

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date:	October 21, 2014	[X] Consent	[] Regular
		[] Ordinance	[] Public Hearing
Department:	Department of Economic Sustainability		



I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a Satisfaction of Mortgage and Notice of the Survival of Certain Covenants and Restrictions for Evernia Station Limited Partnership (ESLP).

Summary: On November 19, 2002, the County entered into a Rental Assistance Loan Agreement (R2002-2084) with ESLP to provide \$320,000 from HOME Investment Partnership Program (HOME) funds towards the construction of 20 rental units at 950 Evernia Street in West Palm Beach. This cash flow dependent loan was provided at three percent (3%) for 15 years, and was secured on March 27, 2003, by a Mortgage and Security Agreement and a Promissory Note which matures on July 1, 2017. As of August 31, 2014, ESLP owes \$320,000 in principal and \$105,542 in accrued interest. They have proposed an early payment of \$309,130 for a full satisfaction of the County's Mortgage. The project has not generated any cash flow to pay down any amounts owed. Staff has reviewed cash flow statements recently prepared by an independent Certified Public Accountant for the period 2008 to the present which confirms the lack of cash flow as indicated in project income and expense certifications received from ESLP. Staff recommends acceptance of ESLP's offer which would relieve ESLP from its financial obligation without affecting the continuation of the original affordability requirements up to March 26, 2018. The original funding was provided from Federal HOME grant funds which required a 25% local match provided with State SHIP funds. (DES Contract Development) District 7 (TKF)

Background and Justification: The Rental Assistance Loan Agreement with ESLP required that 20 units be occupied by households whose incomes are at or below 80% of median income.

- Attachments:**
- 1. Satisfaction of Mortgage for Evernia Station Limited Partnership
 - 2. Mortgage and Security Agreement and Promissory Note from Evernia Station Limited Partnership
-

Recommended By:		<u>10-8-14</u>
	Department Director	Date
Approved By:		<u>10-15-14</u>
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income	(\$309,130)				
In-Kind Match (County)					
NET FISCAL IMPACT	(\$309,130)				


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

Fund 1103 Dept 143 Unit 1434 Object 8701 Program Code/Period _____

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

The proceeds will be deposited as program income in the HOME Investment Partnership Act Fund 1103.

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

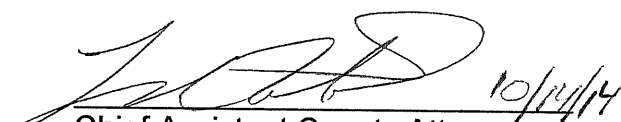
III. REVIEW COMMENTS

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


OFMB 6/30 9/30 10/1/14


Contract Development and Control 10/9/14

B. Legal Sufficiency:


Chief Assistant County Attorney 10/14/14

C. Other Department Review:

Department Director

Prepared by: Tammy K. Fields
Chief Assistant County Attorney
Return to:

PCN: 74-43-43-21-01-043-0050

SATISFACTION OF MORTGAGE
AND
NOTICE OF THE SURVIVAL OF CERTAIN COVENANTS AND RESTRICTIONS

Know All Men By These Presents: Palm Beach County, a political subdivision of the State of Florida ("County"), the owner and holder of a certain Mortgage and Security Agreement executed by Evernia Station Limited Partnership, a Florida limited partnership ("Borrower"), dated March 27, 2003, and recorded in Official Records Book 15080, Page 0994, in the Office of the Clerk of the Circuit Court of Palm Beach County, Florida, ("Mortgage"), securing a certain Promissory Note in the principal sum of Three Hundred Twenty Thousand Dollars and 00/100 Cents (\$320,000), and containing certain promises and obligations set forth in said Mortgage, upon the property situate in said State and County as described in Exhibit "A" attached hereto, does hereby acknowledge full payment and satisfaction of said Promissory Note and Mortgage and surrenders the same as canceled, and hereby directs the Clerk of the said Circuit Court to cancel the same of record.

NOTICE OF SURVIVAL OF COVENANTS AND RESTRICTIONS: Borrower and County entered into the HOME Rental Program Assistance and Loan Agreement on November 19, 2002 (R2002-2084) ("Loan Agreement"), the terms of which were incorporated into the Mortgage. Borrower does hereby acknowledge that the Mortgage and Loan Agreement were granted in consideration of certain covenants and restrictions contained in said Loan Agreement, becoming restrictions recorded against the land for a period of 15 years from the granting of the Mortgage and surviving the payment or other termination of the Mortgage and Note. The surviving covenants and restrictions are set forth in Exhibit "B" attached hereto and incorporated herein, and shall remain in effect until March 26, 2018.

Executed this _____ day of _____, 20____.

(COUNTY SEAL BELOW)

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

BOARD OF COUNTY COMMISSIONERS

ATTEST: Sharon R. Bock,
Clerk & Comptroller

By: _____
Priscilla A. Taylor, Mayor
Palm Beach County

By: _____
Deputy Clerk

Document No.: _____

Approved as to Form and
Legal Sufficiency

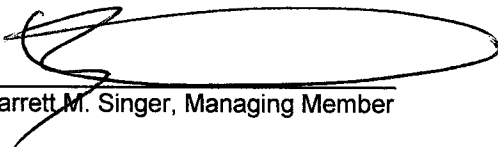
Approved as to Terms and Conditions
Department of Economic Sustainability

By: _____
Tammy K. Fields,
Chief Assistant County Attorney

By:  _____
Sherry Howard,
Deputy Director

EVERNIA STATION LIMITED PARTNERSHIP
a Florida Limited Partnership

By: **EVERNIA STATION, LLC**
a Florida Limited Liability Company,
its General Partner

By: 
Barrett M. Singer, Managing Member

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 25th day of, September, 20 14
by Barrett Michael Singer, who is personally known to me, or who has
produced FLDL S 526.073 .47 .081.0 as identification and who did/did not take an oath.

Signature: 

Notary Name: Claribel Lopez
Notary Public - State of Florida

(NOTARY SEAL ABOVE)

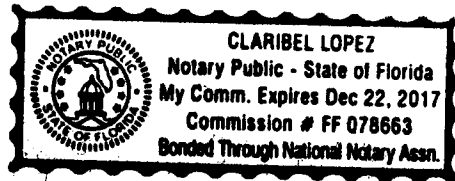


EXHIBIT A

LEGAL DESCRIPTION

THE EAST HALF OF LOT 5, BLOCK 43, LESS AND EXCEPT THE NORTH 20 FEET THEREOF RESERVED TO THE CITY OF WEST PALM BEACH FOR PUBLIC STREET PURPOSES AND THE WEST HALF OF LOT 5, LESS THE WEST 30 FEET AND THAT PORTION DEEDED TO THE CITY OF WEST PALM BEACH IN OFFICIAL RECORDS BOOK 2725, PAGE 423, ALL IN BLOCK 43, CITY OF WEST PALM BEACH, FLORIDA OLD TOWN, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE 2, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B

SURVIVING COVENANTS AND RESTRICTIONS

Below are the surviving covenants and restrictions from the HOME Rental Program Assistance and Loan Agreement (R2002-2084) entered into on November 19, 2002, by and between Palm Beach County and Evernia Station Limited Partnership.

