

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years:	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Capital Expenditures:	_____	_____	_____	_____	_____
Operating Costs:	\$350,000	_____	_____	_____	_____
External Revenues: (\$350,000 >)	_____	_____	_____	_____	_____
Program Income(County):	_____	_____	_____	_____	_____
In-kind Match (County):	_____	_____	_____	_____	_____
NET FISCAL IMPACT:	<u>-0-</u>	_____	_____	_____	_____

ADDITIONAL FTE
POSITIONS (Cumulative): N/A _____

Is Item Included In Current Budget? Yes x No

Budget Account No.:

Fund <u>1103</u> Dept. <u>143</u> Unit <u>1434</u> Object <u>8201</u> Program Code/Period	<u>GY01</u>	<u>\$140,015</u>
	<u>GY05</u>	<u>\$209,985</u>
		<u>\$350,000</u>

B. Recommended Sources of Funds/Summary of Fiscal Impact:

Approval of this agreement will appropriate \$350,000 to NOAH Development Corp. of this amount, \$300,000 will be used for construction and \$50,000 will be used for operating expenses.

C. Departmental Fiscal Review: [Signature] 9-5-07
Shairrette Major, Fiscal Manager

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:
Funding is provided by the US Dept of Housing & Urban Development.

[Signature] 9-13-07
9/10/07 SS OFMB CN Contract Development and Control 9/17/07
9/11/07 9/5/07

This Contract complies with our contract review requirements.

B. Legal Sufficiency:
[Signature] 9/17/07
Senior Assistant County Attorney

C. Other Department Review:
[Signature]
Department Director

This summary is not to be used as a basis for payment.

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AGREEMENT BETWEEN PALM BEACH COUNTY

AND

NOAH DEVELOPMENT CORPORATION, INC.

THIS AGREEMENT, entered into this _____ day of _____, 2007, by and between Palm Beach County, a political subdivision of the State of Florida, for the use and benefit of its HOME Investment Partnerships Program and NOAH Development Corporation, Inc., a non-profit corporation duly organized and existing by virtue of the laws of the State of Florida, having its principal office at 601 Covenant Drive, Belle Glade, FL 33430, and its Federal Tax Identification Number as 59-2570434.

WHEREAS, Palm Beach County has entered into an agreement with the United States Department of Housing and Urban Development as a participating jurisdiction for the receipt and use of funds as approved by the HOME Investment Partnership Program ("HOME Program") as provided in 24CFR Part 92; and

WHEREAS, Palm Beach County has entered into an agreement with the United States Department of Housing and Urban Development for a grant for the execution and implementation of a HOME Investment Partnership Program in certain areas of Palm Beach County pursuant to the Cranston-Gonzalez National Affordable Housing Act of 1990; and

WHEREAS, NOAH Development Corporation, Inc. represents it is fully qualified as a Community Housing Development Organization (CHDO) as required by 24CFR Part 92, possesses the requisite skills, knowledge, qualifications and experience to provide the services and to carry out eligible CHDO activities identified herein, and does offer to perform such services and to carry out such activities for Palm Beach County; and

WHEREAS, Palm Beach County, in accordance with the Annual Consolidated Plan, and NOAH Development Corporation, Inc. desire to provide the activities specified in Part II of this Agreement; and

WHEREAS, Palm Beach County desires to engage the NOAH Development Corporation, Inc. to implement such undertakings of the HOME Investment Partnership Program.

NOW, THEREFORE, in consideration of the mutual premises and covenants herein contained, it is agreed as follows:

PART I

DEFINITION AND PURPOSE

1. **Definitions:**

- (1) "County" means Palm Beach County.
- (2) "HOME Program" means the HOME Investment Partnership Program of Palm Beach County.
- (3) "HCD" means Palm Beach County Housing and Community Development.
- (4) "Agency" means NOAH Development Corporation, Inc.
- (5) "HCD Approval" means the written approval of the HCD Director or designee.
- (6) "U.S. HUD" means the Secretary of the U. S. Department of Housing and Urban Development or a person authorized to act on U.S. HUD's behalf.
- (7) "Low Income Persons" means the definition set by U.S. HUD.
- (8) Other terms used herein shall be defined as they appear at 24 CFR 92.2.

2. **Purpose:**

The purpose of this Agreement is to state the covenants and conditions under which the Agency will implement the Scope of Services set forth in Part II of this Agreement.

NOAH DEVELOPMENT CORPORATION, INC.

PART II

SCOPE OF SERVICES

The Agency shall, in a satisfactory and proper manner as determined by HCD, perform the tasks outlined in Exhibit "A" and submit invoices using the cover sheet in Exhibit "D", both of which are attached hereto and made a part hereof.

PART III

COMPENSATION, TIME OF PERFORMANCE, METHOD AND CONDITIONS OF PAYMENT

1. MAXIMUM COMPENSATION

The Agency agrees to accept as full payment for eligible services, CHDO activities and costs (as provided in 24 CFR Part 92) rendered pursuant to this Agreement the actual amount of budgeted, eligible, and HCD Director or designee-approved expenditures and encumbrances made by the Agency under this Agreement. Said services and CHDO eligible activities shall be performed in a manner satisfactory to HCD. In no event shall the total compensation or reimbursement to be paid hereunder exceed the maximum and total authorized sum of \$350,000 for the period of October 1, 2007 through September 30, 2008. Any funds not obligated by the expiration date of this Agreement shall automatically revert to the County.

