

MEMORANDUM

Agenda Item No. 14(A)(2)

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

DATE: October 19, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution authorizing the County Mayor to execute a consent as fee owner (consent) and mortgagee joinder to an amended and restated easement and sublease agreement (amended agreement) between Three Round Towers B and C, LLC, Brisas del Este Apartments, LLC and Brisas del Este Phase Two, LLC, to include a parking garage structure containing approximately 387 parking spaces which will serve Three Round Towers B and C, Brisas del Este Apartments, and Brisas del Este Phase Two (project), which are associated with the redevelopment of the Three Round Towers public housing development site, for the purpose of allowing the owner and residents to have common access to paved areas, parking spaces, garage parking spaces, open space, certain tenant amenities of their respective properties, and any necessary utility connections; and authorize the County Mayor to amend the County’s Rental Assistance Demonstration (RAD) applications approved by the Board upon the adoption of Resolution No. R-1059-19 and any other necessary documents to the United States Department of Housing and Urban Development for the conversion of certain public housing projects to Section 8 project-based housing through the RAD program to include the new construction of 161-unit affordable eight-story development, which will include 30 RAD units at Brisas del Este Apartments located at 3000 NW 18 Avenue on Three Round Towers public housing site

Resolution No. R-1004-21

This item was amended from the original version as stated in the County Mayor’s memorandum.

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



Geri Bonzon-Keenan
County Attorney

GBK/uw

Memorandum



Date: October 19, 2021

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

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Consent as Fee Owner to an Amended and Restated Easement and Sublease Agreement to Include a New Parking Garage Structure for Three Round Towers B and C, Brisas del Este Apartments, and Brisas del Este Phase Two and Inclusion of Rental Assistance Demonstration Application Units at Brisas del Este Apartments

This item was amended at the October 14, 2021 Public Housing and Community Services (PHCS) Committee to authorize the County Mayor or the County Mayor's designee to also execute the mortgage joinder on behalf of the County, which is attached to the Amended and Restated Easement and Sublease Agreement between Three Round Towers B and C, LLC, Brisas del Este Apartments, LLC and Brisas del Este Phase Two, LLC.

Recommendation

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

1. Authorize the County Mayor or the County Mayor's designee to execute a consent as fee owner (consent) to an Amended and Restated Easement and Sublease Agreement (amended agreement) between Three Round Towers B and C, LLC, a Florida limited liability company, Brisas del Este Apartments, LLC, a Florida limited liability company and Brisas del Este Phase Two, LLC, a Florida limited liability company (owners), which includes a parking garage structure containing approximately 387 parking spaces which will serve Three Round Towers B and C, Brisas del Este Apartments, and Brisas del Este Phase Two (project), which are associated with the redevelopment of the Three Round Tower public housing development site (Three Round Towers), and is for the purpose of allowing the owners and the residents to have common access to paved areas, parking spaces, garage parking spaces, open space, certain tenant amenities of their respective properties, and any necessary utility connections; and
2. Authorize the County Mayor or the County Mayor's designee to amend the County's Rental Assistance Demonstration (RAD) applications approved by the Board upon the adoption of Resolution No. R-1059-19 and any other necessary documents to the United States Department of Housing and Urban Development (HUD) for the conversion of certain public housing projects to Section 8 project-based housing through the RAD program to include the new construction of 161-unit affordable eight-story development, which will include 30 RAD units at Brisas del Este Apartments located at 3000 NW 18 Avenue on Three Round Towers public housing site.

Scope

Three Round Towers is located at 2920 NW 18th Avenue in County Commission District 3 represented by County Commissioner Keon Hardemon.

Fiscal Impact/Funding Source

This item does not have a fiscal impact.

Track Record/Monitor

Public Housing and Community Development is the County department overseeing this project and the person responsible for monitoring is Director Michael Liu.

Delegation of Authority

Upon the adoption of this resolution, the County Mayor or the County Mayor’s designee will be authorized to execute the consent.

Background

On November 23, 2011, the Board adopted Resolution No. R-1026-11, which awarded site control through a ground lease to Related Urban Development Group, LLC (RUDG) for the redevelopment of Three Round Towers. RUDG created three special purpose entities, which are the owners, for tax credit purposes. These entities individually own a phase of the project. On October 22, 2013, the Board adopted Resolution No. R-855-13, which approved a ground lease to RUDG for the redevelopment of Three Round Towers. On July 15, 2014, the Board also adopted Resolution No. R-688-14, which authorized the execution of a Master Development Agreement between the County and RUDG, which was executed on February 16, 2017.

On October 3, 2017, the Board adopted Resolution No. R-856-17, which authorized the County Mayor or the County Mayor’s designee to execute a consent to an Access, Amenities and Parking Agreement and Easement between the owners (access agreement), associated with the redevelopment of the Three Round Towers. The purpose of the access agreement was to grant the owners and residents common access to paved areas, parking spaces, open spaces, certain tenant amenities of their respective properties, and any necessary utility connections. On October 3, 2019, the Board also adopted Resolution No. R-1059-19 to amend and submit the County’s RAD application for a portfolio award to include Three Round Towers B and C. Finally, on July 8, 2021, the Board adopted Resolution No. R-655-21, which authorized the County Mayor or the County Mayor’s designee to submit a disposition application to HUD for Brisas del Este Apartments, a new construction project to be developed at Three Round Towers public housing development site.

The planned redevelopment of Three Round Towers is being completed in several phases. The rehabilitation of Three Round Tower A was the first phase of the redevelopment project and was completed in 2019, and the rehabilitation of Towers B and C are currently under way. The public housing residents of Tower B started to move to brand new rehabilitated units at Tower C on July 2021. Brisas del Este Phase Two project is currently under construction and will include a total of 120-unit, eight-story development, with a

combination of 45 RAD units from Tower B, converted using a 75/25 RAD/Section 18 blend, and 75 low-income tax credit funded units. The next phase of development will include a 161-unit, affordable eight story development, which will include RAD units. This development will be built on open space that is part of the existing Three Round Towers. Upon completion, Brisas del Este Apartments will feature 77 one-bedroom/one-bath and 84 two-bedroom/two-bath units.

