

TAB 2



# City of Palmetto Agenda Item

Meeting Date

January 20, 2011

Presenter: Jeff Burton/Mark Barnebey

Department: CRA/CRA Attorney

## Title: Assignment of Vacant Land Contract between Bob Graham and Cadence Bank

### Background:

On December 1, 2011, Bob Graham and Cadence Bank entered into a contract for Mr. Graham to purchase 3 parcels at 325 8<sup>th</sup> Avenue W, 320 9<sup>th</sup> Avenue W and 834 Riverside Drive from Cadence Bank for a total of \$770,000. This is a part of the property which has been discussed to be purchased by the CRA for a mixed use development and expansion of the boat ramp parking. The attached Assignment would assign the right of Mr. Graham to purchase the 3 parcels to the CRA. Mr. Graham would be paid \$66,000 upon closing by the CRA.

### Discussion:

The CRA would be stepping into the shoes of Mr. Graham for this contract. The terms of the contract between Mr. Graham and Cadence Bank provide several potential issues for the CRA. The due diligence period ends December 30, 2011 which is too short. While the property has been cleared of buildings, it is adjacent to a known brownfield site and the CRA needs to be comfortable with the status of this issue. Title work, a survey, and the environmental analysis needs to be completed and analyzed. Title work, the survey, environmental work and other closing costs will be responsibility of the CRA. Total cost to the CRA is expected to be approximately \$900,000.00. Funding for the purchase would come from a 2006 loan with Bank of America which had been partially paid down.

Under the terms of this Assignment, the purchase of this property is NOT contingent on a closing of the adjoining Circle K property which is also on this Agenda. However, the acquisition of both the Cadence property and the Circle K property have value to the CRA independent of each other, although they are more desirable to the CRA if consolidated.

The basic terms of the Assignment are complete as presented, but there may be some minor fine tuning prior to Monday's meeting due to time constraints.

Based on the current terms of the agreement, we do not recommend entering into the Assignment for the Cadence property.

**UPDATE SINCE 12/19/2011 MEETING: CRA is currently in the process of receiving due diligence materials relating to this Contract. There may be some fine tuning upon receipt of additional documents. Currently, title work, a survey and the environmental analysis has been completed. The survey of the Cadence Bank property shows a hiatus about 10 feet wide between the Cadence property and the Circle K property. After discussion with an underwriting attorney for Chicago Title (which is also insuring the Cadence parcel, through the Porges Hamlin law firm, attorneys for Mr. Graham, as agent) and Cadence Bank representative, it has been proposed that the adjoining owners enter into a boundary line agreement to agree that the boundary of the Cadence Bank property as shown on the survey (which is the boundary of an old platted subdivision lot) is the common boundary line between the two parcels. This would effectively result in the Circle K parcel being expanded to the west by about 10'. Such a boundary line agreement would resolve any potential future title objection, so it would benefit both owners, as well as the City as potential ultimate purchaser, to resolve the matter in this way. The title work has been reviewed and appears to have no outstanding issues.**

The environmental review has been completed on January 19, 2012 and Streamline Environmental concluded that the groundwater impacts identified along the property boundary are minor and isolated. The Circle K parcel does not appear to be the source of the impacts. The impacts may just be a case of long term urban land use. Streamline Environmental is suggesting that the low level groundwater impacts identified along the property boundary do not warrant active remediation and that it be allowed to naturally attenuate. Jeff Burton has requested the City's consultant revise this report.

The Assignment has been revised to reflect a \$66,000.00 fee to Mr. Graham upon closing by the CRA together with CRA paying out of pocket expenses for normal due diligence items not to exceed \$20,000.00.

The Mayor and Jeff Burton have reviewed these issues and believe that it is in the best interest of the CRA to approve the Assignment and move forward to close on January 23, 2012.

**Budgeted Amount:** 
**Budget Page No(s):** 
**Available Amount:** 
**Expenditure Amount:**

**Additional Budgetary Information:**

**Funding Source(s):** 
**Sufficient Funds Available:**  Yes  No
 **Budget Amendment Required:**  Yes  No
 **Source:**

**City Attorney Reviewed:**  Yes  No  N/A
 **Advisory Board Recommendation:**  For  Against  N/A
 **Consistent With:**  Yes  No  N/A

**Potential Motion/Direction Requested:**

**Staff Contact:**

**Attachments:**