Further budget changes within the designated contract amount can be approved in writing by the HCD Director at his discretion up to ten percent (10%) on a cumulative basis of the Agreement amount during the Agreement period. Such requests for changes must be made in writing by the Agency to the HCD Director. Budget changes in excess of ten percent (10%) must be approved by the Board of County Commissioners.

2. TIME OF PERFORMANCE

The effective date of this Agreement and all rights and duties designated hereunder are contingent upon the timely release of funds for this project by U.S. HUD under grant numbers **M-05-UC-120215** and **M-01-DC120226 (CHDO reserve)**, and **M-05-UC-120215 Operating Expenses**. The effective date shall be the date of execution of this Agreement, and the services of the Agency shall be undertaken and completed in light of the purposes of this Agreement. In any event, all services and CHDO activities required hereunder shall be completed by the Agency by September 30, 2008.

3. METHOD OF PAYMENT

The County agrees to make payments and to reimburse the Agency for all eligible budgeted costs permitted by Federal, State, and County guidelines. In no event shall the County provide advance funding to the Agency or any subcontractor hereunder.

Requests by the Agency for payments or reimbursements shall be accompanied by proper documentation of expenditures and should, to the maximum extent possible, be submitted to HCD for approval no later than thirty (30) days after the date of payment by the Agency. Payment shall be made by the Palm Beach County Finance Department upon proper presentation of invoices and reports approved by the Agency and HCD. Proof of payment and originals of invoices, receipts, or other evidence of indebtedness shall be considered proper documentation. When original documents cannot be presented, the Agency must adequately justify their absence, in writing, and

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furnish copies. Invoices shall not be honored if received by the Palm Beach County Finance Department later than forty-five (45) days after the expiration date of this Agreement, nor will any invoices be honored that predate the commencement date of this Agreement.

4. CONDITIONS ON WHICH PAYMENT IS CONTINGENT

(1) IMPLEMENTATION OF PROJECT ACCORDING TO REQUIRED PROCEDURES

The Agency shall implement this Agreement in accordance with applicable Federal, State, and County laws, ordinances, and codes and with the applicable procedures outlined in HCD Policies and Procedures Memoranda, and amendments and additions thereto as may from time to time be made. The Federal, State, and County laws, ordinances, and codes are minimal regulations which may be supplemented by more restrictive guidelines set forth by HCD. No reimbursements will be made without evidence of appropriate insurance required by this Agreement on file with HCD. No payments will be made until the Agency's personnel policies are approved by the HCD Director. No payments for multi-funded projects will be made until a cost allocation plan has been approved by the HCD Director or designee.

Should a project receive additional funding after the commencement of this Agreement, the Agency shall notify HCD in writing within thirty (30) days of receiving notification from the funding source and submit a cost allocation plan for approval by the HCD Director or designee within forty-five (45) days of said official notification.

(2) FINANCIAL ACCOUNTABILITY

The County may have a financial system analysis and/or an audit of the Agency or of any of its subcontractors by an independent auditing firm employed by the County or by the County Internal Audit Department at any time the County deems necessary to determine the capability of the Agency to fiscally manage the project in accordance with Federal, State and County requirements.

(3) SUBCONTRACTS

Any work or services subcontracted hereunder shall be specifically by written contract, written agreement, or purchase order and shall be subject to each provision of this Agreement. Proper documentation in accordance with County, State, and Federal guidelines and regulations must be submitted by the Agency to HCD and approved by HCD prior to execution of any subcontract hereunder. In addition, all subcontracts shall be subject to Federal, State and County laws and regulations.

None of the work or services covered by this Agreement, including but not limited to consultant work or services, shall be subcontracted or reimbursed without the prior written approval of the HCD Director or designee.

(4) Purchasing

All purchasing for services and goods, including capital equipment, shall be made by purchase order or by a written contract and in conformity with the procedures prescribed by the Palm Beach County Purchasing Ordinance, OMB Circulars A-110 and A-122, and 24 CFR 84, which are incorporated herein by reference.

(5) Reports, Audits, and Evaluations

Payment will be contingent on the timely receipt of complete and accurate reports required by this Agreement, and on the resolution of monitoring or audit findings identified pursuant to this Agreement.

NOAH DEVELOPMENT CORPORATION, INC.

(6) ADDITIONAL HCD, COUNTY, AND U. S. HUD REQUIREMENTS

HCD shall have the right under this Agreement to suspend or terminate payments until the Agency complies with any additional conditions that may be imposed by HCD, the County or U.S. HUD at any time.

(7) PRIOR WRITTEN APPROVALS - SUMMARY

The following, among others, require the prior written approval of the HCD Director or designee to be eligible for reimbursement or payment:

- (a) All subcontracts and agreements pursuant to this Agreement;
- (b) All capital equipment expenditures of \$1,000 or more;
- (c) All out-of-town travel (travel shall be reimbursed in accordance with the provisions of Florida Statutes, Chapter 112.061);
- (d) All change orders;
- (e) All requests to utilize uncommitted funds after the expiration of this agreement for programs described in Exhibit A; and
- (f) All rates of pay and pay increases paid from funds provided hereunder, whether for merit or cost of living.

(8) PROGRAM-GENERATED INCOME

All income earned by the Agency from activities financed in whole or in part by funds provided hereunder must be reported to HCD. Such income would include, but not be limited to, income from service fees, sale of commodities, and rental or usage fees. The Agency shall report its plan to utilize such income to HCD, and said plan shall require the prior written approval of the HCD Director or designee. Accounting and disbursement of such income shall comply with OMB Circular A-110 and other applicable regulations incorporated herein by reference.

