



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#20-0774

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Chris Lagerbloom, ICMA-CM, City Manager

DATE: October 6, 2020

TITLE: Resolution Approving Subordination and Subsequent Release of Right of Reverter, Confirming Reservation of Mineral Rights and Delegating Authority to the City Manager to Execute Certain Agreements and Take Certain Actions for the Housing Authority of the City of Fort Lauderdale Project located at 1801 SW 1 Avenue - **(Commission District 4)**

Recommendation

Staff recommends the City Commission approve a Resolution subordinating and subsequently releasing its Right of Reverter in favor of The Housing Authority of the City of Fort Lauderdale ("HACFL" or "Authority") for the affordable housing project located at 1801 SW 1 Avenue, Fort Lauderdale, FL 33315 by authorizing the City Manager to execute the Subordination and Standstill Agreement, approve a Termination of Reversionary Rights and Agreement with Respect to Mineral Reservations upon project completion, and execute certain agreements related to the project.

Background

On November 6, 2018, the City Commission approved Resolution 18-229 (Exhibit 1) conveying city-owned real property located at 1801 SW 1 Avenue, Fort Lauderdale, Florida ("Property") to the Housing Authority of the City of Fort Lauderdale ("HACFL" or "Housing Authority") pursuant Section 8.02 of the City Charter (Exhibit 2). In accordance with the Resolution, the City conveyed the Property to the Authority by Special Warranty Deed dated November 8, 2018 ("Vesting Deed"), subject to a Right of Reverter, which reads as follows:

"SUBJECT TO the condition that Grantee shall use the above described tract of land to develop and provide affordable housing to low and moderate income families and individuals (those persons or a family that have an annual gross income for the household, as adjusted for family size that does not exceed 120% of the median annual income for the Broward County metropolitan statistical area) within five (5) years

of the date hereof and, if Grantee shall fail to provide such affordable housing, all right, title and interest herein conveyed shall automatically revert to the Grantor absolutely."

The Housing Authority has approved a plan, which meets the requirements of the City's conditions for the Right of Reverter, for the development and construction of one hundred thirteen (113) residential housing units, one hundred five (105) units of which shall be low-income housing tax credit ("LIHTC") units under Section 42 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Code") (including one (1) non-revenue manager's unit), and eight (8) units of which shall be at market rate (the "Project"). The Housing Authority also has secured construction financing from an institutional lender and tax credit investors. It is anticipated that the Project will be completed on or around November 2021.

The Housing Authority's lender and investor require a subordination and standstill agreement and upon completion of the project a release of the City's Right of Reverter. Staff recommends that the City subordinates its right of reverter in favor of the Housing Authority, its lenders and investors and to release its right, title and interest in the Property upon completion of the Project, as evidenced by a Certificate of Occupancy, and presentation to the City Manager of an executed Extended Use, Land Use Restriction Agreement or other agreement acceptable to Florida Housing Finance Corporation, subjecting the Project to certain income and rent restrictions for a minimum of thirty (30) years. Upon approval of the Resolution the City Manager is delegated the authority to execute the 'Standstill and Subordination Agreement' and 'Termination of Reversionary Right and Agreement with Respect to Mineral Rights', and any other necessary or incidental instruments to take such further action as necessary to consummate this transaction.

By operation of law, as to real property formerly owned by a municipality, Section 270.11, Florida Statutes, reserves royalties in mineral rights in real property in favor of municipalities, but releases its right of entry as to sites which are twenty acres or less. The Housing Authority and its lenders has asked the City to ratify that its right of entry has been released but that the City retains rights to receive royalties from mining of minerals.

Resource Impact

There is no fiscal impact associated with this item.

Strategic Connection

This item is a *2020 Top Commission Priority*, advancing the Homelessness and Housing Opportunities

This item is a *Press Play Fort Lauderdale Strategic Plan 2024 initiative, specifically advancing:*

- The Neighborhood Enhancement Focus Area
- Goal 4: Build a thriving and inclusive community of neighborhoods.

- Objective: Ensure a range of affordable housing options

This item advances the *Fast Forward Fort Lauderdale Vision Plan 2035: We are Here*.

Attachments

Exhibit 1 – Resolution 18-229

Exhibit 2 – Property Map

Exhibit 3 – Standstill and Subordination Agreement

Exhibit 4 – Termination of Reversionary Rights and Agreement with Respect to Mineral Rights

Exhibit 5 – Resolution

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Charter Officer: Chris Lagerbloom, ICMA-CM, City Manager