

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: June 2, 2015 [] Consent [X] Regular
[] Ordinance [] Public Hearing

Department: Department of Economic Sustainability

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: **A) Approve** a Conditional Grant Agreement with Amelia Estates, LLC (AELLC); **B) Approve** a Satisfaction of Mortgage; **C) Approve** a Release of Restrictions; and **D) Delegate** authority to the County Administrator, or his designee, to execute a Subordination Agreement with First National Bank of Coffee County (Bank), a Georgia banking company.

Summary: On April 21, 2009, the County entered into a Conditional Grant Agreement (R2009-0656) with AELLC to fund \$800,000 towards the acquisition of a parcel of land in Belle Glade where 30 affordable homes were to be constructed and sold to income eligible homeowners. The County's funds, of which \$650,000 from the Universal Housing Trust Fund have been expended to date on infrastructure improvements to the property, were secured by a Mortgage and Security Agreement, a Promissory Note, and a Declaration of Restrictive Covenant encumbering the property. During the recession, the developer was not able to obtain financing to undertake the intended development, but has more recently secured a \$6 Million loan from the Bank to construct 30 apartments and 12 townhouses on a portion of the property which represents the first phase of development. These 30 apartments will be subject to the County's affordability requirements as contained in the grant documents to be executed in connection with the proposed transaction and the 12 townhouses will be unrestricted units that may be rented or sold. The proposed Conditional Grant Agreement memorializes this change in the development of the property, provides retroactive approval of AELLC's use of the \$650,000 for infrastructure improvements in lieu of land acquisition, contains AELLC's relinquishment of the use of the remaining \$150,000, changes the affordability period from 30 years to 20 years, and establishes the income requirements for the households occupying the 30 apartments at a maximum of 120% of area median income. Satisfaction of the Mortgage and Security Agreement and release of the Declaration of Restrictive Covenant, which contain the original terms and conditions for the project, is necessary to allow closing on the Bank's mortgage while the County's new affordability restrictions on the project will be contained in an Amended and Restated Declaration of Restrictions which will be recorded against the property and part of the closing for the proposed transaction. Staff is recommending delegation of authority to the County Administrator, or his designee, to execute a Subordination Agreement with the Bank whereby the County's interest in the Amended and Restated Declaration of Restrictions would become subordinate to the Bank's \$6,000,000 first mortgage on the property. This delegation of authority will provide the ability to execute the Subordination Agreement in a timely manner when the closing is scheduled. (DES Contract Development) District 6 (JB)

Background and Justification: The housing to be constructed consists of 30 three-bedroom apartments and 12 three-bedroom townhouses. The Bank's \$6 Million loan will pay off the balances of two (2) loans previously made by the Bank to AELLC for a combined principal amount of \$1,630,000 with the difference going to the development costs of the 42 units.

Attachments:

- 1. Location Map
- 2. Conditional Grant Agreement with Amelia Estates, LLC
- 3. Satisfaction of Mortgage
- 4. Release of Restrictions

Recommended By: [Signature] 5-27-15
Department Director Date

Approved By: [Signature] 5/27/15
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					
In-Kind Match (County)					
NET FISCAL IMPACT					

# ADDITIONAL FTE POSITIONS (Cumulative)					
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Is Item Included In Current Budget? Yes ____ No ____

Budget Account Nos.:

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

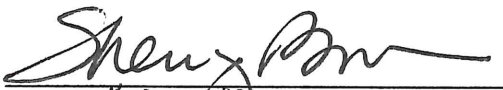
No fiscal impact.

C. Departmental Fiscal Review:


Shairette Major, Fiscal Manager I

III. REVIEW COMMENTS

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


OFMB KD
5/27/15


Contract Development and Control
5/27/15

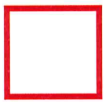
B. Legal Sufficiency:


Assistant County Attorney
5/27/15

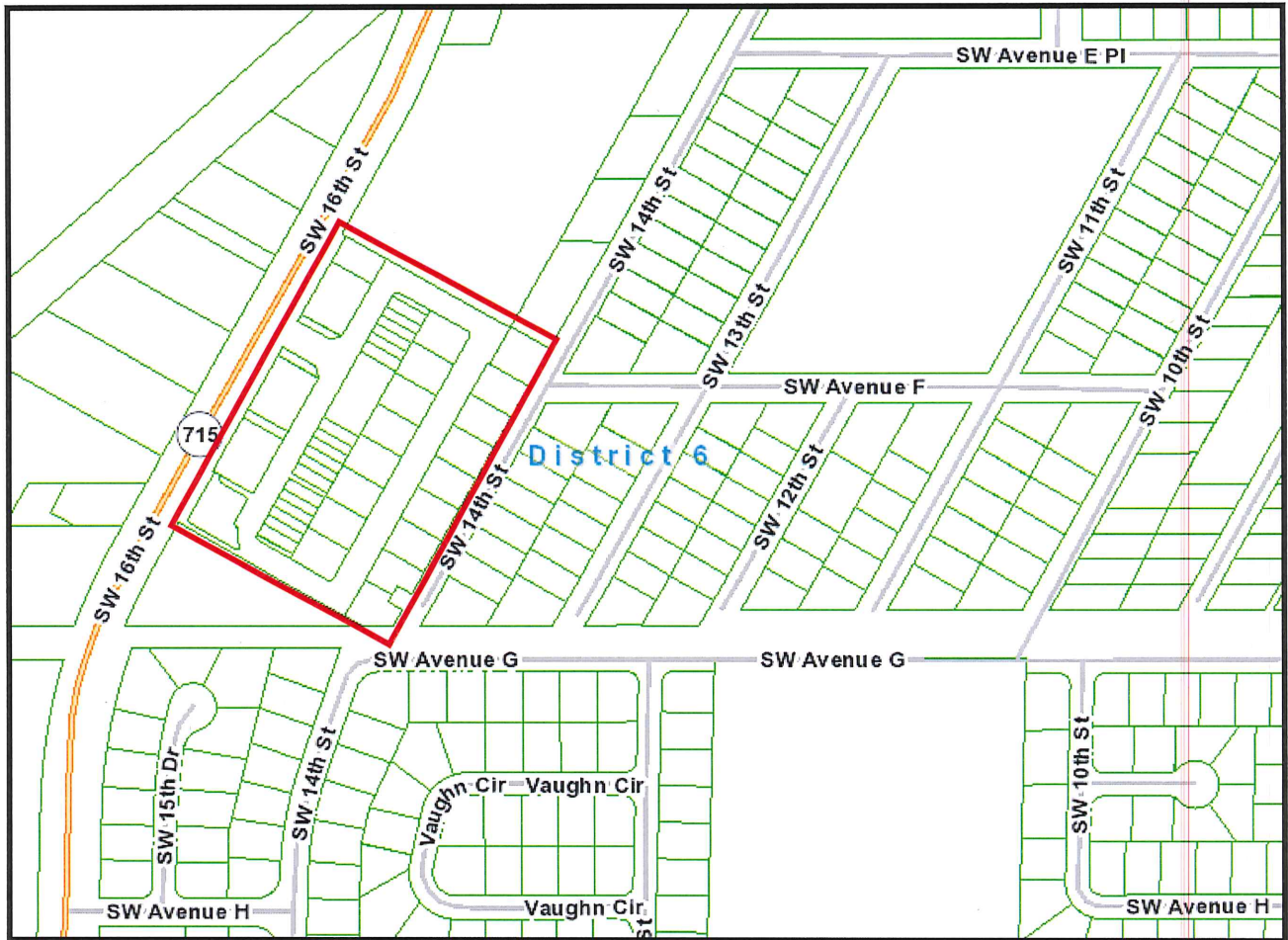
C. Other Department Review:

Department Director

LOCATION MAP



Amelia Estates in Belle Glade



CONDITIONAL GRANT AGREEMENT

THIS AGREEMENT, entered into on _____, by and between **Palm Beach County**, a political subdivision of the State of Florida, (hereinafter referred to as the "County") and **AMELIA ESTATES, LLC**, (the "Grantee") a Florida limited liability company, whose Federal I.D. number is 26-2348062, and whose principal office is at 685 Main Street, Belle Glade, FL 33430.

