



CITY OF FORT LAUDERDALE
COMMUNITY REDEVELOPMENT AGENCY

November 1, 2021

Mr. Felipe Yalale
Yalale Holdings LLLP
500 West Cypress Creek Road, Suite 455
Fort Lauderdale, FL 33309

Mr. Frank Guerra
Altis Cardinal Living LLC
901 Ponce De Leon Blvd.
Suite 401
Coral Gables, Florida 33134

This Amended Letter of Intent replaces and
supersedes that Letter of Intent dated January
28, 2020.

Re: Letter of intent to provide a forgivable loan in an amount not to exceed Eight Million Four Hundred Thousand and No/100 Dollars (\$8,400,000) and a non-forgivable loan in the amount of Three Million Six Hundred Thousand and No/100 Dollars (\$3,600,000) to West Village, LLC, a Florida limited liability company ("West Village" or "Borrower") to be secured by a lien on multiple parcels described in Exhibit A (the "Property") to partially fund hard costs of construction of a mixed use development on the Property (the "Project")

Dear Mr. Yalale and Mr. Guerra:

This letter is intended to establish a framework for preparation and execution a Development Agreement under the Development Incentive Program (the "Development Agreement") by and between the Fort Lauderdale Community Redevelopment Agency (the "Lender" or "CRA") and West Village. Subject to the terms and conditions set forth herein and in the Development Agreement and other documents, Lender agrees to fund a forgivable loan to Borrower in an amount not to exceed Eight Million Four Hundred Thousand and No/100 Dollars (\$8,400,000) (the "Forgivable Loan") and a non-forgivable loan in the amount of Three Million Six Hundred Thousand and No/100 (\$3,600,000) (the "Non-Forgivable Loan") (collectively, the Forgivable Loan and Non-Forgivable Loan are referred to as the "DIP Loans") that will be used to fund hard costs of construction of the Project on the Property. It is anticipated that the parties shall negotiate and execute a Development Agreement

within four(4) months after the date the CRA board approves this award of funding under this amended Letter of Intent and ratifies the sale of the CRA Property.

ACQUISITION OF LAND: West Village acquired title to the real property located at 714 Sistrunk Blvd. and 526 NW 7th Terrace, Fort Lauderdale, Florida ("CRA Property") from the Agency pursuant to the Letter of Intent dated January 28, 2020.

COMPLETION DATE: The Project and all amenities shall be completed within sixty-four (64) months from the effective date of the Development Agreement, subject to extensions granted by the CRA's Executive Director for delays caused by circumstances beyond the Borrower's control but not due to a lack of funding to complete the Project. Completion Date is defined as the date on which a Certificate of Occupancy has been issued by the City of Fort Lauderdale or other governing authority and an approval letter of the Project has been issued by the Agency or its successor. If the Project is not completed by the sunset date of the CRA, then the CRA obligation to fund any undisbursed funds under the DIP Loans may be terminated.

USES OF PROCEEDS: West Village acknowledges that the proceeds of the DIP Loans shall be used to reimburse or fund hard costs of construction of a mixed use development, consisting of two (2) six (6) story buildings which shall include 415 multifamily rental units of apartments and townhomes, commercial space of 14,000 square feet approximately and a six story parking structure with a minimum of 533 parking spaces (the "Project") according to a construction budget approved by the CRA Executive Director, as may be amended by Borrower and its construction lender, so long as such expenses are allowed in accordance with Part III, Chapter 163, Florida Statutes. The proposed site plan and illustrations are attached hereto as Exhibit B. The CRA proceeds shall not be used for operating and administrative expenses of the Project, general conditions or for soft costs related to construction of the Project. Further, hard costs are defined as costs for work, labor and materials required to construct the buildings.

PHASES OF CONSTRUCTION: West Village intends to construct the Project in one phase.

RESERVATION OF COMMERCIAL SPACE: As a condition of the DIP Loans, Borrower shall cause the owner of the Property to provide 4,000 square feet of commercial retail space of the Project to the CRA, or its successors, for a minimum of five years at a rate of \$12.00 per square foot plus common area maintenance expenses, with the understanding that the CRA, or its successors, may sublet all or a portion of the retail space to small businesses as part of its initiative to support and sustain small businesses. The CRA, or its successors, shall have the absolute right to assign its entire leasehold interest to a third party, without recourse. All subtenants must comply with applicable rules and regulations of related to rental of the retail space and will receive the same benefits and privileges as other similarly situated tenants. The CRA, or its successor, reserves the right to charge rent in excess of the rate

charged by West Village and the Borrower, or its successor and/or assigns, shall not be entitled to share in the excess rents or receive any benefits from the excess rents.