RUDG has requested that the County consent, as the fee owner of Three Round Towers, to the amended agreement, to include Brisas del Este Phase Two, a new 120 units project and the new parking garage construction, which is necessary to allow the owners to develop a separate portion of Three Round Towers and to have equal access to common areas of the site, including amenities, utilities, and parking and garage parking. The owners agreed to grant each other a non-exclusive easement for access, ingress and egress, use of the paved areas, parking spaces, open space and certain tenant amenities on their respective properties and any necessary utility connections. The amended agreement provides that the owners shall exercise the right conferred by the agreement in such a manner that they do not disturb any building, structures, or other permanent improvements on the other owners’ properties, or otherwise unduly interfere with the other such owners’ use and enjoyment of their own property. Additionally, any temporary disturbance of the surface required to install utility equipment shall be promptly repaired by the owner causing such disturbance, at the owner’s own expense.



Morris Copeland
Chief Community Services Officer

Attachment



MEMORANDUM

(Revised)

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

DATE: October 19, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 14(A)(2)

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 Davidella Lane Carr Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(2)
10-19-21

RESOLUTION NO. R-1004-21

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE A CONSENT AS FEE OWNER (CONSENT) AND MORTGAGEE JOINDER TO AN AMENDED AND RESTATED EASEMENT AND SUBLEASE AGREEMENT (AMENDED AGREEMENT) BETWEEN THREE ROUND TOWERS B AND C, LLC, BRISAS DEL ESTE APARTMENTS, LLC AND BRISAS DEL ESTE PHASE TWO, LLC, TO INCLUDE A PARKING GARAGE STRUCTURE CONTAINING APPROXIMATELY 387 PARKING SPACES WHICH WILL SERVE THREE ROUND TOWERS B AND C, BRISAS DEL ESTE APARTMENTS, AND BRISAS DEL ESTE PHASE TWO (PROJECT), WHICH ARE ASSOCIATED WITH THE REDEVELOPMENT OF THE THREE ROUND TOWERS PUBLIC HOUSING DEVELOPMENT SITE, FOR THE PURPOSE OF ALLOWING THE OWNER AND RESIDENTS TO HAVE COMMON ACCESS TO PAVED AREAS, PARKING SPACES, GARAGE PARKING SPACES, OPEN SPACE, CERTAIN TENANT AMENITIES OF THEIR RESPECTIVE PROPERTIES, AND ANY NECESSARY UTILITY CONNECTIONS; AND AUTHORIZE THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO AMEND THE COUNTY'S RENTAL ASSISTANCE DEMONSTRATION (RAD) APPLICATIONS APPROVED BY THE BOARD UPON THE ADOPTION OF RESOLUTION NO. R-1059-19 AND ANY OTHER NECESSARY DOCUMENTS TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE CONVERSION OF CERTAIN PUBLIC HOUSING PROJECTS TO SECTION 8 PROJECT-BASED HOUSING THROUGH THE RAD PROGRAM TO INCLUDE THE NEW CONSTRUCTION OF 161-UNIT AFFORDABLE EIGHT-STORY DEVELOPMENT, WHICH WILL INCLUDE 30 RAD UNITS AT BRISAS DEL ESTE APARTMENTS LOCATED AT 3000 NW 18 AVENUE ON THREE ROUND TOWERS PUBLIC HOUSING SITE

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 adopts the foregoing recital and the accompanying memorandum as if fully set forth herein.

Section 2. This Board authorizes the County Mayor or the County Mayor's designee to execute a consent ~~[[as]]~~¹>>by<< fee owner ("consent") >>and mortgagee joinder ("joinder")<<, in substantially the ~~[[form]]~~>>forms<< attached to the Amended and Restated Easement and Sublease Agreement ("amended agreement"), attached hereto as Exhibit A, between Three Round Towers B and C, LLC, Brisas del Este Apartments, LLC, and Brisas del Este Phase Two, LLC ("owners"), which said agreement includes a parking garage structure containing approximately 387 parking spaces which will serve Three Round Towers B and C, Brisas del Este Apartments, and Brisas del Este Phase Two, and will allow the owners and the residents to have common access to paved areas, parking spaces, garage parking spaces, open space, certain tenant amenities of their respective properties, and any necessary utility connections.

Section 3. This Board authorizes the County Mayor or the County Mayor's designee to amend the County's Rental Assistance Demonstration (RAD) application approved by the Board upon the adoption of Resolution No. R-1059-19 and any other necessary documents to the United States Department of Housing and Urban Development for the conversion of certain public housing projects to Section 8 project-based housing through the RAD program to include

¹Committee amendments are indicated as follows: Words stricken through and/or ~~[[double bracketed]]~~ are deleted, words underscored and/or >>double arrowed<< are added.

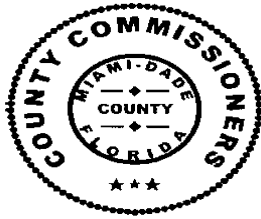
the new construction of 161-unit affordable eight-story development, which will include 30 RAD units at Brisas del Este Apartments located at 3000 NW 18 Avenue on Three Round Towers public housing site.

Section 4. This Board directs the County Mayor or the County Mayor’s designee, pursuant to Resolution No. R-974-09, to record in the public record the amended agreement ~~[[and]]~~ consent, >>joinder,<< covenants, reverters and mortgages creating or reserving a real property interest in favor of the County and to provide a copy of such recorded instruments to the Clerk of the Board within 30 days of execution and final acceptance. This Board directs the Clerk of the Board, pursuant to Resolution No. R-974-09, to attach and permanently store a recorded copy of any instrument provided in accordance herewith together with this resolution.

The foregoing resolution was offered by Commissioner **Eileen Higgins** ,
who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa**
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	aye	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 October, 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

Melissa Adames

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to be "TAS", written over a horizontal line.

