terms and conditions for City of Palm Bay-Brevard County Joint Planning Interlocal Agreement recorded August 15, 2019 in Official Records Book 8514, Page 1709 as affected by Interlocal Agreement for St. Johns Heritage Parkway Intersection and Babcock Street recorded April 30, 2020 in Official Records Book 8730, Page 998, and Second Amendment to Interlocal Agreement Regarding St Johns Heritage Parkway Intersection and Babcock Street recorded July 26, 2022 in Official Records Book 9568, Page 2659, Public Records of Brevard County, Florida.

14. Declaration of Restrictive Covenants (Cypress Bay) recorded January 12, 2023 in Official Records Book 9695, Page 2386, Public Records of Brevard County, Florida.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Matthew McMurtrey". The signature is fluid and cursive, with the first name "Matthew" and last name "McMurtrey" clearly distinguishable.

Matthew W. McMurtrey

**EXHIBIT "A"**

**DESCRIPTION: PALM BAY POINTE EAST**

A PARCEL OF LAND BEING A PORTION OF SECTION 3, TOWNSHIP 30 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, AND BEING A PORTION OF LOTS 12 THROUGH 21, CAPE KENNEDY GROVES, UNIT 9, AS RECORDED IN PLAT BOOK 21, PAGE 77 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF TRACT L-3, CYPRESS BAY PRESERVE PHASE 1, AS RECORDED IN PLAT BOOK 68, PAGES 59 THROUGH 66 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE RUN N 49° 32' 50" E ALONG THE SOUTHERLY LINE OF TRACT L-3 AND TRACT D-1 OF SAID CYPRESS BAY PRESERVE PHASE 1 FOR A DISTANCE OF 314.80 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT D-1; THENCE RUN THE FOLLOWING 6 COURSES, CURVES AND DISTANCES ALONG THE SOUTHERLY LINES OF TRACTS D-1, ROW-1 AND TRACT D-10 OF SAID CYPRESS BAY PRESERVE PHASE 1; (1) THENCE RUN S 89° 35' 01" E FOR A DISTANCE OF 610.32 FEET; (2) THENCE RUN S 00° 24' 59" W FOR A DISTANCE OF 369.20 FEET; (3) THENCE RUN S 89° 35' 01" E FOR A DISTANCE OF 53.29 FEET TO A POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHWEST, HAVING A RADIUS OF 3298.00 FEET, AND WHOSE CHORD BEARS S 81° 42' 29" E FOR A DISTANCE OF 903.78 FEET; (4) THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 15° 45' 03", FOR A DISTANCE OF 906.63 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; (5) THENCE RUN S 28° 36' 44" E FOR A DISTANCE OF 70.98 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE SOUTHWEST, HAVING A RADIUS OF 3248.00 FEET, AND WHOSE CHORD BEARS S 68° 48' 55" E FOR A DISTANCE OF 468.45 FEET; (6) THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 08° 16' 15", FOR A DISTANCE OF 468.86 TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE, ALSO BEING A POINT ON THE WESTERLY LINE OF TRACT D-11 OF SAID CYPRESS BAY PRESERVE PHASE 1; THENCE RUN THE FOLLOWING (5) COURSES AND DISTANCES ALONG THE WESTERLY LINE OF SAID TRACT D-11; (1) THENCE RUN S 24° 59' 56" W FOR A DISTANCE OF 54.57 FEET; (2) THENCE RUN S 65° 00' 04" E FOR A DISTANCE OF 115.01 FEET; (3) THENCE RUN S 06° 46' 38" E FOR A DISTANCE OF 57.93 FEET; (4) THENCE RUN S 42° 10' 32" W FOR A DISTANCE OF 101.13 FEET; (5) THENCE RUN S 27° 12' 29" W FOR A DISTANCE OF 52.46 FEET TO THE NORTH RIGHT OF WAY LINE OF ST JOHNS HERITAGE PARKWAY (A 200 FOOT WIDE RIGHT OF WAY) AS DESCRIBED IN OFFICIAL RECORDS BOOK 7533, PAGE 245 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, ALSO BEING A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE SOUTHWEST, HAVING A RADIUS OF 2998.00 FEET, AND WHOSE CHORD BEARS S 61° 05' 49" E FOR A DISTANCE OF 144.79 FEET; THENCE RUN SOUTHEASTERLY ALONG THE SAID CURVE AND NORTH RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 02° 46' 02", FOR A DISTANCE OF 144.80 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE RUN S 59° 42' 48" E ALONG SAID NORTH RIGHT OF WAY LINE FOR A DISTANCE OF 192.83 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 3; THENCE RUN N 89° 42' 39" W ALONG THE SOUTH LINE OF SAID SECTION 3 FOR A DISTANCE OF 1261.87 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 3; THENCE RUN N 89° 42' 39" W

