

**City of Miami Beach - City Commission Meeting
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
January 14, 2004**

Mayor David Dermer
Vice-Mayor Jose Smith
Commissioner Matti Herrera Bower
Commissioner Simon Cruz
Commissioner Luis R. Garcia, Jr.
Commissioner Saul Gross
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez
City Attorney Murray H. Dubbin
City Clerk Robert E. Parcher

ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

ADDENDUM

R9 - New Business and Commission Requests

- R9H Discussion Regarding Waiver Of Conflict Of Interest By Boies, Schiller & Flexner LLP.
(City Attorney's Office)
- R9I Discussion Regarding The Issue Of Safety And Security In City Hall.
(Requested by Commissioner Luis R. Garcia, Jr.)

Redevelopment Agency Items

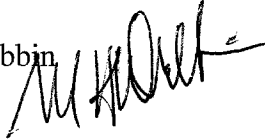
3. NEW BUSINESS
- D A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency Authorizing The Chairman And Secretary To Execute The First Amendment To Agreement Of Lease Between The Miami Beach Redevelopment Agency And RDP Royal Palm Hotel Limited Partnership ("RDP") Regarding Town Park Hotel Corporation, The Hotel Manager, As Equity Owner.

COMMISSION MEMORANDUM

TO: Mayor David Dermer and
Members of the City Commission

DATE: January 14, 2004

FROM: Murray H. Dubbin
City Attorney



SUBJECT: Request for waiver of conflict of interest by Boies, Schiller & Flexner LLP. In representing Mallory Kauderer in matters before the Special Master and administratively only.

The law firm of Boies, Schiller & Flexner LLP has requested a waiver of Conflict of Interest from the City in representing Mallory Kauderer in matters before the Special Master and administrative only (see attached letter). The law firm currently represents the City in the Royal World litigation. The law firm states that while it does not believe there is any conflict of interest that it wishes to be assured that the City consents to the representation of Mr. Kauderer in Special Master and administrative proceedings only and not litigation in Circuit or District Court.

It does not appear that any actual or apparent conflict of interest would exist since the current representation of the City in the Royal World litigation is wholly unrelated to the Kauderer matters.

This waiver may be accomplished by a simple Motion approved by the Commission.

Encl.

Agenda Item R9H
Date 1-14-04

December 19, 2003

City of Miami Beach
1700 Convention Center Drive
4th Floor, Legal Department
Miami Beach, Florida 33139

RE: Waiver of Conflict of Interest

Dear Sir or Madam:

The City of Miami Beach has retained our firm in connection with various litigation, which are presently ongoing. The purpose of this letter is to confirm that the City of Miami Beach (the "City") waives any conflict of interest that may exist or arise as a result of our firm's representation of Mallory Kauderer, individually and any entities he is affiliated with, which may be affected directly and/or indirectly by this Agreement entities (collectively hereinafter referred to as "Kauderer") in matters before the Special Master and administratively only.

The purpose of this letter is to confirm that the City waives any conflict of interest that may exist or arise as a result of our firm's representation of Kauderer in these matters. While we know of no reason why we cannot represent Kauderer, unless you waive this actual or apparent conflict of interest, we may be placed in a position where we will be prevented from representing Kauderer in these matters. Accordingly, upon execution hereof, the City confirms its waiver of any and all conflicts, and any and all rights that you may otherwise have to claim that any conflict of interest exists, as a result of, with respect to, or in connection with, Boies, Schiller & Flexner, LLP (the "Firm's") representation of the City of Miami Beach and Kauderer, or any of his affiliates.

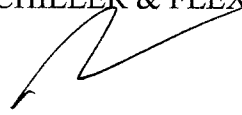
The City is knowingly and voluntarily waiving any conflict of interest in connection with these proceedings and releases and relinquishes any and all claims against the Firm and its attorneys relating to any conflict of interest arising, or purportedly arising, from its representation. However, this waiver does not apply to litigation in Circuit or District Courts.

City of Miami Beach
December 19, 2003
Page 2

Please sign this letter where indicated below and return it to me to acknowledge your full and complete waiver, as set forth above. If you have any further questions or concerns, please contact me.

Very truly yours

BOIES, SCHILLER & FLEXNER, LLP.



By: _____
BRUCE ALAN WEIL

**UNDERSTOOD, ACKNOWLEDGED
AND AGREED:**

Authorized Representative
For City of Miami Beach

Dated: _____

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C: LC
Don
Bob
Fred



**CITY OF MIAMI BEACH
OFFICE OF THE MAYOR & COMMISSION
MEMORANDUM**

**TO: JORGE M. GONZALEZ
CITY MANAGER**

**FROM: LUIS R. GARCIA JR.
COMMISSIONER**

A handwritten signature in black ink that reads "Luis Garcia Jr." written diagonally.