In addition to the foregoing, Program Income, as defined by 24 CFR 570.500(a), may be retained by the Agency. Program Income shall be utilized to undertake activities specified in Exhibit A of this Agreement, and all provisions of this Agreement shall apply to said activities. Any Program Income on hand at or received after the expiration of this Agreement shall be returned to the County.

PART IV

GENERAL CONDITIONS

1. OPPORTUNITIES FOR RESIDENTS AND CIVIL RIGHTS COMPLIANCE

The Agency agrees that no person shall on the grounds of race, color, disability, national origin, religion, age, familial status, or sex be excluded from the benefits of, or be subjected to discrimination under, any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the County shall have the right to terminate this Agreement.

To the greatest extent feasible, lower-income residents of the project areas shall be given opportunities for training and employment; and to the greatest extent eligible business concerns located in or owned in substantial part by persons residing in the project areas shall be

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awarded contracts in connection with the project. At a minimum, the Agency shall comply with Section 3 of the Housing and Community Development Act of 1968 (as amended).

2. OPPORTUNITIES FOR SMALL AND MINORITY/WOMEN-OWNED BUSINESS ENTERPRISES

In the procurement of supplies, equipment, construction, or services to implement this Agreement, the Agency shall make a positive effort to utilize small and minority/women-owned business enterprises as sources of supplies and services, and provide these enterprises the maximum feasible opportunity to compete for contracts to be performed pursuant to this Agreement. To the maximum extent feasible, these small and minority/women-owned business enterprises shall be located in or owned by residents of the areas designated by Palm Beach County in the Annual Consolidated Plan approved by U.S. HUD.

3. PROJECT BENEFICIARIES

One hundred percent (100%) of the beneficiaries purchasing the HOME-assisted units in the project funded through this Agreement must be low income persons.

The project funded under this agreement shall assist beneficiaries as defined above for the time period designated in Exhibit A of this Agreement. The Agency shall provide written verification of compliance to HCD upon HCD's request.

4. EVALUATION AND MONITORING

The Agency agrees that HCD will carry out periodic monitoring and evaluation activities as determined necessary by HCD or the County and that the continuation of this Agreement is dependent upon satisfactory evaluation conclusions based on the terms of this Agreement and comparisons of planned versus actual progress relating to project scheduling, budgets, audit reports, and output measures. The Agency agrees to furnish upon request to HCD, the County, or the County's designees copies of transcriptions of such records and information as is determined necessary by HCD or the County. The Agency shall submit information and status reports required by HCD, the County, or U.S. HUD at HCD's request on forms approved by HCD to enable HCD to evaluate said progress and to allow for completion of reports required of HCD by HUD. The Agency shall allow HCD or HUD to monitor the Agency on site. Such visits may be scheduled or unscheduled as determined by HCD or HUD.

5. AUDITS AND INSPECTIONS

At any time during normal business hours and as often as HCD, the County, U.S. HUD, or the Comptroller General of the United States may deem necessary, there shall be made available by the Agency to HCD, the County, U.S. HUD, or the Comptroller General for examination all its records with respect to all matters covered by this Agreement.

The Agency agrees to comply with the provisions of the Single Audit Act of 1984, as amended, as it pertains to this Agreement. The County will require the Agency to submit a single audit, including any management letter, made in accordance with the general program requirements of OMB Circulars A-110, A-122, A-133, and other applicable regulations within one hundred and eighty (180) days after the end of any fiscal year covered by this agreement in which Federal funds from all sources are expended. Said audit shall be made by a Certified Public Accountant of the Agency's choosing, subject to the County's approval. In the event the Agency anticipates a delay in producing such audit, the Agency shall request an extension in advance of the deadline. The cost of said audit

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shall be borne by the Agency. In the event the agency is exempt from having an audit conducted under A-133, the County reserves the right to require submission of audited financial statements and/or to conduct a "limited scope audit" of the agency as defined by A-133. The County will be responsible for providing technical assistance to the Agency, as deemed necessary by the County.

6. DATA BECOMES COUNTY PROPERTY

All reports, plans, surveys, information, documents, maps, and other data procedures developed, prepared, assembled, or completed by the Agency for the purpose of this Agreement shall become the property of the County without restriction, reservation, or limitation of their use and shall be made available by the Agency at any time upon request by the County or HCD. Upon completion of all work contemplated under this Agreement, copies of all documents and records relating to this Agreement shall be surrendered to HCD if requested. In any event, the Agency shall keep all documents and records for five (5) years after expiration of this Agreement.

7. INDEMNIFICATION

The Agency shall protect, defend, reimburse, indemnify and hold the County, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during performance of the terms of this Agreement or due to the acts or omissions of the Agency. Agency's aforesaid indemnity and hold harmless obligation, or portion or applications thereof, shall apply to the fullest extent permitted by law. The Agency will hold the County harmless and will indemnify the County for funds which the County is obligated to refund the Federal Government arising out of the conduct of activities and administration of Agency.

8. INSURANCE

Unless otherwise specified in this Agreement, the Agency shall, at its sole expense, maintain in full force and effect at all times during the life of this Agreement, insurance coverages, limits, including endorsements, as described herein. The requirements contained herein as to types and limits, as well as the County's review or acceptance of insurance maintained by the Agency, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Agency under this Agreement.

(1) Commercial General Liability

The Agency shall agree to maintain Commercial General Liability at a limit of liability not less than \$500,000 Each Occurrence Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted by the County's Risk Management Department. The Agency agrees this coverage shall be provided on a primary basis.

