

MEMORANDUM

Agenda Item No. 8(K)(1)

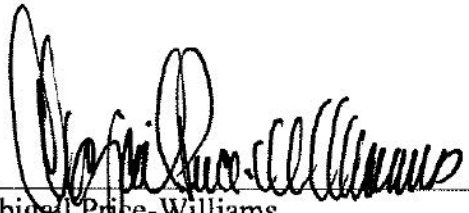
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: October 6, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving, pursuant to section 17-02 of the Code, a loan of up to \$250,000.00 of Documentary Stamp Surtax Funds to Water's Edge Associates, Ltd., or related entity for the development of the Water's Edge Affordable Housing Project; authorizing the County Mayor to execute a conditional loan commitment and standard shell contracts, standard shell documents, amendments and other documents or agreements necessary to accomplish the purposes of this resolution; and authorizing the County Mayor to subordinate the County's interests and to exercise the termination, waiver, acceleration and other provisions

The accompanying resolution was prepared by the Public Housing and Community Development Department and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.


Abigail Price-Williams
County Attorney

APW/lmp

Memorandum



Date: October 6, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A blue ink signature of Carlos A. Gimenez, Mayor of Miami-Dade County, written over the name.

Subject: Loan of Prepaid Documentary Stamp Surtax Program Loan Funds to Water's Edge Associates, Ltd., or related entity, for Development of the Water's Edge Apartments Affordable Housing Project

Recommendation

It is recommended that the Board of County Commissioners (Board):

1. Authorize, in accordance with section 17-02 of the Miami-Dade County Code of Ordinances, the loan of pre-paid funds in the amount of \$250,000.00 of Documentary Stamp Surtax (Surtax) to Water's Edge Associates, Ltd., or related entity, for the development of the Water's Edge Apartments affordable housing project;
2. Authorize the County Mayor or the County Mayor's designee to execute conditional loan commitments, standard shell contracts, standard shell loan documents, amendments and other agreements necessary to accomplish the purposes of this resolution; and
3. Authorize the County Mayor or County Mayor's designee, upon a determination that such actions are in the best interest of the County, to subordinate and/or modify the terms of contracts, agreements, amendments and loan documents so long as such modifications are approved by the County Attorney's Office and are not substantially inconsistent with the resolution and to exercise the termination, waiver, acceleration, or other provisions set forth therein.

Scope

Water's Edge Apartments will be a new construction development consisting of 128 units of garden style affordable housing located at 10955 SW 214th Street in unincorporated Miami-Dade County, Florida, in Commission District 9, represented by Commissioner Dennis C. Moss.

Fiscal Impact/Funding Source

This item is allocating prepaid Surtax funds to Water's Edge Associates, Ltd., or related entity. There is no negative fiscal impact on the County's General Fund.

Track Record/Monitoring

The project will be monitored by Michael Liu, Director, Public Housing and Community Development Department.

Background

An allocation of \$1,300,000.00 of Surtax 2003 funds was awarded to Hibiscus Pointe Associates, Ltd, through Resolution No. R-315-04, for the Hibiscus Pointe affordable housing project located at 1320 NW 79th Street, Miami, FL 33147. The maturity date of the Hibiscus Pointe loan was April 1, 2034, however Hibiscus Pointe Associates, Ltd, paid off the loan in full on April 10, 2019.

Pursuant to section 17-02, the Board approved through Resolution No. R-1267-19, a loan to Water's Edge Associates, Ltd., in an amount not to exceed \$400,000.00 of the \$1,300,000.00 prepaid Hibiscus Pointe Surtax loan funds. Water's Edge Associates, Ltd, and Hibiscus Pointe Associates, Ltd, are both entities affiliated with Cornerstone Group, the developer. On January 16, 2020, Public Housing and Community Development received a request from Cornerstone Group to redeploy an additional \$250,000.00 of Surtax funds that were prepaid from Hibiscus Pointe to Water's Edge (Exhibit 1). This item recommends that the Board approve a loan allocation of \$250,000.00 in Surtax funds to Water's Edge Associates, Ltd., to provide additional funding to support the development of Water's Edge Apartments.

