MEMORANDUM

Agenda Item No. 8(F)(10)

TO:	Honorable Chairwoman Rebeca Sosa and Members, Board of County Commissioners	**DATE:**	December 3, 2013
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution approving Amendment 1 to Miami-Dade County Rental Regulatory Agreement between Miami-Dade County and Cutler Bay Centre Associates, LLC to change the County Department responsible for monitoring the Affordable Housing project

The accompanying resolution was prepared by the Internal Services Department and placed on the agenda at the request of Prime Sponsor Vice Chair Lynda Bell.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

Date: December 3, 2013

Memorandum

MIAMI-DADE COUNTY

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Amendment 1 to Rental Regulatory Agreement between Miami-Dade County and Cutler Bay Centre Associates, LLC for the Cutler Bay Centre Senior Apartments Affordable Housing Senior Development Project Located at 11150 S.W. 211 Street, Cutler Bay, Florida

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Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the execution of Amendment 1 to the Rental Regulatory Agreement between the County and Cutler Bay Centre Associates, LLC, for the senior citizens affordable housing development project known as Cutler Bay Centre Senior Apartments, located at 11150 SW 211 Street, Cutler Bay, Florida. More specifically, this resolution does the following:

- Authorizes Public Housing and Community Development (PHCD) to perform monitoring and inspections required to ensure continued compliance with federal and/or County standards for this project;
- Authorizes PHCD to collect a fee for monitoring and inspection activities, to be paid by Cutler Bay Centre Associates, LLC to the County;
- Establishes a fee structure for ongoing annual monitoring and inspections throughout the established term of the Rental Regulatory Agreement; and
- Reduces the monitoring and inspection period to 25 years, minus one day.

Scope

The property is located in County Commission District 8, which is represented by Vice Chair Lynda Bell.

Fiscal Impact/Funding Source

For the first year of the Rental Regulatory Agreement, Cutler Bay Centre Associates, LLC will pay a monitoring and inspection fee of $1,142. This fee will increase three percent each year for the remainder of the agreement, for a total of $41,711.71 to the County, as shown in Exhibit A, which outlines the fee schedule for this agreement.

Track Record/Monitoring

The County has no record of negative performance with the developer, Cutler Bay Centre Associates, LLC. Clarence Brown, Division Director in PHCD, is the program monitor.

Delegation of Authority

Authorizes the County Mayor or the County Mayor's designee to execute the attached Amendment 1 to the Rental Regulatory Agreement, and exercise any provisions therein.

Background

At its meeting of January 24, 2012, the Board approved Resolution R-58-12, which authorized Building Better Communities General Obligation Bond Program funding for the development of this project and authorized the County to enter into the original Rental Regulatory Agreement. The executed Rental Regulatory Agreement does not include a monitoring and inspection fee was not included, as is customary for these types of agreements. Additionally, the original Rental Regulatory Agreement provided that the Internal Services Department would be the County Department conducting the

monitoring and inspection activities. The amendment serves to assign the monitoring and inspection responsibilities for this project to PHCD, authorizes PHCD to collect the monitoring and inspection fee from Cutler Bay Centre Associates, LLC, establishes the ongoing monitoring and inspection fee scheduled for the duration of this agreement, and reduces the term from 25 years, to 25 years, minus one day.

Per PHCD standards, ten percent of the total number of units that are occupied will be inspected for purposes of determining compliance with federal and/or County housing standards, and the project will be monitored for compliance with the rents and tenant mix required under the Rental Regulatory Agreement.

Russell Benford
Deputy Mayor

MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: December 3, 2013

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(F)(10)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

✓ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(10)
12-3-13

RESOLUTION NO. _____

RESOLUTION APPROVING AMENDMENT 1 TO MIAMI-DADE COUNTY RENTAL REGULATORY AGREEMENT BETWEEN MIAMI-DADE COUNTY AND CUTLER BAY CENTRE ASSOCIATES, LLC TO CHANGE THE COUNTY DEPARTMENT RESPONSIBLE FOR MONITORING THE AFFORDABLE HOUSING PROJECT AND TO INCLUDE AN ANNUAL MONITORING FEE TO BE PAID TO MIAMI-DADE COUNTY; AND AUTHORIZING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AND DELIVER AMENDMENT NUMBER ONE