(2) Business Automobile Liability

The Agency shall agree to maintain Business Automobile Liability at a limit of liability not less than \$500,000 Each Occurrence for all owned, non-owned and hired automobiles. In the event the Agency does not own any automobiles, the Business Auto Liability requirement shall be amended allowing the Agency to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. The Agency shall agree this coverage shall be provided on a primary basis.

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(3) Worker's Compensation Insurance

The Agency shall agree to maintain Worker's Compensation Insurance & Employers Liability in accordance with Florida Statute Chapter 440. The Agency agrees this coverage shall be provided on a primary basis.

(4) Additional Insured

The Agency shall agree to endorse the County as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents, c/o Department of Housing and Community Development". The Agency shall agree the Additional Insured endorsements provide coverage on a primary basis.

(5) Certificate Of Insurance

The Agency shall agree to deliver to the County a certificate(s) of insurance evidencing the required insurance is in full force and effect within thirty (30) calendar days prior to the execution of this Agreement by the County. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be included on the certificate(s). The Agency shall deliver the certificate(s) to HCD at its office at 160 Australian Avenue, Suite 500, West Palm Beach, Florida 33406.

(6) Right to Review and Adjust

The Agency shall agree that the County, by and through its Risk Management Department, in cooperation with the Department of Housing and Community Development, reserves the right to periodically review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the life of this Agreement. The County reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

9. MAINTENANCE OF EFFORT

The intent and purpose of this Agreement is to increase the availability of the Agency's services. This Agreement is not to substitute for or replace existing or planned projects or activities of the Agency. The Agency agrees to maintain a level of activities and expenditures, planned or existing, for projects similar to those being assisted under this Agreement which is not less than that level existing prior to this Agreement.

10. CONFLICT OF INTEREST

The Agency covenants that no person who presently exercises any functions or responsibilities in connection with the project has any personal financial interest, direct or indirect, in the activities provided under this Agreement which would conflict in any manner or degree with the performance of this Agreement and that no person having any conflict of interest shall be employed by or subcontracted by the Agency. Any possible conflict of interest on the part of the Agency or its employees shall be disclosed in writing to HCD provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that

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maximum opportunity be provided for employment of and participation of lower- income residents of the project target area.

11. CITIZEN PARTICIPATION

The Agency shall cooperate with HCD in the implementation of the Citizen Participation Plan by establishing a citizen participation process to keep residents and/or clients informed of the activities the Agency is undertaking in carrying out the provisions of this Agreement. Representatives of the Agency shall attend meetings and assist in the implementation of the Citizen Participation Plan, as requested by HCD.

12. RECOGNITION

All facilities purchased or constructed pursuant to this Agreement should be clearly identified as to funding source. The agency will include a reference to the financial support herein provided by HCD in all publications and publicity. In addition, the Agency will make a good faith effort to recognize HCD's support for all activities made possible with funds available under this Agreement.

13. CONTRACT DOCUMENTS

The following documents are herein incorporated by reference and made part hereof, and shall constitute and be referred to as the Agreement; and all of said documents taken as a whole constitute the Agreement between the parties hereto and are as fully a part of the Agreement as if they were set forth verbatim and at length herein:

- (1) This Agreement including its Exhibits
- (2) Office of Management and Budget Circulars A-110, A-122, and A-133
- (3) Title VI of the Civil Rights Act of 1964, Age Discrimination Act of 1975, and Title II of the Americans With Disabilities Act of 1990
- (4) Executive Orders 11246, 11478, 11625, 12432, the Davis Bacon Act, Section 3 of the Housing and Community Development Act of 1968, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended
- (5) Executive Orders 11063, 12259, 12892, the Fair Housing Act of 1988, and Section 109 of the Housing and Community Development Act of 1974, as amended
- (6) The Drug-Free Workplace Act of 1988, as amended
- (7) Florida Statutes, Chapter 112
- (8) Palm Beach County Purchasing Ordinance
- (9) Federal HOME Investment Partnership Program Regulations (24 CFR Part 92), as amended
- (10) The Agency's Personnel Policies and Job Descriptions
- (11) The Agency's Articles of Incorporation and Bylaws
- (12) The Agency's Certificate of Insurance
- (13) Current list of the Agency's Officers and members of Board of Directors
- (14) Proof of Agency's 501(c)(3) certification from Internal Revenue Service (IRS)

All of these documents will be maintained on file at HCD. The Agency shall keep an original of this Agreement, including its Exhibits, and all amendments thereto, on file at its principal office.

14. TERMINATION

In the event of termination for any of the following, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports prepared, and capital equipment secured by the Agency with funds under this Agreement shall be returned to HCD or the County.

NOAH DEVELOPMENT CORPORATION, INC.

In the event of termination, the Agency shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Agreement by the Agency, and the County may withhold any payment to the Agency until such time as the exact amount of damages due to the County from the Agency is determined.

(1) TERMINATION FOR CAUSE

If through any cause either party shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, either party shall thereupon have the right to terminate this Agreement in whole or part by giving written notice to the other party of such termination and specify the effective date of termination.

(2) TERMINATION FOR CONVENIENCE

At any time during the term of this Agreement, either party may, at its option and for any reason, terminate this Agreement upon ten (10) working days written notice to the other party. Upon termination, the County shall pay the Agency for services rendered pursuant to this Agreement through and including the date of termination.

(3) TERMINATION DUE TO CESSATION

In the event the grant to the County under Title I of the Housing and Community Development Act of 1974 (as amended) is suspended or terminated, this Agreement shall be suspended or terminated effective on the date U.S. HUD specifies.

