

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: April 1, 2008 [X] Consent [] Regular
[] Public Hearing
Department: Housing and Community Development (HCD)
Submitted By: Housing and Community Development (HCD)

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Amendment No. 002 to an Agreement (R2006-1348) with the Housing Partnership, Inc., to: **A)** extend the expiration date from December 31, 2007 to December 31, 2008; and **B)** increase the amount funded under the Agreement by \$53,136 from \$2,450,930 to \$2,504,066, in Community Development Block Grant (CDBG) funds.

Summary: The Agreement provided the Housing Partnership, Inc. (the Partnership), \$2,400,000 in funding to purchase approximately 7.29 acres of land located on Davis Road just south of Melaleuca Lane in unincorporated Palm Beach County. The purchase of the land was intended for the construction of affordable housing. The Agreement presently provides the Partnership a payment for services and costs incurred while it holds the property until a final decision is made for its use. The amount allocated for this purpose was fully spent by December 31, 2007. This Amendment provides an additional year to the term of the Agreement, and allocates \$53,136 to continue to compensate the Partnership. During the extension year, the Community Land Trust will evaluate the feasibility of developing the land for affordable housing. **These are Federal funds that require no local match.** (District 3) (TKF)

Background and Justification: The County entered into an Agreement with the Partnership on July 11, 2006 (R2006-1348), allocating \$2,400,000. This amount was expended on July 21, 2006, in connection with the acquisition of the above mentioned property. The Agreement was amended by Amendment No. 001 (R2007-0651) on May 1, 2007. Amendment No. 001 provided a time extension to the Agreement and increased the amount funded under the Agreement by \$50,930, from \$2,400,000, to \$2,450,930. Since the acquisition of the property, the County abated the asbestos found in one of the buildings on this site, and thereafter demolished all the buildings on the site in preparation for future affordable housing development.

Attachments:

- A. Amendment No. 002 to the Agreement with the Housing Partnership, Inc.
- B. Amendment No. 001 (R2007-0651) to the Agreement with the Housing Partnership, Inc.
- C. Agreement (R2006-1348) with the Housing Partnership, Inc., with Exhibit A.

Recommended by: Edward R. Linn 2/15/08
Department Director Date
Approved By: Shannon B. Linn 3-6-08
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures					
Operating Costs	\$53,136				
External Revenues	(\$53,136)				
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	\$0				

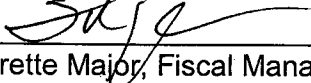
# ADDITIONAL FTE POSITIONS (Cumulative)	0				
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Is Item Included In Current Budget? Yes X No ____
Budget Account No.:

Fund 1101 Unit 143 Org 1431 Object 8201 Program Code/Period BG133A-GY07

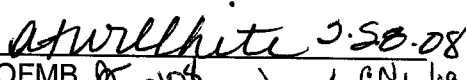
B. Recommended Sources of Funds/Summary of Fiscal Impact: Source:

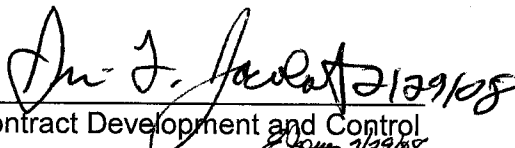
Approval of this agenda item will appropriate \$53,136 to the Housing Partnership, Inc., to compensate them for services to be provided and costs to be incurred until the transfer of land takes place.

C. Departmental Fiscal Review: 
Shairette Major, Fiscal Manager I

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

 3-50-08
OFMB 2/29/08 2-26-08 2/29/08

 2/29/08
Contract Development and Control 2/29/08

B. Legal Sufficiency:

 3/3/08
Assistant County Attorney

**This amendment complies with
our review requirements.**

C. Other Department Review:


Department Director

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

**AMENDMENT 002 TO THE AGREEMENT
WITH
HOUSING PARTNERSHIP, INC.**

Amendment 002 entered into this ____ day of _____, 20____, by and between Palm Beach County and the Housing Partnership, Inc.

WITNESSETH:

WHEREAS, Palm Beach County entered into an Agreement (R2006-1348) with the Housing Partnership, Inc., on July 11, 2006, as amended by Amendment 001 (R2007-0651) on May 1, 2007, to provide \$2,400,000 of Community Development Block Grant funds for the acquisition of real property to be used for affordable housing; and

WHEREAS, the parties wish to modify the Agreement to extend the project completion date, and to increase the funded amount; and

WHEREAS, both parties mutually agree that the original Agreement entered into on July 11, 2006, as amended, is hereby further amended as follows:

A. Part III - Section 1 - Maximum Compensation:

Substitute "December 31, 2008" for "December 31, 2007", and substitute "\$2,504,066" for "\$2,450,930".

B. Part III - Section 2 - Time of Performance:

Substitute "December 31, 2008" for "December 31, 2007".

C. Exhibit A - Section I.A.i - Project Scope:

Delete the first sentence of the last paragraph in this Section which states: "The County agrees to pay the Agency a monthly lump sum payment of \$5,093 for the provision of the above". Replace the deleted sentence with the following: "During the period ending on December 31, 2007, the County agrees to pay the Agency a monthly lump sum payment of \$5,093 for the provision of the above. Thereafter, during the period beginning on January 1, 2008, the County agrees to pay the Agency a monthly lump sum payment of \$4,428 for the provision of the above."

