



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

7/20/16 - L

Today's Date: 7/19/16

DOCUMENT TITLE: Estoppel Certificate and Nondisturbance Agreement Regarding Duane Management Agreement and Estoppel Certificate and Nondisturbance Agreement for Revocable License

COMM. MTG. DATE: 7/12/16 CAM #: 16-0866 ITEM #: CM-8¹² CAM attached: ☐ YES ☒ NO

Routing Origin: CAO Router Name/Ext: Shaniece Louis / Ext. 5036

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.

2) City Attorney's Office # of originals attached: 4 Approved as to Form: ☒ YES ☐ NO

Date to CCO: 7/19/16²⁰ LS
Initials

3) City Clerk's Office: # of originals: 84 Routed to: Gina Ri/CMO/X5013 Date: 7/20/16

4) City Manager's Office: CMO LOG #: Jul-71 Date received from CCO: _____

Assigned to: L. FELDMAN ☒ S. HAWTHORNE ☐ C. LAGERBLOOM ☐
L. FELDMAN as CRA Executive Director ☐

☐ APPROVED FOR LEE FELDMAN'S SIGNATURE ☐ N/A FOR L. FELDMAN TO SIGN

PER ACM: S. HAWTHORNE (Initial/Date) C. LAGERBLOOM
(Initial/Date) ☐ PENDING APPROVAL (See comments below)
Comments/Questions: _____

Forward ___ originals to ☐ Mayor ☐ CCO Date: 7/21/16

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

INSTRUCTIONS TO CLERK'S OFFICE

City Clerk: Retains 2 original and forwards 1 original(s) to: Shaniece Louis / Ext. 5036 (Name/Dept/Ext)

Attach ___ certified Reso # ___ ☐ YES ☒ NO Original Route form to CAO

ESTOPPEL CERTIFICATE
AND NONDISTURBANCE AGREEMENT REGARDING
DUNE MANAGEMENT AGREEMENT

Dated this 13th day of July, 2016.

BELMAR DEVELOPMENT ASSOCIATES, LLC, a Florida limited liability company
c/o Falcone Group
One Town Center Road, Suite 600
Boca Raton, Florida 33486
Attn: John F. Chiste, CFO ("Borrower")

BANK OF THE OZARKS
8201 Preston Road, Suite 700
Dallas, Texas 75225 (together with its successors and assigns, "Senior Lender")

CIM REAL ESTATE CREDIT, LLC, a Delaware limited liability company
4700 Wilshire Boulevard
Los Angeles, California 90010
Attention: Jolly Singh (together with its successors and assigns, "Mezzanine Lender"; and together with Senior Lender, in their respective capacities as mortgage lenders and/or mezzanine lenders and any other co-mortgage lenders and/or co-mezzanine lenders, collectively, "Lender")

Re: Property known as Paramount Fort Lauderdale Condominiums, located in Fort Lauderdale, Florida, described as "All of Lot G of Birch Oceanfront Subdivision No. 2, according to the Plat thereof as recorded in Plat Book 21 at Page 22 of the Public Records of Broward County, Florida" (the "Property"), which Property is owned by Borrower

The City of Fort Lauderdale, Florida (the "City") has certain rights and obligations set forth in that certain Dune Management Agreement dated February 17, 2015, by and between the City and Borrower, recorded with the Official Records of Broward County, Florida on February 24, 2015 as Instrument No. 112827877 (the "Agreement").

As of the date hereof, the undersigned, with respect to the Agreement, does hereby certify to Borrower and Lender and their respective successors and assigns as follows:

1. The undersigned has the power and authority under the Agreement to confirm the status of compliance by Borrower of the Property with the Agreement.
2. The Agreement is in full force and effect, and no amendments, modifications or supplements to the Agreement exist except as noted above.
3. To the best of the undersigned's knowledge, neither Borrower nor any of the Property is in breach of or violation of the Agreement.

