



THOMAS J. TRASK, B.C.S.\*  
JAY DAIGNEAULT  
ERICA F. AUGELLO  
RANDY D. MORA, B.C.S.\*  
ROBERT ESCHENFELDER, B.C.S.\*  
PATRICK E. PEREZ  
DAVID E. PLATTE  
JEREMY SIMON

*\* Board Certified by the Florida Bar in  
City, County and Local Government Law*

## MEMORANDUM

---

DATE: July 23, 2021

TO: Mayor Chris Alahouzos  
Vice-Mayor Jacob Karr  
Commissioner Townsend Tarapani  
Commissioner Connor Donovan  
Commissioner Costa Vatikiotis

CC: Thomas J. Trask, Esq., City Attorney  
Nancy Meyer, Esq., Litigation Counsel

FROM: Jay Daigneault, Esq., Litigation Counsel

RE: Settlement of Meres Crossing, LLC v. City of Tarpon Springs

---

Dear Mayor, Vice Mayor, and Commissioners:

Following the executive session on July 1, 2021, I have been engaged with Plaintiff's counsel to finalize settlement of all claims presently pending between the City and Meres Crossing, LLC in federal court case number 8:21-cv-765-T-KKM-TGW. To that end, attached please find a Settlement Agreement and Mutual Release along with a single exhibit, an estoppel certificate customary to this type of settlement (the "Settlement Documents").

The Settlement Documents are the product of lengthy, good faith negotiations between the parties, and I am satisfied that they accurately, fully, and fairly reflect the intent of the parties in settling this litigation. Accordingly, I recommend that the Board of Commissioners approve the settlement of the case on the terms previously discussed at the executive session and set forth in full in the Settlement Documents, and authorize Mayor Alahouzos to execute the Settlement Documents on the City's behalf.

I will be out of state for the Board's regular meeting on July 27, 2021, but I can be reached at 727-735-4496 at any time to answer any questions or concerns you may have about the Settlement Documents prior to the meeting. My associate, Nancy Meyer, will attend the July 27 meeting. She has been intimately involved in the litigation since its inception and can answer any questions you may have at the meeting. She can also be reached in the office prior to the meeting.

As always, it has been my pleasure to represent the City's interests in this case, and please do not hesitate to contact me or Ms. Meyer as indicated above.

Sincerely,

TRASK DAIGNEAULT, LLP

A handwritten signature in blue ink, appearing to be "JD", written in a cursive style.

/s/ Jay Daigneault, Esq.  
Litigation Counsel

**SETTLEMENT AGREEMENT  
AND MUTUAL RELEASE**

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE (“Agreement”) is entered into on the Effective Date as defined herein, by and between Meres Crossing, LLC (“Meres Crossing”), a Florida limited liability company, CRP II – Tarpon Springs, LLC (“CRP II”), a Florida limited liability company, and the City of Tarpon Springs, a Florida municipal corporation (the “City”), any one of which may be referred to as a “Party” or all of which may be referred to as the “Parties” as the context requires.

**RECITALS**

WHEREAS, Meres Crossing is the owner of real property located at 1185 S Pinellas Ave in the City, southeast of the intersection between S Pinellas Ave (U.S. Alt 19) and Meres Boulevard, consisting of approximately 6.5 acres and bearing Pinellas County Property Appraiser Parcel No. 13-27-15-57285-000-0030 (“Subject Property”);

WHEREAS, in 2008, the City approved a land development concept plan—a Special Area Plan District—for the development of approximately 16.6 acres located at the southeast corner of S Pinellas Ave (U.S. Alt 19) and Meres Boulevard (“Special Area Plan”), pursuant to Ordinances 2008-18 and 2008-19 (“2008 Ordinances”), and the Subject Property is within the Special Area Plan;

WHEREAS, a predecessor developer and the City entered into a Local Roadway Funding Agreement dated October 28, 2008 (“LFA”), and Amendment to LFA dated October 27, 2009, requiring certain roadway improvements as a condition of approval of the 2008 Ordinances (“Meres Road Extension Project”);

WHEREAS, CRP II applied to amend the Special Area Plan, and in 2016 the City approved the development of a 236-unit multi-family apartment complex (“Apartment Project”) through Ordinance 2016-01 (“2016 Ordinance”), which amended the 2008 Ordinances, and which required the completion of Phase III of the Meres Road Extension Project as a condition of the issuance by the City of certificates of occupancy for the Apartment Project;

WHEREAS, Meres Crossing developed the Apartment Project, completed all of the roadway improvements for the Meres Road Extension Project, and completed additional roadway improvements and environmental remediation at the request of the City;