D. Exhibit A - Section II.A:

Substitute "\$2,504,066" for "\$2,450,930".

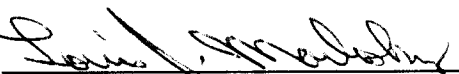
NOW THEREFORE, all items in the previous Agreement in conflict with this Amendment shall be and are hereby changed to conform to this Amendment.

All provisions not in conflict with this aforementioned Amendment are still in effect and shall be performed at the same level as specified in the Agreement.

(AGENCY SEAL BELOW)

HOUSING PARTNERSHIP, INC.

BY: 
Patrick McNamara, President

BY: 
Louis Macloskey, Secretary/Treasurer

(COUNTY SEAL BELOW)

**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida
BOARD OF COUNTY COMMISSIONERS**

By: _____
Addie L. Greene, Chairperson
Board of County Commissioners

ATTEST: Sharon R. Bock,
Clerk & Comptroller

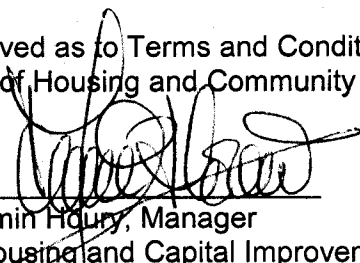
By: _____
Deputy Clerk

Document No.: _____

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Dept. of Housing and Community Development

By: _____
Tammy K. Fields
Senior Assistant County Attorney

By: 
Amin Houry, Manager
Housing and Capital Improvements

R2007 0002

**AMENDMENT 001 TO THE AGREEMENT
WITH
HOUSING PARTNERSHIP, INC.**

Amendment 001 entered into this ____ day of MAY 01 2007, 20____, by and between Palm Beach County and the Housing Partnership, Inc.

WITNESSETH:

WHEREAS, Palm Beach County entered into an Agreement (R2006-1348) with the Housing Partnership, Inc., on July 11, 2006, to provide \$2,400,000 of Community Development Block Grant funds for the acquisition of real property to be used for affordable housing; and

WHEREAS, the parties wish to modify the Agreement to extend the project completion date, to increase the funded amount, and to modify the scope of the project; and

WHEREAS, both parties mutually agree that the original Agreement entered into on July 11, 2006, is hereby amended as follows:

A. Part III - Section 1 - Maximum Compensation:

Substitute "December 31, 2007" for "June 30, 2007", and substitute "\$2,450,930" for "\$2,400,000".

B. Part III - Section 2 - Time of Performance:

Substitute "December 31, 2007" for "June 30, 2007".

C. Exhibit A - Section I.A.h - Project Scope:

Delete Section I.A.h, entitled "Future Transfer of Title to the Acquired Property" in its entirety, and replace it with the following:

- h. **Authorization to Demolish and Abate Asbestos Containing Materials:** The Agency recognizes that the County wishes to demolish the structures found on the property after SCFMH vacates the property. Accordingly, the Agency hereby authorizes the County, to demolish and dispose of, as the County deems necessary, all the structures and all other improvements located on the property (bearing the property control numbers listed above), at the expense of the County. The County shall make all reasonable efforts to demolish and dispose of the afore mentioned structures within 120 days of the date of this Amendment. Furthermore, in connection with such demolition, the Agency also authorizes the County, its designees, vendors, and contractors, to enter the property for the purpose of conducting abatement of asbestos containing materials found at the property as determined necessary by the County. The County agrees to require the demolition contractor and the asbestos abatement contractor to name the Agency as additional insured for and during the period of demolition and abatement.
- i. **Payment for Holding and Maintaining the Property:** After SCFMH vacates the property, the Agency shall hold the property and maintain it in anticipation of its conveyance to a County designated recipient as more fully described below. Until such conveyance occurs, the Agency shall:
- Pay all taxes and assessments owed on the property. This shall be evidenced by receipts from governmental agencies that have collected the associated payments. The Agency shall pay all taxes and assessments owed on the property up to the date of conveyance to a County designated recipient as described below. Further, the agency shall make application for tax exemption for those parcels eligible under a charitable designation with SCFMH continuing the current use of the property as of January 1, 2007.
 - Maintain a marketable title to the property that is free of liens and clouds on title. This shall be evidenced by the delivery of clear title to the property on the date of conveyance to a County designated recipient as described below. The Agency shall assure that no liens or clouds shall be placed on the title to the property during the Agency's term of ownership of the property, and the Agency shall remove, at the Agency's cost, all liens and clouds on title such that it may deliver clear and marketable title to the County designated recipient as described below.
 - Obtain appropriate legal advice and review up to, and including, the date of conveyance to a County designated recipient of the property, in order to assure an orderly and expeditious closing in connection with such conveyance, and in order to assure compliance with the terms of this Agreement.
 - Maintain the insurance coverages required of the Agency in full force and effect as specified in this Agreement, including sole coverage once SCFMH vacates the property.

