

RESOLUTION NO. 2022-

A RESOLUTION OF THE VILLAGE OF PINECREST, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A SETTLEMENT AGREEMENT WITH KENDALL IMPORTS, LLC, DBA KENDALL TOYOTA RELATING TO A CODE COMPLIANCE ISSUE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE VILLAGE COUNCIL OF PINECREST, FLORIDA, AS FOLLOWS:

Section 1. That the Village Manager is hereby authorized to execute that attached Settlement Agreement, on behalf of the Village, with Kendall Imports LLC, d.b.a. Kendall Toyota relating to a code compliance matter.

Section 2. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 1st day of November, 2022.

Joseph M. Corradino, Mayor

Attest:

Priscilla Torres, CMC
Village Clerk

Approved as to Form and Legal Sufficiency

Mitchell Bierman
Village Attorney

Consent Agenda

**VILLAGE OF PINECREST, FLORIDA
DEPARTMENT OF CODE COMPLIANCE**

VILLAGE OF PINECREST, FLORIDA

Case No.: CC21-1434

V.

**Property Address: 10943 S. Dixie Hwy.
Folio: 20-5010-000-0080**

**KENDALL IMPORTS LLC
DBA KENDALL TOYOTA
10943 S. DIXIE HIGHWAY
MIAMI, FL 33156-375**

STIPULATION OF SETTLEMENT AND COMPLIANCE AGREEMENT

The Village of Pinecrest (the “Village”) and Kendall Imports LLC, d.b.a. Kendall Toyota (“Kendall Toyota”), enter into the following Compliance Agreement (the “Agreement”) in full settlement of the above-styled Code Compliance case:

1. This case involves a code compliance reminder that was issued to Kendall Toyota for the following violations of the Village Code (the “Violations”):
 - a. Chapter 15, Nuisances, Article I, Section 15-1(g)(10) – Lighting.
 - b. Chapter 30, Land Development Regulations, Division 5.19(f) – Exterior lighting.
 - c. Chapter 30, Land Development Regulations, Division 5.22(d) – Lighted off-street parking facilities.
 - d. Chapter 30, Land Development Regulations, Division 5.29(a)(3) – Outdoor lighting shall be designed so that any overspill of lighting onto adjacent properties shall not exceed one-half footcandle (vertical) and shall not exceed one-half footcandle (horizontal) illumination on adjacent properties or structures. An outdoor lighting installation shall not be placed in permanent use until a letter of compliance from a registered engineer or architect or the duly authorized representative of such engineer or architect is provided stating that the installation has been field checked and meets the requirements as set forth above.
2. The Violations all pertain to lighting on the Property that was determined by the Village to be beyond the lighting intensity allowed by the Code. Kendall Toyota disputes the determination by the Village.
3. Without admitting the violations, Kendall Toyota has agreed to take the actions set forth herein to resolve this matter.
4. Phase 1:
 - a. Kendall Toyota shall correct the installation and orientation of the rotated optics as specified at the 6 poles (12 LED fixtures) at the Pinecrest Parkway property

boundary once Electrical Permit EL2020-0398 has been reopened by the Village;
and

- b. Under Electrical Permit EL2020-0398, Kendall Toyota shall install HIS (shields) on the 6 poles (LED fixtures) and test whether the measured foot candle output and light trespass is decreased by over 70% from 30-55 FC to 5-15 FC. Kendall Toyota shall provide the test results to the Village within 7 days from said test; and
 - c. Immediately after the completion of part “b.” in Phase 1, Kendall Toyota shall submit a signed and sealed photometric survey from a certified engineer attesting to the lighting levels, measured in foot-candles, along the Pinecrest Parkway property line showing actual levels of illumination. If actual levels of illumination confirm 5-15 FC along Pinecrest Parkway, the Village will conduct a final inspection for the permit; and
 - d. All work required by Phase 1 must be completed within 90 days from the date of issuance of the required electrical permit.
5. Phase 2:
- a. Within 30 days from the completion of Phase 1, Kendall Toyota shall submit an application for the appropriate permit(s) from the Village to (i) install shields to the interior parking lot poles with (existing) LED fixtures; and
 - b. All work required by Phase 2 must be completed within 3 years from the date of this Agreement.
6. Phase 3:
- a. Install, orient and shield all remaining fixtures from metal halide to LED fixtures with HIS within the entire Property, including US-1 and 110 Street frontages and rear of 10943; and
 - b. All work required by Phase 3 must be completed within 5 years from the date of this Agreement. At the completion of Phase 3, the actual levels of illumination must confirm 5-15 FC along Pinecrest Parkway.
7. The Code Compliance case shall remain open until Kendall Toyota has completed all actions required by Phase 1, 2, and 3. Once such actions are completed, the Village shall withdraw and close Code Compliance Case No.: CC21-1434.
8. Failure by Kendall Toyota to comply with any of the terms herein shall constitute a material breach of this Agreement and shall result in the Village recommencing the Code Compliance case and enforcement of the Code as if this Agreement had not been executed. In the event this Agreement is breached, and upon written notice of such breach by the Village to Kendall Toyota and with 30 days to thereafter comply, if the non-compliance continues, Kendall Toyota agrees to pay the Village a penalty in the amount of \$15,000.00

within 15 days of the written notice by the Village. Said penalty is without regard to any provision in the Village Code or other applicable law to the contrary.

9. Upon execution of this Agreement, Kendall Toyota may be heard before the Village Council at the next available regular agenda meeting to consider the Village's analysis of the architectural harmony of the entrance portal at the west entrance wall on the subject property.
10. Notwithstanding anything in this Agreement to the contrary, in the event that Kendall Toyota requests approval for any additional lighting on the Property, the Village Council shall not be precluded from imposing additional conditions on lighting, including the level of illumination. Such conditions include, but are not limited to, reducing the aggregate illumination levels on the Property in order to come into compliance with the Village Code.
11. This Agreement may be signed and dated in counterparts and delivered by facsimile or email transmission, and all such counterparts shall constitute one single form of this Agreement. Electronic signature of this Agreement shall be permitted. The effective date of this Agreement shall be the date of execution by the Village.

**KENDALL IMPORTS LLC
DBA KENDALL TOYOTA**

By: _____ Title: _____
Print Name: _____ Date: _____

VILLAGE OF PINECREST

By: _____ Title: _____
Print Name: _____ Date: _____