DATE: JANUARY 5, 2004

RE: AGENDA ITEM

Due to the recent thefts, I am requesting that the issue of **safety/security** be placed at the January 14th Commission agenda for discussion.

I would also like to recognize our evening security guard Mr. Anthony (Tony) Jones with a certificate of appreciation for recovering my lap top, which was taken from my office.

Thank you.

OFFICE
CITY MANAGER
04 JAN -6 AM 10:53
RECEIVED

Agenda Item R9I
Date 1-14-04

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**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

A Resolution to execute the First Amendment to Agreement of Lease between the Miami Beach Redevelopment Agency and RDP Royal Palm Hotel Limited Partnership ("RDP") regarding Town Park Hotel Corporation, the Hotel Manager, as Equity Owner.

Issue:

Should the Redevelopment Agency approve the execution of the First Amendment to Agreement of Lease?

Item Summary/Recommendation:

The attached Amendment to the Lease Agreement will permit RDP to complete its purchase of the remaining 1% interest from Town Park and, with the accompanying additional amendments to the Lease proposed in the attached Amendment, the RDA/City will still also achieve the benefits of treating Town Park as if it were still an equity owner, and also Tenant will also be guaranteed the obligation to Fund Operating Deficits in the Hotel, which was not required if Town Park was Hotel manager and equity owner.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:	Amount		Account	Approved
	1	2		
<div style="border: 1px solid black; width: 50px; height: 50px; display: inline-block;"></div> Finance Dept.	3			
	4			
	Total			

City Clerk's Office Legislative Tracking:

Christina M. Cuervo

Sign-Offs:

Department Director	Assistant City Manager	City Manager
	<i>CLC</i>	<i>Jung</i>

T:\AGENDA\2004\Jan1404\RD\RoyalPalm Towne Park.SUM.doc

AGENDA ITEM 3D
DATE 1-14-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



REDEVELOPMENT AGENCY MEMORANDUM

To: Chairman David Dermer and
Members of Miami Beach Redevelopment Agency

Date: January 14, 2004

From: Jorge M. Gonzalez
Executive Director

A handwritten signature in black ink, appearing to read 'Jorge'.

Subject: **A RESOLUTION OF THE CHAIRMAN AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY AUTHORIZING THE CHAIRMAN AND SECRETARY TO EXECUTE THE FIRST AMENDMENT TO AGREEMENT OF LEASE BETWEEN THE MIAMI BEACH REDEVELOPMENT AGENCY AND RDP ROYAL PALM HOTEL LIMITED PARTNERSHIP ("RDP") REGARDING TOWN PARK HOTEL CORPORATION, THE HOTEL MANAGER, AS EQUITY OWNER.**

ADMINISTRATION RECOMMENDATION:

Adopt the Resolution.

ANALYSIS:

On November 25, 2003, the Chairman and Members of the Miami Beach Redevelopment Agency (RDA) authorized the Chairman and Secretary to execute the Letter of Intent (LOI) negotiated between the City of Miami Beach, the Miami Beach Redevelopment Agency and RDP Royal Palm Hotel Limited Partnership ("RDP" and/or Tenant) and further authorized the preparation of the closing documents to reflect the terms outlined in the LOI.

The approved LOI referenced, and the Closing Documents, contemplated an amendment to the Ground Lease to continue to recognize Town Park Hotel Corporation, a Tennessee corporation, ("Town Park"), who is the present Hotel Manager and one of the equity owners of Tenant as an equity owner for purposes of the Lease Agreement. Town Park currently holds a one percent (1%) limited partnership interest in Tenant.

On April 30, 2001, Town Park and PADC Royal Palm Holdings, LLC ("Borrower") became parties to a Loan Agreement, dated April 30, 2001 (the "Loan Agreement"), whereby Town Park agreed to convey to Borrower a forty-seven and 66/100 percent (47.66%) Class A limited partnership interest in Tenant, in consideration for Borrower's execution and delivery of that certain Purchase Money Promissory Note in favor of Town Park (the "Note"), which Note evidences the loan by Town Park to Borrower (the "Loan"). In essence, Town Park would no longer have an equity ownership position, as defined in the Lease, by virtue of substituting its equity position with a promissory note which RDP intends to pay off.