Terrence A. Smith

This Instrument Was Prepared By, Record and Return To:

Terry M. Lovell, Esq.
Bilzin Sumberg Baena Price & Axelrod LLP
1450 Brickell Avenue, 23rd Floor
Miami, Florida 33131

AMENDED AND RESTATED EASEMENT AND SUBLEASE AGREEMENT
(Brisas del Este Apartments, Brisas del Este Phase Two, and Three Round Towers B and C)

This Amended and Restated Easement and Sublease Agreement (this “Agreement”) is made and entered into as of April 1, 2021, by and among:

Three Round Towers B and C, LLC, a Florida limited liability company (“TRT”);

Brisas del Este Apartments, LLC, a Florida limited liability company (“BDE”); and

Brisas del Este Phase Two, LLC, a Florida limited liability company (“BDE II”);

each having its principal office located at 2850 Tigertail Avenue, Suite 800, Miami, FL 33133.

RECITALS

A. TRT and BDE II entered into that certain Easement Agreement dated as of August 11, 2020, and recorded in Official Records Book 32053 at Page 1232 of the Public Records of Miami-Dade County, Florida (the “Original Agreement”).

B. TRT remains the owner of a long-term ground leasehold interest in the property legally described on Exhibit “A” attached hereto and made a part hereof (the “TRT Property”).

C. BDE is the owner of a long-term ground leasehold interest in the property legally described on Exhibit “B” attached hereto and made a part hereof (the “BDE Property”).

D. BDE II remains the owner of a long-term ground leasehold interest in the property legally described on Exhibit “C” attached hereto and made a part hereof (the “BDE II Property”).

E. TRT, BDE and BDE II are sometimes herein, collectively, referred to as the “Parties” and each, individually, as a “Party”. The TRT Property, the BDE Property, and the BDE II Property are sometimes herein, collectively, referred to as the “Properties” and each, a “Property”.

F. TRT and BDE desire to enter into a sublease (the “BDE Sublease”) of 119 floating parking spaces in the parking garage on the TRT Property for the benefit of BDE (the “BDE Premises”).

G. TRT and BDE II desire to enter into a sublease (the "BDE II Sublease") of 88 floating parking spaces in the parking garage on the TRT Property for the benefit of BDE (the "BDE II Premises").

H. For good and valuable consideration, each of the Parties has agreed to amend and restate the Original Agreement in its entirety so as to grant to the other Parties as an appurtenance to their respective Properties, the non-exclusive easements described herein and to enter into the BDE Sublease and the BDE II Sublease all as further set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Recitals. The above recitals are true and correct and by this reference are incorporated as if fully set forth herein.

2. Garage Construction. It is acknowledged that TRT intends to construct a parking structure containing approximately 387 parking spaces (the "Garage") on the TRT Property. 180 of the parking spaces shall be for the use of TRT (the "TRT Space Requirement"). TRT, BDE and BDE II have entered or will enter into a construction contract for the Garage with Fortune Urban Construction, LLC (the "Garage Construction Contract") and shall be responsible for their applicable portions of the costs under the Garage Construction Contract as more specifically set forth in the Garage Construction Contract. The Garage shall be located on that portion of the TRT Property described as the "Garage Area" on the Sketch attached hereto as Exhibit "D" and incorporated herein. The Garage shall be constructed in accordance with the plans and specifications therefore, and in accordance with applicable laws, codes and ordinances.

3. Garage Easement. TRT hereby grants to BDE and BDE II, for their use and benefit, and the use and benefit of their successors and assigns who acquire an interest in the BDE Property or the BDE II Property and their tenants, agents, employees, customers and invitees, a perpetual, non-exclusive easement for pedestrian and vehicular access through the Garage and for parking of vehicles within the parking spaces existing in the Garage from time to time. TRT hereby reserves the right to rearrange, restripe, or otherwise alter the parking spaces, entrance and exit points and other aspects of the Garage, as it may desire or as may be required by any governmental authority and to close off portions of the Garage on a temporary basis as may be required for maintenance or repairs.

4. Use of Garage. The Garage shall not be used for the parking of construction vehicles, heavy equipment, the storage of materials, the long-term storage of vehicles not in use, or storage of boats on trailers. The use of the Garage and the parking spaces therein by the Parties hereto, their respective tenants, agents, employees, invitees, successors and assigns shall be in compliance with all applicable laws, codes and ordinances and the rules and regulations established by the Parties from time to time. TRT, BDE, and BDE II shall be responsible for the enforcement of the respective provisions of all leases, licenses and agreements between itself and its tenants, employees, agents and invitees, as applicable, pertaining to parking of vehicles in the

Garage. The parking spaces within the Garage shall be available for the common use thereof by the Parties, their tenants, employees, agents and invitees, subject to the TRT Space Requirement.

5. Garage Maintenance Covenants.

(a) Ordinary Maintenance. TRT shall operate the Garage and perform ordinary maintenance and repairs to the Garage, at its expense but subject to the cost-sharing provisions set forth herein, in good and serviceable condition for the joint use thereof by the Parties hereto, subject to casualty or force majeure, ordinary wear and tear, and occasional interruption of use due to (i) routine or extraordinary maintenance or (ii) events beyond TRT's reasonable control. The above mentioned operating, maintenance and repair expenses shall be divided among BDE, BDE II, and TRT on a prorata share based on the number of parking spaces allocated to the applicable party compared to the total number of parking spaces in the Garage (the "Parking Garage Reimbursement Percentages"). TRT shall provide BDE and BDE II with copies of all maintenance contracts and service agreements entered into that will generate fixed costs and shall give written notice to BDE and BDE II prior to incurring any extraordinary costs for unanticipated service or repairs, and such notice shall include a complete description of the work and an estimate of the expense. TRT shall invoice BDE and BDE II for all routine and extraordinary aspects of the use, maintenance or repair of the Garage, and payment shall be made to TRT by BDE and BDE II within thirty (30) days following the date of any invoice for costs associated with the Garage. Invoices shall include copies of all bills and statements pertaining to the Garage for the billing period in question. TRT shall use reasonable efforts to tender invoices on a quarterly basis, but the right is reserved to alter the billing period in any manner consistent with TRT's bookkeeping procedures. In the event TRT discovers that any previously tendered invoice was in an amount which was insufficient to cover BDE's and/or BDE II's share of costs for any billing period, payment shall be made within thirty (30) days following receipt of a supplemental invoice therefor.

