



## LEGISLATIVE MEMORANDUM

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Suzanne Sherman, City Manager

**THRU:** Ibis Berardi, Community & Economic Development Acting Director

**DATE:** May 16, 2024

**RE:** Consideration of a purchase offer from Palm Bay Landings, LLC for surplus property, Municipally Owned Vacant Land located on Water Drive (Tax ID: 2832805, Parcel ID: 28-37-24-27-3-4.01) (\$100,000).

### SUMMARY:

The City owns a 2.12-acre parcel located on Dixie Highway NE, which runs north and south of Palm Bay Road (Parcel ID: 28-37-24-27-3-4.01 / Tax ID: 2832805). The parcel serves as dry retention and has an existing lift station and baffle box. The parcel is zoned Bayfront Mixed Use Village (BMUV). The parcel was deeded free and clear to the City by Brevard County on November 9, 1978, who obtained ownership of the right-of-way upon abandonment by the Florida State Road Department.

On September 23, 2023, the City Manager received a written request from Palm Bay Landing LLC (Mike Timmons) to vacate the right-of-way to the adjacent upland landowners for whom he perceived have claim to the right-of-way. On October 3, 2023, the City Attorney received the opinion of outside legal counsel, Rumberger | Kirk, evaluating the request and claims contained in the letter. The legal opinion provides the recommendation that the City should decline Mr. Timmons' request to convey the parcel and notes that the deed was vested free and clear of such claims to the City of Palm Bay. Further, the deed from Brevard County contains a reverter clause providing that if the parcel is not utilized for a Chamber of Commerce building or other public purpose, the title immediately reverts to and reverts in Brevard County. Finally, the opinion also notes that the City cannot convey title of the parcel without the consent of Brevard County. This letter was provided to Mike Timmons.

Subsequently, in December 2023, the City received an unsolicited offer from Palm Bay Landings, LLC for the City-owned parcel, which was presented to City Council at the March 7, 2024 Regular Council Meeting. City Council voted to designate this parcel as surplus and authorized staff to list the parcel for sale with the City's contract commercial real estate broker, ONE Sotheby's International, for no less than 30 days. On March 11, 2024, the City executed the Broker's Price Opinion (BPO) which estimated the value of the parcel at \$206,832, or \$5.18 PSF. The parcel has been listed for sale through the commercial broker since March 14, 2024.

The Broker received only one (1) purchase offer from Palm Bay Landing, LLC totaling \$100,000 (Attachment 5). The contract provides for an initial deposit of \$10,000 within three (3) days of the Effective Date and the remaining \$90,000 to be paid at the time of Closing. The contract provides a Closing Date of 14 days after the Due Diligence Period, which is 60 days from the Effective Date of the purchase contract.

The offer stipulates that the Buyer (Palm Bay Landing, LLC) will obtain the site survey at the Seller's (City) expense; however, the Buyer will pay for any excess costs for the survey over \$2,500.00. Further, the offer notes that the Buyer shall grant exclusive easements to the City for the existing lift station and baffle box; however, the easements shall be recorded with the Brevard County Clerk of Court at the Seller's expense. Finally, the Buyer acknowledges the existing deed restriction and agrees to hold the City harmless in the event that title cannot be conveyed.

**REQUESTING DEPARTMENTS:**

Community & Economic Development

**FISCAL IMPACT:**

Upon closing, sale proceeds will be deposited into the General Fund account 001-0000-388-1001 (Sales Proceeds) to be transferred to account 307-0000-381-1001 (Road Maintenance Fund).

**STAFF RECOMMENDATION:**

Motion to consider the purchase offer from Palm Bay Landings, LLC in the amount of \$100,000 for a City-owned parcel, Unassigned Water Drive NE.

**ATTACHMENTS:**

1. Tax Account 2832805 BCPAO Property Description
2. Broker's Price Opinion Tax Account 2832805
3. Unassigned Water Drive Property Listing
4. Unassigned Water Drive Subject Property Location (Exhibit A)
5. Vacant Land Contract – Palm Bay Landing, LLC
6. Vesting Deed for Tax Account 2832805
7. Legal Opinion from Rumberger Kirk