WHEREAS, a dispute arose between Meres Crossing and the City over the responsibility for payments in connection with the Meres Road Extension Project, including the additional roadway improvements and environmental remediation, which culminated in Meres Crossing filing a lawsuit against the City;

WHEREAS, the Meres Crossing and the City are parties to a lawsuit styled *Meres Crossing, LLC v. City of Tarpon Springs*, Case No. 8:21-cv-765-T-KKM-TGW, pending in the United States District Court in and for the Middle District of Florida, Tampa Division, which case

was originally filed in and removed from the Circuit Court of the Sixth Judicial Circuit in and for Pinellas County, Florida, bearing Case No. 21-001027-CI (the “Litigation”);

WHEREAS, the Parties now desire to hereby resolve and settle all claims and issues arising from or relating to the development of the Apartment Project, the Meres Road Extension Project and additional roadway improvements and environmental remediation, the LFA, as amended, the 2008 Ordinances and 2016 Ordinance, and the Litigation, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals which are true and correct and are hereby adopted and incorporated herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties stipulate and agree as follows in full and complete settlement of the Litigation:

### **AGREEMENT**

1. **Recitals.** The above recitals are true and correct and are incorporated fully herein.
2. **Settlement Payment.** Within twenty (20) business days of the Effective Date, the City shall pay, or cause to be paid, to Meres Crossing in care of its attorneys at Hill Ward Henderson, P.A. the sum of SEVEN HUNDRED THOUSAND AND 00/100 DOLLARS (\$700,000) (“Settlement Payment”). The Settlement Payment shall be by check to the Hill Ward Henderson, P.A. Trust Account. The Settlement Payment shall be held and not disbursed to Meres Crossing until the dismissal of the Litigation as set forth in Paragraph 3 below.
3. **Dismissal of Litigation.** Within three (3) business days of the Settlement Payment clearing Hill Ward Henderson’s trust account, Meres Crossing and the City shall cause their counsel to execute and file a joint stipulation to dismiss the Litigation with prejudice, with each Party to bear its owns attorneys’ fees and costs. Upon the dismissal of the Litigation, Hill Ward Henderson may disburse the Settlement Payment.
4. **Payment Remedy.** If the Settlement Payment is not timely and fully made, Meres Crossing shall provide notice to the City of the untimely or deficient payment via email to the City’s counsel, Jay Daigneault, Esq. Upon receipt of said notice, the City shall have five (5) business days to cure. If the Settlement Payment is not remitted in full to Meres Crossing as provided in Paragraph 2, Meres Crossing shall be entitled to immediate entry of a judgment in its favor in the Litigation in the amount of \$700,000 against the City, without the need for a hearing.
5. **Compliance with Approvals.** The City acknowledges and agrees that, other than as specifically stated in this Paragraph 5, Meres Crossing and CRP II have complied with all terms, requirements, and conditions of the 2008 Ordinances, the 2016 Ordinance, and the LFA, as amended, and that the Meres Road Extension Project, additional related roadway improvements, and environmental remediation in connection with Meres Road Extension Project, and all work related thereto (collectively, work relating to the 2008 Ordinances, 2016 Ordinances, LFA as amended, and Meres Road Extension Project are referred to as the “Work”), have been fully completed to the full satisfaction of the City. The City has issued all certificates of occupancy for

the Apartment Project. Notwithstanding the foregoing, the Parties acknowledge and agree that the City is still requiring the submission of a satisfactory permeability test for the stormwater pond on CRP II's property. Because the stormwater pond is on CRP II's property, upon request from Meres Crossing the City will provide an estoppel letter within three (3) days of the request for Meres Crossing's property (Pinellas County Parcel ID No. 13-27-15-57285-000-0030) in the form attached hereto as **Exhibit "A."** Following receipt of a satisfactory permeability test for the stormwater pond, the City will provide upon request an estoppel letter within three (3) days of the request, for CRP II and its property and/or Meres Crossing and its property, confirming that all terms, requirements, and conditions consistent with the above have been fully complied with and completed, and that there have been no defaults or events of default.