(b) Capital Expenditures. TRT shall also perform capital improvements as may be required from time to time in connection with the operation of the Garage, and such capital expenditures shall be divided among BDE, BDE II, and TRT pursuant to the Parking Garage Reimbursement Percentages. TRT shall provide at least thirty (30) days' written notice to BDE and BDE II prior to commencing any capital improvements to the Garage, and such notice shall include a complete description of the work and an estimate of the expense.

(c) Insurance and Casualty Events. TRT shall obtain and maintain all insurance coverages required for the Garage Area by any mortgagee holding a lien on the TRT Property or as otherwise deemed reasonably prudent by TRT. BDE and BDE II shall be required to reimburse TRT for their proportionate shares of the insurance premiums that are applicable to the Garage Area pursuant to their applicable Parking Garage Reimbursement Percentages, within ten (10) days following receipt of a statement therefor, a copy of the insurance certificate and evidence of payment in full of the premium. BDE and BDE II (together with TRT's mortgagee) shall be named as additional insureds/loss payees, as their interest may appear, on all insurance certificates for casualty occurring on the Garage Area. In the event of casualty damage to the Garage, the provisions of the mortgage(s) encumbering the TRT Property shall apply to the repair and restoration of the Garage, and to the extent said mortgages require that the Garage be reconstructed and the insurance proceeds are insufficient, or if the mortgage(s) provide that the

mortgagee can repay its loan with the insurance proceeds, the cost for such reconstruction which exceeds the available insurance proceeds shall be borne by TRT, BDE and BDE II pursuant to their applicable Parking Garage Reimbursement Percentages. In the absence of any mortgages on the TRT Property, TRT shall repair or reconstruct the Garage to at least the condition in which it existed prior to the damage, as promptly as is reasonably possible, giving effect to the type and extent of the damage and the availability of insurance proceeds for such repair or reconstruction, and the cost of such reconstruction which exceeds the available insurance proceeds shall be borne by TRT, BDE and BDE II pursuant to their applicable Parking Garage Reimbursement Percentages.

6. Subleases.

(a) Possession, Sublease Term, and Premises Payment. TRT, for and in consideration of the restrictions and covenants contained in this Agreement, subleases to BDE and BDE II, and BDE and BDE II agree to sublease from TRT, the BDE Premises and the BDE II Premises, respectively, and does so in accordance with the terms and conditions of this Agreement. TRT shall deliver possession of the BDE Premises to BDE and the BDE II Premises to BDE II on the date the Garage is placed in service (the "Effective Date"), at which time BDE and BDE II shall take possession thereof. The BDE Sublease and the BDE II Sublease shall become effective on the Effective Date and shall automatically expire, without notice, on the earlier of (i) the termination of the ground lease for the TRT Property between TRT and Miami-Dade County, Florida, or (ii) seventy-five (75) years after the Effective Date, after which this section and any references to the BDE Sublease, the BDE II Sublease, the BDE Premises and/or the BDE II Premises shall be deleted from this Agreement, but all other provisions of the Agreement shall survive the termination of the BDE Sublease and BDE II Sublease. In consideration of the BDE Sublease, BDE covenants and agrees to pay to TRT BDE's reimbursement payments set forth in this Agreement, along with any applicable sales tax. In consideration of the BDE II Sublease, BDE II covenants and agrees to pay to TRT BDE II's reimbursement payments set forth in this Agreement along with any applicable sales tax.

(b) Additional Sublease Terms. This Amendment is intended to convey to BDE and BDE II all the burdens and benefits of ownership and to cause BDE and BDE II to be treated as the owners of the BDE Premises and the BDE II Premises, respectively, for federal and state income tax purposes. Notwithstanding any provision in this Agreement or the Original Agreement to the contrary, the BDE Premises, the BDE II Premises, and all alterations, additions, equipment and fixtures built, made or installed by TRT in, on, or under the BDE Premises and the BDE II Premises shall be the sole property of BDE or BDE II, respectively, until the expiration or other termination of the BDE Sublease and the BDE II Sublease, respectively. Accordingly, at all times during the term of the BDE Sublease and the BDE II Sublease, BDE and BDE II shall be deemed to exclusively own the BDE Premises and the BDE II Premises, respectively, for federal and state tax purposes, and BDE and BDE II, respectively, shall be entitled to all of the tax attributes of ownership thereof, including, without limitation, the right to claim depreciation or cost recovery deductions, the right to claim the federal low-income housing tax credits available to BDE and BDE II, respectively, under Section 42 of the Internal Revenue Code of 1986, as amended, with respect to the BDE Premises and the BDE II Premises, respectively, and the right to amortize capital costs and to claim any other federal tax benefits attributable to the BDE Premises and the BDE II Premises, respectively. The Parties agree to

treat this Agreement and the Original Agreement in a manner consistent with this intention, including filing all federal income tax returns and other reports consistently with such treatment. TRT will not claim tax credits, depreciation or any other federal or state income tax benefits with respect to the BDE Premises or the BDE II Premises, respectively, or take any action which is inconsistent with this provision.

7. Indemnity. Each of the Parties hereto agrees to indemnify the other and hold it harmless from and against any and all loss, cost, expense, claims or damages suffered by a Party as a result of the negligent or willful act or omission of the other, its employees, agents and contractors, as a result of the exercise of the rights and obligations of the Parties under this Agreement, except for any such liability, loss, damage, cost or expense as may arise in whole or in part from the acts of the Party seeking indemnification. Each Party shall obtain and maintain commercial general liability insurance which provides coverage for acts occurring not only on its own Property but also on the other Property in connection with the exercise of any of the easement rights granted herein, and shall name the other Party as an additional insured. Further, each Party agrees to indemnify the other and hold it harmless from and against any and all loss, cost, expense, claims or damages arising from any construction liens placed on the other Property by any subcontractors or materialmen providing services or materials to such Party.