ALONG THE SOUTH LINE OF SAID SECTION 3 FOR A DISTANCE OF 1231.62 FEET TO THE NORTHEAST CORNER OF LOT 21 OF SAID CAPE KENNEDY GROVE UNIT 9; THENCE RUN S 00° 43' 35" E FOR A DISTANCE OF 50.01 FEET; THENCE RUN N 89° 42' 39" W FOR A DISTANCE OF 71.15 FEET; THENCE RUN S 00° 30' 13" E FOR A DISTANCE OF 307.00 FEET; THENCE RUN S 89° 29' 47" W FOR A DISTANCE OF 292.37 FEET; THENCE RUN N 00° 30' 23" W FOR A DISTANCE OF 233.53 FEET; THENCE RUN N 49° 27' 29" W FOR A DISTANCE OF 119.96 FEET; THENCE RUN N 89° 43' 11" W FOR A DISTANCE OF 123.22 FEET; THENCE RUN N 00° 10' 05" W FOR A DISTANCE OF 50.02 FEET TO THE SOUTH LINE OF SAID SECTION 3; THENCE RUN N 89° 42' 39" W ALONG SAID SOUTH LINE FOR A DISTANCE OF 554.45 FEET TO A POINT LYING 40.00 FEET EAST, AS MEASURED BY PERPENDICULAR, OF THE EAST RIGHT OF WAY LINE OF BABCOCK STREET (A 100 FOOT WIDE RIGHT OF WAY); THENCE RUN N 00° 45' 16" E PARALLEL WITH SAID EAST RIGHT OF WAY LINE FOR A DISTANCE OF 498.02 FEET TO THE NORTH RIGHT OF WAY LINE OF SAID ST JOHNS HERITAGE PARKWAY; THENCE RUN S 89° 42' 39" E ALONG SAID NORTH RIGHT OF WAY LINE FOR A DISTANCE OF 1272.47 FEET TO THE SOUTHWESTERLY LINE OF A 110 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 384 PAGE 21 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE RUN N 36° 36' 17" W ALONG SAID SOUTHWESTERLY LINE FOR A DISTANCE OF 389.43 FEET; THENCE RUN N 53° 23' 43" E FOR A DISTANCE OF 110.00 FEET TO THE NORTHEASTERLY LINE OF SAID 110 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY EASEMENT; THENCE N 36° 36' 17" W ALONG SAID NORTHEASTERLY LINE FOR A DISTANCE OF 109.69 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT

TRACT PA-2, CYPRESS BAY PRESERVE PHASE 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 68, PAGES 59 THROUGH 66, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND RIGHT OF WAY FOR ST JOHNS HERITAGE PARKWAY (A 200 FOOT WIDE RIGHT OF WAY), AS RECORDED IN OFFICIAL RECORDS BOOK 7533, PAGE 245 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

TOGETHER WITH Owner's real property right, title and interest in that certain Reciprocal Easement Agreement recorded August 30, 2019 in Official Records Book 8527, Page 2517, Public Records of Brevard County, Florida affected by Amendment and Partial Termination to Reciprocal Easement Agreement recorded April 19, 2022 in Official Records Book 9479, Page 1997, Public Records of Brevard County, Florida.