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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: April 8, 2008

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Agenda Item No. 8(K)(1)(D)

Resolution No: R-339-08

Subject: Resolution Regarding Cutler Canal Apartments, d/b/a Riverside Apartments

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RECOMMENDATION

It is recommended that the Board of County Commissioners (BCC) approve a resolution authorizing: 1) The sale of Cutler Canal Apartments d/b/a Riverside Apartments, to Cutler Riverside Preservation, LP, (Preservation), an affiliate of The Related Group by Cutler Canal Associates, Ltd; 2) Transferring $351,000 in reserve escrow funds from Cutler Canal Associated Ltd. to Cutler Riverside Preservation, LP, for rehabilitation of the development; and 3) Approving an increase in the Area Median Income (AMI) rent from 50 percent (50%) to 60 percent (60%) for the low-income set-aside units.

SCOPE

The development is located at 21630 SW 104 Court, Miami FL 33190, in Commission District 9.

FISCAL IMPACT

This resolution does not create a negative fiscal impact to the County nor does it change the funding amount previously awarded. Funding is provided through the USHUD Housing Development Program Grant (HoDAG).

TRACK RECORD

Cutler Canal Associates, Ltd. ("the Partnership") is a limited partnership formed pursuant to the laws of the State of Florida. The Partnership for Cutler Canal Associates, Ltd. was originally formed in January 1988, and its principal managers are Stephen M. Ross and Jorge Perez. On March 31, 1990, an affiliate of the general partner acquired a 99 percent (99%) limited partnership interest in the Partnership through a syndication offering.

Its portfolio of projects includes Related Club West Apartments, Walden Ponds Apartments, Congress Building and Winchester Gardens Apartments.

BACKGROUND

On April 19, 1988, the BCC adopted resolution R-480-88 authorizing the execution of a grant agreement with the United States Department of Housing and Urban Development (USHUD) and a loan agreement with Cutler Canal Associates, Ltd., for the implementation of the Cutler Canal Housing Development Grant (HoDAG) project for $3,514,740 of HoDAG funds. Cutler Canal Apartments/Riverside Apartments is a 200-unit residential rental development located at 21630 SW 104 Court, in Commission District 9. This development was constructed with HoDAG funds, tax-exempt bonds and Low Income Tax Housing Credits (LIHTC). The HoDAG loan matures on September 1, 2008.

Preservation's proposal to purchase and rehabilitate Riverside's 200 units will use tax-exempt bonds and low income housing tax credits. The $3,514,740 HoDAG loan term would be

extended for an additional twenty (20) years at one percent (1%) interest and Preservation will assume the loan for LIHTC basis purposes. Additionally, one hundred percent of Riverside units will be restricted for affordable housing for the next thirty (30) years, well beyond the HoDAG affordability period. As part of the HoDAG loan extension, the additional $351,000 in reserve escrow funds currently held by JP Morgan Chase, will be used for property rehabilitation.

Under the current terms of the HoDAG agreement, seventy-one (71) of the 200 residential units must be rented to tenants whose income does not exceed fifty percent (50%) of the area media income (AMI). These HoDAG affordability requirements must be adhered to for 20 years from the date of fifty percent (50%) occupancy. The fifty percent (50%) occupancy threshold was met in April, 1989. Therefore, the present compliance period expires in April, 2009.

The HoDAG program also includes an enforcement mechanism whereby HoDAG assistance must be repaid in the event of a program violation; however, the repayment amount is reduced by 10 percent (10%) a year after 10 years from the date of commencement of the HoDAG requirements and the violation.

To facilitate the long term viability of this development as an affordable housing project until April, 2039, Preservation proposes to lease all of the Riverside units to low income tenants as defined under the LIHTC program, which is sixty percent (60%) of AMI. Leasing to tenants at sixty percent (60%) AMI instead of at fifty percent (50%) of AMI violates HoDAG requirements. Therefore, Preservation is planning to retain the seventy-one (71) units at fifty percent (50%) until the expiration of the April, 2009, compliance period. This will allow Preservation to assume the HoDAG loan for LIHTC basis purposes earlier than the expiration date, without violating the guidelines.

The proposed renovation budget for Riverside Apartments is $2.568 million. Preservation is not requesting any funding from Miami-Dade County.

The principals of Cutler Riverside Preservation, LP, are:

1. Florida High Yield Tax Credit Properties, LP
   (99 percent limited partner)
   tax credit investors group consisting of in excess of one hundred (100) investors
2. RAP FL, LLC (one percent general partner)
3. Jorge Perez
4. Stephen M. Ross

Cynthia W. Curry
Senior Advisor to the County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: April 8, 2008

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

SUBJECT: Agenda Item No. 8(K)(1)(D)

Please note any items checked.

_____ "4-Day Rule" ("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

_____ Bid waiver requiring County Manager's written recommendation

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

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(K)(1)(D)
4-8-08

RESOLUTION NO. R-339-08

RESOLUTION AUTHORIZING THE SALE OF CUTLER CANAL APARTMENTS, D/B/A RIVERSIDE APARTMENTS, AND TRANSFERRING $351,000 IN RESERVE ESCROW FUNDS FROM CUTLER CANAL ASSOCIATES, LTD. TO CUTLER RIVERSIDE PRESERVATION, LP, AND APPROVING AN INCREASE OF THE AREA MEDIAN INCOME FROM FIFTY PERCENT (50%) TO SIXTY PERCENT (60%) FOR THE LOW INCOME SET ASIDE UNITS, AND AUTHORIZING THE COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE ANY NECESSARY AGREEMENTS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board authorizes the sale of Cutler Canal Apartments, d/b/a Riverside Apartments, and the transfer of $351,000 in reserve escrow from Cutler Canal Associates, Ltd. to Cutler Riverside Preservation, LP, and approves an increase of the area median income (AMI) from fifty percent (50%) to sixty percent (60%) for the low-income set aside units, as set forth in the attached memorandum; and further authorizes the County Mayor or his designee to execute agreements, contracts and amendments on behalf of Miami-Dade County, following approval by the County Attorney's office; to shift funding sources for this program activity without exceeding the total amount allocated to that agency; to shift funding to different agencies without exceeding the total amount allocated to the project; and to exercise amendment, modification, renewal, cancellation and termination clauses on behalf of Miami-Dade County, Florida.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Barbara J. Jordan** and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman **aye**
Barbara J. Jordan, Vice-Chairwoman **aye**

Jose "Pepe" Diaz	**aye**	Audrey M. Edmonson	**aye**
Carlos A. Gimenez	**aye**	Sally A. Heyman	**aye**
Joe A. Martinez	**aye**	Dennis C. Moss	**absent**
Dorrin D. Rolle	**aye**	Natacha Seijas	**absent**
Katy Sorenson	**aye**	Rebeca Sosa	**absent**
Sen. Javier D. Souto	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 8th day of April, 2008. 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: **Kay Sullivan**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Shannon D. Summerset