Doc # 2440065 Bk# 3250 Pg# 2166 Recorded 11/14/2023 at 4:18 PM Pages 7
Filed and Recorded in Official Records of MONROE COUNTY KEVIN MADOK
REC: $61.00

This Instrument Prepared by,
Record and Return to:
Terry M. Lovell, Esq.
Bilzin Sumberg Baena Price & Axelrod LLP
1450 Brickell Avenue, 23rd Floor
Miami, FL 33131

AMENDMENT TO GROUND LEASE AGREEMENT

THIS AMENDMENT TO GROUND LEASE AGREEMENT (this "**Amendment**") is made and entered into as of the 13th day of November, 2023, by and between THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KET WEST ("**Lessor**") and BAHAMA VILLAGE ON FORT, LTD., a Florida limited partnership ("**Lessee**"), and acknowledged by the City of Key West, a municipal corporation of the State of Florida (the "**City**").

RECITALS

A. Lessor and Lessee are parties to that certain Ground Lease Agreement recorded on July 19, 2022, at Book 3185, Page 1, in the Official Records of Monroe County, Florida (the "**Lease**"), whereby Lessor leases to Lessee certain real property located in the City of Key West located at the Truman Waterfront in Historic Bahama Village.

B. That certain Quitclaim Deed recorded on December 9, 2002, at Book 1839, Page 410, in the Official Records of Monroe County, Florida, vested fee simple title to the Demised Premises in the City of Key West.

C. Section 2-450(3) of the City of Key West's Code of Ordinances authorizes Lessor, as the Local Redevelopment Authority, to dispose of property acquired within the community development area for uses in accordance with the community redevelopment plan.

D. Pursuant to Ordinance No. 21-15 recorded on September 13, 2023, at Book 3242, Page 818, in the Official Records of Monroe County, Florida, the City of Key West City Commission authorized a referendum for Lessor to enter into the Lease for the development of affordable workforce housing, and such referendum was approved.

F. Lessor and Lessee desire to amend the Lease as set forth in this Amendment.

NOW, THEREFORE, for and in consideration of Ten and 00/100 ($10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein as if set forth in full.

2. General Provisions. All defined terms in this Amendment shall have the same meaning as in the Lease, except if otherwise noted. Except as amended and modified by this Amendment, all of the terms, covenants, conditions, and agreements of the Lease shall remain in

full force and effect. In the event of any conflict between the provisions of the Lease and the provisions of this Amendment, this Amendment shall control.

3. Legal Description. The legal description of the Demised Premises is hereby deleted in its entirety and replaced with the legal description attached hereto as Exhibit "A".

4. Affordable Housing Development. The following Section 4.13 is hereby added to the Lease:

> 4.13. **Affordable Housing Development.** During the term of the Lease, the Affordable Housing Development will be owned by the Lessee, which shall have the right to alter, improve, and modify the Affordable Housing Development as follows:
>
> (i) If non-material and within the scope of the existing development plan, without lessor consent (except that any municipal building or development approvals must be met); and
>
> (ii) If material and outside the scope of the existing development plan, with lessor consent, not unreasonably to be denied, conditioned, or delayed (and after obtaining any municipal building or development approvals).
>
> No regulatory or use agreement encumbering the Affordable Housing Development may permit the remedy of appointment of a receiver or trustee, change of property manager, or collection of rents without the prior written consent of the Leasehold Mortgagee, and only be permitted specific performance or injunctive relief.

5. Non-Subordination. The following sentence is added to the end of Section 6.1 of the Lease:

> The fee interest of the Lessor is not encumbered, nor will it be while the Leasehold Mortgage remains in effect.

6. Right of First Refusal. The following sentence is added to the end of Section 12.2 of the Lease:

> Notwithstanding the foregoing, any such assignment or sublease shall not result in a merger of the fee and leasehold estate, and the identity of the assignee or sublessee shall require the prior written approval of the Leasehold Mortgagee.

7. Eminent Domain; Cancellation. The following sentence is added to the end of Section 13.1 of the Lease:

> Notwithstanding the foregoing, the provisions of any Leasehold Mortgage shall control as to the uses and disbursement of funds respecting any award or claim respecting condemnation.