6. **Mutual Release.** Excluding the obligations under this Agreement which are not covered by this release, Meres Crossing and CRP II, for themselves and their parent and subsidiary entities, related and affiliated entities, predecessors, heirs, successors, assigns, officers, directors, managers, members, shareholders, partners, employees, servants, representatives, legal representatives, attorneys and agents of any and all kind ("Developer Releasing Parties"), jointly and severally, do hereby, and for anyone claiming by or through or under them, fully remise, release, acquit, and forever discharge the City and each and every one of the City's employees, managers, commissioners, servants, representatives, legal representatives, attorneys and agents of any and all kind ("City Released Parties"), of and from any and all rights, claims, demands, damages, actions, and causes of action, whether arising at law or in equity, that the Developer Releasing Parties or any one or more of them may have had, may now have, or may hereafter have, whether known or unknown, direct or indirect, against the City Released Parties or any one or more of them arising from or relating to the development of the Apartment Project, the Meres Road Extension Project and additional roadway improvements and environmental remediation, the LFA, as amended, the 2008 Ordinances and 2016 Ordinance, and the Litigation.

Excluding the obligations under this Agreement which are not covered by this release, the City, for itself and each and every one of the City's employees, managers, commissioners, servants, representatives, legal representatives, attorneys and agents of any and all kind ("City Releasing Parties"), jointly and severally, do hereby, and for anyone claiming by or through or under them, fully remise, release, acquit, and forever discharge Meres Crossing, CRP II, and each and every one of their parent and subsidiary entities, related and affiliated entities, predecessors, heirs, successors, assigns, officers, directors, managers, members, shareholders, partners, employees, servants, representatives, legal representatives, attorneys and agents of any and all kind ("Developer Released Parties"), of and from any and all rights, claims, demands, damages, actions, and causes of action, whether arising at law or in equity, that the City Releasing Parties or any one or more of them may have had, may now have, or may hereafter have, whether known or unknown, direct or indirect, against the Developer Released Parties arising from or relating to the development of the Apartment Project, the Meres Road Extension Project and additional roadway improvements and environmental remediation, the LFA, as amended, the 2008 Ordinances and 2016 Ordinance, and the Litigation.

Notwithstanding the acknowledgement of compliance set forth in Section 5 of this Agreement, or the mutual releases set forth in this Section 6, nothing in this Agreement is intended to release, or should be construed as a release of, any claims the Parties to this Agreement may

have in contract, law, or equity, against the engineers or contractors that provided engineering or construction services on the Meres Road Extension Project, including but not limited to

- (i) claims which are unknown as of the date of this Agreement arising from the engineers or Road Project Contract contractors' performance of the engineering and construction services, work, and materials provided to the Parties under the Engineering Contract or the Road Project Contracts, and which the claiming Party could not, as of the Effective Date of this Agreement, have discovered though the exercise of reasonable diligence, and
- (ii) claims related to latent defects of materials used in the Road Project.

This Agreement and release does not release the engineers or contractors on the Meres Road Extension Project, or their sureties, in any manner, and the Parties expressly retain their rights as against these entities, including the City's rights as third-party beneficiary to the Engineering Contract and third-party beneficiary to the Road Project Contracts, as those rights are conferred in § 3(d)(ii) and § 8 of the LFA.

The Parties maintain all future rights against the Engineering Firm and the Road Project Contract contractors and their sureties under the Engineering Contract and Road Project Contract with respect to drawings, specifications, project documents, installed materials, work performed, and any other rights or remedies the Parties may otherwise have under the Engineering Contract and Road Project Contract against the Engineering Firm and the Road Project Contract contractors (including, in particular, contractual indemnification rights), and any other rights or remedies the Parties may otherwise have against the Engineering Firm and the Road Project Contract contractors at law, including claims for personal injury, property damage or economic loss, in connection with any of the foregoing, to the extent they arise out of latent defects with respect to the performance of the Road Project. The Parties represent that, as of the date of this Agreement, no such latent defects with respect to the Road Project or future claims are known to them or should have been known to them through the exercise of reasonable diligence.

This Agreement and release as set forth herein do not and are not intended to include or effect any of the Parties rights or obligations as reflected in the Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions dated February 9<sup>th</sup>, 2015, as recorded on February 25, 2015, as instrument No. 2015053254 at Official Records Book 18689, Page 616 of the Official Records of Pinellas County, Florida, or Settlement Agreement and Release among the Parties and Tarpon Springs Hospital Foundation, Inc., or the Second Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions provided for in such Settlement Agreement and Release.

7. **Representations of Parties.** Each Party represents to the other that it does not require any consent of anyone to enter into this Agreement that has not been obtained and provided to the other Party prior to the Effective Date. Each Party further represents to the other that it is duly authorized to enter into this Agreement and that this Agreement is a valid, binding, and

enforceable obligation of such Party and does not violate any law, rule, regulation, contract, or agreement otherwise enforceable against such Party.