**AMENDMENT 001 TO THE AGREEMENT
WITH HOUSING PARTNERSHIP, INC.**

- Maintain the appearance of the property, and the grounds and improvements, in good, safe, and sanitary condition as required by applicable codes, ordinances, and statutes. This shall include all repairs, mowing, and lot clearing of the property.
- Take the necessary steps to prevent the unauthorized use of the property (including unauthorized parking, storage of vehicles, squatters, trespassers, and encroachments by neighboring properties).

The County agrees to pay the Agency a monthly lump sum payment of \$5,093 for the provision of the above. The Agency shall invoice HCD on a monthly basis for services provided during the prior month. Services shall begin on the day that SCFMH vacates the property, as determined by the County, and shall end on the day of conveyance to a County designated recipient as described below. Periods of service encompassing less than a full month shall be prorated on a daily basis for the month in which they occur.

- j. Future Transfer of Title to the Acquired Property: The Agency shall transfer title to the property to a County designated recipient (grantee) to be selected by HCD. The Agency shall transfer such title to the selected grantee, at no cost to the grantee, on a date to be established by HCD.

All taxes and assessments owed by the Agency on the date of transfer of title to the selected grantee shall be paid by the Agency. All liens or clouds on title occurring during the Agency's term of ownership of the property shall be removed at the Agency's expense such that it may deliver clear and marketable title to the grantee. All other closing costs associated with the aforesaid transfer of title shall be borne by the grantee.

D. Exhibit A - Section II.A - Project Scope:

Substitute "\$2,450,930" for "\$2,400,000".

NOW THEREFORE, all items in the previous Agreement in conflict with this Amendment shall be and are hereby changed to conform to this Amendment.

All provisions not in conflict with this aforementioned Amendment are still in effect and shall be performed at the same level as specified in the Agreement.

(AGENCY SEAL BELOW)

HOUSING PARTNERSHIP, INC.

BY: 

Patrick McNamara, President

BY: 

Louis Macloskey, Secretary/Treasurer

(COUNTY SEAL BELOW)

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

BOARD OF COUNTY COMMISSIONERS

By: 

Addie L. Greene, Chairperson
Board of County Commissioners

ATTEST: Sharon R. Bock,
Clerk & Comptroller

By: 

Deputy Clerk

Approved as to Form and
Legal Sufficiency

By: 

Tammy K. Fields
Senior Assistant County Attorney

Document No. R2007 0651

MAY 01 2007

Approved as to Terms and Conditions
Dept. of Housing and Community Development

By: 

Amin Houry, Manager
Housing and Capital Improvements

R2006-1348

AGREEMENT BETWEEN PALM BEACH COUNTY

AND

HOUSING PARTNERSHIP, INC.

THIS AGREEMENT, entered into this _____ day of JUL 11 2006, 2006, by and between Palm Beach County, a political subdivision of the State of Florida, for the use and benefit of its Community Development Block Grant Program, and the Housing Partnership, Inc., a non-profit corporation duly organized and existing by virtue of the laws of the State of Florida, having its principal office at 2001 West Blue Heron Boulevard, Riviera Beach, FL 33404, and its Federal Tax Identification number as 59-2704597.

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 Community Development Block Grant Program in certain areas of Palm Beach County, pursuant to Title I of the Housing and Community Development Act of 1974 (as amended); and

WHEREAS, Palm Beach County, in accord with the Annual Consolidated Plan, and the Housing Partnership, Inc., desire to provide the activities specified in Part II of this Agreement; and

WHEREAS, Palm Beach County desires to engage the Housing Partnership, Inc., to implement such undertakings of the Community Development Block Grant Program; and

WHEREAS, the Housing Partnership, Inc., is committed to its mission of supporting, promoting, and undertaking affordable housing; and

WHEREAS, by undertaking the activities specified in Part II of this Agreement the Housing Partnership, Inc. fulfills its mission supporting, promoting, and undertaking affordable housing.

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

PART I

DEFINITION AND PURPOSE

1. DEFINITIONS

- (1) "County" means Palm Beach County.
- (2) "CDBG" means the Community Development Block Grant Program of Palm Beach County.
- (3) "HCD" means Palm Beach County Housing and Community Development.
- (4) "Agency" means the Housing Partnership, Inc.
- (5) "HCD Approval" means the written approval of the HCD Director or his designee.
- (6) "U.S. HUD" means the Secretary of Housing and Urban Development or a person authorized to act on its behalf.
- (7) "Low and moderate income persons" means the definition set by U.S. HUD.

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. At least fifty-one percent (51%) of the beneficiaries of a project funded under this Agreement must be low-and moderate-income persons.

PART II

SCOPE OF SERVICES

The Agency shall, in a satisfactory and proper manner as determined by HCD, perform the tasks necessary to conduct the program outlined in Exhibit "A" as 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 services 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 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 \$2,400,000 for the period of July 11, 2006, through and including June 30, 2007. Any funds not obligated by the expiration date of this Agreement shall automatically revert to the County.

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 No. B-06-UC-12-0004. 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 required hereunder shall be completed by the Agency prior to June 30, 2007.