HOME PROVISIONS: County and Borrower agree to comply with the following HOME regulations as set forth in 24 CFR Part 92 Subpart F:

- (a) **Maximum Per Unit Subsidy**
Amount: The amount of HOME funds invested on a per-unit basis in affordable housing may not exceed the per-unit dollar limits established by the Palm Beach County Department of Housing and Community Development.

- (b) **Property Standards:** Housing that is constructed with HOME funds must meet all applicable local codes and zoning ordinances at the time of project completion, which ensure that the housing is decent, safe, and sanitary. In the absence of a local code for new construction, HOME-assisted new construction must meet, as applicable: one of three model codes (Uniform Building Code (ICBO), National Building Code, (BOCA) Standard Building Code (SBCCI); or the Council of American Building Officials (CABO) one or two family code; or the Minimum Property Standards (MPS) in 24 CFR 200.925 or 200.926. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

Borrower, as owner of rental housing assisted with HOME funds, must maintain the housing in compliance with all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements.

- (c) **Qualification as Affordable - Rent**
Limitation: HUD provides the following maximum HOME rent limits. The maximum HOME rents are the lesser of:

- (i) The fair market rent for existing housing for comparable units in the area as established by HUD under 888.111; or
- (ii) A rent that does not exceed thirty (30%) percent of the adjusted income of a family whose annual income equals sixty-five (65%) percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions; or
- (iii) A rent for at least twenty (20%) percent of the HOME-assisted units not greater than thirty (30%) percent of annual income of a family whose income equals fifty (50%) percent or less of the Palm Beach County median income. In determining the maximum monthly rent that may be charged for a unit that is subject to this limitation, the Borrower must subtract a monthly allowance for any utilities and services (excluding telephone) to be paid by the tenant.

- (d) **Occupancy Requirements:** All twenty (20) HOME-assisted units must be occupied only by households that qualify as very low-income families in that their annual income does not exceed fifty (50%) percent of Palm Beach County's median income, as adjusted for household size. After initial occupancy, up to twenty (20%) percent of the HOME-assisted may be leased to households with incomes up to eighty (80%) percent of the County's median income for the remainder of the affordability period. For occupied units, occupancy is defined as the tenant in place at the time the HOME assistance is approved. For vacant units, occupancy is defined as the first tenant after the completion of the project, and the issuance of the Certificate of Occupancy.

- (e) **Tenant Protections:** The owner cannot refuse to lease HOME-assisted units to a certificate or voucher holder under 24 CFR part 982--Section 8 Tenant-Based Assistance: unified Rule for Tenant-Based Assistance under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program or to the holder of a comparable document evidencing participation in a HOME tenant-based rental assistance program because of the status of the

prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.

(f) **Long-term Affordability:** The HOME-assisted units must meet the affordability requirements for not less than fifteen years from the date of initial occupancy. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. They must be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. The County may use purchase options, right of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property.

(g) **Rents During the Affordability Period:** The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. HUD then provides the new maximum HOME rent limits to the County. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment.

The County must provide Borrower with information on updated HOME rent limits so that rents may be adjusted in accordance with this Agreement. Borrower must annually provide the participating jurisdiction with information on rents and occupancy of HOME-assisted units to demonstrate compliance with this provision.

Any increases in rents for HOME-assisted units is subject to the provisions of outstanding leases, and in any event, the Borrower must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rent.

(h) **Adjustment of HOME Rent Limits:** Changes in fair market rents and in median income over time should be sufficient to maintain the financial viability of a project within the HOME rent limits.

HUD may adjust the HOME rent limits for a project, only if HUD finds that an adjustment is necessary to support the continued financial viability of the project and only by an amount that HUD determines is necessary to maintain continued financial viability of the project. HUD expects that this authority will be used sparingly.

(i)

Tenant and Participant Protections:

(i) **Lease:** The lease between a tenant and Borrower, as owner of rental housing assisted with HOME funds, must be for not less than one (1) year, unless by mutual agreement between the tenant and Borrower.

(ii) **Prohibited Lease Terms:** The lease may not contain any of the following provisions:

- **Agreement to be sued:** Agreement by the tenant to be sued, to admit guilt, or to a judgement in favor of the Borrower in a lawsuit brought in connection with the lease;

- **Treatment of property:** Agreement by the tenant that the Borrower may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties; (this prohibition however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The Borrower may dispose of this personal property in accordance with State law);

- **Excusing Borrower from responsibility:** Agreement by the tenant not to hold the Borrower or the Borrower's agents legally responsible for any action or failure to act, whether intentional or negligent;

- **Waiver of notice:** Agreement of the tenant that the Borrower may institute a lawsuit without notice to the tenant;

- **Waiver of legal proceedings:** Agreement by the tenant that the Borrower may evict the tenant or household

members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;

Waiver of right to appeal court decision: Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and,

Tenant chargeable with cost of legal actions regardless of outcome: Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the Borrower against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

- (j) Termination of Tenancy: Borrower may not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing; for reasons consistent with Section 42 of the Internal Revenue Service Code; or for other good cause. To terminate or refuse to renew tenancy, the Borrower must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.

- (k) Maintenance and replacement: Borrower, as owner of rental housing assisted with HOME funds, must maintain the premises in compliance with all applicable housing quality standards and local code requirements.

- (l) Tenant selection: Borrower, as owner of rental housing assisted with HOME funds, must adopt written tenant selection policies and criteria that:

- (i) Are consistent with the purpose of providing housing for very low- income and low-income families;
- (ii) Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease;
- (iii) Give reasonable consideration to the housing needs of families that would have a preference under 960.211 (Federal section preferences for admission to Public Housing) of the title;
- (iv) Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable;
- (v) Give prompt written notification to any rejected applicant of the grounds for any rejection; and
- (vi) Provide for On-going Property Inspections: All units must continue to meet Section 8 Housing Quality Standards and local code throughout the affordability term. For projects containing less than 25 HOME assisted units, the inspection of each HOME assisted unit is required once in every two-year period. For projects containing 25 or more HOME assisted units, the project must be inspected each year.

- (m) Housing and Quality Standards: The property prior to initial occupancy by the Borrower must meet at a minimum Section 8 Housing Quality Standards (HQS) and local building codes and ordinances of the County of Palm Beach.

- (n) Affirmative Marketing: 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 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.

Palm Beach County will take the 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.

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

Borrower, in order to carry out the requirements and procedures of HCD's Affirmative Marketing Program, must comply with the following procedures:

(i) The Equal Opportunity logo or slogan will be used in advertisements;

(ii) Borrower will be requested to solicit applications from persons in the housing market area who are not likely to apply for housing without special outreach. Borrower satisfies this requirement by posting a notice of vacancies in any or all of the following:

- Community Organizations
- Fair Housing Groups
- Housing Counseling Agencies
- Commercial Media
- Employment Centers
- Local Public Housing Authorities (PHA's)
- or Other Similar Agencies

(iii) Palm Beach County HCD will keep records of their efforts to affirmatively market units and will require Borrower to provide copies of its records, including advertisements, minutes of meetings, income documentation, and census tract information as applicable.