WHEREAS, pursuant to Resolution No. R-58-12, adopted on January 24, 2012 ("Allocation Resolution"), the Board of County Commissioners of Miami-Dade County, Florida ("Board") approved a District 8 grant/allocation of $10,592,308 ("County Grant") from Project No. 249 – "Preservation of Affordable Housing Units and Expansion of Home Ownership" (the "Total Funding Allocation") of the Building Better Communities General Obligation Bond Program ("BBC GOB Program") to Cutler Bay Centre Associates, LLC (the "Developer/Grantee" or "Grantee"), a Florida limited liability company, for the development of one hundred one (101) affordable elderly rental units and related amenities known as the Cutler Bay Centre Senior Apartments (the "Project"), on real property located in District 8 at 11150 S.W. 211 Street, Cutler Bay, Florida (the "Property"), which will be leased to certain eligible tenants; and

WHEREAS, a Miami-Dade County Rental Regulatory Agreement was entered into by the Grantee and Miami-Dade County (the "County") regarding the County Grant and the Project, which was filed and recorded in the public records of Miami-Dade County on September 20, 2012, which addressed, among other things, how the rents in the one hundred and one (101)

affordable rental units were required to be set and maintained, and how, and by whom, the Project will be monitored for compliance ("Rental Regulatory Agreement"); and

WHEREAS, this Board wishes to amend the Rental Regulatory Agreement, which the Grantee has approved, to (i) provide for an annual monitoring fee to be paid to the County by the Grantee, (ii) provide that Miami-Dade County's Public Housing and Community Development ("PHCD") department rather than its Internal Services Department ("ISD") would perform the inspections and monitoring of the Project pursuant to the Rental Regulatory Agreement, and (iii) reduce the termination date of the Rental Regulatory Agreement by one day, for the purposes outlined in the accompanying memorandum, a copy of which is incorporated in this Resolution by reference,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that Amendment 1 to the Rental Regulatory Agreement attached to this Resolution as Exhibit A is hereby approved and the County Mayor, or the County Mayor's designee, is authorized to execute and deliver Amendment 1, for and on behalf of Miami-Dade County, and to exercise any and all other rights conferred to the County in such document.

The foregoing resolution was offered by Commissioner ,
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

Bruno A. Barreiro	Esteban L. Bovo, Jr.
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of December, 2013. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Gerald T. Heffernan

Record and Return to:
Miami-Dade County
Public Housing and Community Development
701 N.W. 1st Court, 16th Floor
Miami, Florida 33136
Attention: Department Director

AMENDMENT 1
TO RENTAL REGULATORY AGREEMENT BETWEEN MIAMI-DADE COUNTY AND CUTLER BAY ASSOCIATES, LLC

WHEREAS, pursuant to Resolution No. R-58-12 adopted on January 24, 2012 ("Allocation Resolution"), the Board of County Commissioners for Miami-Dade County, Florida ("Board") approved a District 8 grant/allocation of $10,592,308 ("County Grant") from Project No. 249 – "Preservation of Affordable Housing Units and Expansion of Home Ownership" (the "Total Funding Allocation") of the Building Better Communities General Obligation Bond Program ("BBC GOB Program") to Cutler Bay Centre Associates, LLC (the "Developer/Grantee" or "Grantee"), a Florida limited liability company, for the development of one hundred one (101) affordable elderly rental units and related amenities known as the Cutler Bay Centre Senior Apartments (the "Project") on real property located in District 8 at 11150 S.W. 211 Street, Cutler Bay, Florida (the "Property") which will be leased to certain Eligible Tenants; and

WHEREAS, a Regulatory Agreement was entered into by the Grantee and Miami-Dade County ("County") regarding the County Grant and the Project, which was filed and recorded in the public records of Miami-Dade County at Plat Book 28280 at Page 2030, on September 20, 2012, which addressed, among other things, how the rents in the one-hundred one (101) affordable rental units were required to be set and maintained, and how, and by whom, the Project would be monitored for compliance (the "Rental Regulatory Agreement"); and

WHEREAS, the Grantee and the County have agreed to amend and the Rental Regulatory Agreement by entering into this Amendment 1 to the Rental Regulatory Agreement ("Amendment 1") in order to (i) provide for an annual monitoring fee to be paid to the County by the Grantee, (ii) to provide that the County's Public Housing and Community Development ("PHCD") department rather than its Internal Services Department ("ISD") would perform the inspections and monitoring of the Project pursuant to the Rental Regulatory Agreement, and (iii) reduce the termination date of the Rental Regulatory Agreement by one day.