CONDITION FOR EXECUTION OF LETTER OF INTENT BY CRA: Prior to executing this Letter of Intent by an authorized representative of the CRA, Felipe Yalale, Frank Guerra, Alberto J. Suarez and Anthony Seijas, its affiliates or related entities and the members of West Village must execute and deliver an affidavit, under penalty of perjury, in form and substance acceptable to the CRA in its sole discretion, that no consideration was paid by any of the parties referenced above to Peter Flotz, or his relatives, spouse or related entities or affiliates in exchange for future or prior services performed for the benefit of this Project or as payment for transfer or assignment of his interest in Borrower or termination or withdrawal of his participation in this Project. Further, no pledge or promise of future consideration or distribution has been or will be made to Peter Flotz from future income or benefits from this Project upon completion or other unrelated projects.

CONDITIONS FOR CLOSING: The Lender shall have no obligation to close on the DIP Loans until completion of the following conditions to the satisfaction of the Lender in its sole discretion:

1. Review and acceptance of environmental assessment on the Property;
2. Satisfactory evidence that Borrower has sufficient equity to complete construction of the Project;
3. Receipt and review of a draw schedule, construction schedule and budget, sources and uses, project schedule, survey and schedule of values for the Project;
4. Receipt and review of a construction contract between the Borrower and a qualified and experienced general contractor along with copy of the general contractor's license;
5. Certificate of Good Standing and corporate authorization of the Borrower and its controlling entities;
6. Builder's Risk Insurance and Payment and Performance Bond listing the CRA as an additional obligee (to the extent required by the Borrower's construction lender) and such other insurances as are customary and standard for a Project of this scope and size;
7. Title Insurance Commitment and policy insuring the interest of the CRA in the Property in the amount of the DIP Loans, deleting all schedule B-I requirements and all standard exceptions, subject to those special exceptions approved by the Executive Director;
8. Simultaneous closing with the construction lender which shall include a guaranty of payment and completion by Alberto J. Suarez, Anthony Seijas, and Frank Guerra and any other individual, if required by the construction lender;
9. All development approvals from the appropriate governing authority have been issued for the Project;
10. Execution of the CRA documents for the DIP Loans, including without

- limitation, the Promissory Notes, Second Mortgage, Assignment of Leases, Rents and Profits, Assignment of Development Approvals, Environmental Indemnity Agreement, Construction Loan Agreement, Regulatory Agreement, Security Agreement, UCC-1 Financing Statement, Funding Agreement, Development Agreement, Commercial Lease, Negative Pledge Agreement and such other agreements and instruments required by the CRA in the exercise of its reasonable discretion;
11. Receipt and review of all owners who hold a direct or beneficial interest in the Property or Borrower and its controlling entities along with copies of the organizational documents;
 12. Such other documents, instruments, studies, analysis and evaluation as required by the CRA in the exercise of its reasonable discretion.

(Note: The CRA reserves the right to assign and convey all right, title and interest in the DIP Loans to a third party, without recourse, without consent of the Borrower. However, the CRA will provide Borrower advance notice before any assignment or conveyance contemplated in this paragraph.)

LOAN PAYMENTS AND TERM: Repayment of the Forgivable Loan shall not be required except in the event of default as defined in the Development Agreement. The Non-Forgivable Loan requires a repayment of \$360,000 payable in quarterly installments per year over ten (10) years starting twelve (12) months from the date a Certificate of Occupancy is issued for the Project and each anniversary date thereafter. The Non-Forgivable Loan may be prepaid in whole or part without any prepayment penalty and shall contain a 15 day grace period. Thereafter, a late fee of 5% of the payment due shall be assessed. Neither loan shall be subject to a charge of interest except in the event of default. Upon such an occurrence, interest shall accrue at the maximum rate permitted by law

The Forgivable Loan shall be discharged upon satisfaction of the following conditions:

Issuance of a Certificate of Occupancy by the appropriate governmental authority for the entire Project.

The Non-Forgivable Loan shall be satisfied upon payment of the principal balance owed plus accrued interest, late fees, advances and other fees, costs and expenses due and owing under the Non-Forgivable Loan. If the Project is refinanced or sold, then the Non-Forgivable Loan shall be due in full.