(iv) Affirmative marketing records of the participants 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 of inquiry written to or from prospective clients. Borrower will be informed of their responsibility to adhere to the said requirements. Borrower will be required to submit monthly or quarterly reports using measures such as number of housing units provided, and number of families assisted. These measures will be used to determine the success of the program.

(v) The requirements of 24 CFR Part 92.351 concerning affirmative marketing are hereby incorporated into this Agreement. Borrower must take steps to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market, to the available house. Failure to comply will result in a contract violation, possibly requiring repayment of any Federal funds.

(vi) The County will also assess the affirmative marketing program annually 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. The Division 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.

(o) **Other Program Requirements:**

(i) The Federal requirements set forth in 24 CFR 5.105(a), Nondiscrimination and equal opportunity, are applicable to Borrower.

(ii) Environmental review - Section 92.352 of HOME rules applies.

- (iii) Displacement, relocation, and acquisition- Section 92.353 of HOME rules applies.
- (iv) Labor - Section 92.354 of HOME rules applies (unless less than twelve (12) HOME-assisted units).
- (v) Lead paint - new construction - Section 92.355 of HOME rules applies.
- (vi) HOME rules Conflict of Interest - Section 92.356 of applies.

SPECIAL PROVISIONS: Borrower expressly agrees to the following terms and conditions:

- (a) Borrower agrees that the Improvements will consist of a twenty (20) unit apartment complex. The property must remain affordable until December 31, 2017 in accordance with the County's Department of Housing and Community Development's Rental Housing Program Guidelines and those of 24 CFR, Part 92.252.
- (b) The Borrower shall not discriminate on the basis of race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, or gender identity or expression in the use, or occupancy of any housing constructed on the Premises.
- (c) The Mortgage shall not be subject to any prepayment penalty.
- (d) The Mortgage shall become immediately due and payable upon sale, transfer, or refinancing, unless such sale, transfer or refinancing is approved by County, which approval will not be unreasonably withheld.
- (e) The Mortgage shall be non-assumable, unless consented to by County at its sole discretion.
- (f) Borrower agrees that the project will include:
 - (i) carpet, central heat and air conditioning, ceiling fans, frost free refrigerator, self-cleaning ovens, dishwashers, garbage disposals, drapes or blinds and insulated/sound-proofed common walls in each unit.
 - (ii) landscaped lot, parking lot and common-use washer and dryers.

04/18/2003 09:24:04 20030217161
DR BK 15080 PG 0994
Palm Beach County, Florida

This instrument prepared by
and to be returned to:
Tammy K. Fields, Esq.
Palm Beach County Attorney's Office
P.O. Box 1989
West Palm Beach, FL 33402

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE INDENTURE, executed this 27th day of March, 2003, by Evernia Station Limited Partnership, a Florida limited partnership, (hereinafter collectively and separately referred to as the "Mortgagor", as party of the first part, and PALM BEACH COUNTY, a political subdivision of the State of Florida (the "Mortgagee") which term as used in every instance shall include the Mortgagee's successors and assigns), as party of the second part;

W I T N E S S E T H:

The Mortgagor is the owner of the premises legally described as:

THE EAST HALF OF LOT 5, BLOCK 43, LESS AND EXCEPT THE NORTH 20 FEET THEREOF RESERVED TO THE CITY OF WEST PALM BEACH FOR PUBLIC STREET PURPOSES AND THE WEST HALF OF LOT 5, LESS THE WEST 30 FEET AND THAT PORTION DEEDED TO THE CITY OF WEST PALM BEACH IN OFFICIAL RECORDS BOOK 2725, PAGE 423, ALL IN BLOCK 43, CITY OF WEST PALM BEACH, FLORIDA OLD TOWN, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE 2, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

(hereinafter the "Premises"). Mortgagee has this date agreed to loan Three Hundred Twenty Thousand Dollars (\$320,000.00) to Mortgagor and in connection therewith Mortgagor has this date executed and delivered to Mortgagee its Promissory Note in that amount (the "Note"). A true copy of the Note is annexed hereto as Exhibit "B" and forms a part hereof.

This Mortgage is given in accordance with that certain Loan Agreement executed between Mortgagor and Mortgagee. This Mortgage and Security Agreement, the Note, and the Loan Agreement shall hereinafter collectively be referred to as the "Loan Documents".

GRANTING CLAUSE

NOW, THEREFORE, the Mortgagor, in consideration of the premises and in order to secure payment of both the principal of, and the interest and any other sums payable on, the Note or this Mortgage, and the performance and observance of all the provisions hereof, and of the loan documents, hereby gives, leases, bargains, sells, warrants, aliens, remises, releases, conveys, assigns, transfers, mortgages, hypothecates, deposits, pledges, sets over and confirms unto the Mortgagee, all of the Mortgagor's estate, right, title and interest in, to and under any and all of the Premises, improvements (including improvements to be made hereafter), fixtures here and below described and located on the Premises which sometimes collectively referred to hereinafter as the "Mortgaged Property".

TOGETHER with all and singular the rights, interests and

appurtenances whatsoever, in any way belonging, relating or appertaining to any of the Premises hereinabove mentioned or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by the Mortgagor including but not limited to all of Mortgagor's sewer capacity rights, and Mortgagor's rights under contracts, permits, licenses and all other documents and payments affecting the Premises, reserving only the right to the Mortgagor to collect the same so long as the Mortgagor is not in default hereunder and so long as the same are not subjected to garnishment levy, attachment or lien.

TO HAVE AND TO HOLD the Premises and all parts, rights, members and appurtenances thereof, to the use, benefit and behalf of the Mortgagee, its successors and assigns in fee simple forever, and the Mortgagor covenants that the Mortgagor is lawfully seized and possessed of the Premises in fee simple and has good right to convey the same, that the same are unencumbered excepting taxes accruing subsequent to 2001, and those certain exceptions appearing on the Mortgagee's Title Insurance Policy given in connection herewith and specifically approved by Mortgagee, and that the Mortgagor will warrant and defend the title thereto against the claims of all persons whomsoever, except as hereinafter expressly provided.

Notwithstanding the foregoing, this Mortgage shall be subject and subordinate to separate mortgage and security agreement and related loan documents encumbering the Premises upon their execution by Mortgagor in favor of Community Financing Consortium, Inc., as its interests may appear, relating to a loan in an original aggregate principal amount of \$950,000, ("First Mortgage").

PROVIDED ALWAYS that the Mortgagor shall pay unto the Mortgagee all sums required under the terms of the Note, which Note is in the original principal amount of \$320,000.00 and has a maturity date of December 31, 2017, unless such maturity is accelerated as set forth in the Note, and shall comply with and abide by each and every one of the stipulations, agreements, conditions and covenants of the Loan Documents, then in such event this Mortgage and Security Agreement and the estate hereby created shall cease and be null and void.