8. Consent Required for Termination and Amendments. The following sentence is added to the end of Section 15.1.a. of the Lease:

> The foregoing paragraph shall apply so that neither the Lessor nor the Lessee may voluntarily surrender or terminate the Lease without the prior written consent of the Leasehold Mortgagee.

9. Notice of Proceedings; Lender Right to Participate. Sections 15.1.b. and 16.1 of the Lease are hereby modified to include notice and right of the Leasehold Mortgagee to participate also in any appraisal, arbitration, litigation or other dispute resolution proceeding.

10. Arbitration, Mediation, and Non-Judicial Proceedings. The following Section 21.30 is hereby added to the Lease:

> 21.30. **Arbitration, Mediation, and Non-Judicial Proceedings.** The Leasehold Mortgagee is not subject to the imposition of any arbitration or mediation proceeding unless it voluntarily in writing chooses to so participate. Lacking any such written consent, the Leasehold Mortgagee may require judicial proceedings to resolve any dispute or issue.

11. Binding Effect: Choice of Law. This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State of Florida. Any litigation between the parties hereto concerning this Amendment or the Lease shall be initiated in the county in which the Demised Premises is located.

12. Authority. The parties each represent and warrant to the other that each has full authority to execute this Amendment without the joinder or consent of any other party and that each party has not assigned any of its right, title, and interest in the Lease to any other party.

13. Counterparts. This Amendment may be executed in counterparts each of which shall be deemed an original and all of which together shall constitute one instrument.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each party has caused this Amendment to be executed by its duly authorized representative as of the date above.

LESSOR:

(SEAL)

THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST

By: _____
Deputy Clerk

By: _____
Mayor

LESSEE:

BAHAMA VILLAGE ON FORT, LTD., a Florida limited partnership

By: Bahama Village on Fort GP, LLC, a Florida limited liability company, its general partner

By: Vestcor, Inc., a Florida corporation, its manager

By: _____
Name: Jason O. Floyd
Title: Vice President

STATE OF FLORIDA
COUNTY OF DUVAL

Subscribed and sworn to (or affirmed) before me, by means of ☐ physical presence or ☐ online notarization, on November ___, 2023, by Jason O. Floyd as Vice President of Vestcor, Inc., a Florida corporation, manager of Bahama Village on Fort GP, LLC, general partner of Bahama Village on Fort, Ltd., a Florida limited partnership. He is personally known to me or has produced _____ (type of identification) as identification.

_____
NOTARY PUBLIC

Acknowledged by the City of Key West:

ATTEST

By: _____
Deputy Clerk

CITY OF KEY WEST, a municipal corporation of the State of Florida

By: _____
Mayor

IN WITNESS WHEREOF, each party has caused this Amendment to be executed by its duly authorized representative as of the date above.

LESSOR:

(SEAL)

THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST

ATTEST:

By: _____
Deputy Clerk

By: _____
Mayor

LESSEE:

BAHAMA VILLAGE ON FORT, LTD., a Florida limited partnership

By: Bahama Village on Fort GP, LLC, a Florida limited liability company, its general partner

By: Vestcor, Inc., a Florida corporation, its manager

By: _____
Name: Jason O. Floyd
Title: Vice President

STATE OF FLORIDA
COUNTY OF DUVAL

Subscribed and sworn to (or affirmed) before me, by means of ☑ physical presence or ☐ online notarization, on November 21st, 2023, by Jason O. Floyd as Vice President of Vestcor, Inc., a Florida corporation, manager of Bahama Village on Fort GP, LLC, general partner of Bahama Village on Fort, Ltd., a Florida limited partnership. He is personally known to me or has produced _____ (type of identification) as identification.

_____
NOTARY PUBLIC

Notary Public State of Florida
Rebecca L White
My Commission GG 942290
Expires 03/23/2024

Acknowledged by the City of Key West:

ATTEST

CITY OF KEY WEST, a municipal corporation of the State of Florida

By: _____
Deputy Clerk

By: _____
Mayor

Exhibit A

Legal Description of Demised Premises

A PORTION OF THE LANDS DESCRIBED IN A QUITCLAIM DEED FROM THE U.S. GOVERNMENT (GRANTOR) TO THE CITY OF KEY WEST (GRANTEE) AS RECORDED IN OFFICIAL RECORDS BOOK 1839, PAGE 410, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, DESCRIBED AS:

