

**RESOLUTION NO. 2020-018**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING A SETTLEMENT AGREEMENT WITH DIAMOND EYE STABLES, LLC RELATING TO ITS 2018 and 2019 FIRE ASSESSMENTS (CACE 18-023257 & CACE 19-019635); AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on June 14, 2001, the Town adopted the Fire Rescue Assessment Ordinance, 2001-09, which set forth a method for assessing the cost of fire services in a manner that will insure that there are adequate funds to provide for the level of services deemed necessary and proper to promote the health, safety, and general welfare of its citizens; and

**WHEREAS**, on September 12, 2018, the Town adopted Resolution 2018-070, which constituted the final fire services assessment, which re-imposed Fire Assessments for the Fiscal Year beginning October 1, 2018 (the "2018 Fire Assessment"); and

**WHEREAS**, Diamond Eye is the owner of a property in Broward County containing the Parcel ID # 514002010070, with the property address of 6200 SW 130th Avenue, Southwest Ranches, Florida 33330 (the "Parcel"); and

**WHEREAS**, on March 5, 2019, Diamond Eye filed an Amended Complaint for Declaratory Relief against the Town, contesting the 2018 Fire Assessment levied against the Parcel, in that certain Broward County Court Case No. CACE 18-023257, *Diamond Eye Stables, LLC v. Town of Southwest Ranches*. (the "Action I"); and

**WHEREAS**, on August 20, 2019, the Town adopted Resolution 2019-052, which constituted the final fire services assessment, which re-imposed Fire Assessments for the Fiscal Year beginning October 1, 2019 (the "2019 Fire Assessment"); and

**WHEREAS**, on September 30, 2019, Diamond Eye filed a second Complaint for Declaratory and Injunctive Relief against the Town, contesting the 2019 Fire Assessment levied against the Parcel, in that certain Broward County Court Case No. CACE 19-019635, *Diamond Eye Stables, LLC v. Town of Southwest Ranches*. (the "Action II"); and

**WHEREAS**, the Parties have agreed that it is in their best interest to settle Actions I and II, pursuant to the terms of this Settlement Agreement, as set forth herein.

**NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE**

**NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:**

**Section 1.** That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution.

**Section 2.** That the Town Council hereby approves the Settlement Agreement with Diamond Eye Stables, LLC, attached hereto and incorporated herein by reference as Exhibit "A", resolving with prejudice Circuit Court cases CACE 18-023257 & CACE 19-019635 .

**Section 3.** The Mayor, Town Administrator and Town Attorney are each authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

**Section 4.** This Resolution shall become effective immediately upon adoption.

**[Signatures on Following Page]**

**PASSED** by the Town Council of the Town of Southwest Ranches, Florida, this

9<sup>th</sup> day of January, 2020, on a motion by C/M Hartmann

and seconded by C/M Jablonski.

McKay	<u>Yes</u>	Ayes	<u>5</u>
Schroeder	<u>Yes</u>	Nays	<u>0</u>
Amundson	<u>Yes</u>	Absent	<u>0</u>
Hartmann	<u>Yes</u>	Abstaining	<u>0</u>
Jablonski	<u>Yes</u>		

Doug McKay  
Doug McKay, Mayor

ATTEST:  
Russell Muniz  
Russell Muniz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

Keith Poliakoff  
Keith Poliakoff, Town Attorney  
36383017.1

## SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is made by and between the Town of Southwest Ranches ("Town"), on the one hand, and Diamond Eye Stables, LLC, ("Diamond Eye"), on the other hand (collectively the "Parties"), as follows:

**WHEREAS**, on June 14, 2001, Town adopted the Fire Rescue Assessment Ordinance, 2001-09, which set forth a method for assessing the cost of fire services in a manner that will insure that there are adequate funds to provide for the level of services deemed necessary and proper to promote the health, safety, and general welfare of its citizens; and

**WHEREAS**, on September 12, 2018, the Town adopted Resolution 2018-070, which constituted the final fire services assessment, which re-imposed Fire Assessments for the Fiscal Year beginning October 1, 2018 (the "2018 Fire Assessment"); and

**WHEREAS**, Diamond Eye is the owner of a property in Broward County containing the Parcel ID # 514002010070, with the property address of 6200 SW 130th Avenue, Southwest Ranches, Florida 33330 (the "Parcel"); and

**WHEREAS**, on March 5, 2019, Diamond Eye filed an Amended Complaint for Declaratory Relief against the Town, contesting the 2018 Fire Assessment levied against the Parcel, in that certain Broward County Court Case No. CACE 18-023257, *Diamond Eye Stables, LLC v. Town of Southwest Ranches*. (the "Action I"); and

**WHEREAS**, on August 20, 2019, the Town adopted Resolution 2019-052, which constituted the final fire services assessment, which re-imposed Fire Assessments for the Fiscal Year beginning October 1, 2019 (the "2019 Fire Assessment"); and

**WHEREAS**, on September 30, 2019, Diamond Eye filed a second Complaint for Declaratory and Injunctive Relief against the Town, contesting the 2019 Fire Assessment levied against the Parcel, in that certain Broward County Court Case No. CACE 19-019635, *Diamond Eye Stables, LLC v. Town of Southwest Ranches*. (the "Action II"); and

**WHEREAS**, the Parties have agreed that it is in their best interest to settle Actions I and II, pursuant to the terms of this Settlement Agreement, as set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises made by the Parties, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