8. **Successors and Transferees.** This Agreement shall be binding upon and inure to the benefit of the Parties, and their predecessors, successors, assigns, heirs, and estates and all parents, subsidiaries, affiliates, assigns, and transferees.

9. **Waiver, Amendment and Merger.** No breach of any provision hereof can or shall be deemed waived unless expressly waived in writing. The failure of either Party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of such or any further right under this Agreement. This Agreement contains the full and complete agreement between the Parties and supersedes any prior or contemporaneous written or oral agreements. This Agreement may be amended only in a writing signed by all Parties hereto.

10. **Counterparts; Facsimile & Electronic Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the Parties at such time as all the signatories hereto have signed a counterpart of this Agreement. Signature and acknowledgment pages may be detached from the counterparts and attached to a single copy of this Agreement to physically form one document. Signatures given by facsimile or portable document format (PDF) shall be binding and effective to the same extent as original signatures.

11. **Governing Law; Venue; Attorneys' Fees.** This Agreement shall be interpreted and construed according to the laws of the State of Florida, and shall be enforced by motion filed in the court presiding over the Litigation, unless the court declines to enforce the Agreement in this manner, for any reason, in which case then the Agreement may be enforced by an action filed in the Circuit Court of the Sixth Judicial Circuit, in and for Pinellas County, Florida, and the Parties expressly consent to venue therein. In the event of any enforcement, controversy, dispute or claim arising out of or relating to this Agreement or the settlement of the Litigation, the prevailing party in such action shall be entitled to recover its reasonable attorneys', paralegals', and court fees and costs incurred in such action (including on appeal or in any bankruptcy proceeding).

12. **WAIVER OF JURY TRIAL.** IN ANY ACTION, SUIT, OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING IN ANY WAY TO THIS AGREEMENT, THE PARTIES KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, UNCONDITIONALLY AND FOREVER WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY.

13. **Further Assurances.** Each Party agrees to execute and deliver such documents and writings, and to undertake and perform such other actions and assurances, as may be reasonably required to carry out the intent and purposes of this Agreement.

14. **Interpretation.** The Parties affirm that this Agreement is a product of negotiation and joint authorship. As such, this Agreement is not to be construed or interpreted against or in

favor of any one party, regardless of which party may have contributed more toward the drafting of the Agreement.

15. **Severability**. In the event that any one or more terms, conditions or provisions of this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the enforceability of any other term, condition or provision of this Agreement.

16. **Review and Consent**. Each party represents and warrants to the other that they have thoroughly read and reviewed the terms of this Agreement after consultation with legal counsel of their choosing, and that the terms and provisions contained herein are clearly understood and have been fully and unconditionally consented to by each party.

17. **Effectiveness**. This Agreement shall become effective upon the date of the last signature on the signature pages below (“Effective Date”).

**[SIGNATURES ON FOLLOWING PAGES]**



The undersigned have executed this Settlement Agreement and Mutual Release as of the Effective Date.

MERES CROSSING, LLC,  
a Florida limited liability company

CITY OF TARPON SPRINGS, a Florida  
municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

CRP II – TARPON SPRINGS, LLC,  
a Florida limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## ESTOPPEL CERTIFICATE

City of Tarpon Springs, a Florida municipal corporation (“**City**”), hereby certifies and represents to and for the benefit of Meres Crossing, LLC, a Florida limited liability company (“**Meres Crossing**”), and each of its successors and assigns, as follows:

1. Meres Crossing is the owner of real property located at 1185 S Pinellas Ave in the City, southeast of the intersection of S Pinellas Ave (U.S. Alt 19) and Meres Boulevard, consisting of approximately 6.5 acres and bearing Pinellas County Property Appraiser Parcel No. 13-27-15-57285-000-0030 (“**Property**”).
2. All development approvals in connection with the development of the Property into a 236-unit multi-family apartment complex (“**Apartment Project**”) have been properly obtained under all applicable municipal agreements, City ordinances, City codes, and City regulations (the “**Applicable Laws**”).
3. The Apartment Project has been properly permitted as required by all Applicable Laws.
4. Meres Crossing has properly obtained all required certificates of occupancy for the Apartment Project.
5. Neither an event of default, nor any event which would, with the giving of notice, the passage of time, or both, constitute an event of default, has occurred or is continuing as of the date hereof under any Applicable Law with respect to the Property.

*[Remainder of Page Intentionally Left Blank]*

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2021

**CITY OF TARPON SPRINGS**

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM AND  
LEGALITY for the use of the City of  
Tarpon Springs.

\_\_\_\_\_, 2021

\_\_\_\_\_  
City Attorney