1. RECITALS:

- (A) Grantee owns certain real property located in Belle Glade, Palm Beach County, Florida, as more particularly described in Exhibit A, attached hereto and made a part hereof (the "Premises").
- (B) On February 19, 2009, the Grantee et al. obtained a loan of \$1,200,000 which loan was secured by a Mortgage and Security Agreement encumbering the Premises in favor of First National Bank of Coffee County and recorded in Official Records Book 23089, at Page 1794, of the Public Records (the "2009 Bank Mortgage").
- (C) On April 21, 2009, Grantee entered into a Conditional Grant Agreement (R2009-0656) (the "Original Agreement") with the County under which the County made available \$800,000 for the sole purpose of acquiring the Premises and constructing improvements. The County agreed to disburse \$650,000 (the "County Grant Funds") for the acquisition of the Premises upon receipt of documentation evidencing acquisition of the Premises and evidence of the closing of the herein described 2009 Bank Mortgage. The remaining \$150,000 was to be disbursed upon receipt of documentation evidencing payment of construction costs. Any changes to those uses of the funds required prior written approval of the Palm Beach County Board of County Commissioners.
- (D) On June 23, 2009, Grantee executed a Mortgage and Security Agreement (the "Original Mortgage") and concurrently delivered a Promissory Note (the "Original Note") in favor of the County as security for said \$800,000, which Original Mortgage, along with a copy of the Original Note, were recorded in Official Records Book 23338, at Page 0565, of the Public Records of Palm Beach County, Florida (the "Public Records").
- (E) On June 23, 2009, Grantee also executed a Declaration of Restrictive Covenant (the "Original Declaration") in favor of the County as security for said \$800,000, which Original Declaration was recorded in Official Records Book 23338, at Page 0580, of the Public Records.
- (F) On June 22, 2012, the Grantee obtained a loan of \$430,000 which loan was secured by a Mortgage and Security Agreement encumbering the Premises in favor of First National Bank of Coffee County and recorded in Official Records Book 25301, at Page 0220, of the Public Records (the "2012 Bank Mortgage").
- (G) The parties to the Original Agreement, the Original Mortgage, the Original Note, and the Original Declaration (together the "Original Loan Documents") agreed that the Grantee, through its use of said \$800,000 and other private financing, would acquire the Premises and construct thirty (30) homes on the Premises to be purchased and occupied by certain households as specified in the Original Loan Documents. The Grantee acquired the Premises pursuant to the terms of the Original Loan Documents and submitted evidence of such to the County along with evidence it had closed on the 2009 Bank Mortgage. The County reimbursed Grantee the County Grant Funds for the purchase of the Premises. Notwithstanding the fact that the County recorded the Original Mortgage and Original Declaration against the Premises for the entire \$800,000, Grantee did not expend the remaining \$150,000 of the grant in light of a national and local economic recession. Given a local recessionary real estate market, Grantee did not construct the thirty (30) homes as contemplated under the Original Loan Documents.

(H) Grantee presently desires to change the project from that specified in the Original Loan Documents and desires to complete development of the Premises with refinancing from the below described First Mortgage. Grantee has requested that County agree to enter into this Agreement in lieu pursuing repayment of the County Grant Funds already expended. The County Grant Funds were spent on infrastructure which expenditure the County is retroactively approving with the execution of this Agreement. Grantee is hereby withdrawing its request for the additional \$150,000 it was to have been granted for improvement costs. The County has agreed to the Grantee's proposal to implement an alternate project to that specified in the Original Loan Documents whereby the Grantee, pursuant to this Agreement, would construct forty-two (42) rental housing units (the "Improvements") on the Premises, to be known as Amelia Estates. The Improvements shall consist of thirty (30) apartments (the "Apartments" or the "Assisted Units") and twelve (12) townhouses (the "Townhouses") (Collectively "Phase I"). The Apartments shall be occupied by households having certain income levels and shall be rented at certain rental rates for a specified period as more particularly described herein.

The Townhouses will not be income restricted nor will they otherwise be subject to any term, provision, requirement, or condition of this Agreement or the Declaration except for the subordination of the County's interest when a Townhouse is sold. By way of example, the Townhouses may be rented or sold.

(I) The Grantee has secured a loan commitment from First National Bank of Coffee County in the amount of Six Million Dollars (\$6,000,000) which shall be secured by a separate mortgage encumbering the Premises (the "First Mortgage") and which shall be used to pay off the 2009 Bank Mortgage and the 2012 Bank Mortgage, and to construct the Improvements.

(J) The parties have agreed to amend, restate, and replace the requirements, obligations, covenants and conditions contained in the Original Loan Documents in the manner specified herein and have agreed to those contained herein.

(K) Grantee and the County have negotiated the terms and conditions of, and wish to enter into, this Agreement in order to set forth the terms and conditions for the use of the herein described Conditional Grant.

NOW, THEREFORE, in consideration of the premises, and of the mutual covenants and agreements set forth below the receipt and sufficiency of which is hereby acknowledged, Grantee and the County agree as follows:

2. PROJECT OVERVIEW AND TERMINATION OF THE ORIGINAL AGREEMENT:

The Premises shall be restricted to residential use. The Grantee shall construct housing on the Premises in two (2) or more phases. This Agreement addresses the Grantee's development of the Premises in the first phase which shall consist of the construction of the Improvements. Neither Phase II, nor any other future phase on the Premises, shall be restricted or otherwise subject to any term, provision, requirement, or condition of this Agreement or the Declaration except as otherwise provided herein, and in the Declaration, concerning the use of the Premises and the County's subordination of its interest upon the occurrence of a sale or refinancing of debt secured by the Premises.

The amendment, restatement, and replacement of the requirements, obligations, covenants and conditions contained in the Original Loan Documents will be accomplished at the closing described in Section 5 below at which the Grantee will, at minimum, execute the First Mortgage and the attached Amended and Restated Declaration of Restrictions. The County will simultaneously deliver to the Grantee a satisfaction of the Original Mortgage and a release of the Original Declaration thereby removing the lien created by said documents on the Premises. The parties hereby agree that upon the Grantee's execution of the aforesaid documents at said closing and the County's delivery of the aforesaid documents at said closing, the Original Agreement shall become null and void.

3. THE CONDITIONAL GRANT AND ASSOCIATED TERMS AND CONDITIONS:

The Grantee acknowledges that the County Grant Funds previously received from the County is the Conditional Grant for which terms and conditions are set forth herein and in the Amended and Restated Declaration of Restrictions (the "Declaration") attached hereto as Exhibit B. The Grantee agrees that the County Grant Funds constitute the entire Conditional Grant and acknowledges that no additional funds shall be released by the County in connection with this Agreement.