3. METHOD OF PAYMENT

The County agrees to make payments and to reimburse the Agency for all budgeted costs permitted by Federal, State, and County guidelines. The Agency shall not request reimbursement for payments made by the Agency before the effective date of this Agreement, nor shall it request reimbursement for payments made after the expiration date of this Agreement, and in no event shall the County provide advance funding to the Agency or any subcontractors hereunder.

The Agency shall request payments or reimbursements from the County by submitting to HCD proper documentation of expenditures consisting of originals of invoices, receipts, or other evidence of indebtedness, and when original documents cannot be presented, the Agency may furnish copies if deemed acceptable by HCD. Payment shall be made by the Palm Beach County Finance Department upon presentation of the aforesaid proper documentation of expenditures as approved by HCD.

The Agency may at any time after the expiration of this agreement request from the County reimbursement for payments made by the Agency during the term of this Agreement by submitting to HCD the aforesaid proper documentation of expenditures, and the Palm Beach County Finance Department shall make payment as stated above, provided that HCD has determined that the funds allocated to the Agency through this agreement are still available for payment, and provided that HCD approves such payment.

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 procedures outlined in HCD Policies and Procedures memoranda. The Federal, State, and County laws, ordinances and codes are minimal regulations supplemented by more restrictive guidelines set forth by HCD. No payments for projects funded by more than one funding source 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 systems 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 if the project is being managed 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. All subcontracts shall be submitted by the Agency to HCD and approved by HCD prior to execution of any subcontract hereunder. All subcontracts shall be subject to Federal, State and County laws and regulations. This includes ensuring that all consultant contracts and fee schedules meet the minimum standards as established by the Palm Beach County Engineering Department and U.S. HUD. Contracts for architecture, engineering, survey, and planning shall be fixed fee contracts. All additional services shall have prior written approval with support documentation detailing categories of persons performing work plus hourly rates including benefits, number of drawings required, and all items that justify the "Fixed Fee Contract." Reimbursables will be at cost.

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 prior written approval of the HCD Director or his 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, as well as Federal Management Circulars A-110, A-122, and 24CFR Part 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.

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

HCD shall have the right under this Agreement to suspend or terminate payments if after 15 days written notice the Agency has not complied with any additional conditions that may be imposed, at any time, by HCD, the County, or U.S. HUD.

(7) PRIOR WRITTEN APPROVALS-SUMMARY

The following activities 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-county travel; (travel shall be reimbursed in accordance with Florida Statutes, Chapter 112.061);
- (d) All change orders; and
- (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 out of GDBG funds, 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 ground of race, color, disability, national origin, religion, age, financial 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 feasible extent eligible business concerns located in or owned in substantial part by persons residing in the project areas shall be awarded contracts in connection with the project. The Agency shall comply with the Section 3 Clause of the Housing and Community Development Act of 1968.

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 business and minority/women-owned business enterprises of supplies and services, and provide these sources the maximum feasible opportunity to compete for contracts to be performed pursuant to this Agreement. To the maximum extent feasible these small business and minority/women-owned business enterprises shall be located in or owned by residents of the CDBG areas designated by Palm Beach County in the CDBG Annual Consolidated Plan approved by U.S. HUD.

3. PROGRAM BENEFICIARIES

At least fifty-one percent (51%) of the beneficiaries of a project funded through this Agreement must be low- and moderate- income persons. If the project is located in an entitlement city, as defined by U.S. HUD, or serves beneficiaries countywide, at least fifty-one percent (51%) of the beneficiaries directly assisted through the use of funds under this Agreement must reside in unincorporated Palm Beach County or in municipalities participating in the County's Urban County Qualification Program. The project funded under this Agreement shall assist beneficiaries as defined above for the time period designated in 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 payment, reimbursement, or the continuation of this Agreement is dependent upon satisfactory evaluation conclusions based on the terms of this Agreement. 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 status reports required under this Agreement on forms approved by HCD to enable HCD to evaluate progress. The Agency shall provide information as requested by HCD to enable HCD to complete reports required by the County or HUD. The Agency shall allow HCD, the County, 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 Agency shall 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 shall be borne by the Agency. In the event the Agency is exempt from having an audit conducted under A-133, the Agency shall submit audited financial statements and/or the County reserves the right 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 be made available to the County 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, its employees and elected officers harmless from and against any and 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 the 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 \$1,000,000 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.

(3) WORKERS 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 3323 Belvedere Road, Building 501, 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 target areas or any parcels therein, 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 maximum opportunity be provided for employment of and participation of low and moderate-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 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 HCD in the implementation of the Citizen Participation Plan, as requested by HCD.

12. RECOGNITION

All facilities purchased or constructed pursuant to this Agreement shall 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 made available under this Agreement.

13. AGREEMENT DOCUMENTS

The following documents are herein incorporated by reference and made a 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, A-133, and 24CFR Part 84
- (3) Title VI of the Civil Rights Act of 1964, the 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, and 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) Florida Statutes, Chapter 112;
- (7) Palm Beach County Purchasing Ordinance;
- (8) Federal Community Development Block Grant Regulations (24 CFR Part 570), as amended;
- (9) The Agency's personnel policies and job descriptions;
- (10) The Agency's incorporation Certificate and Articles of Incorporation;
- (11) The Agency's By-laws;
- (12) The Agency's Certificate of Insurance;
- (13) Current list of the Agency's officers and members of its Board of Directors; and
- (14) Proof of the Agency's 501(c)(3) certification from the Internal Revenue Service.