8. Successors and Assigns. This Agreement shall bind, and the benefit thereof shall inure to, the respective successors and assigns of the Parties hereto, and shall be a covenant running with the leasehold title to the TRT Property, the BDE Property, and the BDE II Property.

9. No Public Dedication. Nothing contained in this Agreement shall, in any way, be deemed or constituted a gift of or dedication of any portion of any lands described herein to the general public or for the benefit of the general public whatsoever, it being the intention of the Parties hereto that this Agreement shall be limited to and utilized for the purposes expressed herein and only for the benefit of the persons herein named.

10. Default and Remedies. Upon a default by any Party hereto, the non-defaulting Party shall have any and all remedies available at law or in equity; provided, however, that no Party shall have the right to invoke any equitable remedy which would deny the other Party physical access to any part of its Property. Written notice shall be provided, specifying the nature of the default. The allegedly defaulting Party shall have a period of fifteen (15) days following receipt of said notice in which to remedy the default (or such longer time as may be necessary and reasonable, provided the cure is commenced within said fifteen-day period and is diligently prosecuting same). Notwithstanding the foregoing, if the default is of such a nature that an emergency situation arises constituting an unsafe or unsanitary condition, the fifteen (15) day period for cure of such default shall be accelerated to be a period of time which is reasonable in light of the nature of the emergency.

11. Enforcement and Prevailing Party. In the event it becomes necessary for either Party including the holder of any mortgage lien to defend or institute legal proceedings as a result of the failure of either Party to comply with the terms, covenants and conditions of this Agreement, the prevailing Party in such litigation shall recover from the other Party all costs and expenses incurred or expended in connection therewith, including, without limitation, reasonable attorneys' fees and costs, at all levels.

12. Notices to Mortgagees and Investor Member. Each of the Parties agrees to furnish duplicate copies of any notices of default delivered to the other, to the holder of any mortgage lien encumbering their respective Properties, provided that the identity and address of such mortgagees have been made known to the Party sending any such notice. Copies of such notices shall also be delivered to the respective investor members of the Parties, provided that the identity and address of such investor members have been made known to the Party sending any such notices. In the event of a default by a Party hereunder, any cure tendered by its mortgagee or investor member shall be accepted as if the cure had been provided by the applicable Party itself.

13. Amendment. The Parties hereto agree that this Agreement may not be amended, released or terminated without the prior written consent of (i) respective investor limited partners of the Parties and (ii) the holder of any mortgage encumbering the Property to be affected by such amendment.

14. Third Party Beneficiary. So long as any mortgage loan remains outstanding with respect to any Property, or any amounts are owed to the holder(s) of such mortgages, such holder(s) shall be deemed an intended third-party beneficiary hereof and entitled to enforce the provisions hereof. In addition, the respective investor limited partners of the Parties, together with their partners, members or shareholders, as applicable, shall be deemed an intended third-party beneficiary hereof and entitled to enforce the provisions hereof.

15. No Partnership. None of the terms or provisions of this Agreement shall be deemed to create a partnership between the Parties in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. Each Party shall be considered a separate owner, and no Party shall have the right to act as an agent for another Party, unless expressly authorized to do so in this Agreement.

16. Interpretation. No provision of this Agreement will be interpreted in favor of, or against, either of the Parties hereto by reason of the extent to which any such Party or its counsel participated in the drafting thereof or by reason of the extent to which any such provision is inconsistent with any prior draft hereof or thereof.

17. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute a single document.

18. Notices. All notices, demands, requests or other communications required or permitted to be given hereunder shall be deemed delivered and received upon actual receipt or refusal to receive same, and shall be made by United States certified or registered mail, return receipt requested, by nationally recognized overnight courier service such as FedEx, or by hand delivery, and shall be addressed to (a) the respective Parties at the addresses set forth in the preamble to this Agreement, (b) the investor members of the Parties, as specified in Section 12 above, and (c) the holder of any mortgage lien encumbering their respective Properties, as provided in Section 12 above.

19. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto relating in any manner to the subject matter of this Agreement. No prior agreement or understanding pertaining to same shall be valid or of any force or effect, and the covenants and agreements herein contained cannot be altered, changed or supplemented except in writing and signed by the Parties hereto.

20. Severability. If any clause or provision of this Agreement is deemed illegal, invalid or unenforceable under present or future laws effective during the term hereof, then the validity of the remainder of this Agreement shall not be affected thereby and shall be legal, valid and enforceable.

21. Venue; Jurisdiction. This Agreement shall be governed and construed in all respects in accordance with the laws of the State of Florida, without regard to its conflicts of laws provisions. Further, the Parties hereto agree to avail themselves of and submit to the personal jurisdiction of the Courts of the State of Florida in Miami-Dade County.

22. Bankruptcy. In the event of any bankruptcy affecting any Party this Agreement shall, to the maximum extent permitted by law, run with the land and not be capable of rejection by the bankrupt debtor.

[Signatures on Next Pages]



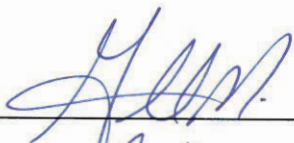
IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the date and year first set forth above.

Witnesses:

TRT:

THREE ROUND TOWERS B AND C, LLC,
a Florida limited liability company

By: Three Round Towers B and C Manager, LLC,
a Florida limited liability company, its manager


Print: Guillermo Magnum Mazon

By: 
Tony Del Pozzo, Vice President


Print: Jordan Davis

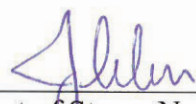
STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by (check one) () means of physical appearance or () remote audio-visual means, this 3rd day of August, 2021, by Tony Del Pozzo, as Vice President of Three Rounds Towers, B and C Manager, LLC, the manager of Three Round Towers B and C, LLC, a Florida limited company.