NOW, THEREFORE, for and in consideration of Ten ($10.00) Dollars, the promises and covenants contained in this Amendment 1, and for other good and valuable consideration received and acknowledged this _____day of _____, 2013, the Grantee, whose address is 15715 South Dixie Highway, Suite 203, Palmetto Bay, Florida 33157, its successors and assigns, and Miami-Dade County, a political subdivision of the State of Florida ("County") having a principal address of 701 N.W. 1st Court, Miami, Florida 33136, through its Public Housing and Community Development ("PHCD") and any successor agencies or departments, agree as follows:

WITNESSETH:

1. Grantee and County agree that all of the foregoing recitals are true and correct, and incorporated by this reference in this Amendment 1.

2. Grantee and County agree that this Amendment 1 amends the Rental Regulatory Agreement.

3. Grantee and County further agree all of the terms and conditions in the Rental Regulatory Agreement remain in full force and in effect, except for such terms and conditions that are amended by this Amendment 1.

4. Grantee and County agree that, unless specifically described otherwise, all of the defined terms in this Admendment 1 shall have the same meaning as those terms defined in the previously filed Rental Regulatory Agreement in this matter.

5. Grantee and County agree that Public Housing and Community Development ("PHCD") shall replace Internal Services Department ("ISD") as the agent of the County responsible for the functions and responsibilities set forth in the Rental Regulatory Agreement in this matter.

6. Grantee and County also agree that the following section shall be added at the end of the Rental Regulatory Agreement:

   X. Annual Fees

   The Grantee shall pay the County an annual fee for the monitoring and inspections required by Sections IV, V, and VII. The annual fee for the first year after the Project obtains a certificate of occupancy is One Thousand One Hundred Forty-two ($1,142.00) Dollars, which amount shall increase at the rate of three (3%) percent each year thereafter until the termination of the Rental Regulatory Agreement. A copy of the fee schedule, detailing the amount of the annual monitoring and inspection fees is attached hereto, marked as "Exhibit A", and incorporated herein by reference.

7. Grantee and County agree that the length of time that the Grantee is required to maintain the Project in accordance with the Rental Regulatory Agreement is reduced by one (1) day, resulting in twenty-five (25) years, minus a day.

[THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK]
[ONLY THE SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Grantee and the County have caused this Amended Agreement to be executed on the date first above written.

GRANTEE:
Cutler ~~Bay~~ Centre Associates, LLC

By: _____
Print Name: Justo A. Atrio, Manager
Title: Manager

STATE OF FLORIDA)
) ss.
COUNTY OF MIAMI-DADE)

The foregoing Amendment 1 to Rental Regulatory Agreement was sworn to, subscribed and acknowledged before me this 3 day of September, 2013, by Justo A. Atrio, on behalf of the company. He/She is personally known to me _____ or has produced identification FDL# A360-421-73254-0.

My commission expires:

Notary Public
State of Florida at Large

NOTARY PUBLIC STATE OF FLORIDA
JORGE F. PEREZ
MY COMMISSION # EE 207367
EXPIRES: June 30, 2016
Bonded Thru Budget Notary Services

COUNTY
MIAMI-DADE COUNTY, FLORIDA

By:_____
Mayor

Approved by Conty Attoney as
to form and legal sufficiency

By:_____

STATE OF FLORIDA)
) ss.
COUNTY OF MIAMI-DADE)

The foregoing Amendment 1 to Rental Regulatory Agreement was sworn to, subscribed and acknowledged before me this _____ day of _____, 2013, by _____ on behalf of Miami-Dade County. He/She is personally known to me _____or has produced identification _____.

My commission expires:

_____
Notary Public
State of Florida at Large

ATTEST:
HARVEY RUVIN, CLERK

By: _____
DEPUTY CLERK

"EXHIBIT A"

Housing and Community Development

Compliance Unit Cost

Activity	Unit Cost	Comments
Inspection	$27.17	Housing Quality Standards Review
File Review	$46.78	Eligibility, Income, and Rental Calculation Review
Administrative	$28.28	Supervisory Oversight
Travel	$4.81	Car and Public Transportation Pass
Overhead	$7.20	Rent, Phone, Supplies
Total Per Unit Cost	**$114.24**	

Examples:

A: Cost to conduct a 10 Unit Review for a project would be $1,142.40

B: Cost to conduct a 30 Unit Review for a project would be $3,427.20