COVENANT TO FUND: The Lender shall budget and appropriate legally available funds sufficient to fully fund the DIP Loans by Fiscal Year 2022/2023, beginning with fiscal year 2019/2020, as follow, subject to the approval as to form and substance by the CRA's General Counsel and City Auditor, as follows:

Fiscal Year- 2019/2020- \$1,000,000

Fiscal Year- 2020/2021- \$3,000,000

Fiscal Year- 2021/2022- \$3,500,000

Fiscal Year- 2022/2023 \$4,500,000

Such obligations to annually appropriate and disburse the DIP Loans are subordinate to overhead and administrative costs related to operating and managing the CRA and senior CRA debt and previously approved CRA projects.

LOAN DISBURSEMENTS: The Borrower and Lender, in consultation with the construction lender, shall develop a schedule for disbursement of the DIP Loans proceeds as constrained by the CRA annual budget appropriation and construction schedule for completion of the Project. Such disbursement schedule shall be incorporated in a Construction Loan Agreement and Funding Agreement, if necessary. Both parties anticipate a portion of the DIP Loans may be available to fund construction draws. If so, then, after the Borrower's cash equity contribution required by the Lender has been exhausted, the CRA shall fund construction draws *pari passu* with the construction lender and only for hard costs. To the extent CRA funds are available after construction has commenced and the construction lender has to advance construction funds on behalf of the CRA, then CRA funds will be used to reimburse the construction lender for hard costs only and only to extent that the CRA would have funded had the proceeds been available. The construction lender may make additional or future advances under the construction loan so long as the principal balance of the Forgivable Loan and the principal balance of the construction/permanent loan does not exceed a loan to value ratio of 100% as determined by a current MAI appraisal based on the as completed Project.

DEVELOPMENT FEE: Subject to reconciliation with any conflicts with the requirements of the construction lender, Borrower, or its affiliates or other related third parties, agree to receive its Development Fee for this Project in stages. Ten Percent (10%) of the fee shall be paid at closing on the construction loan, sixty five percent (65%) during construction (prorata over the total number of construction draws) and the balance shall be paid upon issuance of a Certificate of Occupancy for the entire Project. The CRA reserves the right to change the timing of payments upon review of the construction lender draw schedule and other relevant factors. Notwithstanding, the DIP Loans are not a source of payment for the Development Fee.

CLOSING COSTS: Borrower shall bear all closing and transactional fees, expenses and costs, including without limitation, documentary stamp taxes, intangible taxes, title insurance premium and search fees, recording fees, in connection with closing on the DIP Loans.

SECOND MORTGAGE AND SUBORDINATION: The DIP Loans shall be secured by a second mortgage, assignment of leases, rents, profits and proceeds on the Property, including the CRA Property, and security interest in the personal property of the Project in favor of the CRA, subordinate to the lien of the First Mortgage of the construction/permanent lender. The Borrower agrees that the First Mortgage shall include a provision requiring the First Mortgagee to give notice of default and an opportunity to cure in favor of the CRA. Borrower shall execute a negative pledge agreement in which it agrees not to further encumber the Property including the CRA Property. Any approvals of subsequent agreements required by Borrower or the First Mortgage lender as a condition of closing the DIP loans, shall be granted at the discretion of the CRA's Executive Director without any further approval of the governing body of the CRA, subject to approval of the CRA General Counsel.

LOCAL CONTRACTING: Borrower will use its best efforts to work with the Lender to notify local business firms, minority owned firms, women-owned firms or labor surplus area firms of the opportunity to submit bids for construction work on the Project, with the goal of achieving a minimum 30% participation for minorities. Further, Borrower shall use its best efforts to hire local business firms, minority owned firms, women owned firms for the operation and management of the residential and commercial uses within the Project and shall provide annual reports, in form, substance and content, acceptable to the CRA and its successors and/or assigns. The CRA reserves the right to record a Regulatory Agreement on the Property as a covenant running with the land.

LOAN DEFAULT: The occurrence of any one or more of the following Loan Defaults and the continuance thereof uncured or uncorrected for a period of 30 days, or longer period of time as may be necessary so long as Borrower is diligently pursuing cure, following proper notice, except for monetary defaults which shall have a grace period of 15 days and Lender shall not be required to give notice:

- 1) Borrower fails to maintain managerial control and decision-making authority over the Project until the DIP Loans are satisfied; or
- 2) A final order, judgment or decree is entered by any court of competent jurisdiction adjudicating the Borrower bankrupt or insolvent; or
- 3) Any misrepresentation made by Borrower in any material respect and which adversely affects the rights, duties and obligations of the CRA; or

- 4) Foreclosure proceedings have commenced against the Project; or
- 5) A default under the First Mortgage and subsequent failure to cure within applicable cure periods; or
- 6) Failure to make payments under the Forgivable Loan as they become due or pay the real property taxes and insurance on the Project; or
- 7) Such other commercially reasonable defaults as incorporated in the Development Agreement and other CRA loan documents.