A PORTION OF LAND LOCATED ON THE ISLAND OF KEY WEST, MONROE COUNTY, FLORIDA, SAID PARCEL ALSO LOCATED IN TRUMAN ANNEX (FORMERLY U.S. NAVY) AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NATIONAL OCEAN SURVEY TRIANGULATION STATION, GSL, BEING A BRASS DISC SET IN CONCRETE, LOCATED ON THE OUTER MOLE OF TRUMAN ANNEX, THE COORDINATES OF WHICH ARE N 81,406.14 AND E 386,795.78 (1983/89), BASED ON THE U.S. COAST AND GEODETIC SURVEY MERCATOR GRID COORDINATE SYSTEM WHICH HAS FOR ITS ZERO COORDINATE A POINT OF LATITUDE NORTH 24°20'00" AND 500.00 FEET WEST OF LONGITUDE WEST 81°00'00"; THENCE N 74°38'54" E, A DISTANCE OF 901.39 FEET TO THE POINT OF BEGINNING OF THE LANDS GRANTED TO THE CITY OF KEY WEST AS DESCRIBED IN OFFICIAL RECORDS BOOK 1839, PAGE 410 OF SAID PUBLIC RECORDS; THENCE ALONG THE BOUNDARY OF THE LANDS AS DESCRIBED IN SAID QUITCLAIM DEED FOR THE FOLLOWING EIGHT (8) COURSES AND DISTANCES: N 88°01'07" E, A DISTANCE OF 57.69 FEET (1); THENCE N 01°52'38" W, A DISTANCE OF 2.77 FEET (2); THENCE N 88°13'17" E, A DISTANCE OF 19.93 FEET (3); THENCE S 19°53'46" E, A DISTANCE OF 549.69 FEET (4); THENCE S 00°20'55" E, A DISTANCE 409.16 FEET (5); THENCE N 89°49'18" E, A DISTANCE OF 100.84 FEET (6); THENCE S 33°56'54" E, A DISTANCE OF 842.47 FEET (7) TO THE NORTHWEST RIGHT-OF-WAY OF ANGELA STREET; THENCE S 55°59'51" W ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 105.64 FEET (8) TO THE SOUTHWESTERLY RIGHT-OF-WAY OF FORT STREET ACCORDING TO THE CITY OF KEY WEST STREET MAP DATED MAY 26, 1955; THENCE S 33°54'27" E, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 52.55 FEET TO THE POINT OF BEGINNING OF THE SALE PARCEL HEREIN DESCRIBED; THENCE CONTINUE S 33°54'27" E ALONG SAID RIGHT-OF-WAY, 233.94 FEET TO A LINE BEING 33.00 FEET SOUTH OF AND PARALLEL WITH THE SOUTHEASTERLY BOUNDARY LINE AND ITS NORTHEASTERLY EXTENSION OF TACTS TOWER AS DESCRIBED IN OFFICIAL RECORDS BOOK 1839, PAGE 410, OF SAID PUBLIC RECORDS; THENCE S 56°05'33" W ALONG SAID PARALLEL LINE, A DISTANCE OF 305.76 FEET; THENCE N 33°49'42" W, 33.00 FEET TO THE SOUTHEASTERN BOUNDARY LINE OF SAID TACTS TOWER; THENCE N 56°05'33" E ALONG SAID BOUNDARY, A DISTANCE OF 175.87 FEET TO THE NORTHEAST BOUNDARY OF SAID TACTS TOWER; THENCE N 33°54'27" W ALONG SAID BOUNDARY, 100.00 FEET; THENCE S 56°05'33" W A DISTANCE OF 24.17 FEET; THENCE N 33°54'27" W, 30.82 FEET; THENCE N 56°58'05" W, 15.81 FEET; THENCE N 33°01'55" E, 37.25 FEET; THENCE S 56°58'05" E, 25.40 FEET; THENCE N 56°05'33" E, 30.69 FEET; THENCE N

33°54'27" W, 35.41 FEET; THENCE N 56°05'33" E, 15.48 FEET; THENCE N 12°49'09" E, 42.22 FEET; THENCE N 56°05'33" E, 39.07 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF FORT STREET AND THE POINT OF BEGINNING.

SAID LANDS LYING WITHIN SECTION 6, TOWNSHIP 68 SOUTH, RANGE 25 EAST, CITY OF KEY WEST, MONROE COUNTY, FLORIDA.