15. SEVERABILITY OF PROVISIONS

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

16. AMENDMENTS

The County may, at its discretion, amend this Agreement to conform with changes required by Federal, State, County, or U.S. HUD guidelines, directives, and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement and shall be subject to approval of the Palm Beach County Board of County Commissioners. Except as otherwise provided herein, no amendment to this Agreement shall be binding on either party unless in writing, approved by the Board of County Commissioners and signed by both parties.

17. NOTICE

All notice required to be given under this Agreement shall be sufficient when delivered to HCD at its office at 160 Australian Avenue, Suite 500, West Palm Beach, Florida 33406, and to the Agency when delivered to its office at the address listed on Page One of this Agreement.

18. INDEPENDENT AGENT AND EMPLOYEES

The Agency agrees that, in all matters relating to this Agreement, it will be acting as an independent agent and that its employees are not Palm Beach County employees and are not subject to the County Provisions of the law applicable to County employees relative to employment compensation and employee benefits.

NOAH DEVELOPMENT CORPORATION, INC.

19. **NO FORFEITURE**

The rights of the County under this Agreement shall be cumulative and failure on the part of the County to exercise promptly any rights given hereunder shall not operate to forfeit or waive any of the said rights.

20. **PUBLIC ENTITY CRIMES**

As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the Agency certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder have not been placed on the *convicted vendor list* maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

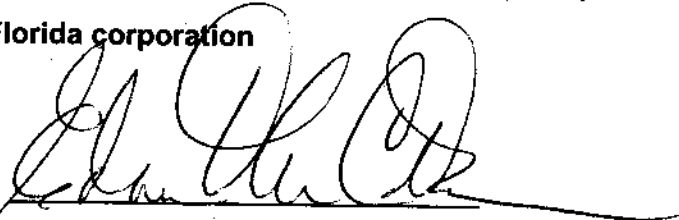
NOAH DEVELOPMENT CORPORATION, INC.


21. Counterparts Of This Agreement

This Agreement, consisting of twenty-one (21) enumerated pages including the exhibits referenced herein, shall be executed in three (3) counterparts, each of which shall be deemed to be an original, and such counterparts will constitute one and the same instrument.

WITNESS our Hands and Seals on the _____ day of _____, 2007.

NOAH DEVELOPMENT CORPORATION, INC.,
a Florida corporation

By: 
Edna O. McClendon,
President
NOAH Development Corporation

By: 
Thomas Roberts,
Executive Director
NOAH Development Corporation

(CORPORATE SEAL)

ATTEST:

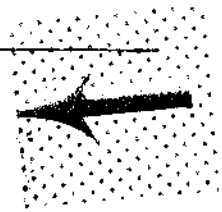
SHARON R. BOCK,
Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State
of Florida

BOARD
OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Chair Person



SIGN
HERE

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: _____
Senior County Attorney

(COUNTY SEAL)

APPROVED AS TO TERMS AND
CONDITIONS:


Jonathan Brown, Manager
Commission On Affordable Housing

EXHIBIT A

WORK PROGRAM NARRATIVE

NOAH DEVELOPMENT CORPORATION, INC.

I. The Agency agrees to:

- A. Construct not less eight (8) HOME-assisted single-family houses to be sold to eligible low and very low-income first-time homebuyers in the NOAH Development Corporation, Inc.'s **(NOAH)** target area. The HOME assistance will further the objectives of the Community Housing Development Organization (CHDO) set-aside per 92.300 (a)(1). As a part of the CHDO set-aside requirements, the agency shall act as developer, sponsor, and/or owner of the housing to be provided and shall have site control of the lots upon which the HOME-assisted units are to be constructed.
- B. Transfer the HOME subsidy in the form of a credit to eligible homebuyers of the completed houses in an amount sufficient to make the home purchase affordable and in accordance with the subsidy limits established by the Palm Beach County HOME program. The credit provided by the agency will be identified as direct homeownership assistance in accordance with 92.300 (a) (1). The credit/subsidy will be secured by a second Mortgage and Promissory Note in favor of Palm Beach County, as shown in Exhibit B. Prepare mortgage documents for approval by HCD staff transferring the HOME subsidy as a credit to eligible homebuyers. *Provide copies of applicable HUD 1 closing statements and request for additional HOME end buyer subsidy for review by HCD staff.*
- C. Maintain an office in the target area and a Project Manager to supervise the development of the HOME-assisted housing and complete the development tasks which include but are not limited to the following:
- Negotiate sales with property owners
 - Secure property appraisals, environmental clearances, surveys, and inspections
 - Assemble a development team and coordinate project meetings
 - Secure loan and other grant financing for the development of the projects
 - Prepare Request for Bids and select general contractor
 - Obtain building permits
 - Coordinate construction activities and oversee work of contractors and subcontractors
 - Assist in coordinating bank inspections
 - Obtain final survey and other duties as necessary

In addition to the Project Manager, **NOAH** shall retain a Housing Coordinator position which will identify and process low income and very low-income home buyers for the purchase of the HOME-assisted housing through the following activities:

- o Identify and pre-qualify prospective home buyers for loan and subsidy processing
- o Conduct credit counseling and home buyer education related to subsidy
- o Assist home buyers to identify and apply for first mortgage and subsidy financing
- o Secure HOME and any other subsidy financing that may be applicable
- o Preparing mortgage documents related to subsidies and transfer of HOME subsidies to home buyer
- o Facilitate recording of applicable HOME mortgage liens
- o Serve as liaison between the home buyer and the general contractor and coordinate receipt of certificate of occupancy and completion of "punch list" items.