Pursuant to Section 4.01(f) of the Loan Agreement, Town Park desires to confirm that the Loan will be treated as an equity interest in Tenant for purposes of the Lease so long as the Loan is outstanding.

The City/RDA are not averse to this concept as part of the global settlement achieved and referenced in the LOI approved on November 25, 2003. However, RDP has expressed a need to have this portion of the settlement approved prior to the completion of all closing documents.

The attached Amendment to the Lease Agreement will permit RDP to complete its purchase of the remaining 1% interest from Town Park and, with the accompanying additional amendments to the Lease proposed in the attached Amendment, the RDA/City will still also achieve the benefits of treating Town Park as if it were still an equity owner, and also Tenant will also be guaranteed the obligation to Fund Operating Deficits in the Hotel, which was not required if Town Park was Hotel manager and equity owner.

Based upon the resolution of all outstanding claims and issues, pending the final closing documents, it is recommended that the Chairman and Members of the Miami Beach Redevelopment Agency adopt the attached Resolution and authorize execution of the amendment.

JMG/CMC/rar

RESOLUTION NO. _____

A RESOLUTION OF THE CHAIRMAN AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY AUTHORIZING THE CHAIRMAN AND SECRETARY TO EXECUTE THE FIRST AMENDMENT TO AGREEMENT OF LEASE BETWEEN THE MIAMI BEACH REDEVELOPMENT AGENCY AND RDP ROYAL PALM HOTEL LIMITED PARTNERSHIP ("RDP") REGARDING TOWN PARK HOTEL CORPORATION, THE HOTEL MANAGER, AS EQUITY OWNER.

WHEREAS, on November 25, 2003, the Chairman and Members of the Miami Beach Redevelopment Agency (RDA) authorized the Chairman and Secretary to execute the Letter of Intent (LOI) negotiated between the City of Miami Beach, the RDA and RDP Royal Palm Hotel Limited Partnership ("RDP" and/or "Tenant") and further authorized the preparation of the closing documents to reflect the terms outlined in the LOI; and

WHEREAS, the approved referenced LOI, and the closing documents, contemplated an amendment to the Ground Lease between the RDA and RDP/Tenant to continue to recognize Town Park Hotel Corporation, a Tennessee corporation, ("Town Park"), which is the present Hotel Manager and one of the equity owners of Tenant as an equity owner for purposes of the Ground Lease Agreement; and

WHEREAS, Town Park currently holds a one percent (1%) limited partnership interest in Tenant; and

WHEREAS, on April 30, 2001, Town Park and PADC Royal Palm Holdings, LLC ("Borrower") became parties to a Loan Agreement, dated April 30, 2001 (the "Loan Agreement"), whereby Town Park agreed to convey to Borrower a forty-seven and 66/100 percent (47.66%) Class A limited partnership interest in Tenant, in consideration for Borrower's execution and delivery of that certain Purchase Money Promissory Note in favor of Town Park (the "Note"), which Note evidences the loan by Town Park to Borrower (the "Loan"); and

WHEREAS, in essence, Town Park would no longer have an equity ownership position, as defined in the Ground Lease, by virtue of substituting its equity position with a promissory note which RDP intends to pay off; and

WHEREAS, pursuant to Section 4.01(f) of the Loan Agreement, Town Park desires to confirm that the Loan will be treated as an equity interest in Tenant for purposes of the Ground Lease so long as the Loan is outstanding; and

WHEREAS, the City/RDA is not averse to this concept as part of the global settlement achieved and referenced in the LOI, approved on November 25, 2003; and

WHEREAS, RDP has expressed a need to have this portion of the settlement approved prior to the completion of all closing documents; and

WHEREAS, the attached Amendment to the Ground Lease Agreement will permit RDP to complete its purchase of the remaining 1% interest from Town Park and, with the accompanying additional terms proposed in the attached Amendment, the RDA/City will still also achieve the benefits of treating Town Park as if it were still an equity owner, and also Tenant will also be guaranteed the obligation to fund Operating Deficits in the Hotel, which was not required if Town Park was Hotel Manager and equity owner; and

WHEREAS, based upon the resolution of all outstanding claims and issues pending the final closing documents, it is recommended that the Chairman and Members of the Miami Beach Redevelopment Agency adopt the Resolution and authorize execution of the attached Amendment.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE CHAIRMAN AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY, that the Chairman and Secretary are hereby authorized to execute the First Amendment to Agreement of Lease between the Miami Beach Redevelopment Agency and RDP Royal Palm Hotel Limited Partnership ("RDP") regarding Town Park Hotel Corporation, the Hotel Manager, as equity owner.