Grantee has accepted the Conditional Grant and expressly agrees to comply with and to perform all of the terms and conditions of this Conditional Grant Agreement, the Declaration and any other documents evidencing and securing the Conditional Grant (collectively hereinafter referred to as the "Conditional Grant Documents"). The Grantee agrees that, upon the conclusion of the closing described in Section 5 below and the execution and delivery of the documents associated with such closing, the terms and conditions contained in the Conditional Grant Documents shall replace those contained in the Original Loan Documents.

4. PERFORMANCE REQUIREMENTS:

The Grantee recognizes and understands that by entering into this Agreement, and by having expended the County Grant Funds towards the infrastructure improvements of the Premises, the County wishes to further its provision of affordable housing to income qualified homeowners in a timely manner. The Grantee also recognizes and understands that the Grantee's performance as established under this Agreement is critical to the County's efforts in the provision of affordable housing. The Grantee agrees that time is of the essence in regard to the Grantee's completion and rental of all Apartments at Amelia Estates (also referred to herein as "Project").

In recognition of the above, the Grantee shall implement the Project as follows:

- The Grantee shall complete the construction of all Apartments, with all their Certificates of Occupancy issued by the building department with jurisdiction no later than twenty-four (24) months after the date of the closing described in Section 5 below.
- The Grantee shall rent the Assisted Units such that all Assisted Units are initially occupied by Eligible Households (as defined herein) by no later than thirty (30) months after the date of the closing described in Section 5 below.

5. FIRST MORTGAGE CLOSING AND CONDITIONS PRECEDENT TO CLOSING:

The Grantee shall cause the closing on the First Mortgage to occur at the office of the County Attorney or such other mutually agreed upon site no later than September 30, 2015.

(A) Conditions Precedent:

The conditions listed below are a condition precedent to the County's acceptance of the Declaration and its delivery of a satisfaction of the Original Mortgage and a release of the Original Declaration, and shall be complied with in form and substance satisfactory to the County prior to the closing:

(i) Title Insurance:

(a) The Grantee shall in connection with its acquisition of the First Mortgage loan obtain a Mortgagee's Title Insurance Policy. At least twenty (20) days prior to the closing of the loan, the Grantee shall deliver to the County a title commitment issued by a title insurance company qualified to do business in the State of Florida and acceptable to the County, agreeing to issue to the First Mortgage lender upon recording of the First Mortgage, a Mortgagee's Title Insurance Policy. The Grantee shall not allow any matter appearing in the title commitment to be or become a Permitted Matter or Exception unless the County has approved

such matter as a Permitted Exception. Said commitment shall have attached to it copies of all exceptions referred to in the title commitment. The Grantee shall, prior to closing, request the cure or removal of any Permitted Exceptions not agreeable to the County. If the Permitted Exceptions objected to by the County shall not have been cured or removed from the commitment prior to closing, the County shall have the option of allowing the Grantee to proceed with the closing and its acquisition of the First Mortgage loan or terminating this Agreement, by giving written notice thereof to the Grantee, in which event the parties shall be relieved of all further obligations hereunder. The cost of said title commitment and policy and any premium therefore shall be borne by Grantee.

(b) The County shall have fifteen (15) days after receipt of the title insurance commitment in which to review the same. In the event the title insurance commitment shall show as an exception any matter that the County does not approve as a Permitted Exception, the County shall notify the Grantee of its objections thereto. The Grantee shall timely act to have such exceptions removed, which exceptions shall be deemed to constitute title defects. If the defect shall not have been so cured or removed from the commitment by endorsement thereto prior to the Grantee's closing on the acquisition of the First Mortgage loan, the County shall have the option of accepting title as it then exists or terminating this Agreement by giving written notice thereof to the Grantee, in which event the parties shall be relieved of all further obligations hereunder. The Grantee shall ensure that no title exception to which County objects becomes a Permitted Matter or Exception. Notwithstanding the foregoing, the County shall not object to any exception necessary for the construction and development of the Apartments.

(c) The title insurance commitment shall be endorsed at closing to remove any and all requirements or pre-conditions to the issuance of a Mortgagee's Title Insurance Policy, and to delete any exceptions for: (a) any rights or claims or parties in possession not shown by the public records; (b) encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the Premises; (c) unrecorded easements and claims of liens; (d) taxes for the year 2014 and all prior years; (e) matters arising or attaching subsequent to the effective date of the commitment but before the First Mortgage becomes recorded in the Public Records, except those matters necessary for the construction and development of the Apartments.

(ii) Survey: Grantee shall deliver to the County a current certified survey of the Premises, prepared by a surveyor acceptable to the County, showing the following:

(a) The location of the perimeter of the Premises by courses and distances and perimeter footings in place, and by reference to Township, Range, Section unless platted, in which case, reference shall be to Tract, or Lot and Block per Plat.

(b) The location of and the identification by reference to recording data of all easements, rights-of-way, conditions and restrictions on or appurtenant to the Premises.

(c) The location of all building setback lines.

(d) The lines of the streets abutting the Premises and the width thereof.

(e) All encroachments, and the extent thereof, in feet and inches upon the Premises.

- (f) Flood zone certification.
- (g) Any other notations required for the deletion of the survey exception from the Title Insurance Policy to be issued in accordance with Section 3(A)(i) above and any other requirements requested by the County.
- (iii) Declaration: The Declaration, in a form acceptable to the County Attorney, shall be duly authorized, executed, acknowledged, delivered to the County, and when recorded, shall be a valid lien on the Premises and on all fixtures and personal property owned by Grantee to be used in connection with the improvements and shall secure the County Grant Funds and Grantee's compliance with the terms and conditions of this Agreement. The following conditions shall apply to the Declaration:
- (a) Neither the Declaration, nor Grantee's payment of the County Grant Funds shall be subject to any prepayment penalty or other condition under this Agreement or the Declaration.
- (b) The Declaration shall become immediately due and payable upon an sale, transfer, or refinancing of the Premises not permitted under this Agreement or the Declaration.
- (c) The Declaration shall be non-assumable, unless the County has otherwise consented.
- (iv) Grantee's Affidavit: An affidavit of Grantee shall be executed and delivered to the County as required by the title insurer as noted in Section 3(A)(i) above, certifying to all such facts as are required to delete the Standard Exceptions from the aforementioned Mortgagee's Title Insurance Policy and certifying that no liens exist on the Premises for taxes not yet due and payable and that no other parties are entitled to possession except as otherwise provided therein.
- (v) Public Requirements: The Grantee shall deliver to the County:
- (a) Letters from local utility companies or municipal authorities stating that electricity, telephone, sewer and water facilities will be available to the Premises upon the completion of the intended Improvements.
- (b) A letter from the appropriate Zoning Department certifying as to compliance with all zoning and land use regulations including but not limited to compliance with parking requirements, a copy of the applicable zoning ordinances certified by an appropriate official to be a complete and accurate statement thereof, and an up-to-date zoning map similarly certified.
- (c) Evidence satisfactory to the County that all roads necessary for the full utilization of the intended Improvements for their intended purposes have either been acquired by the appropriate governmental authorities or have been dedicated to public use and accepted by such governmental authorities and that all necessary steps have been taken by Grantee and such governmental authorities to assure the complete construction and installation thereof.
- (d) Copies of approved site plans, subdivision plats, restrictive covenants, plans of developments, and all other documents required by the local zoning and subdivision ordinances, and such other documents required by and satisfactory to the County; and evidence satisfactory to the County and its counsel that the Final Plans conform to all federal, state, and local laws, ordinances, rules and regulations, including, but not

limited to, laws of the State of Florida regulating air and water pollution and land use.