The Mortgagor covenants with the Mortgagee as follows:

1.1 Payments of Indebtedness. The Mortgagor shall punctually pay the principal and interest and all other sums to become due in respect to the Note at the time and place and in the manner specified in the Note, according to the true intent and meaning thereof, all and any coin or currency of the United States of America which at the time of such payment shall be legal tender for the payment of public and private debts.

1.2 Taxes, Liens and Other Charges.

(a) The Mortgagor, from time to time prior to the delinquency thereof, will pay and discharge all taxes of every kind and nature, all general and special assessments, levies, permits, inspection and license fees, all water and sewer rents and charges and all other public charges, whether of a like or different nature, imposed upon or assessed against the Mortgaged Property or any part thereof or upon the revenues, rents, issues, income and profits of the Mortgaged Property or arising in respect of the occupancy, use or possession thereof. The Mortgagor will, upon the request of the Mortgagee, deliver to the Mortgagee copies of receipts evidencing the payment of all such taxes, assessments, levies, fees, rents and other public charges imposed upon or

assessed against the Mortgaged Property or the revenues, rents, issues, income or profits thereof. Notwithstanding the above, Mortgagor shall have the right to contest in good faith any of the above charges by appropriate legal or administrative proceedings without being in default hereof.

(b) The Mortgagor shall pay, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and other persons or entities which, if unpaid, might result in or permit the creation of, a lien on Mortgaged Property or any part hereof, or on the revenues, rents, issues, income and profits arising therefrom whether such lien is or may become prior or remain inferior to the Mortgage and also, irrespective of the priority of such other lien(s). Mortgagor in general will do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of the Mortgagor, without expense to the Mortgagee.

(c) The Mortgagor shall pay any taxes except income taxes imposed on the Mortgagee by reason of the Mortgagee's ownership of the Note or this Mortgage.

1.3 Insurance/Condemnation.

(a) The Mortgagor will keep the Mortgaged Property continuously insured in an amount no less than full insurable value which coverage shall insure the Mortgaged Property against loss or damage by fire and by the perils covered by extended coverage and against such other hazards as the Mortgagee, in its sole discretion, shall from time to time require, for the benefit of the Mortgagor and Mortgagee, among others. All such insurance at all times will be in an insurance company or companies in such amounts and with terms reasonably acceptable to the Mortgagee, with loss, if any, payable to the Mortgagee as its interest may appear, pursuant to a noncontributory mortgagee clause which shall be satisfactory to the Mortgagee; and forthwith upon the issuance of such policies they will deliver to the Mortgagee copies of receipts for the premiums paid thereon and certificates of insurance. Any policies furnished the Mortgagee shall become its property in the event the Mortgagee becomes the owner of the Premises by foreclosure or otherwise. Each insurance company is hereby authorized and directed to make payment for all such losses to the Mortgagor and the Mortgagee jointly. Should a loss be incurred, equal to or in excess of fifty percent (50%) of the full insurable value of the Mortgaged Property, then in such event, Mortgagee and Mortgagor may jointly elect to use the proceeds for the reconstruction and repair of the Mortgaged Property or, in the alternative, to apply the net proceeds to the payment of the indebtedness hereby secured, whether then due or not. The proceeds attributable to all losses that are less than fifty percent (50%) of the full insurable value of the Mortgaged Property will be used to restore the Mortgaged Property.

(b) In the event of a condemnation (which term when used in the Mortgage shall include any damage or taking by any governmental authority and any transfer by private sale in lieu thereof) either temporarily or permanently, of any part of the Premises constituting twenty percent (20%) or more of the full value of the Premises, or in the event such condemnation makes the Premises unusable for the purposes contemplated herein and in the Loan Agreement, then in such event, the entire indebtedness secured hereby shall at the option of the Mortgagee, become immediately due and payable. Such events shall be a Condemnation Event ("Condemnation Event"); however, any condemnation for less than twenty percent (20%) of value or not rendering the Premises

unusable, shall not be affected by this section. In the event of a Condemnation Event: The Mortgagee shall be entitled to all compensation, awards, and other payments or relief thereof, and is hereby authorized at its option, to appear in and prosecute, in its own name, any action or proceeding relating to any condemnation; and all such compensation, awards, damages, claims, rights of action and proceeds, and the right thereto from any Condemnation Event are hereby assigned by the Mortgagor to the Mortgagee, who, after deducting therefrom, all its expenses, including attorneys fees, may release any monies received by it without further affecting this Mortgage and may apply the same in such manner as the Mortgagee shall determine, to the reduction of the sum secured hereby, and any balance of such monies then remaining shall be paid to the Mortgagor. The Mortgagor agrees to execute such further assignment of any compensation, awards, damages, claims, rights of action and proceeds from a Condemnation Event as the Mortgagee may require.

(c) The Mortgagee recognizes that this Mortgage will be subordinate to the First Mortgage, and to the extent that the provisions relating to insurance and condemnation proceeds conflict with similar terms and conditions of the First Mortgage, the First Mortgage shall supersede and shall be controlling.

1.4 Care of Premises.

(a) The Mortgagor will keep the improvements now or hereafter erected on the Premises in good condition and repair, will not commit or suffer any waste and will not do or suffer to be done anything which will increase the risk of fire or other hazard to the Premises or any part thereof.

(b) If the Premises or any part thereof is damaged by fire or any other cause, the Mortgagee will give immediate written notice of the same to the Mortgagor.

(c) The Mortgagee or its representative is hereby authorized to enter upon and inspect the Premises at any time during normal business hours.

(d) The Mortgagor will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Premises or any part thereof.

(e) If all or any part of the Premises shall be damaged by fire or other casualty, the Mortgagor will, upon request of the Mortgagee, promptly restore the Premises to the equivalent of its condition immediately prior to such damage, and if a part of the Premises shall be damaged through condemnation, the Mortgagor will, upon request of Mortgagee, promptly restore, repair or alter the remaining part of the Premises in a manner reasonably satisfactory to the Mortgagee. The Mortgagee recognizes that this Mortgage will be subordinate to the First Mortgage, and to the extent this provision conflicts with the similar terms and conditions of the First Mortgage, the First Mortgage shall supersede and shall be controlling. Nothing contained herein shall, however, relieve the Mortgagor from its obligation to make payments under the Promissory Note in accordance with its terms.

1.5 Further Assurances; Modifications. At any time, and from time to time, upon request by the Mortgagee, the Mortgagor will make, exercise and deliver or cause to be made, executed and delivered, to the Mortgagee, any and all other further instruments, certificates and other documents as may, in the opinion of the Mortgagee, be reasonably necessary or desirable in order to

effectuate, complete, or perfect or to continue and preserve (i) the obligations of the Mortgagor under the Note, (ii) the security interest of this Mortgage, and (iii) the mortgage lien hereunder. Upon any failure by the Mortgagor so to do the Mortgagee may make, execute and record any and all such instruments, certificates and documents for and in the name of the Mortgagor and the Mortgagor hereby irrevocably appoints the Mortgagee the agent and the attorney in fact of the Mortgagor so to do.

