

## MEMORANDUM

TO: Mayor and City Council Members

VIA: Jesus Merejo, ICMA-CM, City Manager

THROUGH: Teresa Lamar-Sarno, AICP, ICMA-CM Chief Assistant City Manager

FROM: Mary Savage-Dunham, AICP, CFM, Director, Planning & Zoning *MFSD*

SUBJECT: Memorandum of Understanding & Conservation Lands Donation

DATE: May 5, 2025

The purpose of this memorandum is to provide background information on the Memorandum of Understanding (MOU) drafted for the PGA Village Property Owners Association (“PGA POA”) and City’s signature, and the South Florida Water Management District (“SFWMD”) Environmental Resource Permit No. 65-00674-S (“ERP Permit”), as well as the proposed donation of conservation lands to the City. The execution of the MOU by both parties would result in resolution of a threatened SFWMD violation and enforcement action relating to maintenance of the conservation easements which include two wetlands, upland preservation areas and upland buffer zones described in the ERP Permit as W-1 and W-2 (“Wetland Areas”).

As described in more detail herein, the PGA POA has indicated a willingness to convey two properties it owns to the City that are contiguous to City conservation land holdings in return for the City assuming the maintenance responsibilities for the Conservation Areas which staff supports. Staff has drafted a MOU that memorializes this proposed agreement between the City and the PGA POA. Staff intends to place an agenda item on the May 12, 2025 City Council meeting agenda requesting that the Council authorize the City Manager to execute the MOU and facilitate a resolution of the SFWMD issues.

### ***Background***

The principal property we are discussing is Commerce Center North on the attached map (“the Property”). The Property is owned by the City, except for the 2.02 acre “donut hole” shown on the attached map which is owned by the PGA POA (“Donut Hole”).

Three years ago, representatives of the PGA POA approached the City staff because they received a violation letter from SFWMD for failure to maintain the preserved and restored wetland areas, upland preservation areas, and upland buffer zones on the Property. For clarity's sake it is important to note that the Conservation Areas that require maintenance are **not** on the 2.02-acre parcel owned by the PGA POA, they are on the City owned Property that the PGA POA is the permit holder for. The non-compliance letter is attached for your reference.

The PGA POA felt it received the notice in error as the City owns the Property that the Wetland Areas are on. Staff explained to the PGA POA that while the City owns the Property the maintenance was the responsibility of the PGA POA since they were the permit holder and not the City. At that time staff also did tell the PGA POA that the City would be interested in acquiring the Donut Hole as the City intends to activate the Property as a passive nature preserve on the balance of the Property, and that the City would also be open to acquiring the 2.12-acre parcel which is adjacent to our Commerce Center South land ("Additional PGA POA Property"). The Additional PGA POA Property is also depicted on the attached map.

### ***Suggested Resolution and Benefits of the Resolution***

Staff suggests the following resolution: In exchange for the Association conveying the Donut Hole and the additional PGA POA Property, the City agrees to accept responsibility for the maintenance of the conservation areas, together with any areas of the Donut Hole or the Additional PGA POA Property, that are encumbered by the ERP Permit, but not other aspects of the ERP Permit unrelated to maintenance of the Conservation Areas. This path forward provides more upland areas for future walking trails on this property and supports the Strategic Plan, Naturally PSL initiative, and is aligned with the Comprehensive Plan.

The SFWMD is very supportive of the proposed resolution and has indicated the general principle, subject to review of the details, would stop it from continuing with enforcement actions against the City and PGA POA. The PGA POA has reviewed the MOU and voted to execute it.

### ***Other City Actions related to Commerce Center North***

1. The City will need to work with SFWMD to obtain a timeframe for completing the mitigation to avoid enforcement actions once the portion of the ERP Permit related to the Conservation Areas is transferred to the City. The estimated cost to perform the mitigation is \$18,000.
2. Staff has obtained an environmental assessment and property management plan prepared to identify the next steps to help guide the activation of the Property for public use, including site improvements necessary to install walking trails, parking and interpretative signage.
3. Staff facilitated the acquisition of land from a developer in 2024 to secure access and create parking for the Property.
4. The City submitted a grant application for invasive species removal and replanting of native species in the upland area of the Property, which will aid in offsetting expenses relating to the overall removal of invasive species and activation of the Property for public use.

Attachments:

1. Map of Commerce Center Dr Conservation Parcels
2. Notice of Non-Compliance
3. MOU