PASSED AND ADOPTED THIS 14TH DAY OF JANUARY, 2004.

CHAIRMAN

ATTEST:

SECRETARY

JMG/CMC/rar

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



Redevelopment Agency
General Counsel

1-13-04
Date

FIRST AMENDMENT [RE TOWN PARK] TO AGREEMENT OF LEASE

FIRST AMENDMENT TO AGREEMENT OF LEASE (the "Amendment") is made and entered into as of the _____ day of January, 2004 by and between RDP ROYAL PALM HOTEL LIMITED PARTNERSHIP, a Florida limited partnership ("Tenant") and MIAMI BEACH REDEVELOPMENT AGENCY, a public body corporate and politic ("Owner").

WITNESSETH

- A. Owner and Tenant entered into an Agreement of Lease, dated May 28, 1998, (the "Lease"), relating to real property more particularly described therein (the "Property") and recorded in official Book 18170, at page 0893, of the Public Records of Miami-Dade County, Florida.
- B. Town Park Hotel Corporation, a Tennessee corporation ("Town Park"), is the Hotel Manager (defined in the Lease) of the Hotel (defined in the Lease).
- C. Town Park and PADC Royal Palm Holdings, LLC ("Borrower") are parties to that certain Loan Agreement dated April 30, 2001 (the "Loan Agreement"), whereby Town Park agreed to convey to Borrower a forty-seven and 66/100 percent (47.66%) Class A limited partnership interest in Tenant in consideration for Borrower's execution and delivery of that certain Purchase Money Promissory Note in favor of Town Park (the "Note"), which Note evidences the loan by Town Park to Borrower (the "Loan").
- D. Town Park currently holds a one percent (1%) limited partnership interest in Tenant.
- E. Pursuant to Section 4.01(f) of the Loan Agreement, Town Park desires to confirm that the Loan will be treated as an equity interest in Tenant for purposes of the Lease so long as the Loan is outstanding.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- 1. Recitals. The foregoing recitals are true and correct.
- 2. Equity Interest. Owner and Tenant hereby agree that to the extent that the Lease distinguishes between Town Park (in its capacity as Hotel Manager) holding or not holding any equity interest in Tenant, the Loan, so long as it is outstanding, shall be treated for purposes of the Lease as if Town Park is holding an equity interest in Tenant.
- 3. Any payments made to Town Park in repayment of the Loan or costs in connection with the Loan shall not be included within the definition of "Operating Expenses" as defined in the Lease.
- 4. This Amendment shall have no further force or effect upon the first Sale of the Hotel or the earlier to occur of (i) termination of the Hotel Management Agreement between Tenant and Town Park or (ii) fifteen (15) years after the Hotel Opening Date.
- 5. Section 16.7(e) of the Lease is hereby deleted in its entirety.

- 6. Tenant warrants and represents to Owner and the City of Miami Beach that recitals B-E of this Amendment are true and correct and are a material inducement for Owner and the City to enter into this Amendment.
- 7. No Further Modification. Except as amended by this Amendment, the Lease and all of its terms and provisions shall remain in full force and effect. In the event of any conflict between the provisions of this Amendment and any provision of the Lease, the provisions of this Amendment shall control. All capitalized terms herein shall have the same meanings as they have in the Lease, unless otherwise defined herein.

IN WITNESS WHEREOF, this Amendment has been duly executed by the parties hereto.

WITNESSES:

“OWNER”:

MIAMI BEACH REDEVELOPMENT
AGENCY

Print Name

By: _____
Print Name:

Title: _____

Print Name

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2004, by _____, as _____, of the Miami Beach Redevelopment Agency, a public body corporate and politic, on behalf of such public body. Such individual is personally known to me or has produced _____ as identification.

(NOTARIAL SEAL)

Print Name: _____
Notary Public-State of _____
Commission Number: _____

My Commission Expires:

"TENANT":

RDP ROYAL PALM HOTEL LIMITED
PARTNERSHIP, a Florida limited partnership

By: PADC Hospitality Corporation I, a
Florida corporation, as general partner

WITNESSES:

Print Name

Print Name

By: _____

Print Name:

Title: _____

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2004, by R. Donahue Peebles, as President of PADC Hospitality Corporation I, a Florida corporation, as general partner of RDP Royal Palm Hotel Limited Partnership, a Florida limited partnership. Such individual is personally known to me or has produced _____ as identification.


(NOTARIAL SEAL)

Print Name: _____

Notary Public-State of _____

My Commission Expires:

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



Redevelopment Agency 1-12-04
General Counsel Date