4. To the best of the undersigned's knowledge, there exists no condition or event which with the giving of notice, the passage of time, or both would constitute a default by Borrower or Property under the Agreement; provided however, City makes no representations or statements concerning Borrower's compliance with the FDEP CCCL Permit referenced in the Agreement.

5. As of the date hereof, Borrower is current on all charges now due and payable in accordance with the provisions of the Agreement and is not in default in making any of such payments, and there are no outstanding liens with respect to the Property.

6. Except in the case of an emergency, in the event Borrower shall fail to perform or observe any of the terms, conditions or agreements in the Agreement, the City shall give written notice thereof to Lender at the notice address above (which notice address may be updated by Lender from time to time upon written notice to the City) and Lender shall have the right (but not the obligation) to cure such default. The City shall not take any action with respect to such default under the Agreement, including without limitation any action in order to terminate, rescind or void the Agreement, for a period of thirty (30) days following receipt of such written notice by Lender; provided, however, that in the case of any default which cannot with diligence be cured within said thirty (30) day period, if Lender shall proceed promptly to cure such default and thereafter prosecute the curing of such default with diligence and continuity, the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of such default with diligence and continuity; provided, however no such extension shall be for a period in excess of an additional sixty (60) days. Lender's actions to cure any default must be in compliance with the terms of the Agreement and all applicable law. This notice requirement and cure right shall terminate on the date such mortgage/construction financing have been paid and satisfied.

7. The undersigned acknowledges and agrees that any Claim of Lien (as defined in the Agreement) recorded against the Property shall be subordinate to any mortgages/construction financing obtained for any portion of the Project, whether the mortgage/construction financing is obtained before or after the Claim of Lien is recorded.

8. This Estoppel Certificate shall be binding upon the undersigned and shall inure to the benefit of Borrower, Lender and their respective heirs, successors, assigns and related parties.

9. The individuals signing on behalf of the Senior Lender have the power and authority to execute this Estoppel Certificate and enter into a binding agreement on behalf of the Senior Lender.

SIGNATURES ON FOLLOWING PAGES

IN WITNESS WHEREOF, the undersigned has caused this statement to be duly executed as of the date first above written.


ATTEST:

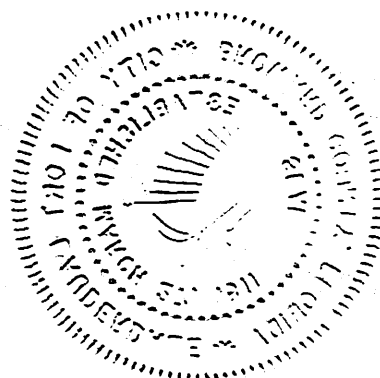
By: 
Jeffrey A. Modarelli, City Clerk

CITY OF FORT LAUDERDALE, a
Florida municipal corporation

By: 
Lee R. Feldman, City Manager

APPROVED AS TO FORM:
CYNTHIA A. EVERETT, City Attorney

By: 
Lynn Solomon
Assistant City Attorney



Lender acknowledges and agrees to comply with Section 6 of this Estoppel Certificate:

SENIOR LENDER:

BANK OF THE OZARKS

By: 

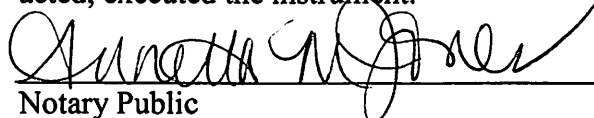
Name: Dan Thomas

Title: President – Real Estate
Specialties Group

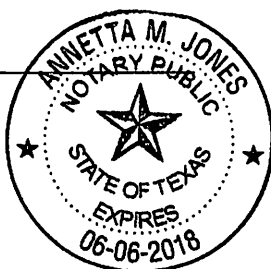
ACKNOWLEDGMENT

STATE OF TEXAS)
)ss.
COUNTY OF DALLAS)

On the 14th day of July in the year 2016, before me, the undersigned, a notary public in and for said state, personally appeared Dan Thomas personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

My Commission Expires:



Lender acknowledges and agrees to comply with Section 6 of this Estoppel Certificate.

