

Item # 30₍₂₎

Replacement Attachment 3 of Exhibit 3

ADDITIONAL MATERIAL

Public Hearing

MAY 4, 2020

SUBMITTED AT THE REQUEST OF

PLANNING COUNCIL

ATTACHMENT 3



Prepared by and Return To:
Christina Bilenki, Esq.
Dunay, Miskel & Backman, LLP 14 SE 4th Street, Suite 36
Boca Raton, Florida 33432

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restriction ("Declaration") made this day ___ of _____, 20___, by CLUBLINK US CORP, a Delaware corporation, having an address of 15676 Dufferin Street, King City, Ontario, Canada L7B 1K5 (referred to herein as "Owner"), shall be for the benefit of Broward County, a political subdivision of the State of Florida, with a post office address at 115 South Andrews Avenue, Fort Lauderdale, Florida 33301 ("County").

WITNESSETH:

WHEREAS, Owner is the fee simple owner of land located in Broward County, Florida, and more particularly described in Exhibit "A" ("Property"); and

WHEREAS, the Property is subject to a land use plan amendment, which application was identified as Case Number PC 20-2 and referred to herein as the "Application"; and

WHEREAS, the City of Tamarac ("City") and County approved the Application to change the land use designation of the Property from Commercial/Recreation to Low (0-3) Residential on the Property; and

WHEREAS, Owner has voluntarily offered to enter into this Declaration to restrict the utilization of the Property; and

WHEREAS, Owner agrees to grant this Declaration in order to place certain restrictions on the development of the Property upon final approval as an inducement to the County in its consideration of the Application.

NOW, THEREFORE, in consideration of the promises and covenants herein contained, Owner hereby declares that the Property specifically referenced herein shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions and regulations hereinafter set forth, all of which shall run with such Property and any part thereof and which shall be binding upon all parties having any right, title or interest in such Property or any part thereof, their heirs, successors and assigns.

1. **Recitations.** The recitations set forth above are true and correct and are incorporated into this Declaration by this reference.

2. **Property Development.** Owner hereby restricts development of the Property to three hundred ninety-eight (398) single family homes.

3. **Access.** Owner hereby agrees to prohibit non-emergency vehicular ingress and egress to the Property from NW 44th Street.
4. **Affordable Housing.** Prior to environmental review approval by the County, Owner shall pay \$1,000 per dwelling unit into the City's Affordable Housing Trust Fund to facilitate the City's affordable housing programs and initiatives, and provide evidence of said payment(s) to the County.
5. **Recreation and Open Space.** No building permit for a residential dwelling unit shall be issued for the Property until a site plan is approved by the City which provides that a total of one hundred sixty (160) acres of the Property is reserved for community recreation and open space ("Open Space"). Of the one hundred sixty (160) acres of Open Space, approximately one hundred nine (109) acres are located within the areas as depicted on Exhibit "A". The remaining balance of Open Space will be located within the Property that is subject to the Application. The exact location of the remaining Open Space within the Property shall be determined by the City at the time of final site plan approval. The Open Space shall be restricted for the benefit of the Woodlands community and not for the general public.
6. **Term.** This Declaration is to run with the Property and shall bind all parties, persons, and successors-in-interest unless modified, amended or released in accordance with the provisions set forth in Paragraph 7 herein.
7. **Modification, Amendment, Release.** This Declaration shall not be modified, amended or released as to any portion of the Property except by written instrument, executed by the then owner or owners of the portion of the Property affected by such modification, amendment or release and approved in writing by the Broward County Board of County Commissioners. The appropriate governmental authority of the County shall execute a written instrument effectuating and acknowledging such modification, amendment or release. Any amendment, modification or release of this Declaration shall be recorded in the Public Records of Broward County, Florida.
8. **Recording and Effective Date.** This Declaration shall not become effective and shall not be recorded in the Public Records of Broward County, Florida and the restrictions on the development of the Property contained herein shall not become enforceable until all required governmental entities have approved and adopted, with no appeal having been filed or if filed resolved so as to uphold the approvals, the Application, which will allow development of the Property in accordance with the restrictions herein ("Final Approval"). Declarant shall record this Declaration not later than 10 business days after Final Approval. Once recorded, the restrictions herein shall run with the Property and shall remain in full force and effect and be binding upon Owner and its heirs, successors and assigns until such time as the same are modified, amended or released as provided for herein.
9. **Severability.** Invalidation of any one of these provisions, by judgment of court, shall not affect any of the other provisions which shall remain in full force and effect.
10. **Third Party Beneficiary Rights.** This Declaration is not intended to create, nor shall it be in anyway interpreted or construed to create, any third party beneficiary rights in any person not a party hereto unless otherwise expressly provided herein.

11. **Enforcement; No Waiver.** The restrictions set forth herein run in favor of and may be enforced by County by action at law or equity. Any failure of County to enforce these restrictive covenants shall not be deemed a waiver of the right to do so thereafter.

12. **Jurisdiction, Venue, and Governing Law.** Any controversies or legal problems arising out of this Declaration and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs, and shall be governed by the laws of the State of Florida.

13. **Captions, Headings and Titles.** Paragraph captions, headings and titles inserted throughout this Declaration are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of this Declaration.

IN WITNESS WHEREOF, Owner has executed this Declaration on the day first above written.

CLUBLINK US CORPORATION,
a Delaware corporation

WITNESSES:

(Signature)

(Print Name)

(Signature)

(Print Name)

By: _____
(Signature)

(Print Name)

Title

STATE OF FLORIDA)
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20__, by _____, as _____ of CLUBLINK US CORPORATION, a Delaware corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ as identification.

(SEAL)

Notary Public, State of Florida

Print Name

My Commission Expires:

EXHIBIT "A"

[GRAPHICAL DEPICTION - LEGAL DESCRIPTION FORTHCOMING]

Site Data

Open Space - 109.93 acres



WOODLANDS COUNTRY CLUB



NORTH
SCALE: 1" = 300'

Open Space Dedication Plan