Agenda Item #: 31-5

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting	Date:	August	25	2020
Miccurig	Date.	August	LV,	

[X] Consent
[] Ordinance

[] Regular

[] Public Hearing

Department:

Housing and Economic Sustainability

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve:

- **A)** an Assumption and Consent Agreement (Assumption Agreement) with the Malibu Bay Preservation, Ltd. (New Borrower), and Executive Trust, Ltd. (Original Borrower);
- B) a Subordination and Intercreditor Agreement (Subordination Agreement) with the New Borrower, U.S. Bank National Association and Citibank, N.A.;
- **C)** a Second Global Modification and Amendment of Mortgage and Security Agreement and Other Loan Documents (Second Global Modification) and its attached Loan Rider; and
- **D)** delegation of authority to the County Administrator, or designee, to execute the Assumption Agreement, the Subordination Agreement, the Second Global Modification and its attached Loan Rider, along with any amendments thereto and any documents necessary to complete the transaction.

Summary: On March 1, 2005, the County entered into a Loan Agreement (R2005-0463) with the Original Borrower to provide \$262,000 in State Housing Initiative Partnership Program funds towards the construction of a 262 unit affordable housing rental project. The project, known as Malibu Bay, was completed in 2005 and is located at 750 West Executive Center Drive, in West Palm Beach. This three percent (3%) interest only cash flow dependent loan was secured by a Mortgage and Security Agreement (County Mortgage) and a Promissory Note from the Original Borrower with a maturity date of December 31, 2020, when all outstanding principal and accrued and deferred interest is payable. On May 19, 2015, the Board of County Commissioners (BCC) approved the subordination of the County Mortgage to a refinanced first mortgage of \$20,729,900. As part of this transaction, the County Mortgage and Promissory Note were amended to extend the maturity date to May 1, 2050, and required the Original Borrower to begin payment of an annual monitoring fee of \$7,500 as of 2016. Borrower proposes to purchase and renovate the development and wishes to take out a \$40,000,000 new first mortgage. The New Borrower wishes to assume the financial obligations contained in County Mortgage and Promissory Note, as amended. In addition, the New Borrower has agreed to extend the income requirement mandating that tenants occupying these units have incomes at or below 60% of area median income. The income requirement would extend to the new maturity date of May 1, 2050. Furthermore, the New Borrower has agreed to bring the payments owed on the County's Promissory Note current by paying \$109,755.82 at closing. District 7 (HJF)

Background and Justification: The County Mortgage is third in seniority behind Walker & Dunlop, LLC's first mortgage with a principal amount of \$20,729,900, and the South Florida Regional Planning Council's second mortgage with a principal amount of \$800,000. The City of West Palm Beach holds a fourth mortgage with a principal amount of \$200,000.

Attachment(s):

- 1. Assumption and Consent Agreement
- 2. Subordination and Intercreditor Agreement
- 3. Seconds Global Modification and Amendment of Mortgage and Security Agreement and Other Loan Documents and its attached Loan Rider
- 4. County Mortgage and Security Agreement and Promissory Note of March 30 2005
- 5. Allonge to Promissory Note of May 28, 2015
- 6. First Global Modification and Amendment of Mortgage and Security Agreement, Promissory Note and Other Loan Documents

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Recommended By: _	DUNIA STORIDA	X-14-10
	Department Director	Date
Approved By:	done in the	8/24/3000
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures					
Operating Costs					
External Revenues	(\$109,756)				
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	(\$109,756)				

# ADDITIONAL FTE	-0-				

	NET FISCAL IMPACT	(\$109,756)	-					
	# ADDITIONAL FTE POSITIONS (Cumulative)	-0-						
	Item Included In Current les this Item include the u		\ I funds? \	/es /es	No X No X			
	Budget Account: Fund 1100 Dept 143 Org. 7176 Revenue Source 6112 Prg Code/Period SH04/GY08 Fund 1100 Dept 143 Org. 7176 Revenue Source 4135 Prg Code/Period SH04/GY08							
В.	Recommended Source	es of Funds/	Summary o	of Fiscal Im	pact:			
	The \$109,756 to be paid at closing will be deposited as program income in the Affordable Housing Trust Fund (1100).							
C.	Departmental Fiscal I		airette Majo	r, Fiscal Ma	anager II			

NTS

d Control Comments:

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	III. REVIEW COM	ME
A.	OFMB Fiscal and/or Contract Developmen	t and
	OFMBRAGES BIG CONT	ract
B.	Legal Sufficiency:	
	Assistant County Attorney	
C.	Other Department Review:	
	Department Director	