1.6 Expenses. In addition to the expenses described in subparagraph 2.7(b) hereof, the Mortgagor will pay or reimburse the Mortgagee for all reasonable attorney's fees, costs and expenses, including those in connection with appellate proceedings, incurred by the Mortgagee in any proceedings or in any action, legal proceeding or dispute of any kind which relate to or arise from the Mortgage of the interest created herein, or the Premises, including but not limited to the exercise of the power of sale of this Mortgage, any condemnation action involving the Premises or any action to protect the security hereof; and any such amounts paid by the Mortgagee shall be secured by this Mortgage.

1.7 Estoppel Affidavits. The Mortgagor or the Mortgagee, upon ten days' prior written notice, shall furnish the Mortgagee or the Mortgagor, as applicable, a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the indebtedness secured hereby and whether or not any off-sets or defenses exist against such principal and interest.

1.8 Subrogation. The Mortgagee shall be subrogated to the claims and liens of all parties whose claims or liens are discharged or paid with the proceeds of the indebtedness secured hereby.

1.9 Performance by Mortgagee of Defaults by Mortgagor. If the Mortgagor shall default in the payment of any tax, lien, assessment or charge levied or assessed against the Premises; in the payment of any utility charge, whether public or private; in the payment of any insurance premium; in the procurement of insurance coverage and the delivery of the insurance policies required hereunder; in the performance of any covenant, term or condition of any leases affecting all or any part of the Premises; or in the performance or observance of any covenant, condition or term of this Mortgage; then the Mortgagee, at its option, may perform or observe the same, and all reasonable payments made or costs incurred by the Mortgagee in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by the Mortgagor to the Mortgagee with interest thereon at the maximum rate provided by law. The Mortgagee shall be the sole judge of the legality, validity and priority of any such tax, lien, assessment, charge, claim, premium and obligation, of the necessity for any such actions and of the amount necessary to be paid in satisfaction thereof. The Mortgagee is hereby empowered to enter and to authorize others to enter upon the Premises or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to the Mortgagor or any other person in possession holding under the Mortgagor.

1.10 Environmental Representations.

(a) The Mortgagor covenants with the Mortgagee that the Premises have not, to the best of Mortgagor's knowledge, been used and will not be used in whole or in part for the storage of hazardous waste.

(b) To the best of Mortgagor's knowledge after due

diligence has been exercised to investigate, no violation of any Federal, State or local environmental regulations now exists regarding the Mortgage Property.

(c) Mortgagor shall comply with all Federal, State and local environmental regulations during the construction of the improvements on the Premises.

(d) Mortgagor shall give written notice to Mortgagee immediately upon Mortgagor's acquiring knowledge of the presence of any hazardous substances on the Mortgage Property or of any hazardous substances contamination thereon, or of any notices received by Mortgagor that are violations or potential violations of any environmental regulation laws, ordinances, rules or regulations exists on the Mortgage Property.

ARTICLE II.

2.1 Due on Sale or Further Encumbrance Clause. In determining whether or not to make the loan secured hereby, Mortgagee examined the credit-worthiness of Mortgagor, found it acceptable and continues to rely upon the same as the means of repayment of the loan. Mortgagee also evaluated the background and experience of Mortgagor in owning and operating property such as the Premises, found it acceptable and continues to rely upon same as the means of maintaining the value of the Premises, was ably represented by a licensed attorney at law in the negotiation and documentation of the loan secured hereby and bargained at arm's length and without duress of any kind for all of the terms and conditions of the loan, including this provision.

In accordance with the foregoing and for the purposes of (i) protecting Mortgagee's security both of repayment by Mortgagor and of value of the Premises; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; (iii) allowing Mortgagee to raise the interest rate and/or collect assumption fees; and (iv) keeping the Premises free of subordinate financing liens Mortgagor agrees that if this paragraph be deemed a restraint on alienation, that it is a reasonable one and that any sale, conveyance, assignment, further encumbrance or other transfer of title to the Premises or any interest therein (whether voluntarily or by operation of law) without the Mortgagee's prior written consent, which may be withheld for any reason, shall be an Event of Default hereunder. For the purpose of and without limiting the generality of, the preceding sentence, the occurrence at any time of any of the following events shall be deemed to be an unpermitted transfer of title to the Premises and therefore an Event of Default hereunder.

(a) any sale, conveyance, assignment or other transfer of or the grant of a security interest in, all or any part of the title to the premises,

(b) any new or additional liabilities without the prior written consent of Mortgagee,

Any consent by the Mortgagee, or any waiver of an event of default, under this Paragraph shall not constitute a consent to, or waiver of any right, remedy or power of the Mortgagee upon a subsequent event of default under this Paragraph.

2.2 Default. A default shall have occurred hereunder if:

(a) The Mortgagor shall fail to pay in full within fifteen (15) days from the date due and payable any installment of

principal, interest, late charges or escrow deposits as required by the Note, this Mortgage and otherwise; or

(b) The Mortgagor shall fail to duly observe on time any other covenant, condition or agreement of this Mortgage, the HOME Rental Program Assistance and Loan Agreement, the Promissory Note or of any other instrument evidencing security or executed in connection with the indebtedness secured hereby, and such failure continues for a period of thirty (30) days following written notice by the Mortgagee; or

(c) Any warranties or representations made or agreed to be made in any of the Loan Documents shall be materially breached by the Mortgagor or shall prove to be false or misleading and such breach is not cured within 30 days following written notice from Mortgagee; or

(d) Any lien for labor or material or otherwise shall be filed against the Premises, and such lien is not canceled, removed, transferred or bonded within thirty (30) days following written notice from the Mortgagee; or

(e) A levy shall be made under any process on, or a receiver be appointed for, the Premises or any other property of the Mortgagor; or

(f) The Mortgagor shall file a voluntary petition in bankruptcy, or any other petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation or similar relief for the Mortgagor under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtor; or

(g) The Mortgagor shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Mortgagor or of all or any part of the Premises or of any or all of the rents, revenues, issues, earnings, profits or income thereof; or

(h) The Mortgagor shall make any general assignment for the benefit of creditors; or

(i) In any legal proceeding the Mortgagor shall be alleged to be insolvent or unable to pay the Mortgagor's debts as they become due which proceeding is not dismissed within sixty (60) days of Filing; or

(j) The Mortgagor shall do, or shall omit to do, any act, or any event shall occur, as a result of which any obligation of the Mortgagor, not arising hereunder, may be declared immediately due and payable by the holder thereof; or

(k) A material breach by Mortgagor of any covenant, representation, or warranty set forth in the Loan Agreement and the expiration of any applicable grace period, or an Event of Default occurs under the terms of the HOME Rental Program Assistance and Loan Agreement or any of the other Loan Documents pertaining to the Note and Mortgage; or

(l) One Hundred Percent (100%) of the Mortgaged Property shall cease to remain affordable in accordance with the Palm Beach County Department of Housing and Community Development's Rental Housing Program Guidelines and those of 24 CFR, Part 92.252 for a period of fifteen (15) years from the date hereof; or

(m) The Mortgagor shall default on the First Mortgage resulting in the acceleration thereof; or

If the Mortgagee shall reasonably believe that any one or more of the defaults enumerated in paragraphs (a) through (m) may occur, then the Mortgagee shall notify the Mortgagor of the specific facts which create the reasonable basis for its belief and shall request the Mortgagor to provide satisfactory evidence to the Mortgagee that such default is not likely to occur or that Mortgagor has taken appropriate steps to cure the default if it should occur.