(e) Copies of all necessary approvals from appropriate environmental protection agencies.

(f) Satisfactory soil test report.

(vi) Corporate Documents: The Grantee shall deliver to the County the following documents:

(a) The Articles of Organization of the Grantee and all amendments thereof, certified by the appropriate official of the State of Florida, together with certificates of such official to the effect that Grantee is in good standing therein.

(b) Certified resolutions of the Grantee authorizing the execution and delivery of this Agreement, the Declaration and all other documents necessary or desirable, for the consummation of the transactions contemplated by this Agreement.

(vii) First Mortgage: The closing of the First Mortgage shall have occurred, and First Mortgage documents shall be presented to County.

(viii) Opinion of Grantee's Counsel: The Grantee shall deliver to the County an opinion of counsel for Grantee and addressed to the County, such counsel to be reasonably satisfactory to the County, to the effect that:

(a) This Agreement and all Conditional Grant Documents and any other documents required to be delivered hereunder have been duly authorized, executed and delivered and are valid, binding and enforceable in accordance with their terms subject to applicable bankruptcy, insolvency, and similar laws affecting rights of creditors.

(b) That Grantee is a Florida limited liability company in good standing under the laws of the State of Florida and has all the necessary power and authority to undertake its obligations hereunder.

(c) That to the best of counsel's knowledge, the execution and delivery of the Conditional Grant Documents, the performance by the Grantee of its obligations under the Conditional Grant Documents, and the exercise by the Grantee of the rights created by the Conditional Grant Documents do not violate any Federal, Florida, or local law, rule or regulation.

(d) That the execution and delivery of the Conditional Grant Documents, the performance by the Grantee of its obligations under the Conditional Grant Documents, and the exercise by the Grantee of the rights created by the Conditional Grant Documents do not (1) violate the Grantee's Articles of Incorporation, or (2) to counsel's knowledge, constitute a breach of or a default under any agreement or instrument to which the Grantee is a party or by which it or its assets are bound or result in the creation of a mortgage, security interest or other encumbrance upon the assets of the Grantee (except as set forth in the Conditional Grant Documents), or (3) to counsel's knowledge, violate a judgment, decree or order of any court or administrative tribunal, which judgment, decree or order is binding on the Grantee or its assets.

(e) That to counsel's knowledge, and based on a certificate to be provided by Grantee, there are no proceedings pending or threatened before any court or administrative agency which will materially adversely affect the financial condition or operation of Grantee or the Premises, including but not limited to bankruptcy, reorganization or insolvency proceeding or any other debtor-creditor proceedings under the Bankruptcy Code or any similar statute.

(f) That the lien of the Declaration is a valid lien on the Premises and the security interests described in the Declaration are good and valid security interests.

(g) Such other matters as the County may reasonable require.

(ix) Budget and Schedule: The Grantee shall deliver to the County a current project budget and a production schedule.

6. EXPENSES:

Grantee shall pay fees and charges incurred in the procuring and making of this Grant, if applicable, and other expenses incurred by the County during the term of the Grant, including but not limited to, Title Insurance Company's fees and premiums, charges for examination of title to the Premises, expenses of surveys, recording expenses, any and all insurance premiums, taxes, assessments, water rates, sewer rates and other charges, liens and encumbrances upon the Premises, annual loan servicing and administrative fee, and any other amounts necessary for the payment of the costs of Improvements, or as otherwise enumerated in any other Conditional Grant Documents.

7. SPECIAL PROVISIONS:

The Grantee expressly agrees to the following terms and conditions:

(A) Housing Units to be Constructed and Assisted Units:

The Grantee shall construct the Apartments on the Premises. The Apartments shall be Assisted Units affected by the requirements of this Agreement.

(B) Accessibility of Assisted Units:

The Grantee shall make a minimum of five percent (5%) of all Assisted Units, that is, at least two (2) Assisted Units, accessible to persons with mobility impairments (where such units are on an accessible route and be adaptable and otherwise in compliance with standards set forth in 24 CFR Part 8 and 28 CFR Parts 35 and 36, as applicable). In addition, the Grantee shall assure that Assisted Units meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619).

(C) Property Standards:

Grantee shall construct all Assisted Units in compliance with all applicable State and local codes, ordinances and zoning requirements. All construction must meet State or local residential and building codes, as applicable. All Assisted Units shall be constructed to mitigate the impact of potential disasters, such as hurricanes or flooding, in accordance with such governmental regulations. All Assisted Units must meet the applicable requirements upon completion of construction and shall be maintained in compliance with all such State and local codes, ordinances and zoning requirements for the duration of the affordability period required by the Conditional Grant Documents. **This requirement shall survive the expiration or earlier termination of this Agreement.**

(D) Certificate of Occupancy:

Upon the completion of construction of each Assisted Unit and the Grantee's receipt of the final Certificate of Occupancy for each such unit from the building department with jurisdiction over this Project, the Grantee shall provide the County a copy of the Certificate of Occupancy for each such unit.

(E) Prohibition Against the Use of Materials Containing Asbestos:

The Grantee shall ensure that its bid and construction contract documents contain a prohibition against the use of any materials containing asbestos in connection with the construction of all Assisted Units described herein. Said documents must clearly state that all materials to be used in connection with the construction of these units shall be asbestos-free.

(F) Energy Efficiency:

The Grantee shall ensure that the construction of all Assisted Units shall meet the current edition of the Model Energy Code published by the Council of American Building Officials, and, to the greatest extent possible, shall meet the standards established by the United States Environmental Protection Agency, in the publication titled *A Green Home Begins with ENERGY STAR Blue* or in the Version 6.0 Standard of the Florida Green Building Coalition (www.floridagreenbuilding.org).

The Grantee shall incorporate the following elements into its development plan:

- (i) Energy-efficient Construction Techniques and Products.
- (ii) Improved Indoor Environments:
- (iii) Increased Water Efficiency:

(G) Property, Wind, & Flood Insurance:

The Grantee shall, beginning with the date of the certificate(s) of occupancy for the Apartments, maintain, for the duration of the Declaration, the below described insurance coverages, and the Grantee shall provide DES documentation evidencing such insurance coverage. The Grantee shall pay all costs associated with the insurance coverages specified below.

The Grantee agrees to maintain, for the duration of the Declaration:

- (i) Property insurance written on a replacement cost basis in an amount not less than 100% of the replacement cost of the Grantee's building(s) and contents, including betterments and improvements made by or on behalf of County, located on the Premises. Coverage shall be written on a replacement cost basis and include an endorsement for Ordinance & Law coverage.
- (ii) Flood insurance, regardless of the flood zone, in an amount not less than 100% of the actual cash value of Grantee building(s) and contents, including betterments and improvements made by or on behalf of County, located on the Premises; or the maximum amount available from the National Flood Insurance Program, whichever is less.
- (iii) 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 Grantee's building(s) and contents, including betterments and improvements made by or on behalf of County, located on the Premises; or the maximum amount available under the Florida Windstorm Underwriting Association, whichever is less.

