

AGENDA	
Section	Consent
Item No.	II D 2

Meeting Date
April 19, 2016



**AGENDA REPORT**  
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Waiver of Title Defect for Contract for Sale and Purchase with Carlos L. Diaz and Norma Darias for Central Disposal Facility/Adamson Road Landfill Expansion Project
DEPT/OFFICE:	Public Works Department/Land Acquisition Section/Solid Waste Management Department/County Attorney's Office

Requested Action:

It is requested that the Board waive a title defect for the acquisition of the subject property and authorize the County Attorney's Office to proceed with closing.

Summary Explanation & Background:

On December 15, 2015, the Board approved a Contract for Sale and Purchase with Carlos L. Diaz and Norma Darias for the acquisition of property located at Giessen Avenue Cocoa as part of the Central Disposal Facility/Adamson Road Landfill Expansion Project (Project). The purchase price is \$25,000.00. This contract was amended on March 29, 2016 to extend the closing deadline. Additional time was authorized to determine the appropriate resolution of a title defect.

In preparation of the closing, a title defect was discovered. There is an apparent conflict in the legal description in that the metes and bounds description is not consistent with a referenced sales map. The conflict results in a different parcel location for the metes and bounds description compared to the referenced sales map, causing tract 3 (subject parcel) to overlap with tracts 4 and 5. The Sellers' predecessors in title are not available to assist with resolving the conflict.

The Project requires acquisition of all seven tracts along Giessen Ave. All tracts except tracts 3 and 4 have been acquired by the County or are under contract to purchase. Tract 4 is in negotiation, but may need to be acquired by condemnation because of a potential title problem. Once all tracts are owned by the County, title will merge thereby eliminating the defect due to the conflict in the legal description.

It is requested that the Board authorize staff to proceed with the closing and require the Sellers to provide both a warranty deed for tract 3 as described in the chain of title and a quit claim deed for the corrected legal description. A note will be included in the deeds stating that the County owns or intends to acquire all tracts along Giessen Ave. and is recording the quit claim deed to correct an error in the legal description.

Fiscal impact: No additional impact

Clerk to the Board Instructions:

Exhibits Attached: Surveyor's Affidavit

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager	Assistant County Manager			Department Director / Extension John Denninghoff, Public Works Dir., 57202 Euripedes Rodriguez, Solid Waste Dir., 52042 Scott Knox, County Attorney, 52090			
Stockton Whitten	Assistant County Manager						



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

April 20, 2016

MEMORANDUM

TO: John Denninghoff, Public Works Director

RE: Item II.D.2., Waiver of Title Defect for Contract for Sale and Purchase with Carlos L. Diaz and Norma Darias for Central Disposal Facility/Adamson Road Landfill Expansion Project

The Board of County Commissioners, in regular session on April 19, 2016, waived a title defect for the acquisition of the Central Disposal Facility/Adamson Road Landfill Expansion Project; and authorized the County Attorney's Office to proceed with closing.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/af

cc: Land Acquisition  
Solid Waste Management  
County Attorney

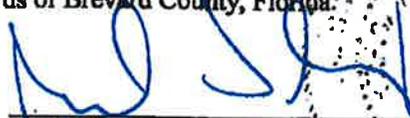
SURVEYOR'S AFFIDAVIT

STATE OF FLORIDA  
COUNTY OF BREVARD

The undersigned ("Affiant"), being first duly sworn, deposes and says:

1. That Affiant is a Professional Surveyor and Mapper, Florida License No. 4870, with the Brevard County Public Works Department, Survey & Mapping Division.
2. That Affiant prepared a survey of the property ("PROPERTY") under Project No. 14-16-015 using the following corrected legal description as follows:  
The North 230 feet of the South 1180 feet of the North 5/6 of the East 1/8 of the South 3/4 of the Southeast 1/4, less the West 30 feet, and less the East 100 feet, Section 17, Township 24 South, Range 35 East, Brevard County, Florida.
3. Based on other deeds within Block 20, Canaveral Groves Subdivision, as recorded in Survey Book 2, Page 63, it is my opinion that there is a scrivener's error within Official Records Book 5471, Page 7438 of the Public Records of Brevard County, Florida that omitted the phrase "of the north 5/6" after the words "...1180 feet" and before the words "of the 1/8...".
4. The affidavit regarding Unrecorded Plats as recorded in Official Record Book 1899, Page 449 acknowledges the following concerning the Map of Canaveral Groves Subdivision as recorded in Survey Book 2, Page 63: (a) the legal descriptions of the individual tracts sold are long and involved and too difficult for a person not an attorney, a surveyor, or an engineer to locate; (b) the land in said section 17 has not been platted or subdivided; and (c) the only purpose of recording said map is to assist in locating individual tracts.
5. Based on location of Tract 3, Block 20 as shown on the Canaveral Groves Subdivision as recorded in Survey Book 2, Page 63, it is my opinion that there is a scrivener's error within Official Records Book 5471, Page 7438 of the Public Records of Brevard County, Florida that omitted the phrase "of the north 5/6" after the words "...1180 feet" and before the words "of the 1/8...".
6. That the "PROPERTY" is one in the same as those lands described within the Warranty Deed as recorded on Official Records Book 5471, Page 7438 of the Public Records of Brevard County, Florida.