Personally Known ✓ or Produced Identification _____

Type of identification produced _____



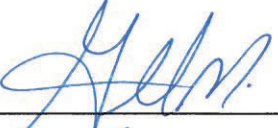

Print of Stamp Name: Jessica Colomer
Commission No. GG 298431
My Commission Expires: 04/30/2023

Witnesses:

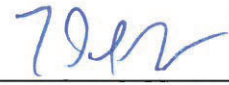
BDE:

BRISAS DEL ESTATE APARTMENTS, LLC,
a Florida limited liability company

By: Brisas del Este Phase Apartments, LLC,
a Florida limited liability company, its manager



Print: Guillermo Magallon Meza

By: 

Tony Del Pozzo, Vice President



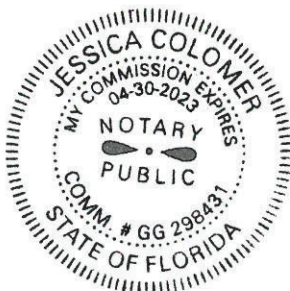
Print: Jordan Davis

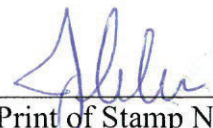
STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by (check one) () means of physical appearance or () remote audio-visual means, this 3rd day of August, 2021, by Tony Del Pozzo, as Vice President of Brisas del Este Phase Apartments Manager, LLC, the manager of Brisas del Este Apartments, LLC, a Florida limited company.

Personally Known ✓ or Produced Identification _____

Type of identification produced _____





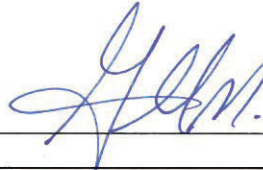
Print of Stamp Name: Jessica Colomer
Commission No. GG 298431
My Commission Expires: 04/30/2023

Witnesses:

BDE II:

BRISAS DEL ESTATE PHASE TWO, LLC,
a Florida limited liability company

By: Brisas del Este Phase Two Manager, LLC ,
a Florida limited liability company, its manager



Print: Guillermo Magallon Maron

By: 

Tony Del Pozzo, Vice President



Print: Jordan Davis

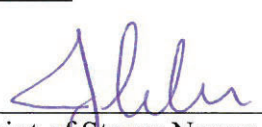
STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by (check one) () means of physical appearance or () remote audio-visual means, this 5 day of August, 2021, by Tony Del Pozzo, as Vice President of Brisas del Este Phase Two Manager, LLC, the manager of Brisas del Este Phase Two, LLC, a Florida limited company.

Personally Known ✓ or Produced Identification _____

Type of identification produced _____




Print of Stamp Name: Jessica Colomer
Commission No. GG 298431
My Commission Expires: 04/30/2023

CONSENT BY FEE OWNER

MIAMI-DADE COUNTY, a political subdivision of the State of Florida, as the owner of fee simple title to the TRT Property, the BDE Property, and the BDE II Property, hereby consents to the foregoing Agreement and agrees to be bound thereby upon the expiration or termination of any applicable ground lease of any of the Parties. Nothing herein shall be deemed to alter the terms of any of the respective the ground leases between the County and the respective Parties.

Attest:
Harvey Ruvin, County Clerk

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

By: _____
Deputy Clerk

By: _____
Morris Copeland
Chief Community Services Officer

Approved for legal sufficiency:

By: _____
Terrence Smith
Assistant County Attorney

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by (check one) () means of physical appearance or () remote audio-visual means, this _____ day of _____, 2021, by Morris Copeland as Chief Community Services Officer of Miami-Dade County, a political subdivision of the State of Florida.

Personally Known _____ or Produced Identification _____

Type of identification produced _____

Print of Stamp Name: _____
Commission No. _____
My Commission Expires: _____

EXHIBIT "A"
TRT PROPERTY

A portion of Tract "A" of "FORMAN SUBDIVISION", according to the Plat thereof, as recorded in Plat Book 90, at Page 99, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the NE Comer of said Tract "A"; thence S87°55'01"W along the North Boundary Line of said Tract "A", for 178.42 feet to the Point of Beginning of the parcel of land hereinafter described; thence S02°30'42"E for 241.00 feet; thence N87°55'01"E along a line parallel with and 241 feet South of the North Boundary Line of said Tract "A", for 115.28 feet; thence S02°37'25"E for 87.95 feet; thence S37°25'01"W for 95.77 feet; thence S03°16'42"E for 166.16 feet; thence S42°31'43"E for 60.25 feet; thence S87°48'07"W for 228.50 feet; thence N02°28'42"W along the West Boundary Line of said Tract "A", for 615.28 feet to the NW Comer of said Tract A; thence N87°55'01"E along the North Boundary Line of said Tract "A", for 133.20 feet to the Point of Beginning.

EXHIBIT "B"
BDE PROPERTY

A portion of Tract "A" of "FORMAN SUBDIVISION", according to the Plat thereof, as recorded in Plat Book 90, at Page 99, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