The CHDO project related activities will be documented by each staff person whether activities are indirect or direct services.

- D. Advertise bids for construction of HOME-assisted units, review bids carefully and select contractor based on the lowest responsive bidder that meets the terms, conditions and specifications of the bid and that will result in the best interest of the agency and that will ensure the most efficient use of HOME funds. The agency shall ensure that the selected contractor is currently licensed and insured in accordance with all applicable State and local authorities and has not been barred from participating in any Federal, State or local projects. *The agency shall also ensure that the selected contractor has the capacity to provide construction services in a timely and efficient manner based on current workload, staffing and subcontractors. The contractor must also show a good record of past performance in terms of quality of workmanship, adherence to budget and cost controls and compliance with performance schedules.*

- E. Coordinate the activities of mainly private, for-profit agencies in identifying sites, obtaining cost estimates, or selecting contractors within the targeted areas.
- F. Inform the buyers of the completed housing of the necessity of executing any required documents, including a Promissory Note and Second Mortgage in favor of the County, included substantially as Exhibit B, in order to be eligible for HOME funds.
- G. Submit to HCD the required Quarterly Detailed Narrative Reports. Reports will include information on the progress (phases of construction or purchase of land) of the housing projects. The Detailed Narrative Reports will include constraints, program revisions, and goal comparisons.
- H. Assist the County in carrying out its affirmative marketing requirements.
- I. Provide verifiable staff time sheets to HCD for the reimbursement of staff costs pursuant to this agreement. Time sheets will show clearly the time, hours and minutes allocated to each activity. Staff paid out of HOME funds will keep daily time records identifying the time spent on the specific activities as outlined in the above description. Submit applicable documentation including copies of draw requests, invoices, receipts, and checks along with County approved forms to substantiate HOME disbursements.
- J. Provide to HCD staff a total operating budget for the organization, showing all sources and uses of funds within 60 days of the execution of this agreement and prior to the release of any CHDO operating funds.
- K. Report the receipt of any income earned by the Agency to the HCD Director within five (5) working days after the receipt of the income. Any income earned by the Agency will be considered program income and will be subject to HCD and U.S. HUD regulations and this Agreement, if applicable.
- L. To comply with the requirements of 24 CFR Part 58. The provision of funds under this agreement is conditional to the satisfactory completion of the environmental review process, and the county's determination to proceed to modify or cancel the project based on the results of this environmental review. This project involves unspecified sites, the agency agrees to provide a request for the preparation of an environmental review as the sites are identified.

II. The County agrees to:

- A. Reimburse the Agency on a per draw basis for HOME eligible pre-development and construction costs associated with carrying out the HOME CHDO eligible activities as specified in the above Scope of Work. The total reimbursement for the community housing development Reserve (CR) allocated to the agency shall not exceed an amount of **\$300,000** for housing development costs; and **\$50,000** for CHDO operating expenses pursuant to this agreement and which CHDO operating expenses are detailed below. Provide total payments to the Agency of **\$350,000** for duration of the agreement. Payment of construction and redevelopment expenses shall be based on the submission of a contractor's request for payment and schedule of values (forms G702 and G703) along with an approval of the work completed by an independent and licensed construction inspector or architect, approved by HCD staff. The submission for payment shall also include copies of cancelled checks paid by the Agency, copies of releases of liens from the contractor and subcontractors for payments made, and copies of receipts and invoices from other professionals, where applicable.
- B. Reimburse the Agency on no less than a monthly basis for all eligible operating expenses, permitted by Federal, State and County guidelines, up to **\$50,000**, according to interim services undertaken which leads to project development, completion and sale of housing units to eligible homebuyers. In no event shall the total funds made available for CHDO Operating Expenses pursuant to this Agreement exceed the maximum and total authorized sum of **\$50,000** in Fiscal Year 2001-2002 HOME funds. Payments of operating expenses to the Agency shall be subject to the detailed budget below and the provision of detailed time sheets and outcomes reports for the staff time spent on developing the CHDO projects.

HOME CHDO OPERATING EXPENSES BUDGET

Project Manager	\$30,000
Housing Coordinator	<u>\$20,000</u>
	\$50,000

- C. Review contractor qualifications for HOME-assisted construction projects. HCD staff shall conduct progress and final inspection on all construction activity involving HOME funding.
- D. Provide a determination that applicant households are income eligible under HUD guidelines based on income and household size. Provide a determination that the sites are in conformance with Federal environmental requirements.
- E. Provide technical assistance to ensure compliance with HUD, U.S. HUD, and applicable State, Federal and County regulations and this Agreement.
- F. Provide overall administration and coordination activities to ensure that planned activities are completed in a timely manner.
- G. Monitor the Agency at any time during the term of this Agreement. Visits may be scheduled or unscheduled as determined by HCD and will serve to ensure compliance with U.S. HUD and HCD regulations and to verify the accuracy of reporting procedures to HCD on program activities as described.

EXHIBIT B

Return To:

*PBC Housing and Community Development
160 Australian Avenue, Suite 500
West Palm Beach, Florida 33406
Attention: Cynthia J. Matthews*

SECOND MORTGAGE

THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$ _____, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERM OF THIS MORTGAGE.

THIS MORTGAGE DEED

Executed this _____ day of _____, A.D., 2007 by _____, whose address is _____, hereinafter called the mortgagor, to **PALM BEACH COUNTY**, whose address is **301 North Olive Avenue, West Palm Beach, Florida, 33401**, hereinafter called the mortgagee:

(Wherever used herein the terms "Mortgagor," and "Mortgagee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations, and the term "note" includes all the notes herein described if more than one.)