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 event of termination for any of the following reasons, 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.

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 for set-off purposes 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 a fifteen (15) working day written notice of such termination to the other party and specifying therein 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 the 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. NOTICES

All notices required to be given under this Agreement shall be sufficient when delivered to HCD at its office at 3323 Belvedere Road, Building 501, West Palm Beach, Florida 33406, and to the Agency when delivered to its office at the address listed on page one (1) 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, hours of work, rates of compensation, leave, unemployment compensation and employee benefits.

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. 287.133 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).

HOUSING PARTNERSHIP, INC.

21. COUNTERPARTS OF THE AGREEMENT

This Agreement, consisting of fifteen (15) enumerated pages which include 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.

22. ENTIRE UNDERSTANDING

This Agreement and its provisions merge any prior agreements, if any, between the parties hereto and constitutes the entire understanding. The parties hereby acknowledge that there have been and are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.

WITNESS our Hands and Seals on this ____ day of _____, 20____.

(AGENCY SEAL)

HOUSING PARTNERSHIP, INC.

BY: 

Robert C. Kneip
Executive Vice President

By: 

Louis Macloskey, Secretary/Treasurer

BY: _____

Attorney for Agency
(Signature Optional)

(COUNTY SEAL)

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

BOARD OF COUNTY COMMISSIONERS

Karen T. Marcus

By: 

for Tony Masilotti, Chairman
Board of County Commissioners

ATTEST: Sharon R. Bock,
Clerk & Comptroller

By: 

Judith Crocker
Deputy Clerk

Approved as to Form and
Legal Sufficiency

By: 

Tammy K. Fields
Senior Assistant County Attorney

Document No.: R2006-1348

JUL 11 2006

Approved as to Terms and Conditions
Dept. of Housing and Community Development

By: 

Amin Houry, Manager
Housing and Capital Improvements

EXHIBIT A
WORK PROGRAM NARRATIVE

I. THE AGENCY AGREES TO:

- A. **PROJECT SCOPE**: The scope of this project, subject to funding availability, shall include the acquisition of the property owned by the South County Foundation for Mental Health, Inc., and bearing property control numbers 00-43-44-30-01-119-0032, 00-43-44-30-01-121-0030, 00-43-44-30-01-121-0041, and 00-43-44-30-01-120-0041. After acquisition, the Agency shall, allow the property to be occupied by the seller and its sub-lessees, as more fully described below, and shall eventually convey such property to a grantee to be identified by HCD for the purpose of developing affordable/attainable housing, as also more fully described below. Should acquisition of the described property not be feasible in the opinion of HCD, then the County shall have the option of withdrawing from this Agreement with no further obligation or liability.
- a. **Applicable Regulations**: In addition to any other applicable statute, ordinance, or regulation, the Agency agrees that it shall acquire this property in accord with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act, and Federal regulations at 24 CFR Part 35, pertaining to lead-based paint in housing acquired with CDBG funds.
- b. **Sales Contract**: The Agency shall negotiate a sales price with the seller for the above specified property, execute a sales contract, and provide HCD with a copy of such contract. The sales contract shall be made subject to, and contain the following:
- 1) A condition that makes the purchase of the property subject to the County's approval.
 - 2) A disclosure to the seller of the Fair Market Value of the property as established by the County at \$2,550,000.
 - 3) An option that allows the seller to withdraw from the sales contract, without penalty, after the Fair Market Value of the property is provided to the seller by the Agency.
 - 4) A requirement that the seller shall provide clear title to the property.
 - 5) A requirement that obligates the seller and buyer to each pay closing costs as customarily paid in Palm Beach County by sellers and buyers.
 - 6) A requirement that obligates the seller to authorize the County to enter the property for the purpose of conducting inspections, assessments, surveys, and appraisals of the property.
 - 7) A disclosure to the seller by the Agency informing the seller that it does not have the power of eminent domain to acquire the property through condemnation, that this is a voluntary, arm's length transaction, and that the Agency will not acquire the property if negotiations fail to result in an amicable agreement.
 - 8) A disclosure to the seller that the seller shall not be eligible to receive any relocation payment or other relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act or any other law or regulation.
 - 9) A disclosure to the seller that the seller's tenants are eligible to receive relocation payments or other relocation assistance as required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act.
 - 10) A disclosure to the seller that Federal regulations at 24 CFR Part 35, pertaining to lead-based paint in housing are applicable to the acquisition of the property.
 - 11) A requirement of the seller to make arrangements, immediately after the signing and acceptance of the sales contract, with a closing agent to handle the closing for the transaction.

NOTE 1: The Agency understands that the County shall, in no event, fund a purchase price for the acquisition of the property that exceeds the Fair Market Value shown above. All such excess amounts, if any, shall be funded by the Agency from its own sources.

NOTE 2: The Agency understands that if the seller withdraws from the sales contract as described above after being informed of the established Fair Market Value of the property, it may amend the sales contract or re-enter into a revised sales contract with the seller provided that the above conditions in I.A.b, and Note1, are met.