MAINTENANCE/REPAIRS: Upon completion of the Project, Borrower, its successors and/or assigns, shall have a continuing obligation to maintain the Project in good repair and provide adequate insurance coverages at its expenses, all as set forth in the Development Agreement. All construction will be done in accordance with necessary approvals and the permitted and approved set of plans and specifications by the appropriate governing authority.

INSURANCE: The Borrower and/or the general contractor for the Project, as applicable, shall purchase and maintain at its own expense, insurance, as may be required by the Lender and shall include the Lender as an "Additional Insured".

RIGHT TO AUDIT: Lender shall have the right to audit, at its expense, the books and records relating to the Project as may be reasonably required, and Borrower shall provide CRA with necessary information to conduct such audit.

CROSS DEFAULT: The Development Agreement, and the Second Mortgage will be cross defaulted with the construction loan and First Mortgage. A default under the Forgivable Loan shall be deemed a default under the Non-Forgivable Loan and vice versa.

BROKER: Borrower certifies that there were no brokers engaged as a result of these DIP Loans and indemnifies the Lender against any claims, losses, fees or expenses in connection with these DIP Loans.

TERMINATION: Prior to execution of the Development Agreement, Lender or Borrower may terminate this letter of intent if any of the following events shall occur:
If the Borrower:

- a. Applies for or consent to the appointment of a receiver, trustee, or liquidator for it or for any of its property;
- b. Admit in writing an inability to pay its debts as they mature;

- c. Make a general assignment for the benefit of creditors;
- d. Be adjudicated bankrupt or insolvent;
- e. Files a voluntary petition or an answer seeking reorganization or an arrangement with creditors or take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution, or liquidation law or statute, or file an answer admitting the material allegations of a petition filed against it or them in any proceeding under any such law; or
- f. If condemnation proceedings are commenced against the Project or any part thereof;
- g. If the Lender and Borrower are unable to agree to the terms of the Development Agreement; or
- h. Failure by Borrower to close on the CRA Property; or
- i. Borrower fails to secure the necessary equity and construction loan on or before June 30, 2022. In the event Borrower is unable to secure its development approvals from all governing authorities, after taking all good faith efforts to secure such approvals, on or before June 30, 2022, the Executive Director shall extend the deadline for closing on Borrower's construction financing.

ASSIGNMENT: During the term of the DIP Loans, Borrower, developer and owner of the Property shall not sell, assign, convey or transfer (all of the foregoing referred to as an "Assignment") its interest in the Project or Property to any person, or a controlling interest in Borrower or such entities which hold the right, title and interest in the Property or developer of the Project, without the express written consent of the CRA which shall not be unreasonably withheld. CRA shall either approve such Assignment or specify in reasonable detail the basis for its disapproval within thirty (30) days after request for such approval. Such Assignment shall not be valid until the CRA has consented in writing to such Assignment and there shall have been delivered to CRA a true copy of the proposed instruments effecting such Assignment, and an original counterpart of an agreement in which each such assignee assumes and agrees to perform all the terms, covenants and conditions under the DIP Loans on Borrower's, or such applicable entity's, part to be performed, including those matters that arose or became due prior to the effective date of the Assignment, and proof that the assignee

has been approved as the successor under all third party agreements affecting the Project and Property. After the aforesaid instruments have been delivered to CRA and CRA has consented in writing to such Assignments, then from and after the effective date of Assignment, the assigning party shall be released of all obligations under the DIP Loans for matters arising after the effective date of the Assignment but shall remain liable to the CRA for all obligations under the DIP Loans relating to matters that arose or became due prior to the effective date of the Assignment. The factors upon which CRA may base its decision on whether to grant consent to an Assignment will be limited to whether (i) the proposed assignee and/or any of the direct or indirect principals of such proposed assignee (as may be set forth in a certification to the Agency by a certified public accountant) meets standards of creditworthiness and have sufficient financial resources to acquire, operate, manage and maintain the Project, (ii) the proposed assignee has the reasonable ability to perform the obligations of the Borrower under the DIP Loans or other parties related to the Project; (iii) the proposed assignee has prior business experience related to operating property with uses similar to the Project, (iv) the reputation of the proposed assignee, (v) the form of the documents evidencing the assignment and the assumption, and (vi) other reasonable factors. Borrower agrees to disclose the principals with controlling interest in the Borrower, owner of the land and building and the developer of the Project and to provide such documents requested by the CRA in a timely manner. Notwithstanding this process for Assignment, Frank Guerra, Alberto J. Suarez and Anthony Seijas and Felipe Yalale shall retain managerial and decision making control over the Project during the term of the DIP Loans.