The Grantee agrees to be fully responsible for any deductible or self-insured retention, and agrees to provide these coverages on a primary basis.

The Grantee shall, within 10 working days after the issuance of the certificate(s) of occupancy for the Assisted Units, provide the County with a certificate of property, windstorm, and flood insurance as specified above.

The requirements of this clause shall survive the expiration of this Agreement and shall end upon the expiration or termination of the Declaration of Restrictions.

(H) Civil Rights and Section 504 Compliance:

The Grantee shall ensure that no person shall on the ground of race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information, 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.

The Grantee shall also comply with 24 CFR 5.105(a) regarding discrimination.

The Grantee shall comply with all Federal regulations issued pursuant to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against individuals with disabilities or handicaps.

(I) Non-discrimination:

The Grantee warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information.

The Grantee has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R2014-1421, as amended, or in the alternative, if the Grantee does not have a written non-discrimination policy or one that conforms to the County's policy, it has acknowledged through a signed statement provided to County that the Grantee will conform to the County's non-discrimination policy as provided in Resolution R2014-1421, as amended.

8. OCCUPANCY OF ASSISTED UNITS BY ELIGIBLE HOUSEHOLDS:

At the time Assisted Units are first occupied and at any time thereafter for the entire period required by the Conditional Grant Documents, all Assisted Units shall be rented by the Grantee to Eligible Households. An Eligible Household is defined as a tenant household whose income, adjusted by family size, is at no more than one hundred twenty percent (120%) of the Area Median Income (hereinafter "AMI"). AMI shall mean the most current area median income published by the U.S. Department of Housing and Urban Development (HUD) for the West Palm Beach-Boca Raton Metropolitan Statistical Area.

THE REQUIREMENTS AND RESTRICTIONS SET FORTH IN THIS SECTION 8, OCCUPANCY OF ASSISTED UNITS BY ELIGIBLE HOUSEHOLDS, SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT AND SHALL BE COVENANTS RUNNING WITH THE LAND FOR THE AFFORDABILITY PERIOD SET FORTH HEREIN.

9. AFFIRMATIVE MARKETING:

In furtherance of the County's commitment to non-discrimination and equal opportunity in housing, the County's Department of Economic Sustainability (DES) has established policies and procedures to affirmatively market housing units produced through the use of County funds. These affirmative marketing procedures are implemented comprehensively for all housing programs through DES and aim to effect greater participation of eligible persons from all racial, ethnic and gender-based minorities.

The 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. DES therefore ensures that housing programs (geared toward existing homeowners, first-time home buyers, and renters) are advertised periodically through general circulation and minority newspapers, as well as through community information meetings at various countywide locations. The County requires the Grantee to likewise take necessary steps to affirmatively market units.

The Grantee, in order to carry out the requirements and procedures of DES's Affirmative Marketing Program, shall comply with the following procedures:

- (i) Use the Equal Opportunity logo or slogan in advertisements;
- (ii) Solicit applications from persons in the housing market area who are not likely to apply for housing without special outreach. The Grantee may satisfy 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
 - Mobile Home Communities
 - Agencies for the disabled
 - Churches and other related organizations
- (iii) DES will keep records of the Grantee's efforts to affirmatively market units and the Grantee shall provide copies of its records, including advertisements, minutes of meetings, income documentation, and census tract information, as applicable, as evidence of the Grantee's efforts.
- (iv) Affirmative marketing records of the Grantee 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. The Grantee will be informed of their responsibility to adhere to said requirements. The Grantee will be required to submit monthly or quarterly reports (as applicable) 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 92.351 concerning affirmative marketing are hereby incorporated into this Agreement. The Grantee 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 Grantee's 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. DES 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.

Subject to terms of the First Mortgage and the Subordination Agreement, the requirements of this Section shall survive the expiration of this Agreement.

10. RENTAL OF ASSISTED UNITS TO TENANTS:

The following shall apply to all Assisted Units:

(A) Diligent Effort and Rental Occupancy:

The Grantee shall make a diligent effort to market and rent each Assisted Unit. Each Assisted Unit must be occupied by an Eligible Household within six (6) months following the date of the Certificate of Occupancy of such Assisted Unit.

Assisted Units shall be rented by the Grantee on a continuous basis without interruption in occupancy exceeding thirty (30) days while the Grantee performs maintenance and repairs or completes arrangements to enable occupancy by new tenants.

(B) Duration of Applicability:

The requirements of this Agreement shall apply to the Assisted Units for a period of twenty (20) years beginning from the date of issuance of the last Certificate of Occupancy by the Building Department with jurisdiction over the Premises evidencing the completion of construction of all Assisted Units.

(C) Permanent Housing:

All Assisted Units shall be "permanent housing" meaning housing which is intended to be the tenant's home under the limits of a signed legal lease document. Assisted Units may not be used for transitional housing or emergency shelters.

(D) Rental Rates, Utility Allowances and Rent Schedules:

The following rental rates shall apply to all Assisted Units to be rented by the Grantee.

(i) Assisted Units to be rented by the Grantee to Eligible Households whose incomes, adjusted by family size, are not more than one hundred twenty percent (120%) of AMI shall be rented at a rate such that the tenant's payment is no more than the Fair Market Rents in effect at the time the lease is executed less any tenant paid utilities using the then current utility allowances from the HUD Utility Schedule Model. The Fair Market Rents, by bedroom size, shall be as published by HUD, from time to time, for comparable existing housing in the area pursuant to 24 CFR Part 888.111. The above specified rates shall apply to all initial leases with tenants, as well as all subsequent leases and lease renewals.

(ii) The County shall, for the duration of the affordability period, establish the monthly utility allowances applicable to Assisted Units according to the HUD Utility Schedule Model. Such utility allowances shall be used by the Grantee as described above. The Grantee shall annually propose its rent schedule for Assisted Units, and the County shall review and approve such rent schedule provided it is in compliance with the above limitations. The Grantee shall only use rent schedules approved by the County. Changes in rent levels shall be subject to the provisions of outstanding leases. The Grantee shall provide tenants not less than thirty (30) days written notice before implementing any increase in rent.

(E) Tenant Income:

The Grantee shall, for all Assisted Units to be rented, verify the tenant's household income at the time a unit is first occupied, and thereafter, at any time new tenants occupy the unit, to determine income eligibility according to the requirements herein.

In addition to the Grantee's verification of each tenant's household income at the time a new tenant occupies an Assisted Unit, the Grantee shall re-verify the tenant's household income annually thereafter to ensure continued income eligibility.

Temporary non-compliance caused by increases in the income of existing tenants shall be addressed according to the requirements of 24 CFR 92.252(i).

(F) Tenant Records to be Maintained:

The Grantee shall, for each household that is rented an Assisted Unit, maintain a file that, at minimum, contains the following:

- (i) An application for lease, signed and dated by the applicant(s), identifying the household members that intend to occupy the apartment, the household characteristics, and the household income they have disclosed.
- (ii) At the time an Assisted Unit is first occupied, and thereafter, at any time new tenants occupy the unit, source documentation evidencing the Grantee's verification of the applicant's household income and a computation sheet demonstrating the Grantee's determination of the applicant's income eligibility to occupy the unit. Household income computation shall follow the HUD Section 8 method (24 CFR 5.609).
- (iii) In addition, source documentation evidencing the Grantee's annual re-verification of the tenant's household income and a computation sheet demonstrating the Grantee's determination of the tenant's income eligibility to continue occupancy of the unit. Household income computation shall follow the HUD Part 5 method (24 CFR 5.609);
- (iv) A copy of the HUD income levels in effect at the time the initial lease is signed.
- (v) A computation sheet and supporting documentation demonstrating that the rent charged by the Grantee is at the applicable rental rate specified herein.
- (vi) An original of all executed written leases with the applicant/tenant identifying the unit number/address and the rental rate.
- (vii) A copy of the below described criminal and credit background check.
- (viii) Any other documentation evidencing the Grantee's compliance with this Agreement.

