MEMORANDUM

Agenda Item No. 5(C)

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

DATE: January 19, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution authorizing the County Mayor to award up to $4,500,000.00 in Documentary Stamp Surtax and State Housing Initiatives Partnership funds for the purpose of developing affordable multi-family rental housing; and authorizing the County Mayor to execute amendments, shell contracts, loan documents and other transactional documents necessary to accomplish the purposes set forth herein, to shift funds and funding sources awarded to a project to any new entities created for the purpose of carrying out a project necessary to fulfill the objectives of the above programs, to subordinate and/or modify the terms of the contracts, agreements, amendments and loan documents, and to exercise termination, waiver, acceleration and other provisions

Resolution No. R-15-22

The accompanying resolution was prepared by the Public Housing and Community Development Department and placed on the agenda at the request of Prime Sponsor Public Housing and Community Services Committee.

Geri Bonzon-Keenan
County Attorney

GBK/uw

Memorandum

Date: January 19, 2022

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

From: Daniella Levine Cava
Mayor

Daniella Levine Cava

Subject: FY 2020 Documentary Stamp Surtax and State Housing Initiatives Partnership Program Supplemental Award Recommendations for Multi-Family Rental Housing Developments

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Recommendation

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

1. Approve the proposed funding recommendations in an amount up to $4,500,000.00 for the FY 2020 Documentary Stamp Surtax (Surtax) and State Housing Initiatives Partnership Program (SHIP) Supplemental Request for Applications (RFA) and the FY 2020 Request for Applications (RFA) for the Documentary Stamp Surtax (Surtax), State Housing Initiatives Partnership (SHIP) and Home Investment Partnerships Program (HOME) programs identified in Table 1. Activities recommended for funding include multi-family rental countywide developments and elderly housing developments; and
2. Authorize the County Mayor or County Mayor's designee to award funds to the applicants identified in Table 1 and to execute all letters of commitment, contracts, agreements, and amendments pursuant to the proposed Surtax/SHIP funding recommendations and to shift funds and funding sources awarded to a project to any new entities created for the purpose of carrying out a project necessary to fulfill the objectives of the above programs; 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 as to legal form and sufficiency and are not substantially inconsistent with this resolution and to exercise the termination, waiver, acceleration, or other provisions set forth therein.

Scope

This item recommends funding for new construction of affordable rental housing in commission districts 4 and 9. The item has a countywide impact to residents in all County Commission districts.

Delegation of Authority

This item requests a delegation of authority to authorize the County Mayor or the County Mayor's designee to execute all letters of commitment, contracts, agreements, and amendments pursuant to the proposed Surtax/SHIP funding recommendations, to shift funds and funding sources awarded to a project to any new entities created for the purpose of carrying out a project necessary to fulfill the objectives of the above programs, to subordinate and modify the terms of contracts, agreements, amendments and loan documents, and to exercise the termination, waiver, acceleration, or other provisions set forth therein .

Fiscal Impact/Funding Source

The award of supplemental Documentary Stamp Surtax and State Housing Initiatives Partnership Program funds will not have a negative fiscal impact on the County's General Fund. Table 1 summarizes the proposed use of FY 2020 Supplemental Surtax/SHIP funding for those applications that met minimum threshold and were forwarded for scoring by the Evaluation/Selection Committee.

Table 1 – FY 2020 Supplemental Surtax/SHIP Funding Recommendations

Development Name	Agency/Entity Name	Address	Commission District	No. of Units	Total Development Cost	Funding Recommendation
Quail Roost Transit Village I	Atlantic Pacific Communities, LLC	10235 SW 186th Street, Miami, FL 33157	9	200	$53,153,981	$4,000,000.00
The Heron	Housing Authority of the City of Miami Beach	1158 Marseille Drive, Miami Beach, FL 33141	4	20	$5,614,180	$500,000.00
			TOTALS	220	$58,768,161.00	$4,500,000.00

Track Record/Monitor

Michael Liu, Director, Public Housing and Community Development Department (Department), will monitor all Surtax/SHIP activities. The Department will continue to monitor the projects to ensure compliance with State and County guidelines and policies.

Background

The FY 2020 Surtax/SHIP Supplemental RFA was issued on January 29, 2021, with a due date of February 22, 2021, with a total of $7,500,000.00 in available funding. This amount included $5,000,000.00 of funding for multi-family countywide housing developments and $2,500,000.00 of funding for elderly housing developments. The public was advised of the application process through notice postings via the Department's website and through the Department's developers email distribution list. Prior to the issuance of the RFA, the Department solicited comments on a draft version from the public via two virtual Developer Roundtable meetings held on March 6, 2020 and May 15, 2020.

There was a combined total request of $13,534,132.00 in Surtax/SHIP funds from 7 applicants. However, only 5 of the 7 applications met established minimum threshold requirements. On April 13, 2021, the FY 2020 Surtax/SHIP Supplemental RFA Evaluation/Selection Committee appointed by the Mayor convened to review the five applications that met minimum threshold requirements, as verified by both Department staff and AmeriNat, an independent third-party underwriting company.

