

MEMORANDUM

Agenda Item No. 11(A)(16)


TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 8, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving a Sixth Amendment to the Transit Oriented Development Lease Agreement with Caribbean Village, Ltd., which is an entity affiliated with Pinnacle Housing Group, for provision of an affordable housing development at SW 110 Court and SW 200 Drive, on the north side of SW 200 Street (Caribbean Boulevard) in County Commission District 9 relating to phase two deadlines for obtaining and closing on financing and for completion of construction, and resident demographics and unit mix; authorizing the County Mayor to execute the amendment, to exercise all rights conferred therein, and to execute all other agreements, documents and assurances necessary to necessary to complete the project

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Kionne L. McGhee.


Geri Bonzon-Keenan
County Attorney

GBK/jp



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 8, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(16)

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. 11(A)(16)
7-8-21

RESOLUTION NO. _____

RESOLUTION APPROVING A SIXTH AMENDMENT TO THE TRANSIT ORIENTED DEVELOPMENT LEASE AGREEMENT WITH CARIBBEAN VILLAGE, LTD., WHICH IS AN ENTITY AFFILIATED WITH PINNACLE HOUSING GROUP, FOR PROVISION OF AN AFFORDABLE HOUSING DEVELOPMENT AT SW 110 COURT AND SW 200 DRIVE, ON THE NORTH SIDE OF SW 200 STREET (CARIBBEAN BOULEVARD) IN COUNTY COMMISSION DISTRICT 9 RELATING TO PHASE TWO DEADLINES FOR OBTAINING AND CLOSING ON FINANCING AND FOR COMPLETION OF CONSTRUCTION, AND RESIDENT DEMOGRAPHICS AND UNIT MIX; AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR’S DESIGNEE TO EXECUTE THE AMENDMENT, TO EXERCISE ALL RIGHTS CONFERRED THEREIN, AND TO EXECUTE ALL OTHER AGREEMENTS, DOCUMENTS AND ASSURANCES NECESSARY TO NECESSARY TO COMPLETE THE PROJECT

WHEREAS, Miami-Dade County (“County”) and Caribbean Village, Ltd., a Florida limited partnership affiliated with Pinnacle Housing Group (“developer”) entered into a Transit Oriented Lease Agreement dated August 5, 2013, as authorized by County Resolution No. R-343-13 and amended by the First Amendment to Caribbean Village Transit Oriented Development Lease Agreement dated September 8, 2014, the Second Amendment to Caribbean Village Transit Oriented Development Lease Agreement dated December 14, 2015, the Third Amendment to the Caribbean Village Transit Oriented Development Lease Agreement dated November 11, 2016, the Fourth Amendment to Caribbean Village Transit Oriented Development Lease, dated as of November 18, 2017, and the Fifth Amendment to Caribbean Village Transit Oriented Development Lease, dated as of May 15, 2018 (collectively, the “lease”); and

WHEREAS, the lease is a ground lease for the development of a minimum of 170 units of affordable housing, no more than 5,000 square feet of retail/commercial space, and 150 parking spaces for Miami-Dade Transit (“project”) on County-owned properties located at SW 110 Court and SW 200 Drive, on the north side of SW 200 Street (Caribbean Boulevard) adjacent to the County Busway in Commission District 9, as more particularly described in the lease (“property”); and

WHEREAS, in addition to the lease of County-owned properties to the developer, \$5,000,000.00 from the Building Better Communities General Obligation Bond has been allocated as a portion of the total development costs of the project; and

WHEREAS, in particular, the developer has requested an amendment to the lease to (1) extend the deadline for obtaining and closing on the financing, including tax credits, for phase two to December 31, 2024, (2) extend the construction completion deadline of phase two of the project to December 31, 2027, (3) permit the developer to develop phase two as either a family or senior housing development, and (4) permit the developer to determine the unit mix appropriate for the selected demographic (i.e. family or senior housing); and

WHEREAS, if the developer is unable to secure financing for or complete construction of phase two of the project as required by the lease, the phase two site will be removed from the demised property and will no longer be leased to the developer, in accordance with the lease; and

WHEREAS, considering the County’s commitment to the project and to the provision of affordable housing for eligible persons and for other good and valuable consideration, the County agrees to amend the lease as provided in this resolution,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Incorporates and approves the foregoing recitals as if fully set forth herein.

Section 2. Approves the Sixth Amendment to Caribbean Village Transit Oriented Development Lease Agreement (“amendment”) in substantially the form attached hereto as Exhibit “A” and made a part hereof. This Board further authorizes the County Mayor or County Mayor’s designee to execute the amendment, to exercise all rights conferred therein, and to execute any other agreements, documents or assurances necessary to complete the project, subject to approval by the County Attorney’s Office for form and legal sufficiency.

The Prime Sponsor of the foregoing resolution is Commissioner Kionne L. McGhee. It 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:

- | | |
|---------------------------------------|------------------------|
| Jose “Pepe” Diaz, Chairman | |
| Oliver G. Gilbert, III, Vice-Chairman | |
| Sen. René García | Keon Hardemon |
| Sally A. Heyman | Danielle Cohen Higgins |
| Eileen Higgins | Joe A. Martinez |
| Kionne L. McGhee | Jean Monestime |
| Raquel A. Regalado | Rebeca Sosa |
| Sen. Javier D. Souto | |

The Chairperson thereupon declared this resolution duly passed and adopted this 8th day of July, 2021. 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.