2.3 Special Conditions.

(a) Upon sale, transfer, or refinancing of the Premises, all available proceeds of the sale shall be applied to pay the following items in order of priority:

- Expenses of the sale;
- (i) First Mortgage debt in full, including fees and accrued interest, if any;
- (ii) All accrued but unpaid interest on the Note;
- (iv) Second Mortgage debt in full, including fees.

(b) All of the principal and interest of the indebtedness secured hereby shall be due and payable upon sale, transfer, or refinancing, unless an assumption of the debt is permitted by Mortgagee, in its sole discretion.

(c) The indebtedness secured hereby shall be serviced by the Mortgagee or by a lending institution selected by Mortgagee.

(d) The discrimination provision of §420.516, Florida Statutes, shall apply to the loan secured hereby.

A violation of any of the above stated Special Conditions by Mortgagor shall constitute a default hereunder.

2.4 Acceleration of Maturity. If a default shall have occurred hereunder, then the whole unpaid principal sum of the indebtedness secured hereby with interest accrued thereon shall, at the option of the Mortgagee, become due and payable without notice or demand, time being of the essence of this Mortgage and of the Note secured hereby; and no omission on the part of the Mortgagee to exercise such option when entitled so to do shall be considered as a waiver of such right.

2.5 Right of Lender to Enter and Take Possession.

(a) If any default shall have occurred and be continuing, the Mortgagor, upon demand of the Mortgagee, shall forthwith surrender to the Mortgagee the actual possession of the Premises and if, and to the extent permitted by law, the Mortgagee may enter and take possession of the Premises and may exclude the Mortgagor and the Mortgagor's agents and employees wholly therefrom. In the event Mortgagee exercises its rights pursuant to this subparagraph (a), the Mortgagee shall be deemed to be acting as agent of Mortgagor and not as owner of the Premises.

(b) For the purpose of carrying out the provisions of this paragraph, the Mortgagor hereby constitutes and appoints the Mortgagee the true and lawful attorney in fact of the Mortgagor to do and perform, from time to time, any and all actions necessary

and incidental to such purpose and does, by these presents, ratify and confirm any and all actions of said attorney in fact in the Premises.

(c) Whenever all such defaults have been cured and satisfied, the Mortgagee shall surrender possession of the Premises to the Mortgagor, provided that the right of the Mortgagee to take possession, from time to time, pursuant to subparagraph 2.5(a) shall exist if any subsequent default shall occur and be continuing.

2.6 Appointment of a Receiver and Foreclosure.

(a) If a default shall have occurred hereunder, then the whole debt secured by this Mortgage, with all interest thereon, and all other amounts hereby secured shall, at the option of Mortgagee, become immediately due and payable, and may forthwith or at any time thereafter be collected by suit at law, foreclosure or other proceeding upon this Mortgage or by any other proper, real or equitable procedure without declaration of such option and without notice.

(b) In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all reasonable expenditures and expenses which may be paid or incurred by or on behalf of the Mortgagee for attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication cost and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstract of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature in this paragraph mentioned shall become so much additional debt secured hereby and shall be immediately due and payable with interest thereon at the maximum rate provided by law, when paid or incurred by Mortgagee in connection with (i) any proceeding, including foreclosure, probate and bankruptcy proceedings, to which it shall be a party, either as plaintiff, claimant, or defendant, by reason of this Mortgage, or any indebtedness hereby secured, (ii) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced, or (iii) preparations for the defense of any threatened suit or proceeding which might affect the Premises or the security hereof, whether or not actually commenced.

(c) Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the Premises. Such receiver shall have power to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit, and in case of a sale and a deficiency, during the full statutory period of redemption, if any, whether there be redemption or not, as well as during any further times when Mortgagor except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period.

(d) Mortgagor shall deliver to Mortgagee at any time on its request, all agreements for deed, contracts, leases, abstracts, title insurance policies, commitments of title, surveys and other papers relating to the Premises, and in case of foreclosure thereof and failure to redeem, the same shall be delivered to and become the property of the person obtaining a deed to the Premises by reason of such foreclosure.

2.7 Discontinuance of Proceedings and Restoration of the Parties. In case the Mortgagee shall have proceeded to enforce any right or remedy under this Mortgage by receiver, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adverse to the Mortgagee, then in every such case the Mortgagor and the Mortgagee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of the Mortgagee shall continue as if no such proceeding had been taken.

2.8 Remedies Cumulative. No right, power or remedy conferred upon or reserved by the Mortgagee by this Mortgage is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

2.9 Stamp and Excise Tax. If any documentary additional stamp or excise tax shall become applicable with respect to this Mortgage, the Note, any loan or credit extended hereunder, or any security agreement, guaranty, the loan agreement or other document, the Mortgagor shall promptly pay such tax in full (including interest and penalties, if any) and shall hold the Mortgagee harmless with respect thereto. The Mortgagor's liability under this paragraph will survive the repayment of indebtedness under the Note.

ARTICLE III.

3.1 Successors and Assigns Included in Parties. Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such parties shall be included and all covenants and agreements contained in this indenture by or on behalf of the Mortgagor and by or on behalf of the Mortgagee shall bind and inure to the benefit of their respective heirs, legal representatives, successors and assigns, whether so expressed or not. Provided, however, that the Mortgagor shall have no right to assign its obligations hereunder without the prior written consent of the Mortgagee, which shall not be unreasonably withheld.

3.2 Headings. The headings of the sections, paragraphs and subdivisions of this Mortgage are for the convenience of reference only and shall not limit or otherwise affect any of the terms hereof.

3.3 Invalid Provisions to Affect No Others. If fulfillment of any provision hereof or any transaction related hereto or to the Note, at the time performance of such provisions shall be due, shall involve transcending the limit of validity prescribed by law, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity; and if any clause or provision herein contained operates or would prospectively operate to invalidate this Mortgage in whole or in part, then such clause or provision only shall be held for naught, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full

force and effect. Notwithstanding any provision contained herein, the total liability of Mortgagor for payment of interest, including service charges, penalties or any other fees shall not exceed the maximum amount of such interest permitted by applicable law to be charged, and if any payments by Mortgagor include interest in excess to the reduction of the unpaid principal amount due and pursuant hereto.

3.4 Number and Gender. Whenever the singular or plural number, masculine or feminine or neuter gender is used herein, it shall equally include the other.

ARTICLE IV.