(G) Background Check, Tenant Selection, and Lease Requirements:

The Grantee shall comply with the following requirements:

- (i) The Grantee shall conduct a criminal and credit background check on all adult members of households intending to occupy Assisted Units prior to occupancy.
- (ii) The Grantee shall comply with the following tenant selection requirements. In this regard, the Grantee shall submit to the County for review, and shall adopt and follow written tenant selection policies and criteria that:
 - (a) Are consistent with the purpose of providing housing to families at the income levels specified herein.
 - (b) Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease.
 - (c) Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable.
 - (d) Give prompt written notification to any rejected applicant of the grounds for any rejection.

The Grantee shall not refuse to rent 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 HUD tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HUD tenant-based assistance document.

(iii) The Grantee shall submit a copy of its proposed Lease Agreement for approval by DES. In the event that future material revisions may occur, the Grantee shall submit an updated Lease Agreement for approval (which shall not be unreasonably withheld or delayed) as revisions occur.

(iv) The lease between a tenant and the Grantee must be for not less than one (1) year, unless by mutual agreement between the tenant and the Grantee.

(v) The Grantee shall utilize leases which require parents to be held legally and financially liable for the acts of their children in connection with the Assisted Unit, and which allow management to terminate the lease where a household member is engaged in illegal or criminal activity or where a household member is engaged in anti-social behavior which denies the Project or area residents the right to quiet and peaceful enjoyment of their homes or businesses.

(vi) The Grantee may not terminate the tenancy or refuse to renew the lease of a tenant of an Assisted Unit, except for serious or repeated violation of the terms and conditions of the lease; violation of applicable Federal, State, or local law; or for other good cause. Good cause does not include an increase in the tenant's income. To terminate or refuse to renew tenancy, the Grantee must serve written notice upon the tenant specifying the grounds for the action at least thirty (30) days before the termination of tenancy.

(vii) The Grantee is prohibited, from including any of the following lease terms in the Lease Agreement of Assisted Units:

(a) Agreement to be Sued: Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the Grantee in a lawsuit brought in connection with the lease.

(b) Treatment of Property: Agreement by the tenant that the Grantee 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 Grantee may dispose of this personal property in accordance with State law.

(c) Excusing Grantee from Responsibility: Agreement by the tenant not to hold the Grantee or the Grantee's agents legally responsible for any action or failure to act, whether intentional or negligent.

(d) Waiver of Notice: Agreement of the tenant that the Grantee may institute a lawsuit without notice to the tenant.

(e) Waiver of Legal Proceedings: Agreement by the tenant that the Grantee 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.

(f) Waiver of a Jury Trial: Agreement by the tenant to waive any right to a trial by jury.

(g) 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.

(h) 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 Grantee against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

(i) Mandatory Supportive Services: Agreement by the tenant to accept supportive services that are offered.

The requirements of this Section shall survive the expiration or earlier termination of this Agreement.

11. REPORTING REQUIREMENTS:

(A) Monthly Performance Report:

The Grantee shall submit to the County a **Monthly Performance Report** in the form provided as Exhibit C to this Agreement. The Grantee shall first submit this Report on the last day of the month during which this Agreement is executed, and thereafter, on the last day of each subsequent month. After the Grantee provides a Report for the month during which the last Certificate of Occupancy is Issued for the Apartments, the Grantee may cease submitting this Report.

(B) Tenant Information Report:

The Grantee shall submit to the County a **Tenant Information Report** in the form provided as Exhibit D to this Agreement for each Assisted Unit that is rented in the Project. The Grantee shall submit this Report within ten (10) working days after the signing of the lease for each such unit. The Grantee may cease submitting this report after all Assisted Units have been initially occupied.

(C) Annual Rent Roll:

The Grantee shall submit to the County an **Annual Rent Roll** for all Assisted Units in the form provided as Exhibit E to this Agreement. The Grantee shall first submit the Annual Rent Roll on the first anniversary of its submission of the first Tenant Information Report identified above, and annually thereafter for the duration of the Declaration.

(D) Other Reports:

The Grantee agrees to submit to DES any other reports required by the County in connection with activities undertaken through this Agreement.

12. REPRESENTATIONS AND WARRANTIES OF GRANTEE:

The Grantee represents and warrants (which representations and warranties shall be deemed continuing) as follows:

(A) Organization Status and Authority to Enter into Conditional Grant Documents:

The Grantee is a Florida limited liability company duly organized and validly existing in good standing under the laws of the State of Florida with full power and authority to consummate the transactions contemplated herein. The Grantee is duly authorized to execute all Conditional Grant Documents and to agree to the conditions contained therein.

The Grantee has full power and authority to enter into the Conditional Grant Documents and consummate the transactions contemplated hereby, and the facts and matters expressed or implied in the opinions of its legal counsel are true and correct.

(B) Validity of Conditional Grant Documents:

The Conditional Grant Documents have been approved by those persons having proper authority, and to the best of Grantee's knowledge are in all respects legal, valid, and binding according to their terms subject to applicable bankruptcy, insolvency and similar laws affecting rights of creditors.

(C) No Conflicting Transactions or Pending Litigation of Grantee:

The consummation of the transaction hereby contemplated and the performance of the obligations of Grantee under and by virtue of the Conditional Grant Documents will not result in any breach of, or constitute a default under, any other Agreement to which Grantee is a party or by which it may be bound or affected.

To Grantee's knowledge there are no actions, suits or proceedings pending before any court of law or equity, or any Administrative Board, or, to the knowledge of the Grantee, threatened against or affecting it or the Premises, or, involving the validity or enforceability of the Declaration, or of any of the Conditional Grant Documents.

(D) Availability of Utilities, Condition of Premises, and Availability of Roads:

All utility services necessary for the construction of the Improvements and the operation thereof for their intended purpose are or will be available at the boundaries of the Premises, including water supply, storm and sanitary sewer facilities, and electric and telephone facilities, and Grantee has obtained or will obtain all necessary permits and permissions required from governmental authorities for unrestricted access to and use of such services in connection with the construction and use of the intended Improvements.

The Premises are not now damaged or injured as a result of any fire, explosion, accident, flood or other casualty, and to Grantee's knowledge there are no soil conditions which would materially interfere with the construction of the Improvements.

All roads necessary for the full utilization of the intended Improvements for their intended purposes have either been completed or the necessary rights of way therefore have either been acquired by the appropriate local authorities or have been dedicated to public use and accepted by such local authorities and all necessary steps have been taken by Grantee and such local authorities to assure the complete construction and installation thereof.

(E) No Default:

There is no default on the part of the Grantee under this Agreement or the Declaration, and no event has occurred and is continuing which with notice, or the passage of time, or either, would constitute a default under any provision thereof.

(F) Advertising:

During the period of the construction of the Apartments, the County shall be identified on any signs erected on the Premises identifying the parties providing financing for the Project, which signs shall be purchased and erected at Grantee's expense.

