



## MEMORANDUM

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Date: April 11, 2024

To: Honorable Mayor and Commissioners

Via: Albert P. Childress  
City Manager

From: Katie P. Halloran  
Director, Planning Department

Subject: FILE 24-5701 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING PRELIMINARY AUTHORIZATION TO ENTER INTO THE DEVELOPMENT AGREEMENT PROCESS AND PURSUE NEGOTIATIONS WITH THE LESSEE FOR THE PROPERTY LOCATED AT 3401 DUCK AVENUE (RE# 00064740-000000) PURSUANT TO SECTION 90-679 OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE

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### **Introduction**

The property at 3401 Duck Avenue is owned by the City of Key West and is administered through the Key West Naval Properties Local Redevelopment Authority (LRA). The Housing Authority of the City of Key West, Florida serves as the Master Developer and Lessee of the site. The site consists of 6.5 acres bounded on the north by Donald Avenue, on the south by Duck Avenue, on the east by Dunlap Drive, and on the west by residential development. The site is improved with a total of 84 units including affordable housing, homeless housing, and continuum care units pursuant to a Master Developer Agreement, Master Development Agreement Addendum, and Restrictive Covenant. In addition to the Housing Authority, a coalition of homeless organizations manage the existing housing units.

The subject application involves a request to approve preliminary to enter into the Development Agreement process and to pursue negotiations with the Lessee pursuant to Section 90-679 of the City Land Development Regulations.

## **Background**

The initial Master Development Agreement was executed April 28, 1998. An Addendum to the Master Development Agreement was subsequently executed on July 28, 1998 and a Restrictive Covenant was contained in a Quitclaim Deed executed on September 13, 2000.

A coalition of organizations, including AH of Monroe County, Florida Keys Outreach Coalition, MARC House, Samuel's House, VOA, Children's Shelter, Catholic Charities, DAS, have partnered to redevelop the social service living program structures at the site, commonly referred to as the Poinciana Housing Development. The potential modification of the existing Development Agreement would be coordinated with the submission of a Major Development Plan.

The proposed project includes three (3) phases and involves the demolition and reconstruction of two (2) buildings in Phase 1, four (4) buildings in Phase 2, and three (3) buildings in Phase 3. Each phase is anticipated to take eighteen (18) months to complete with a total project time frame of 4.5 years. New buildings are proposed to be constructed in "approximate building footprints with improved setbacks."

Development Agreements are governed pursuant to Chapter 90 (Administration) article IX (Development Agreements) of the City Code. Pursuant to Section 90-676 (Authorization to enter into agreements), subsection (a) *The city commission, in its sole and exclusive discretion, may enter into development agreements with the legal and equitable owners of real property within or to be annexed to the city limits as is authorized in F.S. § 163.3220 and as is further set forth under the terms of this article.*

In addition, pursuant to Section 90-677 of the City Code, *"The entry into a development agreement by the city shall in no way whatsoever limit or modify any legislative power of the city to adopt ordinances, resolutions or regulations or to make executive or legislative decisions of any kind which it had the power to make prior to the entry into such development agreement, except to the degree that the development agreement, by its express terms and not by implication, gives vested rights to the property owner as to certain development permissions, required improvements and similar matters. No development agreement shall, by its express terms or by implication, limit the right of the city commission to adopt ordinances or regulations or to adopt policies that are of general application in the city, except as is expressly provided by F.S. §§ 163.3220—163.3243."*

The procedures for entering into (or modifying) a Development Agreement are contained in Chapter 90, Article IX. Once an applicant initiates a request to enter into a Development Agreement, *"the city administrative official shall place the matter on the agenda for the city commission."* (Sec. 90-679) After considering staff comments, *"the city, in its sole and absolute discretion, determine whether or not to enter into a development agreement and to pursue negotiations with the property owner."*

This Resolution does not involve a determination to formally enter into a Development Agreement or to amend the existing Development Agreement. Instead, it involves consideration of whether or not to approve preliminary authorization to enter into the Development agreement process and pursue negotiations with the Lessee. The City, in its sole and absolute discretion, may elect to enter into a Development Agreement after further investigation or it may elect not to amend the existing Development Agreement. Thus, the purpose of the instant request is to determine if the City would simply like to authorize the consideration of an amendment of the existing Development Agreement.

## **Procurement**

This action is not anticipated to result in City expenditures.

**Recommendation**

The ongoing lack of affordable housing is one of the most significant challenges facing the City. The variety of affordable and homeless housing services that are provided through the Poinciana Housing Development are a significant and critical component of the affordable housing supply for the City. The potential loss of these units due to age and disrepair would result in significant impacts to the local population that depends on these housing units. It is recommended that the City Commission APPROVE the preliminary authorization to enter into the Development agreement process and pursue negotiations with the lessee.