NOTE 3: The Agency shall pay the deposit established in the sales contract.

NOTE 4: The Agency shall allow the seller to retain ownership of all furnishings and appliances found at the property at the time of sale.

- d. Request for Acquisition Funding: Upon completing the above, the Agency may request HCD for the property's acquisition funding. The Agency shall provide HCD with a copy of the unsigned closing statement and an owner's title insurance policy commitment. As a condition for HCD's release of acquisition funding, the Agency shall require the seller, at or before closing, to remedy any title defect identified by HCD that is revealed in said commitment, and the seller shall be responsible for any costs associated with perfecting the seller's title to the property. The County shall provide the Agency with a check at closing for the acquisition of the property. The County shall also reimburse the Agency for its deposit amount that it paid in connection with the sales contract. A separate check shall be issued to the Agency to reimburse it for the deposit amount.
- e. Acquisition Closing: At the closing for the property, the Agency shall execute a Declaration of Restrictions document in favor of the County, which document is provided as Exhibit A and attached hereto. This document shall then be recorded with the deed to the property. The Agency shall assure that recording fees for the aforesaid document are included in the closing statement. After the closing, the Agency shall provide the County with copies of the recorded deed, signed closing statement, and the owner's title insurance policy, as well as the original recorded document at Exhibit A. The Agency agrees in regard to the use of the facility whose acquisition is being funded in part or in whole by CDBG funds as provided by this Agreement, that it will comply with the provisions of Exhibit A.
- f. Lease of the Acquired Property: At the closing the Agency shall execute a lease to the acquired property with the South County Foundation for Mental Health, Inc. (SCFMH). Such lease shall allow the uninterrupted use and occupancy of the property by the South County Mental Health Center, Inc. (SCMHC) and its clients beginning with the date and time that the Agency acquires the property, and ending on a date no sooner than the date that the last client in residency has been relocated according to the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Nevertheless, the term of the lease shall not extend more than a six month period after the closing date unless such is agreeable to the County. In lieu of a rent/lease payment, the agency shall require the SCFMH to pay all real estate taxes and assessments due during the term of the lease.

The lease shall require the SCFMH to maintain the property including buildings and grounds and pay all utilities during the term of its occupancy.

The lease shall prohibit SCFMH from adding any new clients to those in residency at the property, shall require the SCFMH to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act, and shall require the SCMHC to relocate its clients in residency at the property as expeditiously as possible.

The lease shall require the SCFMH to comply with Federal regulations at 24 CFR Part 35, pertaining to lead-based paint in housing acquired with CDBG funds.

The lease shall require the SCFMH to maintain the following insurance coverage:

SCFMH shall, at its sole expense, maintain in full force and effect at all times during the life of the lease, 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 SCFMH, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by SCFMH under the lease.

1) COMMERCIAL GENERAL LIABILITY

The SCFMH shall agree to maintain Commercial General Liability at a limit of liability not less than \$1,000,000 Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted by the County's Risk Management Department. SCFMH shall agree that this coverage shall be provided on a primary basis.

2) BUSINESS AUTOMOBILE LIABILITY

SCFMH 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 SCFMH does not own any automobiles, the Business Auto Liability requirement shall be amended allowing SCFMH 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. SCFMH shall agree that this coverage shall be provided on a primary basis.

3) WORKERS COMPENSATION INSURANCE

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

4) PROPERTY, WIND, AND FLOOD INSURANCE

SCFMH shall agree to maintain: (1) property insurance written on a replacement cost basis in an amount not less than 100% of the replacement cost of the building(s) and contents, including Betterments and Improvements made by or on behalf of SCFMH, located on the property. Coverage shall be written on a replacement cost basis and include an endorsement for Ordinance & Law coverage, (2) Flood insurance, regardless of the flood zone, in an amount not less than 100% of the actual cash value of the building(s) and contents, including Betterments and Improvements made by or on behalf of SCFMH, located on the property; or the maximum amount available from the National Flood Insurance Program, whichever is less. (3) Windstorm insurance, unless included as a covered peril in the property insurance, in an amount not less than 100% of the actual cash value of the building(s) and contents, including Betterments and Improvements made by or on behalf of SCFMH, located on the property; or the maximum amount available under the Florida Windstorm Underwriting Association, whichever is less. SCFMH shall agree to be fully responsible for any deductible or self-insured retention, and to provide these coverages on a primary basis.

5) LOSS PAYEE ENDORSEMENT

SCFMH shall agree to endorse the County, and the Agency, as a Loss Payee on the Property, Builder's Risk, Flood, and Windstorm Insurance policies. SCFMH shall agree that the Loss Payee endorsement provides coverage on a primary basis. The Loss Payee endorsement shall read "Palm Beach County Board of County Commissioners"

6) WAIVER OF SUBROGATION

SCFMH shall agree by entering into the lease to a Waiver of Subrogation for each required policy. When required by the insurer, or should a policy condition not permit an Insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then SCFMH shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should SCFMH enter into such an agreement on a pre-loss basis.

7) ADDITIONAL INSURED

SCFMH shall agree to endorse the County, and the Agency, 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". SCFMH shall agree that the Additional Insured endorsements provide coverage on a primary basis.