(G) Hazardous Waste:

To Grantee's knowledge, Grantee is in compliance with all provisions of the federal Water Pollution Control Act, Comprehensive Environmental Response, Compensation and Liability ("Superfund") Act of 1980 and Solid Waste Disposal Act, Florida Statutes, Chapter 376, and other similar federal, state and local statutory schemes imposing liability on Grantee relating to the generation, storage, impoundment, disposal, discharge, treatment, release, seepage, emission, transportation or destruction of any sewage, garbage, effluent, asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs), toxic, hazardous or radioactive materials, petroleum products, pesticides, smoke, dust, or any other form of pollution as such laws are in effect as of the date of this Agreement and with any rules, regulations and order issued by any federal, state or local governmental body, agency or authority thereunder and with any orders or judgments of any courts of competent jurisdiction with respect thereto, and no assessment, notice of (primary or secondary) liability or notice of financial responsibility, or the amount thereof, or to impose civil penalties has been received by the Grantee. Grantee has paid any environmental excise taxes imposed pursuant to Sections 4611, 4661 or 4681 of the Internal Revenue Code of 1986, as from time to time amended.

(H) Filing and Payment of Taxes:

The Grantee has filed all Federal, State and local tax reports and returns required by any law or regulation to be filed by them, and have either duly paid all taxes, duties and charges indicated due on the basis of such returns and reports, or made adequate provisions for the payment thereof, and the assessment of any material amount of additional taxes in excess of those paid and reported is not reasonably expected.

13. ADDITIONAL COVENANTS OF GRANTEE:

Grantee covenants and agrees with the County as follows:

(A) Mechanics' Liens:

The Grantee shall (i) allow no work or construction to be commenced on the Premises, or goods specially fabricated for incorporation therein, which has not been fully paid for prior to the recording of the Declaration and Notice of Commencement or which could constitute a lien on the Premises, (ii) cause a certified copy of the Notice of Commencement to be posted as required by Chapter 713, Florida Statutes, as soon as possible after recording the Notice of Commencement, (iii) notify the County of any and all Notices to Grantee as Owner as that term is defined in Chapter 713, Florida Statutes, within five (5) days of receipt thereof, and (iv) comply with all provisions of the Florida Mechanics' Lien Law, including but not limited to, payment and notice provisions contained therein. The Grantee shall indemnify and hold the County harmless from the claims of any mechanics' lien or equitable lien, and shall pay promptly upon demand any loss or losses which the County may incur as a result of the filing of any such lien, including the reasonable cost of defending same and the County's reasonable attorneys' fees in connection therewith.

The Grantee agrees, at its sole cost and expense, to have any mechanics' lien or equitable lien which may be filed against the Premises or undisbursed funds of this Grant released, bonded or insured over within sixty (60) days of the date of filing same, time being of the essence. The County shall be under no obligation to make further disbursements while any such lien remains outstanding against the Premises. If Grantee fails, after demand, to cause said lien or liens to be released, bonded or insured over, the County may take such steps as it deems necessary.

The Grantee hereby authorizes the County to demand, on Grantee's behalf, following written notice to Grantee, the statement of account referred to in Section 713.16(2) of the Florida Statutes, of any potential lienor filing a Notice to Owner. It is specifically understood and agreed, however, that the County's right to request such statements of account will in no way impose any obligation on the County to use such authority, and the exercise of such authority on one or more occasion shall not create or imply any obligation on such party to exercise such authority on subsequent occasions.

(B) No Transfer of Premises:

(i) Except as specifically set forth in the Declaration, the First Mortgage, or herein, the Premises or any part thereof shall not be sold, leased (except for tenant leases), conveyed, mortgaged or encumbered in any way without the prior written consent of the County which consent shall not be unreasonably withheld or delayed, except as provided elsewhere herein or in the Declaration, it being understood and agreed that part of the consideration for the Conditional Grant is the obligation of Grantee. In the event the Grantee sells a housing unit (not including the Apartments) constructed on the Premises, the County shall provide the aforesaid written consent by subordinating its interest in the Declaration to that of the then institutional first mortgage lender that provides financing to the prospective homeowner who purchases such housing unit. Notwithstanding the foregoing, Grantee may enter into utility easements or licenses or leases for tenant services, such as laundry or concessions.

(ii) Refinancing of the First Mortgage with an independent institutional lender shall be permitted without the prior written consent of the County so long as the refinancing does not increase the amount of indebtedness then secured by the First Mortgage. In the event the Grantee wishes to refinance the First Mortgage with an independent institutional lender for an amount of indebtedness that exceeds the then amount secured by the First Mortgage, the Grantee shall first seek approval of such refinancing from the Board of County Commissioners of Palm Beach County, Florida, which approval shall not be not be unreasonably withheld or delayed.

(C) Compliance with Laws:

The Grantee will comply promptly with all federal, state and local laws, ordinances and regulations relating to the construction, use, and leasing of the Premises, and will obtain and keep in good standing all necessary licenses, permits and approvals required or desirable for construction and use of the Improvements.

(D) Brokerage Commissions:

The Grantee will not knowingly engage in any activity or enter into any relationship which will give rise to any loan or brokerage commission with regard to the Grant, and Grantee will indemnify and hold County harmless from the claims of any broker(s) arising by reason of the execution hereof or the consummation of the transactions contemplated hereby.

(E) Indebtedness:

With respect to the Premises to be encumbered by the Grantee, the Grantee will not incur, create, assume or permit to exist any indebtedness superior to the Declaration, except in the ordinary course of business constituting the deferred purchase price of any property or assets, or any indebtedness or liability evidenced by notes, bonds, debentures or similar obligations without the written approval of the County, which approval shall not be unreasonably withheld or delayed, except indebtedness owed the County and the aforementioned First Mortgage as set forth herein.

(F) Further Assurances and Preservation of Security:

The Grantee will do all acts and execute all documents for the better and more effective carrying out of the intent and purposes of this Agreement, as the County shall reasonably require from time to time, and will do such other acts necessary or desirable to preserve and protect the Premises and the Improvements, as the County may reasonably require.

(G) No Assignment:

The Grantee shall not assign this Agreement or any interest therein and any such assignment is void and of no effect.

14. RIGHT TO AUDIT, ACCESS TO RECORDS, AND INSPECTOR GENERAL:

All reports, plans, surveys, information, documents, maps, and other data produced, developed, prepared, assembled, or completed by the Grantee for the purpose of this Agreement shall be made available to the County by the Grantee at any time upon request by the County or DES.

The Grantee shall maintain adequate records to justify all charges, expenses, and costs incurred for construction of the Improvements for at least five (5) years after completion.

In any event, the Grantee shall keep this Agreement, all amendments to this Agreement, and all documents and records in connection with this Agreement and make them available to the County for on-site monitoring for at least five (5) years after expiration of this Agreement, except that:

(1) In connection with housing units rented/leased by the Grantee, records of individual tenant income verifications, project rents and project inspections shall be retained by the Grantee for five (5) years after the affordability period terminates.