MEZZANINE LENDER:

CIM REAL ESTATE CREDIT, LLC

By: _____

Name: Jan F. Salit
Title: President

4700 Wilshire Boulevard
Los Angeles, California 90010

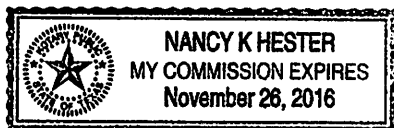
ACKNOWLEDGMENT

STATE OF TEXAS)
COUNTY OF Collin)

The foregoing instrument was acknowledged before me this 10th day of June, 2016 by Jan F. Salit as President of CIM REAL ESTATE CREDIT, LLC. He/She is ☒ personally known to me or ☐ has produced _____ as identification.

My Commission Expires:

Nancy K. Hester
Signature, Notary Public



Nancy K. Hester
Name Typed, Printed or Stamped

ESTOPPEL CERTIFICATE
AND NONDISTURBANCE AGREEMENT FOR
REVOCABLE LICENSE

Dated this 13th day of July, 2016.

BELMAR DEVELOPMENT ASSOCIATES, LLC, a Florida limited liability company
c/o Falcone Group
One Town Center Road, Suite 600
Boca Raton, Florida 33486
Attn: John F. Chiste, CFO ("Borrower")

BANK OF THE OZARKS
8201 Preston Road, Suite 700
Dallas, Texas 75225 (together with its successors and assigns, "Senior Lender")

CIM REAL ESTATE CREDIT, LLC, a Delaware limited liability company
4700 Wilshire Boulevard
Los Angeles, California 90010
Attention: Jolly Singh (together with its successors and assigns, "Mezzanine Lender"; and together with Senior Lender, in their respective capacities as mortgage lenders and/or mezzanine lenders and any other co-mortgage lenders and/or co-mezzanine lenders, collectively, "Lender")

Re: Property known as Paramount Fort Lauderdale Condominiums, located in Fort Lauderdale, Florida, described as "All of Lot G of Birch Oceanfront Subdivision No. 2, according to the Plat thereof as recorded in Plat Book 21 at Page 22 of the Public Records of Broward County, Florida" (the "Property"), which Property is owned by Borrower

The City of Fort Lauderdale, Florida (the "City") has certain rights and obligations set forth in that certain Revocable License dated January 6, 2015, by and between the City and Borrower, recorded with the Official Records of Broward County, Florida on January 30, 2015 as Instrument No. 112778681 (the "Agreement").

As of the date hereof, the undersigned, with respect to the Agreement, does hereby certify to Borrower and Lender and their respective successors and assigns as follows:

1. The undersigned has the power and authority under the Agreement to confirm the status of compliance by Borrower of the Property with the Agreement.
2. The Agreement is in full force and effect, and no amendments, modifications or supplements to the Agreement exist except as noted above.
3. To the best of the undersigned's knowledge, neither Borrower nor any of the Property is in breach of or violation of the Agreement.

4. To the best of the undersigned's knowledge, there exists no condition or event which with the giving of notice, the passage of time, or both would constitute a default by Borrower or Property under the Agreement.

5. As of the date hereof, Borrower is current on all charges now due and payable in accordance with the provisions of the Agreement and is not in default in making any of such payments, and there are no outstanding liens with respect to the Property.