Upon approval of this item, a conditional loan commitment in substantially the form attached hereto as Exhibit 2 will be issued to Water's Edge Associates, Ltd., for the development of the Water's Edge affordable housing project. The project is a new construction, 128-unit garden style development which will serve households not greater than 70 percent of area median income ("AMI") as detailed in Table 1 below:

Table 1						
Unit Type	Percentage of Total	Units at or Below 30% of Area Median Income (AMI)	Units at or Below 33% AMI	Units at or Below 60% AMI	Units at or Below 70% AMI	Total Units
1 Bedroom	36%	7	1	16	22	46
2 Bedrooms	45%	9	0	21	28	58
3 Bedrooms	19%	4	0	8	12	24
Total	100%	20	1	45	62	128

The Water's Edge Apartments affordable housing project will be subject to a full credit underwriting analysis, including subsidy layering review. The project must receive a favorable recommendation from the underwriter and show written financing commitments for the total development costs, all prior to the financial closing of the loan approved herein for the release of loaned funds. The loan shall be subject to those terms for loans issued in accordance with Section 17-02 of the Miami-Dade County Code of Ordinances and as set forth in the FY 2019 Surtax Request for Applications (RFA), subject to change at the discretion of the County Mayor or County Mayor's designee based upon the credit underwriting analysis.

Attachments



Maurice L. Kemp, Deputy Mayor



MEMORANDUM (Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: October 6, 2020

FROM: Abigail Price-Williams
County Attorney

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

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
- ☐ Statement of social equity 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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ 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(K)(1)
10-6-20

RESOLUTION NO. _____

RESOLUTION APPROVING, PURSUANT TO SECTION 17-02 OF THE CODE OF MIAMI DADE COUNTY, A LOAN OF UP TO \$250,000.00 OF DOCUMENTARY STAMP SURTAX FUNDS TO WATER'S EDGE ASSOCIATES, LTD., OR RELATED ENTITY FOR THE DEVELOPMENT OF THE WATER'S EDGE AFFORDABLE HOUSING PROJECT; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE A CONDITIONAL LOAN COMMITMENT AND STANDARD SHELL CONTRACTS, STANDARD SHELL DOCUMENTS, AMENDMENTS AND OTHER DOCUMENTS OR AGREEMENTS NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS RESOLUTION; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO SUBORDINATE THE COUNTY'S INTERESTS AND TO EXERCISE THE TERMINATION, WAIVER, ACCELERATION AND OTHER PROVISIONS

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:

Section 1. This Board ratifies and adopts the matters set forth in the accompanying justification memorandum as if fully set forth herein.

Section 2. This Board authorizes, pursuant to the provisions of section 17-02 of the Code of Miami Dade County, a loan to Water's Edge Associates, Ltd., or related entity, in an amount not to exceed \$250,000.00 of Documentary Stamp Surtax Program funds. The loan awarded in this item represents an equal amount of loaned funds which were prepaid by Hibiscus Pointe Associates, Ltd., Water's Edge Associates, Ltd., and Hibiscus Pointe Associates, Ltd., are both affiliates of Cornerstone Group, the developer. The new loan will be used to develop the

Water's Edge Apartments, an affordable housing project consisting of 128 garden style units located at 10955 SW 214th Street, in unincorporated Miami-Dade County Florida, located in District 9 and serving residents with incomes not greater than 70 percent of area median income.

Section 3. All funding awards and conditional loan commitments are contingent upon the recipient agency's (borrower) compliance with the conditions set forth in this resolution and the justification memorandum. For the loan approved herein, the County Mayor or County Mayor's designee is authorized to execute conditional loan commitments, in substantially the form attached hereto as Exhibit 2, standard shell contracts, standard shell loan documents, amendments and other agreements necessary to fulfill the purposes of this resolution. This Board further authorizes the County Mayor or County Mayor's designee, upon a determination that such actions are in the best interest of the County, to subordinate and/or modify the terms of contracts, agreements, amendments and loan documents so long as such modifications are approved by the County Attorney's Office and are not substantially inconsistent with this resolution and to exercise the termination, waiver, acceleration, or other provisions set forth therein.

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:

Audrey M. Edmonson, Chairwoman

Rebeca Sosa, Vice Chairwoman

Esteban L. Bovo, Jr.

Jose "Pepe" Diaz

Eileen Higgins

Joe A. Martinez

Dennis C. Moss

Xavier L. Suarez

Daniella Levine Cava

Sally A. Heyman

Barbara J. Jordan

Jean Monestime

Sen. Javier D. Souto

The Chairperson thereupon declared this resolution duly passed and adopted this 6th day of October, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the 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.



Shannon D. Summerset-Williams



January 16, 2020

Mr. Clarence Brown
Public Housing & Community Development
701 NW 1st Court
Miami, FL

Re: Water's Edge Associates, Ltd.