4.1 Notice. Any notice or other communication required or permitted to be given hereunder shall be sufficient if in writing and delivered in person or sent by United States Certified Mail, postage prepaid, to the parties being given such notice at the following addresses:

Mortgagor:	Evernia Station Limited Partnership 4239 Northlake Blvd., Suite D Palm Beach Gardens, FL 33410 Attn.: Joseph F. Crossen
Mortgagee:	Palm Beach County c/o County Attorney's Office 301 North Olive Avenue, Suite 601 West Palm Beach, FL 33401

Any party may change said address by giving the other parties hereto notice of such change of address. Notice given as hereinabove provided shall be deemed given on the date of its deposit in the United States Mail and, unless sooner received, shall be deemed received by the party to whom it is addressed on the third calendar day following the date on which said notice is deposited in the mail, or if a courier system is used, on the date of delivery of the notice.

ARTICLE V.

5.1 Future Advances. It is agreed that this Mortgage shall also secure such future or additional advances as may be made by the Mortgagee at its option to the Mortgagor, or its successor in title, for any purpose, provided that all those advances are to be made within three (3) years from the date of this Mortgage, or within such lesser period of time as may be provided hereafter by law as a prerequisite for the sufficiency of actual notice or records notice of the optional future or additional advances as against the rights of creditors or subsequent purchasers for valuable consideration. The total amount of indebtedness secured by this Mortgage may decrease or increase from time to time, but the total unpaid balance so secured at any one time shall not exceed twice the principal amount of the Note, plus interest, and any disbursements made for the payment of taxes, levies or insurance on the Premises with interest on those disbursements. If, pursuant to Florida Statutes Section 697.04, Mortgagor files a notice specifying the dollar limit beyond which future advances made pursuant to this Mortgage will not be secured by this Mortgage, then Mortgagor shall, within one (1) year of day of filing such notice, notify Mortgagee and its counsel by certified mail pursuant to Section 4.1 of this Mortgage. In addition, such a filing shall constitute a default hereunder.

5.2 Lien Priority. The lien priority of this Mortgage shall not be affected by any changes in the Note including, but not limited to, an increase in the interest rate charged pursuant to the Note. Any parties acquiring an interest in the Premises subsequent to the date of this Mortgage is recorded shall acquire

such interest in the Premises with notice that Mortgagee may increase the interest rate charged pursuant to the Note or otherwise modify the Note and the Note, as modified, and the Mortgage shall remain superior to the interest of any Party in the Premises acquired subsequent to the date of this Mortgage is recorded, other than the First Mortgage.

5.3 Security Agreement. This instrument also creates a security interest in any and all equipment and furnishings as are considered or determined to be personal property or fixtures, together with all replacements, substitutions, additions, products and proceeds thereof, in favor of the Mortgagee under the Florida Uniform Commercial Code to secure payment of principal, interest and other amounts due Mortgagee now or hereafter secured hereby, and Mortgagee shall also have all the rights and remedies of a secured party under the Florida Uniform Commercial Code shall be cumulative and in addition to all other rights and remedies of Mortgagee arising under the common law or any other laws of the State of Florida or any other jurisdiction.

5.4 Choice of Law. This Mortgage is to be construed in all respects and enforced according to the laws of the State of Florida and you shall be in Palm Beach County.

5.5 Binding Effect. This Mortgage shall be binding upon and insure to the benefit of the Mortgagor and Mortgagee hereto, and their respective heirs, successors and assigns.


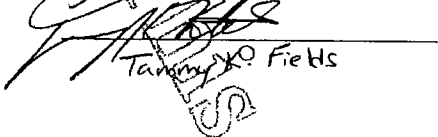
5.6 Non-recourse. This is a non-recourse Mortgage. The Mortgagor shall not have any personal liability for the payment of any portion of the indebtedness evidenced by this Mortgage. In the event of a default by Mortgagor under this Mortgage, the Mortgagee's sole remedy hereunder shall be limited to exercising its rights under the Loan Documents, including foreclosure and the exercise of the power of sale or other rights granted thereunder, but shall not include a right to proceed directly against Mortgagor, or the right to obtain a deficiency judgement after foreclosure against Mortgagor or its partners.

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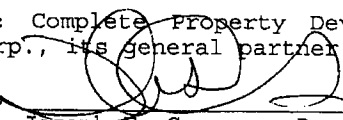
IN WITNESS WHEREOF, the Mortgagor has executed and sealed this Mortgage, the day and year first above written.

Witnesses:

Evernia Station Limited Partnership

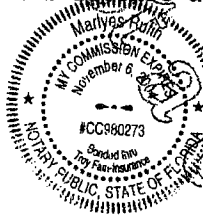

EDWARD T. BIERES

Tammie K. Fields

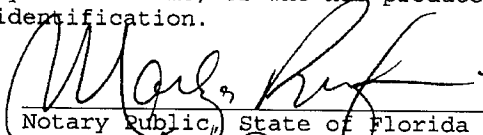
By: Complete Property Development Corp., its general partner

By: 
Joseph F. Crossen, President

STATE OF FLORIDA
PALM BEACH COUNTY

Sworn to and subscribed before me this 27 day of March, 2003 by Joseph F. Crossen, President of Complete Property Development Corp., general partner of Evernia Station Limited Partnership, who is personally known to me, or who has produced a Florida driver's license as identification.




Notary Public, State of Florida

Marlys Rufin
Print, Type or Stamp
Commissioned Name of Notary

[3/10/3]

certified copy

PROMISSORY NOTE

\$320,000.00

West Palm Beach, Florida
June 27, 2003

FOR VALUE RECEIVED the undersigned, Evernia Station Limited Partnership, a Florida limited partnership, ("Maker"), promises to pay to the order of PALM BEACH COUNTY, a political subdivision of the State of Florida, together with any other holder hereof ("Holder"), at 301 North Olive Avenue, West Palm Beach, Florida 33401, or such other place as Holder may from time to time designate in writing, the principal sum of THREE HUNDRED TWENTY THOUSAND (\$320,000.00) DOLLARS plus accrued interest, to be paid in lawful money of the United States of America, as follows:

- 1) This Note shall bear interest computed at the stated rate of three (3%) percent per annum on the outstanding principal balance from time to time remaining unpaid from the date of each disbursement.
- 2) Repayment hereunder shall occur as follows:
 - (a) From the date hereof until January 1, 2004 no payments will be required and interest will accrue on the outstanding principal balance and be payable at the maturity date.
 - (b) Repayment thereafter shall be limited to the actual cash flow of the Project which shall be determined annually on a calendar year basis, commencing with the year 2004, and certified by an independent Certified Public Accountant acceptable to the County, prior to the annual payment due date. The first annual payment due date hereunder shall be on June 30, 2005, for the period January 1, 2004 through December 31, 2004 based on the cash flow from 2004. Subsequent annual payments shall be due on the 30th day of June for each preceding calendar year thereafter through July 1, 2017, at which time all outstanding principal indebtedness together with all accrued and unpaid interest thereon shall be due and payable, unless acceleration is made by Holder pursuant to the provisions hereof.
- 3) Maker agrees to provide annually to Holder a certification of Project income and expenses, and certified by an independent Certified Public Accountant reasonably acceptable to the County, which shall be used by Holder to determine payments due hereunder. Said certification shall be provided prior to each annual due date commencing in the year 2004.
- 4) Commencing with the year 2004 and beginning with the June 30, 2005 payment, payments from Project cash flow as determined by Holder shall be applied to pay the following items in order of priority:
 - (a) First, and Second Mortgage fees and debt service, and Project expenses;

- (b) Interest payment on principal balance of this Note equal to three percent (3%) per annum; and
- (c) Any interest due hereunder deferred from previous years commencing with the year 2005 (interest accrued prior to January 1, 2004 will be deferred until the Maturity Date).