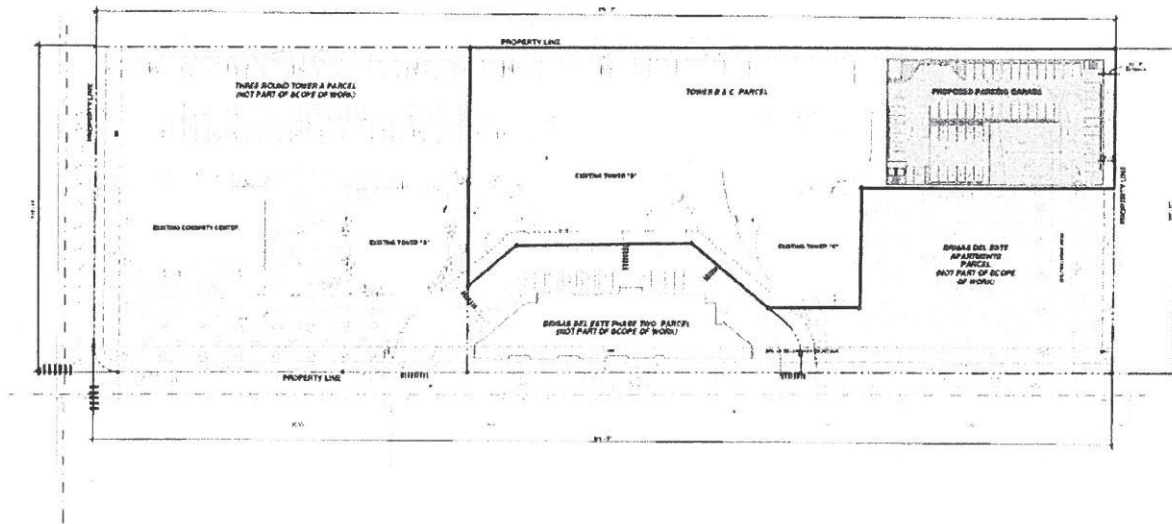
BEGIN at the NE corner of said Tract "A"; thence S02°30'10"E along the East boundary line of said Tract "A", said line also being the West Right of Way line of NW 18th Avenue, for 297.08 feet; thence S87°42'42"W for 17.28 feet to a Point of Curvature of a circular curve to the left, concave to the Southeast; thence Southwesterly along the arc of said curve, having for its elements a radius of 41.00 feet, a central angle of 50°17'42", for an arc distance of 35.99 feet to a Point of Tangency; thence S37°25'01 "W for 21.88 feet; thence N02°37'25"W for 87.95 feet; thence S87°55'01 "W along a line parallel with and 241 feet South of the North boundary line of said Tract "A", for 115.28 feet; thence N02°30'42"W for 241.00 feet; thence N87°55'01 "E along the North boundary line of said Tract "A", for 178.42 feet to the Point of Beginning.

EXHIBIT "C"
BDE II PROPERTY

A portion of Tract "A" of "FORMAN SUBDIVISION", according to the Plat thereof, as recorded in Plat Book 90, at Page 99, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the NE Corner of said Tract "A"; thence S02°30'10"E along the East Boundary Line of said Tract "A", said line also being the West Right of Way Line of NW 18th Avenue, for 297.08 feet to the POINT OF BEGINNING of the parcel of land hereinafter described; thence continue S02°30'10"E along said East Boundary Line of Tract "A", also being the West Right of Way Line of NW 18th Avenue, for 317.57 feet; thence S87°48'07"W for 83.37 feet; thence N42°31'43"W for 60.25 feet; thence N03°16'42"W for 166.16 feet; thence N37°25'01"E for 117.65 feet to a Point of Curvature of a circular curve to the right, concave to the Southeast; thence Northeasterly along the arc of said curve, having for its elements a radius of 41.00 feet, a central angle of 50°17'42", for an arc distance of 35.99 feet to a Point of Tangency; thence N87°42'42"E for 17.28 feet to the Point of Beginning.

EXHIBIT "D" GARAGE AREA



Mortgagee Joinder

The undersigned, a mortgagee of the lands to be burdened by the foregoing Agreement, joins in the foregoing Agreement for the purpose of binding the lands encumbered by the undersigned's mortgage to the effects of said Agreement and for the purpose of subordinating the lien and effects of its Multifamily Leasehold Mortgage, Assignment or Rents, Security Agreement and Fixture Filing (Florida) dated as of August 1, 2020 in the original principal amount of \$36,000,000.00 given by Three Round Towers B and C, LLC, a Florida limited liability company, as borrower, in favor of the Housing Finance Authority of Miami-Dade County, Florida, a public body, corporate and politic duly organized and existing under the laws of the State of Florida, as lender, recorded on August 17, 2020, in Official Records Book 32053, Page 1286; as affected by Assignment of Mortgage and Loan Documents dated as of August 1, 2020 from the Housing Finance Authority of Miami-Dade County, Florida, a public body, corporate and politic duly organized and existing under the laws of the State of Florida, to Citibank, N.A., a national banking association, recorded on August 17, 2020, in Official Records Book 32053, Page 1358, of the Public Records of Miami-Dade County, Florida, to the effects of said Agreement; provided, however, that the lien and other rights of the undersigned in the undersigned's mortgage shall not be affected in any manner by the execution of this Joinder other than to subordinate the lien of the undersigned's mortgage to the rights of TRT under the foregoing Agreement such that a foreclosure by the undersigned of its mortgage shall not extinguish the foregoing Agreement.

Executed on _____, 2021 by Citibank, N.A., a national banking association

By: _____

Name: Kathy Millhouse

Title: Vice President

Address: 388 Greenwich Street, Trading 6th Floor

New York, New York 10013

Deal ID No. 22646

ACKNOWLEDGMENT

State of California

County of _____)

On _____ 2021 before me, _____
(insert name and title of the officer) personally appeared Kathy Millhouse, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Mortgagee Joinder

The undersigned, a mortgagee of the lands to be burdened by the foregoing Agreement, joins in the foregoing Agreement for the purpose of binding the lands encumbered by the undersigned's mortgage to the effects of said Agreement and for the purpose of subordinating the lien and effects of its Multifamily Leasehold Mortgage, Assignment or Rents, Security Agreement and Fixture Filing (Florida) dated as of August 1, 2020 in the original principal amount of \$36,000,000.00 given by Three Round Towers B and C, LLC, a Florida limited liability company, as borrower, in favor of the Housing Finance Authority of Miami-Dade County, Florida, a public body, corporate and politic duly organized and existing under the laws of the State of Florida, as lender, recorded on August 17, 2020, in Official Records Book 32053, Page 1286, of the Public Records of Miami-Dade County, Florida, to the effects of said Agreement; provided, however, that the lien and other rights of the undersigned in the undersigned's mortgage shall not be affected in any manner by the execution of this Joinder other than to subordinate the lien of the undersigned's mortgage to the rights of TRT under the foregoing Agreement such that a foreclosure by the undersigned of its mortgage shall not extinguish the foregoing Agreement.