PUBLIC RECORDS. Unless a specific statutory exemption exists, all documents, instruments, surveys, reports, etc. received by the CRA are subject to review by the public.

The Letter of Intent shall be made and construed in accordance with the laws of the State of Florida.

The individuals executing this Letter of Intent are authorized to execute this letter on behalf of the respective entities.

The provisions of the Letter of Intent cannot be modified unless such modification is in writing and signed by Lender and Borrower.

This Letter of Intent has been issued for the sole and exclusive benefit of the Borrower and no third party shall have any rights hereunder without the express written consent of the Lender. Further, Borrower shall not assign its rights under this Letter of Intent without the written consent of the Lender which may be withheld in its sole discretion.

Lender and Borrower agree to act in good faith to formalize the Development Agreement within a timely manner. However, nothing in this letter of intent shall be deemed an obligation of Lender or Borrower to execute a Development Agreement.

This Letter of Intent may be executed in one or more counterparts, each of which shall constitute an original and together shall constitute one agreement.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

WITNESSES:

Abelardo
Amee Uauo
Print Name

AGENCY
FORT LAUDERDALE COMMUNITY
REDEVELOPMENT AGENCY, a
Community Redevelopment Agency
created pursuant to Chapter 163, Part
III, Florida Statutes

By Cyphur
Christopher J. Lagerbloom, ICMA-CM
Executive Director

ATTEST:

D.R.S.
Jeffrey A. Modarelli, CRA Secretary
David R. Solomon

CRA General Counsel:
Alain E. Boileau, General Counsel

Lynn Solomon
Lynn Solomon, Assistant General Counsel

AGREED TO AND ACCEPTED this 1 of November ~~October~~, 2021.

WEST VILLAGE, LLC, a
Florida limited liability company

By: Yalale Holdings LLLP, a Florida Limited Liability Partnership,
Its:

Felipe Yalale
Print Title: MANAGER

By: Altis Cardinal Living LLC, a Florida Limited Liability Company,

Its: Manager

Frank Guerra
Frank Guerra, Manager



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

Today's Date: 11/15/2021 2/2/22 2L

DOCUMENT TITLE: West Village- Letter of Intent

COMM. MTG. DATE 11/02/2021 CAM #: 21-0959 ITEM #: R-1 CAM attached: ☒ YES ☐ NO

Routing Origin: CAO Router Name/Ext: Erica K./6088 Action Summary attached: ☒ YES ☐ NO

CIP FUNDED: ☐ YES ☐ NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

1) Dept: _____ Router Name/Ext: _____ # of originals routed: 1 Date to CAO: _____

2) City Attorney's Office: Documents to be signed/routed? ☒ YES ☐ NO # of originals attached: 2

Is attached Granicus document Final? ☒ YES ☐ NO

Approved as to Form: ☒ YES ☐ NOx

Date to CCO: 11/15/2021 2/2/22

Lynn Solomon
Attorney's Name

LS
Initials

3) City Clerk's Office: # of originals: 2 Routed to: Donna V./Aimee L./CMO Date: 2/2/2022

4) City Manager's Office: CMO LOG #: Feb-4 Document received from: 2-2-22

Assigned to: CHRIS LAGERBLOOM ☐ TARLESHA SMITH ☐ GREG CHAVARRIA ☐
CHRIS LAGERBLOOM as CRA Executive Director ☐

☐ APPROVED FOR C. LAGERBLOOM'S SIGNATURE ☐ N/A FOR C. LAGERBLOOM TO SIGN

PER ACM: T. Smith _____ (Initial/Date) PER ACM: G. Chavarria _____ (Initial/Date)

☐ PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward 2 originals to ☐ Mayor ☒ CCO Date: 2-3-22

5) Mayor/CRA Chairman: Please sign as indicated. Forward _____ originals to CCO for attestation/City seal (as applicable) Date: _____

6) City Clerk: Forward 2 originals to CAO for FINAL APPROVAL Date: 2/4/2022

7) CAO forwards _____ originals to CCO Date: _____

8) City Clerk: Scan original and forwards 1 original to: Erica Keiper/ xt. 6088

Attach _____ certified Reso# _____ ☐ YES ☐ NO

Original Route form to: Erica K./6088