Brenda Kuhns Neuman
Terrence A. Smith

Exhibit "A"

SIXTH AMENDMENT TO CARIBBEAN VILLAGE TRANSIT ORIENTED DEVELOPMENT LEASE AGREEMENT

THIS SIXTH AMENDMENT TO CARIBBEAN VILLAGE TRANSIT ORIENTED DEVELOPMENT LEASE AGREEMENT (this "Sixth Amendment") is made and entered into as of _____, 2021 (the "Effective Date") by and between **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida through the department of Public Housing and Community Development ("Landlord") and **CARIBBEAN VILLAGE, LTD.**, a Florida limited partnership ("Tenant").

WITNESSETH:

WHEREAS, Landlord and Tenant entered into that certain Caribbean Village Transit Oriented Lease Agreement dated as of August 5, 2013, as amended by that certain First Amendment to Caribbean Village Transit Oriented Development Lease Agreement dated as of September 8, 2014, as further amended by that certain Second Amendment to Caribbean Village Transit Oriented Development Lease Agreement, dated as of December 14, 2015, as further amended by that certain Third Amendment to Caribbean Village Transit Oriented Development Lease Agreement, dated as of November 11, 2016, as further amended by that certain Fourth Amendment to Caribbean Village Transit Oriented Development Lease, dated as of November 18, 2017, and as further amended by that certain Fifth Amendment to Caribbean Village Transit Oriented Development Lease, dated as of May 15, 2018 (collectively, the "Lease") pursuant to which Landlord leases to Tenant the Demised Property; and

WHEREAS, Landlord and Tenant have agreed to amend certain terms of the Lease.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference. All capitalized terms used herein and not expressly defined herein shall have their meaning as set forth in the Lease.

2. Phase Two Financing Contingency. Section 1.6(b.) of the Lease is hereby amended to provide that Tenant shall have until December 31, 2024, to timely secure and close upon the necessary financing for Phase Two. For the avoidance of doubt, this extension shall also apply to the timeframe by which Tenant may secure the necessary Tax Credits (if applicable).

3. Outside Completion Date. Sections 3.1 and 3.4 of the Lease are hereby amended to extend the Outside Completion Date to December 31, 2027, such that all references in the Lease to the Outside Completion Date shall hereinafter mean December 31, 2027.

4. Demographic. Notwithstanding anything contained in the Lease to the contrary, Landlord acknowledges and agrees that Tenant shall have the right at its election (i) to develop Phase Two as either a family or Senior Housing development, and (ii) to determine the unit mix appropriate for the selected demographic (i.e. family or Senior Housing).

5. Ratification. Except as modified by this Sixth Amendment, the Lease shall be otherwise unmodified and considered in full force and effect, and the parties ratify and confirm the terms of the Lease, as modified hereby.

6. No Waiver. Landlord and Tenant acknowledge that neither party is waiving any of their rights under the Lease by the execution of this Sixth Amendment.

7. Benefit and Binding Effect. This Sixth Amendment shall be binding upon and inure to the benefit of the parties to this Sixth Amendment, their legal representatives, successors, and permitted assigns.

8. Amendment. This Sixth Amendment may not be changed, modified, or discharged in whole or in part except by an agreement in writing signed by all parties to this Sixth Amendment.

9. Conflict. In the event of any conflict between the terms of the Lease and this Sixth Amendment, this Sixth Amendment shall control.

10. Governing Law. This Sixth Amendment shall be governed by, and construed in accordance with, the laws of the State of Florida.

11. Lease in Full Force and Effect. Except as modified by this Sixth Amendment, the Lease shall otherwise remain in full force and effect and the parties ratify and confirm the terms of the Lease as modified by this Sixth Amendment. All references to the Lease shall mean the Lease as modified by this Sixth Amendment.

12. Counterparts; Electronic Delivery. This Sixth Amendment may be executed in counterparts, each of which, when executed, shall be deemed an original, and all of which shall be deemed one and the same instrument. Electronic transmission of signatures of the parties shall be deemed legally binding and enforceable against the parties.

[SIGNATURES APPEAR ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties hereto have executed this Sixth Amendment as of the Effective Date.

WITNESSED BY:

LANDLORD:

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Name: _____

By: _____

Name: _____

Title: _____

Name: _____

Approved for Legal Sufficiency


Attested by: _____

Deputy Clerk

WITNESSED BY:

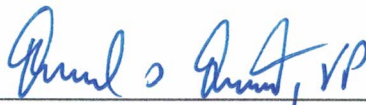
TENANT:

CARIBBEAN VILLAGE, LTD.,
a Florida limited partnership


Name: Lilybeth De Leon

By: PHG-Caribbean, LLC,
a Florida limited liability company,
its Class B Limited Partner


Name: Norma A. Santana

By:  VP
David O. Deutch, Vice President