8) CERTIFICATE OF INSURANCE

SCFMH shall agree to deliver to the County a certificate(s) of insurance evidencing the required insurance is in full force and effect prior to the execution of the lease. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be included on the certificate(s). SCFMH shall deliver the certificate(s) to HCD at its office at 3323 Belvedere Road, Building 501, West Palm Beach, Florida 33406.

9) RIGHT TO REVIEW AND ADJUST

SCFMH 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.

- g. Use of, and Access to the Acquired Property: After acquisition of the property, the Agency agrees not to alter or demolish any buildings or appurtenances found on the property except as approved by the County. The Agency also agrees not to construct any new structures on the property after it has been acquired. After acquisition of the property, the Agency authorizes the County, and its designees, vendors, and

HOUSING PARTNERSHIP, INC.

contractors, to enter the property for the purpose of conducting inspections, assessments, and surveys, and to take all measures that the County deems necessary to comply with the requirements of this Agreement in general, and to comply with the requirements of the Applicable Regulations cited in I.A.a above in particular (including, but not limited to, paint stabilization).

- h. Future Transfer of Title to the Acquired Property: After expiration of the lease with SCFMH, the Agency shall transfer title to the property to a grantee to be selected by HCD. The Agency shall transfer such title to the selected grantee at no cost to the grantee on a date to be selected by HCD.

Taxes and assessments due during the period between the date that SCFMH ends its lease, and the date that the aforesaid transfer of title takes place, shall be paid by the grantee. All closing costs associated with the aforesaid transfer of title shall be borne by the grantee provided that the Agency deliver to the grantee, at such closing, clear title to the property. All liens or clouds on title occurring during the Agency's term of ownership of the property shall be removed at the Agency's cost such that it may deliver clear title to the grantee at the aforesaid closing.

The Agency further agrees that HCD, in consultation with any parties it deems necessary, shall be the final arbiter on the Agency's compliance with the above.

The provisions of this clause shall survive the expiration of this Agreement.

II. THE COUNTY AGREES TO:

- A. Provide funding for the specified activity as described above in "Project Scope", during the term of this Agreement, in the amount of \$2,400,000.
- B. Provide project administration and inspection to the Agency to ensure compliance with U.S. HUD and the Department of Labor, and applicable State, Federal and County laws and regulations.
- C. Monitor the Agency at any time during the term of this Agreement. Visits may be scheduled or unscheduled as determined by HCD, be conducted by HCD staff or its contractor, and will serve to ensure compliance with U.S. Department of HUD regulations, that planned activities are conducted in a timely manner, and to verify the accuracy of reporting to HCD on program activities.
- D. The County shall perform an environmental review of the project. Environmental review costs incurred by the County may be charged to the project budget identified above.
- E. Allowable costs that may be paid by the County under this Agreement in addition to those stated in II.A above:
 - (a) Costs of asbestos surveys, asbestos abatement, and abatement monitoring.
 - (b) Cost of lead-based paint assessments and deteriorated paint stabilization.
 - (c) Soil testing, appraisal and surveying costs.
 - (d) Costs of any other services customarily associated with projects of the nature of the project contemplated by this Agreement.

The County shall review requests by the Agency for expenditures on the above items prior to undertaking the services associated with them; and approve any such expenditures it deems appropriate for this project.

EXHIBIT A

Return to:
Palm Beach County
Housing & Community Development
3323 Belvedere Road, Building 501
West Palm Beach, Florida 33406
Prepared by: Tammy K. Fields,
Senior Assistant County Attorney
Attention: Amin Houry

DECLARATION OF RESTRICTIONS

The undersigned, HOUSING PARTNERSHIP, INC., a not for profit corporation duly organized and existing under the laws of the State of Florida, having its principal office at 2001 West Blue Heron Boulevard, Riviera Beach, FL 33404 hereinafter referred to as "Declarant", for the property described below, in consideration of funding in the amount of Two million and four hundred thousand Dollars (\$2,400,000) received from the Palm Beach County Board of County Commissioners (the "County") does hereby grant to the County the following restrictions against the subject property, hereinafter referred to as the Property, and described as:

TYPE LEGAL DESCRIPTION HERE

Property Control Number(s): 00-43-44-30-01-119-0032
00-43-44-30-01-121-0030
00-43-44-30-01-121-0041
00-43-44-30-01-120-0041