- 5) Any payments of current or deferred base interest due annually hereunder shall be deferred until the next annual due date to the extent that Project income is insufficient to make said payments pursuant to the payment priority schedule in paragraph (4) above and as determined by Maker.

6) This Note may be prepaid in whole or in part at any time, without penalty or premium. Any prepayment hereunder shall be applied first to unpaid costs of collection, servicing fees, and late charges, if any, then to accrued, deferred and unpaid interest and the balance, if any, to the principal balance.

- 7) After maturity or acceleration, this Note shall bear interest at the Statutory Legal Interest Rate until paid in full.

- 8) All terms hereunder shall be as construed and defined in Chapter 31.28, Florida Administrative Code.

PALM BEACH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA IS EXEMPT FROM PAYMENT OF INTANGIBLE TAX ON DOCUMENTS. STAMPS HAVE BEEN AFFIXED TO THE MORTGAGE AND CANCELED AS REQUIRED BY LAW.

This Note is executed pursuant to the terms and conditions of that certain HOME Rental Program Assistance and Loan Agreement dated Nov. 19, 2002 between Maker, as Borrower, and Holder, as Lender, and is secured by a Mortgage and Security Agreement (the "Mortgage") encumbering certain real property located in Palm Beach County, Florida (the "Premises"), all of even date herewith. The foregoing and all other agreements, instruments and documents delivered in connection therewith and herewith are collectively referred to as the "Loan Documents."

This Note has been executed and delivered in, and is to be governed by and construed under the laws of, the State of Florida, as amended, except as modified by the laws and regulations of the United States of America.

Nothing herein contained, nor any transaction related thereto, shall be construed or so operate as to require the Maker to pay interest at a greater rate than is now lawful in such case to contract for, or to make any payment, or to do any act contrary to ethical law. Should any interest or other charges paid by the Maker, or parties liable for the payment of this Note, in connection with the Loan Documents result in the computation or earning of interest in excess of the maximum rate of interest that is legally permitted under applicable law, any and all such excess shall be and the same is hereby waived by the Holder, and any and all such excess shall be automatically credited against and in reduction of the balance due under this indebtedness, and a portion of said excess which exceeds the balance due under this indebtedness shall be paid by the Holder to the Maker.

Holder shall have the right to declare the total unpaid balance hereof to be immediately due and payable in advance of the

Maturity Date upon the failure of Maker to pay when due any payment of principal or interest or other amount due hereunder; or upon the occurrence of an Event of Default pursuant to any other Loan Documents now or hereafter evidencing, securing or guarantying payment of this Note. Exercise of this right shall be without notice to Maker or to any other person liable for payment hereof, notice of such exercise being hereby expressly waived.

Any payment hereunder not paid when due (at maturity, upon acceleration or otherwise) shall bear interest at the highest rate allowed by applicable law from the due date until paid.

Provided Holder has not accelerated this Note, Maker shall pay holder a late charge of five percent (5%) of any required payment which is not received by Holder when said payment is due pursuant to the Mortgage. The parties agree that said charge is a fair and reasonable charge for the late payment and shall not be deemed a penalty.

Time is of the essence hereunder. In the event that this Note is collected by law or through attorneys at law, or under advice therefrom, Maker agrees, to pay all costs of collection including reasonable attorneys' fees, whether or not suit is brought, and whether incurred in connection with collection, trial, appeal, bankruptcy or other creditors proceedings or otherwise.

Acceptance of partial payments or payments marked "payment in full" or "in satisfaction" or words to similar effect shall not affect the duty of Maker to pay all outstanding obligations due hereunder, and shall not affect the right of Holder to pursue all remedies available to it under any Loan Documents.

The remedies of Holder shall be cumulative and concurrent, and may be pursued singularly, successively or together, at the sole discretion of Holder, including specifically any failure to exercise or forbearance in the exercise of any remedy, shall be deemed to be a waiver or release of the same, such waiver or release to be effected only through a written document executed by Holder and then only to the extent specifically recited therein. A waiver or release with reference to any one event shall not be construed as continuing or as constituting a case of dealing, nor shall it be construed as a bar to, or as a waiver or release of, any subsequent remedy as to a subsequent event.

Any notice to be given or to be served upon any party hereto in connection with this Note, whether required or otherwise, may be given in any manner permitted under the Loan Documents.

The term "other person liable for payment hereof" shall include any endorser, guarantor, surety or other person now or hereafter primarily or secondarily liable for the payment of this Note, whether by signing this or another loan document.

Whenever the context so requires, the neuter gender includes the feminine and/or masculine, as the case may be, and the singular number includes the plural, and the plural number includes the singular.

Maker and any other person liable for the payment hereof respectively, hereby (a) expressly waive any valuation and appraisal, presentment, demand for payment, notice of dishonor, protest, notice of nonpayment or protest, all other forms of notice whatsoever, and diligence in collection; (b) consent that Holder may, from time to time and without notice to any of them or demand, (i) extend, rearrange, renew or postpone any or all payments, (ii)

release, exchange, add to or substitute all or any part of the collateral for this Note, and/or (iii) release Maker (or any co-maker) or any other person liable for payment hereof, without in any way modifying, altering, releasing, affecting or limiting their respective liability or the lien of any security instrument; and (c) agree that Holder, in order to enforce payment of this Note against any of them, shall not be required first to institute any suit or to exhaust any of its remedies against Maker (or any co-maker) or against any other person liable for payment hereof or to attempt to realize on any collateral for this Note.

This is a non-recourse Note. The Maker shall not have any personal liability for the payment of any portion of the indebtedness evidenced by this Note. In the event of a default by Maker under this Note, the Holder's sole remedy hereunder shall be limited to exercising its rights under the Loan Documents, including foreclosure and the exercise of the power of sale or other rights granted thereunder, but shall not include a right to proceed directly against Maker, or the right to obtain a deficiency judgement after foreclosure against Maker or its partners.

MAKER WAIVES ITS RIGHT TO A TRIAL BY JURY IF ANY ACTION, WHETHER ARISING IN CONTRACT OR TORT, BY STATUTE OR OTHERWISE, IN ANY WAY RELATED TO THIS NOTE. THIS PROVISION IS A MATERIAL INDUCEMENT FOR HOLDER'S EXTENDING CREDIT TO MAKER AND NO WAIVER OR LIMITATION OF HOLDER'S RIGHTS UNDER THIS PARAGRAPH SHALL BE EFFECTIVE UNLESS IN WRITING AND MANUALLY SIGNED ON HOLDER'S BEHALF.

IN WITNESS WHEREOF, Maker has executed this Note on the day and year first above written.

EVERNIA STATION LIMITED PARTNERSHIP

By: Complete Property Development Corp., its general partner

By: 
Joseph F. Crossen, President

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