Executed on _____, 2021 by the Housing Finance Authority of Miami-Dade County, Florida

By: _____

Name: _____

Title: _____

Address: 7855 NW 12th Street, Suite 102
Doral, FL 33126

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by (check one) () means of physical appearance or () remote audio-visual means, this _____ day of _____, 2021, by _____ as _____ of the Housing Finance Authority of Miami-Dade County, Florida.

Personally Known _____ or Produced Identification _____

Type of identification produced _____

Print of Stamp Name: _____
Commission No. _____
My Commission Expires: _____

Mortgagee Joinder

The undersigned, a mortgagee of the lands to be burdened by the foregoing Agreement, joins in the foregoing Agreement for the purpose of binding the lands encumbered by the undersigned's mortgage to the effects of said Agreement and for the purpose of subordinating the lien and effects of its Leasehold Mortgage and Security Agreement and Assignment of Leases, Rents and Profits by Three Round Towers B and C, LLC, a Florida limited liability company, as mortgagor, in favor of Miami-Dade County, as mortgagee, in the original principal amount of \$2,500,000.00, dated August 11, 2020, recorded on August 21, 2020, in Official Records Book 32061, Page 346, of the Public Records of Miami-Dade County, Florida, to the effects of said Agreement; provided, however, that the lien and other rights of the undersigned in the undersigned's mortgage shall not be affected in any manner by the execution of this Joinder other than to subordinate the lien of the undersigned's mortgage to the rights of TRT under the foregoing Agreement such that a foreclosure by the undersigned of its mortgage shall not extinguish the foregoing Agreement.

Executed on _____, 2021 by Miami-Dade County.

By: _____

Morris Copeland
Chief Community Services Officer
Address: 111 N.W. 1st Street, Miami, Florida 33128

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by (check one) () means of physical appearance or () remote audio-visual means, this _____ day of _____, 2021, by Morris Copeland as Chief Community Services Officer of Miami-Dade County, a political subdivision of the State of Florida.

Personally Known _____ or Produced Identification _____

Type of identification produced _____

Print of Stamp Name: _____
Commission No. _____
My Commission Expires: _____

Mortgagee Joinder

The undersigned, a mortgagee of the lands to be burdened by the foregoing Agreement, joins in the foregoing Agreement for the purpose of binding the lands encumbered by the undersigned's mortgage to the effects of said Agreement and for the purpose of subordinating the lien and effects of its Leasehold Mortgage, Assignment of Rents, Security Agreement and Fixture Filing by Brisas Del Este Phase Two, LLC, a Florida limited liability company, in favor of Housing Finance Authority of Miami-Dade County, Florida, in the original principal amount of \$20,000,000.00, dated August 11, 2020, recorded on August 21, 2020, in Official Records Book 32063, Page 3202; as affected by Assignment of Leasehold Mortgage and Collateral Documents by the Housing Finance Authority of Miami-Dade County, Florida in favor of The Bank of New York Mellon Trust Company, N.A., dated August 11, 2020, recorded on August 21, 2020, in Official Records Book 32063, Page 3241, of the Public Records of Miami-Dade County, Florida, to the effects of said Agreement; provided, however, that the lien and other rights of the undersigned in the undersigned's mortgage shall not be affected in any manner by the execution of this Joinder other than to subordinate the lien of the undersigned's mortgage to the rights of BDE II under the foregoing Agreement such that a foreclosure by the undersigned of its mortgage shall not extinguish the foregoing Agreement.

Executed on _____, 2021 by The Bank of New York Mellon Trust Company,
N.A. as Fiscal Agent.

By: _____
Charles G. Nelson, Vice President
Address: 10161 Centurion Parkway N
Jacksonville, Florida 33256

STATE OF FLORIDA)
COUNTY OF DUVAL) SS:

The foregoing instrument was acknowledged before me by (check one) () means of physical appearance or () remote audio-visual means, this _____ day of _____, 2021, by Charles G. Nelson as Vice President of The Bank of New York Mellon Trust Company, N.A., a national banking association.

Personally Known _____ or Produced Identification _____

Type of identification produced _____

Print of Stamp Name: _____
Commission No. _____
My Commission Expires: _____

Mortgagee Joinder

The undersigned, a mortgagee of the lands to be burdened by the foregoing Agreement, joins in the foregoing Agreement for the purpose of binding the lands encumbered by the undersigned's mortgage to the effects of said Agreement and for the purpose of subordinating the lien and effects of its Leasehold Mortgage, Assignment of Rents, Security Agreement and Fixture Filing by Brisas Del Este Phase Two, LLC, a Florida limited liability company, in favor of Housing Finance Authority of Miami-Dade County, Florida, in the original principal amount of \$20,000,000.00, dated August 11, 2020, recorded on August 21, 2020, in Official Records Book 32063, Page 3202; as affected by Assignment of Leasehold Mortgage and Collateral Documents by the Housing Finance Authority of Miami-Dade County, Florida in favor of The Bank of New York Mellon Trust Company, N.A., dated August 11, 2020, recorded on August 21, 2020, in Official Records Book 32063, Page 3241, of the Public Records of Miami-Dade County, Florida, to the effects of said Agreement; provided, however, that the lien and other rights of the undersigned in the undersigned's mortgage shall not be affected in any manner by the execution of this Joinder other than to subordinate the lien of the undersigned's mortgage to the rights of BDE II under the foregoing Agreement such that a foreclosure by the undersigned of its mortgage shall not extinguish the foregoing Agreement.

Executed on _____, 2021 by the Housing Finance Authority of Miami-Dade County, Florida

By: _____
Name: _____
Title: _____

Address: 7855 NW 12th Street, Suite 102
Doral, FL 33126

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by (check one) () means of physical appearance or () remote audio-visual means, this _____ day of _____, 2021, by _____ as _____ of the Housing Finance Authority of Miami-Dade County, Florida.

Personally Known _____ or Produced Identification _____

Type of identification produced _____

Print of Stamp Name: _____
Commission No. _____
My Commission Expires: _____