

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, FOLLOWING SECOND READING/PUBLIC HEARING, AN AMENDMENT NO. 2 TO THE LEASE BETWEEN THE CITY (LESSOR) AND EHDCC COUNCIL TOWERS LIMITED PARTNERSHIP (LESSEE), IN CONNECTION WITH THE CITY'S LEASE OF AIR RIGHTS FOR AFFORDABLE ELDERLY HOUSING AT COUNCIL TOWERS SOUTH, LOCATED AT 1040 COLLINS AVENUE, MIAMI BEACH, FLORIDA, TO AMEND THE CURRENT LEASE TO INCORPORATE CERTAIN HUD REQUIREMENTS AND MODIFICATIONS NECESSARY FOR HUD TO INSURE THE MORTGAGE LOAN THAT WILL REFINANCE THE PROPERTY AND PAY FOR THE AGREED UPON IMPROVEMENTS, INCLUDING EXTENDING THE LEASE TERM TO JULY 8, 2076 BY EFFECTIVELY EXERCISING THE RENEWAL OPTION CONTAINED IN AMENDMENT NO. 1; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO. 2 BETWEEN THE CITY AND LESSEE.

WHEREAS, on or about July 8, 1976, the City Commission of the City of Miami Beach adopted Resolution No. 1976-15085, approving a Lease Agreement between the City and Senior Citizens Housing Development Corporation of Miami Beach ("Lease"), for certain air rights and easements to City-owned property located at 533 Collins Avenue, for the construction and operation of a residential building for elderly housing ("Council Towers South" or the "Building"), and with the City retaining the rights to the management and operation of the municipal parking lot on the ground floor below the demised premises; and

WHEREAS, the Lease had an initial term of fifty (50) years, expiring on July 8, 2026; and

WHEREAS, the Building was completed in 1979, and includes approximately 125 residential dwelling units, providing quality affordable rental housing for low-income seniors; and

WHEREAS, on or about March 8, 1978, and in accordance with Section 34 of the Lease, Senior Citizens Housing Development Corporation of Miami Beach assigned the Lease to Lessee, and such assignment was duly recorded in O.R. Book 9967, Page 271 of the public records of Miami-Dade County; and

WHEREAS, Lessee desires to obtain financing for the purpose of constructing certain capital improvements or other renovations to the Building, including building systems, individual dwelling units, and common areas, with the intent for such improvements, as defined more fully in Section II of this Amendment No. 1, to improve security, safety, and the quality of living conditions for the Building's residents; and

WHEREAS, Amendment No.1 provides for a lease term expiring on July 8, 2026 with an option to renew for an additional 50-year term, expiring on July 8, 2057, subject to Lessee's compliance with the terms of the Lease; and

WHEREAS, in order to obtain long-term financing for the Lessee's proposed renovations, Lessee requests amending the agreement to provide for an initial term expiring on July 8, 2076, which amendment will effectively authorize the renewal option set forth in Amendment No. 1; and

WHEREAS, in addition to the extension of the term, Lessee is requesting additional amendments to the Agreement required by HUD to obtain financing, including removing HUD's right to purchase good and marketable fee title to the demised premises within twelve (12) months after acquiring the demised premises found in Section 34, part 2 of the Lease; and

WHEREAS, in view of the City Commission's desire to support and incentivize affordable housing projects within the City of Miami Beach, including affordable elderly housing, the City Commission desires to extend the term of the Lease, and waives the competitive bidding and appraisal requirements of Chapter 82-37 and 82-39 of the City Code, finding it in the best interests of the City to do so; and

WHEREAS, a lease of ten years or more of the 533 Collins Avenue property is governed by the provisions of Section 1.03(b)(4) of the City Charter, and requires approval of a majority 4/7ths vote of all members of the Planning Board, and a 6/7ths vote of the City Commission; and

WHEREAS, on December 19, 2017, following consideration of the Planning Department analysis required pursuant to Section 82-38 of the City Code, the proposed lease extension was unanimously approved by the Planning Board; and

WHEREAS, on February 23, 2018, as required by Section 82-37 of the City Code, the Finance and Citywide Projects Committee reviewed the proposed lease, and unanimously recommended that the Mayor and City Commission approve the foregoing Amendment No. 1, a copy of which is attached to the Commission Memorandum accompanying this Resolution; a

WHEREAS, on February 12, 2020, the Mayor and City Commission approved the proposed lease Amendment No. 2 on first reading and set a second reading/public hearing for March 18, 2020.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby approve, following second reading/public hearing, an Amendment No. 2 to the Lease between the City (Lessor) and EHDOD Council Towers Limited Partnership (Lessee), in connection with the City's lease of air rights for affordable elderly housing at Council Towers South, located at 533 Collins Avenue, Miami Beach, Florida, to amend the current Lease to incorporate certain HUD requirements and modifications necessary for HUD to insure the mortgage loan that will refinance the property and pay for the agreed upon improvements, including extending the lease term to July 8, 2076 by effectively exercising the renewal option contained in Amendment No. 1; and further authorizing the Mayor and City Clerk to execute Amendment No. 2 between the City and Lessee.

PASSED AND ADOPTED this _____ day of _____ 2020.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

City Attorney

3-10-20

Date