1. These restrictions shall be deemed a covenant running with the land and are binding upon the undersigned, their heirs, executors, successors, and assigns. These restrictions can only be terminated or released by the Palm Beach County Board of County Commissioners, and executed with the same formalities as this document.
2. In consideration of the County's grant in the amount of \$2,400,000 (in CDBG dollars) as provided through a grant Agreement with the County dated July 11, 2006, the Declarant hereby covenants and agrees for a period of 10 years commencing with the expiration date of said grant Agreement (as may be amended from time to time) to use the subject property as described in said grant Agreement, and the Declarant further agrees to maintain insurance as required in the grant Agreement.
3. The Declarant agrees in regard to the use of the facility/property whose acquisition or improvements were funded through the grant Agreement that for a period of ten (10) years after the expiration date of said Agreement (as may be amended from time to time):
 - (a) The Declarant may not change the use or planned use, or discontinue use, of the facility/property (including the beneficiaries of such use) from that for which the acquisition or improvements were made, unless the Declarant provides affected citizens with reasonable notice of, and opportunity to comment on, any such proposed change and either:
 1. The new use of the facility/property, in the opinion of the County, qualifies as meeting one of the national objectives defined in the regulations governing the CDBG program, and is not a building for the general conduct of government;
or
 2. The requirements of paragraph 3(b) of this section are met.
 - (b) If the Declarant determines after consultation with affected citizens, that it is appropriate to change the use of the facility/property to a use which does not qualify under Paragraph 3(a)(1) of this section or discontinue use of the facility/property, it may retain or dispose of the facility for such use if the County is reimbursed in the amount of the current fair market value of the facility/property less any portion thereof attributable to expenditures of non-CDBG funds for acquisition of, or improvements to the facility/property. The final determination of the amount of any such reimbursement to the County under this paragraph shall be made by the County.

- (c) Following the reimbursement of CDBG funds by the Declarant to the County pursuant to Paragraph 3(b) above, the facility/property will then no longer be subject to these restrictions, and the County shall then release these restrictions as described above.

In the event of any proposed sale, conveyance or transfer of the subject property, the Declarant must obtain approval of the County, through its Housing and Community Development Department. Any approved sale or conveyance of the subject property by the Declarant will be contingent upon the receipt of the payment by the County in accordance with the provisions of Paragraph 3(b) above, or the receipt of a commitment, executed by a subsequent owner acceptable to the County, confirming its acceptance of the restrictions and conditions provided herein for the duration of this Declaration.

Notwithstanding the foregoing, the restrictions set forth herein shall run with the land whether or not such commitment is obtained from a subsequent owner.

4. The Declarant agrees to notify the County of any liens, judgements or pending foreclosure on the subject property within five (5) working days of the receipt of said notice by the Declarant.

5. The Declarant acknowledges and covenants that the provisions specified below constitute a default under this Declaration for which there may be a forfeiture of the Declarant's title to the Property:

- (a) Failure of the Declarant to perform any covenant, agreement, term, or condition contained herein or in the Agreement referenced in Section 2 above.

Notwithstanding the foregoing, and at the sole discretion of the County, upon providing notice to the Declarant of its determination that the Declarant is in default of the terms of this Declaration, the County may, from time to time, at its sole discretion, cure each default under any covenant so curable in this Declaration, or in any instrument creating a lien upon the Property, or any part thereof, to such extent that the County, at its sole discretion, determines, and each amount paid, if any, by the County to cure any such default shall be paid by the Declarant to the County in addition to the legal rate of interest from the time of expenditure and shall constitute a lien against the property which may be foreclosed if not discharged and satisfied within three (3) months of expenditure of such funds by the County. The County shall also become subrogated to whatever rights the holders of a prior lien might have under such instrument.

6. If the Declarant fails, neglects or refuses to perform any of the provisions, terms and conditions set forth herein, for any breach of this Declaration, the County shall have the right to file in court of competent jurisdiction an action for:

- (a) Forfeiture of all the Declarant's right, title, and interest in the Property for a breach of the restrictive covenants contained in this Declaration;
- (b) Due and unpaid real estate taxes, assessments, charges and penalties for which the Declarant is obligated to pay.

In addition to any remedy set forth herein the County shall have such other remedies as are available at law or equity. The exercise or attempted exercise by the County of any right or remedy available under this Declaration shall not preclude the County from exercising any other right or remedy so available, nor shall any such exercise or attempted exercise constitute or be construed as an election of remedies. The Declarant shall pay any reasonable expenses, including reasonable attorney's fees and costs incurred by the County, under this Declaration and the preparation and delivery of notices required hereunder. The failure or omission by the County to enforce any of its rights or remedies upon breach of any of the covenants, terms or conditions of this Declaration shall not bar or breach any of the County's rights or remedies on any subsequent default. Before the County shall pursue any of its rights or remedies under this Declaration, the County shall first give the Declarant written notice of the default complained of which such notice shall be given to the Declarant at their address shown above. The Declarant shall then have ten (10) working days from the date such notice is given to cure or correct any default.

7. Declarant shall submit to the County once each year a report detailing the Declarant's compliance with the terms of the grant Agreement and this Declaration of Restrictions.

8. Declarant relinquishes all rights to alter, amend, modify, or release these covenants prior to the completion of the ten year period described above.

HOUSING PARTNERSHIP, INC.

9. In the event of any litigation necessary to enforce the terms of the Declaration, the Declarant agrees to reimburse the County for attorneys fees and costs associated with litigation.

Executed this _____ day of _____, 20__

HOUSING PARTNERSHIP, INC.

(DO NOT SIGN THIS EXHIBIT)

By: _____
John Corbett, President

(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF PALM BEACH

The forgoing instrument was acknowledged before me this ____ day of _____, 20__, by
John Corbett, who is personally known to me or has produced _____
_____ as identification and who did (did not) take an oath.

(DO NOT SIGN THIS EXHIBIT)

(Print or type name)
Notary Public State of Florida at Large

(Signature)

My Commission Expires:

(NOTARY SEAL)