WITNESSETH, that for good and valuable considerations, and also in consideration of the aggregate sum named in the promissory not of even date herewith, hereinafter described, the mortgagor hereby grants, bargains, sells, aliens, remises, conveys and confirms unto the mortgagee all the certain land of which the mortgagor is now seized and in possession situate in Palm Beach County, Florida viz:

THIS IS A SECOND MORTGAGE, subject to the first Mortgage from Mortgagors to _____, in the original amount of \$ _____.

TO HAVE AND TO HOLD the same, together with tenements, hereditaments and appurtenances thereto belonging, and the rents, issues and profits thereof, unto the mortgagee, in fee simple.

AND the mortgagor covenants with the mortgagee that the mortgagor is indefeasible seized of said land in fee simple; that the mortgagor has good right and lawful authority to convey said land as aforesaid; that the mortgagor will make such further assurances to perfect the fee simple title to said land in the mortgagee as may reasonable be required; that the mortgagor fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free and clear of all encumbrances other than the certain first mortgage to _____ in the original principal amount of \$ _____, and this Mortgage is not assumable. In the event the subject property or any interest therein shall be sold, conveyed or in any other manner disposed of, including by Agreement for Deed, this Mortgage shall become due and payable in full.

PROVIDED ALWAYS that if said mortgagor shall pay unto said mortgagee the certain promissory note hereinafter substantially copied or identified, to-wit:

See Attachment "A" attached hereto and made a part hereof

and shall perform, comply with and abide by each and every agreement, stipulations, conditions and covenants thereof, and of this mortgage, then this mortgage and the estate hereby created, shall cease, determine and be null and void.

AND the mortgagor hereby further covenants and agrees to pay promptly when due the principal and interest and other sums of money provided for in said note and this mortgage, or either; to pay all and singular the taxes, assessments, levies, liabilities, obligations, and encumbrances of every nature on said property; to permit, commit or suffer no waste, impairment or deterioration of said land or the improvements thereon at any time; to keep the building s now or hereafter on said land fully insured in a sum of not less than full insurable value in a company acceptable to the mortgagee, the policy or policies to be held by, and payable to, said mortgagee, and in the event any sum or money becomes, payable by virtue of such insurance the mortgagee shall have the right to receive and apply the same to the indebtedness hereby secured, accounting to the mortgagor to promptly and fully comply with the agreements, stipulations,

conditions and covenants of said not and this mortgage, or either; to perform, comply with and abide by each and every agreement stipulations conditions and covenants set forth in said not and this mortgage or either. In the event the mortgagor fails to pay when due any tax, assessment, insurance premium or other sum of money payable by virtue of said note and this mortgage, or either, the mortgagee may pay the same, without waiving or affecting the option to foreclose or any other right hereunder, and all such payments shall bear interest from the date hereof at the highest lawful rate than allowed by the laws of the State of Florida.

AND the mortgagor agrees further that mortgagor shall reside in the mortgaged property as the mortgagor's principal place of residence for not less than a period of _____ years ("restrictive period"). The restrictive period shall commence from the date of this mortgage. During the restrictive period, in the event mortgagor elects to sell, execute a deed in lieu of foreclosure or otherwise transfer the mortgaged property, mortgagor shall first offer to sell the property to the mortgagee. If mortgagee chooses to exercise its right to purchase the property, mortgagee must do so within sixty (60) days of receipt of mortgagor's written notice to transfer the property. If mortgagee exercises this option, then the purchase must be closed within ninety (90) days of receipt of the mortgagee's written notice.

IF any sum of money herein referred to be not promptly paid within 15 days next after the same becomes due, of if each and every agreement, stipulations, conditions and covenants of said note and this mortgage, or either, are not fully performed, compiled with and abided by, then the entire sum mentioned in said note, and this mortgage, or the entire balance unpaid thereon, shall forthwith or thereafter, at the option of the mortgagee, become and be due and payable, anything in said note or herein to the contrary notwithstanding. Failure by the mortgagee to exercise any of the rights or options herein provided shall not constitute a waiver of any rights or options under said not or this mortgage accrued or thereafter accruing.

THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$ _____, AND THE ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS MORTGAGE.

IN WITNESS WHEREOF, the said mortgagor has hereunto signed and sealed these presents the day and year first above written

Signed, sealed and delivered in the presence of:

Signature

Witness

Signature

Witness

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

I HEREBY CERTIFY, that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared _____, personally known to me, on this _____ day of _____ 2007, and who has produced _____ driver's license or passport as identification and did not take an oath.

Print Name
Notary Public

Signature
Notary Public

(SEAL)

My Commission expires: _____

Commission No. _____

PROMISSORY NOTE

\$ _____

West Palm Beach, Florida
_____, 2007

FOR VALUE RECEIVED, the undersigned, (jointly and severally, if more than one) promises to pay **PALM BEACH COUNTY** or order, in the manner hereinafter specified, the principal sum of \$ _____, bearing no interest. The SAID principal shall be payable in lawful money of the United States of America at **301 North Olive Avenue, West Palm Beach, Florida 33401** At such place as may hereafter be designated by written notice from the holder to the maker hereof, on the date and in the manner following:

This Mortgage shall bear no interest and shall require no principal payments prior to _____ months from the date hereof, at which time all sums of outstanding principal shall be due and payable in full. Notwithstanding the foregoing, the subject principal shall be forgiven on the basis of _____ thereof per month that the real property pledged pursuant to the Second Mortgage, securing this Mortgage Note is owned by the Maker subsequent to the date hereof. The entire principal sum of this Mortgage Note shall become due and payable in the event of a sale or conveyance of the real property pledged to the Mortgage securing this Mortgage Note.