Pursuant to the FY 2020 Surtax/SHIP Supplemental RFA, an application must have been scored and ranked to be recommended for funding. All five applications were scored by the evaluation committee, and provided sufficient documentation confirming firm financial commitments. Only 2 of the 5 scored applications, The Heron and Quail Roost Transit Village I achieved the RFA's minimum score threshold of attaining a score of 70 points before the addition of bonus points. All applicants were given the opportunity to review their applications and discuss the evaluation results with Department staff on May 20, 2021.

Funding recommendations for affordable housing developments are subject to a full credit underwriting analysis and subsidy layering review, which shall be completed with a favorable recommendation, prior to contract negotiations and execution. Upon approval of this item and successful completion of underwriting, PHCD will issue a conditional loan commitment included and identified as Exhibit A to the resolution.

A Due Diligence review is required pursuant to Resolution No. R-630-13 to make efficient and transparent use of funds for much needed services to the County's residents. The required review was conducted and there are no findings to report for the entities that are recommended for funding.

Morris Copeland
Chief Community Services Officer

MEMORANDUM

(Revised)

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

DATE: January 19, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(C)

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. 5(C)
1-19-22

RESOLUTION NO. R-15-22

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO AWARD UP TO $4,500,000.00 IN DOCUMENTARY STAMP SURTAX AND STATE HOUSING INITIATIVES PARTNERSHIP FUNDS FOR THE PURPOSE OF DEVELOPING AFFORDABLE MULTI-FAMILY RENTAL HOUSING; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AMENDMENTS, SHELL CONTRACTS, LOAN DOCUMENTS AND OTHER TRANSACTIONAL DOCUMENTS NECESSARY TO ACCOMPLISH THE PURPOSES SET FORTH HEREIN, TO SHIFT FUNDS AND FUNDING SOURCES AWARDED TO A PROJECT TO ANY NEW ENTITIES CREATED FOR THE PURPOSE OF CARRYING OUT A PROJECT NECESSARY TO FULFILL THE OBJECTIVES OF THE ABOVE PROGRAMS, TO SUBORDINATE AND/OR MODIFY THE TERMS OF THE CONTRACTS, AGREEMENTS, AMENDMENTS AND LOAN DOCUMENTS, AND TO EXERCISE TERMINATION, WAIVER, ACCELERATION AND OTHER PROVISIONS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum,

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 the County Mayor or County Mayor's designee to award up to $4,500,000.00 in Documentary Stamp Surtax funds and State Housing Initiatives Partnership funds as set forth in the accompanying memorandum.

Section 3. This Board authorizes the County Mayor or County Mayor's designee to execute all standard shell contracts, amendments, standard shell documents, conditional loan commitments, in substantially the form as attached in Exhibit A and other agreements necessary to accomplish the purposes of this resolution. This Board further authorizes the County Mayor or County Mayor's designee to exercise the cancellation and other provisions contained therein, and to shift funds and funding sources awarded to a project to any new entities created for the purpose of carrying out a project necessary to fulfill the objectives of the above programs. 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 modify the terms of contracts, agreements, amendments and documents so long as such modifications are approved by the County Attorney's Office as to legal form and sufficiency, 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 **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Oliver G. Gilbert, III** and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman **aye**
Oliver G. Gilbert, III, Vice-Chairman **aye**

Sen. René García	**aye**	Keon Hardemon	**aye**
Sally A. Heyman	**aye**	Danielle Cohen Higgins	**aye**
Eileen Higgins	**aye**	Joe A. Martinez	**aye**
Kionne L. McGhee	**absent**	Jean Monestime	**aye**
Raquel A. Regalado	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**		

The Chairperson thereupon declared this resolution duly passed and adopted this 19th day of January, 2022. 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: **Melissa Adames**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Shannon D. Summerset

Exhibit A

Miami-Dade County
Conditional Loan Commitment

Date

To: __________________ (the "Borrower")

Re: __________________ (Project Name/the "Property")

Type: __________________

Dear Borrower:

We are pleased to advise you that on **_________2021**, 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: ______________, or related entity

Project: ______________, a __-unit, ____ style affordable housing community located at ____ in Miami-Dade County, FL _____, in Commission District _________. The development which will serve households with incomes at and below __% of area median income ("AMI"). 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 **$_________** as approved by the BCC in Resolution **No. R- -21** for **$_________** 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 2020 Supplemental Surtax Request for Applications (RFA) for Multi-family rental projects. Those terms are **0%** interest during construction - years 1 and 2-and ___ **%** interest-only payments for years 3–30 from development cash flow, with another ___**%** 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 2020 Supplemental Surtax Request for Applications 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 are 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. Pursuant to the Miami-Dade Board of County Commissioners' Resolution No. R-34-15, Developers, its agents and/or representatives, shall provide written notice to the County related to the availability of rental opportunities, including, but not limited to, the number of available units, bedroom size, and rental prices of such rental units at the start of any leasing activity; requiring the developer advertise the information described in newspapers of general circulation.

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

____
Daniella Levine Cava, Mayor

Date: _____________________

c: Morris Copeland, Chief Community Services Officer

Approved as to Form and Legal Sufficiency

____
Assistant County Attorney

Date ________________________________