Dear Mr. Brown:

In connection with Water's Edge Apartments, please accept this as our formal request to be placed on the BCC agenda. We are requesting to exchange the \$250,000 of HOME funds that were previously awarded to us with \$250,000 of our redeployed funds from Hibiscus Pointe Associates, Ltd.

Should you have any questions, please don't hesitate to contact me at (786) 709-2231.

WATER'S EDGE ASSOCIATES, LTD.,
A FLORIDA LIMITED PARTNERSHIP
By: CORNERSTONE WATER'S EDGE, LLC
A FLORIDA LIMITED LIABILITY COMPANY,
ITS MANAGAING GENERAL PARTNER

By: 

Printed Name: Mara S. Mades

Title: Vice President of the General Partner

The Cornerstone Group
2601 South Bayshore Drive, Suite 725
Miami, Florida 33133

Miami-Dade County Conditional Loan Commitment

Date

To: Water's Edge Associates, Ltd., or related entity (the "Borrower")

Re: Water's Edge affordable housing project
10955 SW 214th Street, in unincorporated Miami Dade County ("the Property")

Dear Borrower:

We are pleased to advise you that on _____, the Board of County Commissioners (BCC) approved a Conditional Loan Commitment for development activity at the above-listed property (the "Property"). The loan is conditionally committed for the payment of hard construction cost as a portion of the development costs to construct the affordable housing units on the Property. This Conditional Loan Commitment is made based upon the application submitted by Borrower and is subject to the following terms and conditions:

Borrower: Water's Edge Associates, Ltd., or related entity

Project: Water's Edge affordable housing project is a **128-unit**, garden style affordable housing project to be developed at 10955 SW 214th Street, in unincorporated Miami-Dade County, Florida by Water's Edge Associates, Ltd., which will serve households with incomes not greater than 70 percent of area median income ("AMI") in substantially the manner set forth in Exhibit 3. See the conditions below regarding applicable AMI for residents based upon the source of funds for the Loan.

Loan Amount: The loan shall be in an amount of not-to-exceed **\$250,000.00** as approved by the BCC in Resolution _____ for **\$250,000.00** and includes all terms and conditions of such BCC approval, including project scope, activity type and, for federal funds, national objective to be achieved (the "Loan"). The loan amount may be decreased as determined by the Mayor or the Mayor's designee, based upon Underwriting (defined below) and information and documentation provided by Borrower.

Conditions: The Loan is conditioned upon the terms, conditions and requirements set forth below (the "Conditions"). The County shall not issue a final unconditional loan commitment, enter into a funding contract, close on the Loan or disburse the Loan funds until all the Conditions are met.

Collateral: Upon satisfaction of the Conditions, Miami-Dade County (County) and Borrower will enter into a funding contract and loan agreement. The Loan shall be evidenced by a promissory note and secured by a construction/permanent mortgage with assignment of leases and rents, a collateral assignment of leases and rents, a collateral assignment of construction documents, a rental regulatory agreement (where applicable), and any other security or collateral as deemed appropriate by the Mayor or Mayor's designee, in his or her sole discretion, with approval of the County Attorney's Office. Borrower shall additionally be required to provide the County with an environmental indemnification agreement, a UCC-1, title affidavit, partnership affidavit (if applicable), corporate resolution approving the loan documents, opinion of counsel, certification of borrower to borrower's counsel, and title policy making the County an insured. The Collateral shall be determined based upon financial feasibility and subsidy layering underwriting to be performed by County staff in an internal process and by an independent underwriter and paid for by Borrower.

("Underwriting") following review of a current title search. Additional forms of security may be required if liens, encumbrances, restrictions or covenants exist on the Property which the Mayor or Mayor's designee determines, in his or her sole discretion, threaten the County's Collateral. The Mayor or Mayor's designee shall determine, in his or her sole discretion and in consultation with the County Attorney's Office, whether the Collateral provided by Borrower is sufficient to close and disburse the Loan.

Interest Rate: Loan terms, including the interest rate, are those set forth in the FY 2019 Surtax Request for Applications (RFA) for Multi-family rental projects. Those terms are **0%** interest during construction - years 1 and 2-and **1%** interest-only payments for years 3–30 from development cash flow, **1%** interest accruing and due at maturity. Full principal is due at maturity; and as modified prior to closing by the Mayor or Mayor's designee in accordance with the results of Underwriting.

Repayable: There will be no penalty for prepayment of the Loan (payment of Loan balance before the end of the repayment term). Repayment terms are those set forth in the FY 2019 RFA for repaid loan funds in accordance with Section 17-02 of the Code. All terms may be modified prior to closing by the Mayor or Mayor's designee in accordance with the results of Underwriting. The prepayment of any Loan shall not affect the term of affordability set forth in the Rental Regulatory Agreement or in any of the other Loan Documents.