In addition, if there is a default made in the payment of any of the sums herein or in the performance of any of the agreements contained herein, then the entire principal sum shall at the option of the holder hereof become at one due and collectible without notice, time being of the essence. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

Each person liable hereon whether maker or endorser, hereby waives presentment, protest, notice, notice of protest and notice of dishonor and agrees to pay all costs, including a reasonable attorney's fee, whether suit be brought or not. If, after maturity of this note or default hereunder counsel shall be employed to collect this note.

Whenever used herein the terms "holder", "maker", and "payee" shall be construed in the singular or plural as the context may require or admit.

Maker's address:

Signature

Signature

EXHIBIT C

PALM BEACH COUNTY HOUSING & COMMUNITY DEVELOPMENT HOME INVESTMENT AGENCY PROGRAM AFFIRMATIVE MARKETING GUIDELINES

PALM BEACH COUNTY

In furtherance of Palm Beach County's commitment to non-discrimination and equal opportunity in housing, the County's Department of Housing and Community Development (HCD) has established policies and procedures to affirmatively market housing units produced under the HOME, Community Development Block Grant (CDBG) and the State Housing Initiatives Partnership (SHIP) Programs. The objectives of these affirmative marketing policies and procedures are in accordance with 24 CFR 92.351 of the HOME regulations and Section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701 U), and is applicable to other Federal, State and local regulations.

These affirmative marketing policies and procedures are implemented comprehensively for all the above housing programs through the County's Department of HCD and aim to effect greater participation of eligible persons from all racial, ethnic and gender-based minorities. The policies and procedures also aim to market units to and effect greater participation from persons in the housing market who are not likely to apply for housing without special outreach.

Palm Beach County will take all necessary steps to affirmatively market its housing programs through organized neighborhood meetings, distribution of literature, provision of information, press releases and other "good faith" efforts. Additionally, Palm Beach County will utilize the Community Development Advisory Board.

Palm Beach County Department of HCD therefore ensure that housing programs (geared toward existing homeowners and first-time homebuyers) are advertised periodically through general circulation and minority newspapers, as well as through community information meetings at various locations, County-wide.

PROGRAM SUBRECIPIENTS

In order to carry out the policies and procedures of HCD's Affirmative Marketing Program, all non-profits, for-profits, municipalities and individual owner-investor subrecipients of the above mentioned programs must comply with the following:

- 1) The Equal Opportunity logo or slogan must be used by owners in advertising vacant units, and on solicitation for Owner Proposal Notices.
- 2) Lenders, non-profit housing developers, and other program subrecipients are requested to solicit applications from persons in the housing market area who are not likely to apply for housing without special outreach. Owners and agencies can satisfy this requirement by posting a notice of vacancies or housing opportunities in locations including, but not limited to the following:
 - a. Churches and Other Related Organizations
 - b. Community Organizations
 - c. Fair Housing Groups
 - d. Housing Counseling Agencies
 - e. Agencies for Disabled
 - f. Employment Centers
 - g. Local Public Housing Authorities (PHAs) or Other Similar Agencies
- 3) Program participants must also utilize, as far as possible, all commercial media in informing all potentially eligible homebuyers in the market. The use of community, minority and other special interest publications likely to be read by persons needing special outreach, is also highly recommended.
- 4) All program participants are required to adequately inform and train their staff on the objectives of affirmative marketing and ensure that their staff takes every step to ensure compliance. The above mentioned policies and procedures must be provided in written form to each staff member.
- 5) Affirmative records of the subrecipient in the program will be monitored on-site annually, and a report will be compiled to assess their efforts in adhering to the requirements. These records will include but not be limited to: copies of brochures, news clippings, press releases, sign-in logs from community meetings, and any letters or inquiry written to or from prospective clients. The participants will be informed of their responsibility to adhere to the said requirements.
- 6) Participants are required to submit monthly or quarterly reports using measures such as number of housing units provided, and number of families assisted. These reports will identify racial/ethnic/gender classifications. These measures will be used to determine the success of the program.

Meetings will be held as required with selected subrecipients to ensure the smooth implementation of these and other program requirements. The County will assess the affirmative marketing program to determine the success of affirmative marketing actions (such as advertisements, etc.) and address the potential necessity for corrective actions, making distinctions between failures based upon marketing/targeting problems, those based on systemic (program eligibility) factors or lack of interest. Affirmative marketing success will be specifically tracked through the various program applications by notations of racial/ethnic/gender distinctions on program documents. HCD recognizes that the volume of response from racial/ethnic/gender groups may not be an indication of affirmative marketing efforts, and therefore it will make periodic adjustments in its affirmative marketing techniques with consultation from specialized Equal Housing Opportunity, fair housing and racial and gender-based minority groups.

EXHIBIT D

LETTERHEAD STATIONERY

TO: Edward W. Lowery, Director
Housing and Community Development
160 Australian Avenue, Suite 500
West Palm Beach, FL 33406

FROM: Name of CHDO: NOAH Development Corp.
Address: 601 Covenant Drive
Belle Glade,, FL 33430
Telephone: (561) 996-2300

SUBJECT: INVOICE REIMBURSEMENT

=====

Attached, you will find Invoice # _____, requesting reimbursement in the amount of \$ _____.
The expenditures for this invoice covers the period _____, 2007 through _____,
2008. You will also find attached, back-up original documentation relating to the expenditures being
involved.

Approved for Payment