6. Except in the case of an emergency, in the event Borrower shall fail to perform or observe any of the terms, conditions or agreements in the Agreement, the City shall give written notice thereof to Lender at the notice address above (which notice address may be updated by Lender from time to time upon written notice to the City) and Lender shall have the right (but not the obligation) to cure such default. The City shall not take any action with respect to such default under the Agreement, including without limitation any action in order to terminate, rescind or void the Agreement, for a period of thirty (30) days following receipt of such written notice by Lender; provided, however, that in the case of any default which cannot with diligence be cured within said thirty (30) day period, if Lender shall proceed promptly to cure such default and thereafter prosecute the curing of such default with diligence and continuity, the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of such default with diligence and continuity. Lender's actions to cure any default must be in compliance with the terms of the Agreement and all applicable law. This notice requirement shall terminate on the date such mortgage/construction financing have been paid and satisfied.


7. The undersigned acknowledges and agrees that any Claim of Lien (as defined in the Agreement) recorded against the Property shall be subordinate to any mortgages/construction financing obtained for any portion of the Property, whether the mortgage/construction financing is obtained before or after the Claim of Lien is recorded.

8. This Estoppel Certificate shall be binding upon the undersigned and shall inure to the benefit of Borrower, Lender and their respective heirs, successors, assigns and related parties.

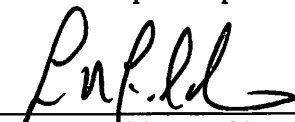
9. The individuals signing on behalf of the Senior Lender have the power and authority to execute this Estoppel Certificate and enter into a binding agreement on behalf of the Senior Lender.

IN WITNESS WHEREOF, the undersigned has caused this statement to be duly executed as of the date first above written.


ATTEST:

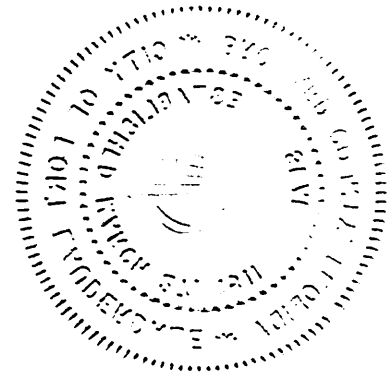
By: 
Jeffrey A. Modarelli, City Clerk

CITY OF FORT LAUDERDALE, a
Florida municipal corporation

By: 
Lee R. Feldman, City Manager

APPROVED AS TO FORM:
CYNTHIA A. EVERETT, City Attorney


By: 
Lynn Solomon
Assistant City Attorney



Lender acknowledges and agrees to comply with Section 6 of this Estoppel Certificate:

SENIOR LENDER:

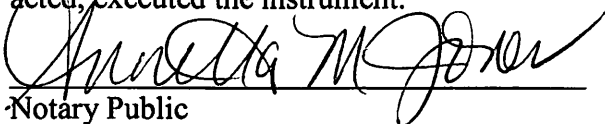
BANK OF THE OZARKS

By: 
Name: Dan Thomas
Title: President – Real Estate
Specialties Group

ACKNOWLEDGMENT

STATE OF TEXAS)
)ss.
COUNTY OF DALLAS)

On the 14th day of July in the year 2016, before me, the undersigned, a notary public in and for said state, personally appeared Dan Thomas personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

My Commission Expires:



Lender acknowledges and agrees to comply with Section 6 of this Estoppel Certificate.

MEZZANINE LENDER:

CIM REAL ESTATE CREDIT, LLC

By: _____

Name: Jan F. Salit

Title: President

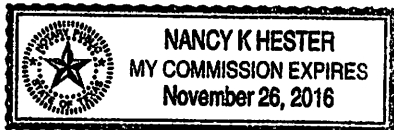
4700 Wilshire Boulevard
Los Angeles, California 90010

ACKNOWLEDGMENT

STATE OF TEXAS)
COUNTY OF Collin)

The foregoing instrument was acknowledged before me this 10th day of June, 2016 by Jan F. Salit as President of CIM REAL ESTATE CREDIT, LLC. He/She is ☒ personally known to me or ☐ has produced _____ as identification.

My Commission Expires:



Signature, Notary Public

Nancy K. Hester

Name Typed, Printed or Stamped