Term: The Loan will be for 30 years, or as may be established prior to closing by the Mayor or Mayor's designee in accordance with the results of Underwriting.

Conditions:

1. Underwriting, as explained above, shall include financial feasibility review, subsidy layering review, and credit review. Underwriting is performed to protect the County's scarce affordable housing funds and is performed to ensure that the Project has sufficient financing to be completed timely and that the Project is not over-subsidized, meaning the Loan is not needed or the Loan Amount is too high. The County reserves the right to reduce the Loan Amount subject to Underwriting. The County further reserves the right to refuse to issue a final, unconditional loan commitment to Borrower or to enter into a contract for the Loan or to close on the Loan in the event that Underwriting determines that the project is financially unfeasible or otherwise is unfeasible. The costs of Underwriting are to be paid by Borrower.
2. Borrower must prove control of the Property through purchase or lease, as evidenced by a deed or lease and recorded memorandum of lease in Borrower's name. Absence of any threat of foreclosure, taking by eminent domain, or pending bankruptcy are additionally required.
3. Borrower must provide the County with written financing commitments showing committed financing for the entire Development Cost of the Project, including any gaps between the Loan and the overall costs to develop the Project. The Development Cost of the Project means the total cost of completing the entire Project, from acquisition to the issuance of Certificate of Occupancy, including but not limited to the costs for acquisition, design and planning, zoning and variances, financing costs, legal costs, construction, and permitting. In the event of a dispute as to what amount constitutes the actual Development Cost, Borrower and County will use the amount determined by Underwriting to be the Development Cost.
4. Conformance of the Project with the County legislation approving the Loan.
5. Complete plans and specifications of the Project.
6. Payment and performance bond in the amount of the entire construction budget or otherwise in conformance with applicable law. Where a payment and performance bond is not required by law, the Mayor or Mayor's designee may alternatively accept – at the Mayor or Mayor's designee's sole discretion – a letter of credit in an amount acceptable to the Mayor or Mayor's designee.
7. Appraisal of the Property showing that the value of the Project and Property, when completed, exceeds the total amount of debt from all sources to be secured by the Project, unless waived by the Mayor or Mayor's designee.

8. A Phase I environmental report requiring no further action.
9. Such other conditions which are customary and reasonable for a loan of this nature, such as adhering to all Federal, State and local regulations, ordinances, codes and standards.
10. Meeting all requirements of the State Housing Initiatives Partnership ("SHIP"), Documentary Surtax or Home Investment Partnerships Program ("HOME") program, as applicable, and County resolutions and ordinances governing affordable housing development.
11. Compliance with Resolution No. R-346-15, establishing a maximum total development cost per unit; and, where applicable, Resolution No. R-343-15, establishing a maximum amount of total development costs that may be paid with Documentary Surtax funds.
12. The Loan, if SHIP or Surtax funds, may only be used for the development of affordable housing for residents with household incomes not greater than 140% of AMI. The Loan, if HOME or CDBG funds, may only be used for the development of affordable housing for residents with household incomes not greater than 80% of AMI.
13. This loan is conditioned on the repayment of the Hibiscus Pointe loan in the amount of \$1,300,000.00.

This Conditional Loan Commitment will expire in six (6) months if not extended by Miami-Dade County. An extension of this Conditional Loan Commitment may be granted at the sole and absolute discretion of Miami-Dade County. Any extension granted will be contingent upon compliance with and in accordance with Resolution No. R-232-14, as applicable and must be signed by the Mayor or Mayor's Designee to be valid. If the loan does not close prior to the expiration or extension of this Conditional Loan Commitment, the funds will be subject to recapture and allocated to other projects. This Conditional Loan Commitment is not assignable. This Conditional Loan Commitment is the sole and complete agreement between the parties as to the terms of the Loan described herein. The terms of this Conditional Loan Commitment may only be changed in writing in a document signed by the Mayor or the Mayor's designee. No representations, written or verbal, of Miami-Dade County employees, or others purporting to act on behalf of Miami-Dade County, may change the terms of this Commitment.

Miami-Dade County wishes to thank you for your proposal and the opportunity to provide financing for this development, and we look forward to closing this transaction.

Sincerely,

Miami-Dade County

Carlos A. Gimenez, Mayor

Date: _____

c: Maurice L. Kemp, Deputy Mayor

Approved as to Form and Legal Sufficiency

Assistant County Attorney

Date _____