Further, Affiant says not.

  
 \_\_\_\_\_  
 Michael Sweeney

State of Florida  
County of Brevard

The foregoing instrument was sworn to and subscribed before me on September 3, 2015, by Michael Sweeney, who  is personally known to me or \_\_\_\_\_ produced \_\_\_\_\_ as identification, and did take an oath.

My commission expires:  
*April 1, 2017*

  
 \_\_\_\_\_  
 Notary Public

(seal)



PREPARED BY AND RETURN TO:  
RENEE CHISHOLM  
TOWN & COUNTRY TITLE, INC.  
1227 S. Patrick Dr., Suite 105  
Satellite Beach, FL 32937  
File No. 10281

TAX PARCEL ID NO 24 35 17 01 20 3



CFN:2005182365 05-24-2005 10:04 am  
OR Book/Page: 5471 / 7438

### WARRANTY DEED

**Scott Ellis**

Clerk Of Courts, Brevard County

#Pgs. 2	#Names: 3	Serv 0.00
Trust: 1.50	Rec: 17.00	Excise: 0.00
Map: 175.00		Int Tax: 0.00
Mtg: 0.00		

THIS INDENTURE, made the 6th day of May, 2005, between

ARTHUR R. TAYLOR

("Grantor"), and

CARLOS L. DIAZ and NORMA DARIAS, husband and wife

(Taxpayer I.D. Numbers: \_\_\_\_\_),

whose mailing address is 2425 W 76th St, #108 c/o Erik Alzugaray, Hialeah, FL 33016-5669

("Grantee").

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH: That said Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00), and other good and valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee, all that certain land situate in Brevard County, Florida, viz:

The North 230 feet of the South 1180 feet of the East 1/8 of the South 3/4 of the Southeast 1/4, LESS the West 30 feet and LESS the East 100 feet, Section 17, Township 24 South, Range 35 East, Brevard County, Florida.

ALSO KNOWN AS: Tract 3, Block 20, of an unrecorded map of Section 17.

THIS PROPERTY IS NOT OR NEVER HAS BEEN THE HOMESTEAD PROPERTY OF THE GRANTOR. THIS PROPERTY IS NOT OR NEVER HAS BEEN CONTIGUOUS TO THE HOMESTEAD PROPERTY OF THE GRANTOR.

**SUBJECT TO taxes for 2005 and subsequent years.**  
**SUBJECT TO zoning, restrictions, prohibitions, and other requirements imposed by governmental authority; restrictions and matters appearing on the plat or otherwise common to the subdivision; and public utility easements of record; this reference to said restrictions shall not operate to reimpose the same.**

TOGETHER with all the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

AND the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claim of all persons whomsoever; and that said land is free of all encumbrances.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents.

Signed, sealed and delivered in the presence of:

Kendree Thunstrom

Witness

Typed/Printed Name of Witness: Kendree Thunstrom

Arthur R. Taylor

ARTHUR R. TAYLOR

Address: P.O. Box 722, Caliente, NV 89009

Chris Miller

Witness

Typed/Printed Name of Witness: Chris Miller

Address: P.O. Box 722, Caliente, NV 89009

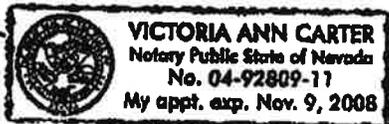
STATE OF NV  
COUNTY OF LINCOLN

The foregoing Warranty Deed was acknowledged before me this 4th day of May, 2005, by  
ARTHUR R. TAYLOR

who is/are personally known to me, or  who has/have produced driver license(s) as identification, or  who has/have produced \_\_\_\_\_ as identification.

(NOTARY RUBBER STAMP SEAL)

Victoria Ann Carter  
Notary Public  
Typed/Printed Name of Notary: Victoria Ann Carter  
Commission Number: 04-92809-11  
My commission expires: Nov. 9 2008



CFN 2005182365  
OR Book/Page: 5471 / 7439