1. **RECITALS.** The foregoing recitals are true and correct and are incorporated herein by reference.
2. **ASSESSMENT SETTLEMENT.** The Parties hereby agree to the Assessment Settlement as follows (the "Assessment Settlement"):



a. Within three (3) business days following the execution of this Settlement Agreement, and approval by the Town Council of the Town of Southwest Ranches, the Town shall notify the Broward County Property Appraiser in writing that the agricultural portion of the Parcel (4.7 acres), previously classified as commercial, shall be reclassified as vacant/agricultural property for purposes of the Town's October 1, 2019 Fire Assessment, and shall provide evidence thereof to counsel for Diamond Eye.

b. The Town shall cause its October 1, 2019 Fire Assessment levied against the Parcel and payable to the Broward County Tax Collector to be amended to reflect a \$523.51 Fire Assessment for the single family home located on the Parcel, in addition to a \$447.49 Fire Assessment on the Parcel, based on the vacant/agricultural rate of (\$95.21/acre x 4.7 acres), for a total Fire Assessment of \$971.00. Diamond Eye shall pay the current Fire Assessment shown on its tax bill in the amount of \$11,793.31. Within thirty (30) days upon proof of payment, the Town shall refund to Diamond Eye \$10,822.31, leaving Diamond Eye with a total October 1, 2019 Fire Assessment of \$971.00 (\$523.51 for its single family house plus \$95.21 per acre of agricultural land).

c. The agricultural portion of the Parcel, previously classified as commercial, shall remain classified as vacant/agricultural until such time as the Town conducts a new fire study which will replace the 2011 Fire Protection Assessment Report commissioned by the Town (the "Willdan Report"). Although the Town cannot predict the outcome of a new fire study, the new fire study is being conducted, in part, so that properties, such as this one, are placed in the same category as other properties with an agricultural exemption, and not placed in the same commercial category as Publix, Lowes and the like.

3. **VOLUNTARY DISMISSAL OF ACTIONS.** Within Three (3) business days of Defendant's compliance with Defendant's obligations under this Settlement Agreement as set forth in Section 2a and 2b, Plaintiff shall voluntarily dismiss both Action I and Action II, as defined herein, with both parties bearing their own costs and attorneys' fees. The Circuit Court of Broward County, Florida shall retain jurisdiction over this matter solely for the purpose of enforcing this Agreement.

4. **MUTUAL RELEASES.** Except as to, and subject to, the Parties' full, complete, and timely performance of their obligations under this Agreement, both Parties hereby acquit, satisfy, and forever release and discharge the other, including their respective employees, agents, shareholders, officers, directors, attorneys, heirs, successors, and assigns, of and from any and all, and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which the Parties ever had, now have, or which any personal representative, successor, heir or assign of the Parties, hereafter can, shall or may have on account of, arising out of, or in any way related to all Fire Assessments prior to and including the Town's October 1, 2019 Fire Assessment. Nothing herein shall preclude Diamond Eye from contesting any future Fire Assessments or reclassification of the Parcel from vacant/agricultural to any other designation.

5. **DEFAULT.** Subject to the Town's full, complete, and timely performance of its obligations under the Assessment Settlement, failure of Diamond Eye to make any payment(s) due under this Agreement and pursuant to the Assessment Settlement shall represent a material breach of this Agreement and shall negate the reduction granted by the Town. The Town reserves all legal and

equitable rights and remedies available to Town.

6. **NO MODIFICATION UNLESS IN WRITING.** No modification of this Agreement shall be valid and binding unless agreed to in writing and signed by the Parties.

7. **APPLICABLE LAW.** This Agreement and the interpretation of its terms shall be governed by and construed in accordance with the laws of the State of Florida. This Agreement, including enforcement of its terms, is subject to the exclusive jurisdiction and venue of the state courts located in Broward County, Florida.

8. **SEVERABILITY.** In the event that any provision of this Agreement is found to be void or unenforceable by a court of competent jurisdiction, the remaining provisions, in whole or in part, shall continue to be enforceable to the greatest extent allowed by law and to the same extent as if the void or unenforceable provision were omitted from the Agreement.

9. **NON-ASSIGNMENT.** The Parties may not assign this Agreement without the written consent of the other.

10. **ATTORNEY'S FEES AND COSTS.** In any action or proceeding to enforce this Agreement, declare the rights of the Parties hereunder, or for damages for a breach hereof, the prevailing party shall be entitled to recover from the non-prevailing party all attorney's fees and costs (at both the trial and all appellate levels).


11. **REVIEW BY COUNSEL/JOINT DRAFTING.** Both Parties have been represented by counsel in connection with this Agreement. This Agreement is the product of joint negotiation by the parties. Therefore, the Agreement shall not be interpreted more strictly against either of the Parties solely by reason of its drafting.

12. **ENTIRE AGREEMENT.** This Agreement contains the entire settlement agreement between the Parties and all prior or contemporaneous negotiations or representations are merged into this Agreement.

13. **COUNTERPART EXECUTION.** This Agreement may be executed in counterparts together which constitute one instrument. This Agreement may be executed by facsimile or with signatures transmitted by electronic means, which shall constitute an original.

**IN WITNESS WHEREOF,** the Parties have executed this Agreement, individually or through a duly authorized officer, on the day and year set forth below.

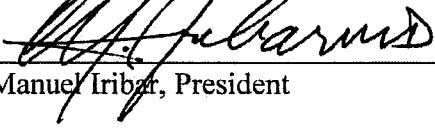
TOWN OF SOUTHWEST RANCHES

  
\_\_\_\_\_  
ANDREW BERNS, *Town Administrator*

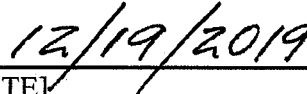
1/9/2020  
[DATE]



Diamond Eye Stables, LLC



Dr. Manuel Iribar, President



[DATE]