(2) If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required retention period records in connection with the aforesaid shall be retained by the Grantee until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

Palm Beach County has established the Office of Inspector General in Palm Beach County Code, Section 2-421 to 2-440, as may be amended. The Inspector General's authority includes but is not limited to, the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Grantee, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with Inspector General or interfering with or impeding any investigation shall be in violation of the above Code and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

15. INSPECTIONS:

The Grantee will permit the County, or its representatives, to enter upon that portion of the Premises upon which the Apartments will be constructed, during normal business hours, inspecting Apartments and all materials to be used in the construction thereof, and to examine all details, plans and shop drawings which are kept at the construction site. Additionally, the Grantee shall cooperate and cause Grantee's general contractor and subcontractors to cooperate with the County's representative.

16. DEFAULT:

The following events shall be deemed Events of Default:

(A) **Declaration:**

If there is a default or event of default under the Declaration which is not cured within any applicable cure period.

(B) **Bankruptcy:**

If there is filed by or against Grantee a petition in bankruptcy or a petition for the appointment of a receiver or trustee of the property of Grantee, and any such petition not filed by Grantee is not dismissed within ninety (90) days of the date of filing, or if Grantee files a petition for reorganization under any of the provisions of the Bankruptcy Code or of any assignment for the benefit of creditors or makes any insolvency assignment or is adjusted insolvent by any court of competent jurisdiction.

(C) **Breach of Covenants, Warranties and Representations:**

If any warranty or representation made by Grantee in this Agreement or in any other Conditional Grant Document shall at any time be false or misleading in any material respect when made, or if Grantee shall fail to keep, observe or perform any of the material terms, covenants, representations or warranties contained in this Agreement, the Conditional Grant Documents, and any other document given in connection with the Grant or development of the Improvement (provided, that with respect to non-monetary defaults, the County shall give written notice to Grantee, who shall have thirty (30) days to cure, and provided that, with respect to monetary defaults, the County shall give written notice to Grantee, who shall have ten (10) days to cure), or is unwilling to meet its obligations.

(D) **Failure to Close:**

In the event Grantee fails to close on this Grant by the deadline set forth in Section 5 of this Agreement, the County may terminate this Agreement immediately upon written notice to Grantee unless such deadline is extended by written agreement between the parties.

(E) Failure to Commence or Complete Construction:

The Grantee shall fail to complete construction of the Apartments and secure a Certificate of Occupancy for the Apartments no later than twenty-four (24) months after the date of the closing described in Section 5 hereof unless revised by written agreement between the parties.

(F) Failure to Rent Assisted Units to Eligible Households:

The Grantee shall fail to rent the Assisted Units such that all Assisted Units are initially occupied by Eligible Households no later than thirty (30) months after the date of the closing described in Section 5 hereof unless revised by written agreement between the parties.

(G) Default Under the First Mortgage:

The Grantee shall default under the First Mortgage or any subordinate mortgage which is not cured within applicable cure periods.

17. REMEDIES OF COUNTY

Upon the happening of an Event of Default, which default is not cured within any applicable cure or grace period, then the County may, at its option, upon written notice to Grantee do any of the following, subject to the First Mortgage and the Subordination Agreement.

(A) Cancellation of Agreement:

Cancel this Agreement.

(B) Commencement of Legal or Equitable Action:

Commence an appropriate legal or equitable action to enforce performance of this Agreement.

(C) Acceleration of Payment:

Accelerate the payment of the County Grant Funds secured by the Declaration and commence appropriate legal and equitable action to collect all such amounts due the County.

(D) Rights and Remedies:

Exercise any other rights or remedies the County may have under the Declaration or other Conditional Grant Documents executed in connection with the Grant or which may be available under applicable law.

18. GENERAL TERMS:

The following shall be applicable throughout the period of this Agreement or thereafter as provided herein:

(A) Rights of Third Parties:

No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the County and/or the Grantee.

All conditions of the County hereunder are imposed solely and exclusively for the benefit of the County and its successors and assigns, and no other person shall have standing to require satisfaction of such conditions or be entitled to assume that the County will make disbursements in the absence of strict compliance with any or all thereof, and no other person shall, under any circumstances, be deemed to be a beneficiary of this Agreement or the Conditional Grant Documents, any provisions of which may be freely waived in whole or in part by the County at any time if, in its sole discretion, it deems it desirable to do so. In particular, the County makes no representations and assumes no duties or obligations as to third parties concerning the quality of the construction by Grantee of the Apartments, or the absence therefrom, of defects.

(B) Grantee is not the County's Agent:

Nothing in this Agreement or any other Conditional Grant Document shall be construed to make the Grantee the County's agent for any purpose whatsoever, or the Grantee and the County partners, or joint or co-venturers, and the relationship of the parties shall, at all times, be that of debtor and creditor.

(C) Public Entity Crimes:

As provided in F.S. 287.133, by entering into this Agreement or performing any work in furtherance hereof, the Grantee 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 thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3)(a).

(D) Conflict of Interest:

The Grantee covenants that no person (an employee, agent, consultant, officer, or elected or appointed official of the County or the Grantee) who exercises or has exercised any functions or responsibilities with respect to activities assisted under this Agreement, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under this Agreement, may obtain a financial interest or benefit from an assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has immediate family or business ties, during his or her tenure or during the one-year period following his or her tenure. Any possible conflict of interest on the part of the Grantee, or any person as described above, shall be disclosed in writing to the County. Immediate family ties include (whether by blood, marriage, or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.

No owner, developer, or sponsor of the project assisted through this Agreement (or officer, employee, agent, elected or appointed official or consultant of the Grantee, owner, developer or sponsor or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official or consultant of the Grantee, owner, developer or sponsor) whether private, for-profit or non-profit (including a community housing development organization (CHDO) when acting as an owner, developer or sponsor) may occupy an Assisted Unit during the thirty (30) year period specified in the Declaration. This provision does not apply to an individual who receives County funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. All written requests for exceptions to the above requirement regarding the occupancy of an Assisted Unit shall be submitted to the County.

(E) County Not Liable for Damage or Loss:

All inspections and other services rendered by or on behalf of the County pursuant to this Agreement shall be rendered solely for the protection and benefit of the County. Neither Grantee nor other third persons shall be entitled to claim any loss or damage against the County or against its agents or employees for failure to properly conduct inspections and other such services contemplated by this Agreement.

(F) County Not Obligated to Insure Proper Disbursement of Funds to Third Parties:

Nothing contained in this Agreement, or any Conditional Grant Documents, shall impose upon the County any obligation to oversee the proper use or application of any disbursements and disbursements of funds made hereunder so long as disbursements are made to Grantee.

(G) Indemnification from Third Party Claims:

The Grantee shall indemnify and hold County harmless from any liability, claims or losses resulting from the disbursement of the Grant proceeds to Grantee or from the condition of the Premises, whether related to the quality of construction or otherwise, and whether arising during or after the term of the Grant, except any liability due to the gross negligence or willful misconduct of County. This provision shall survive the repayment of the Grant and shall continue in a full force and effect so long as the possibility of such liability, claims, or losses exists.

(H) Rights of Subcontractors, Laborers, and Materialmen:

In no event shall this Agreement be construed to make the County, title company or agent of the County liable to Grantee's Contractor or any subcontractors, laborers, materialmen, craftsmen, or others for labor, materials, or services delivered to the Premises or goods specially fabricated for incorporation therein, or for debts or liens accruing or arising to such persons or parties against Grantee or Grantee's Contractor. It is understood and agreed that there is no relation of any type whatsoever, contractual or otherwise, whether express or implied, between the County and Grantee's Contractor, any materialman, subcontractor, craftsman, laborer or any other person or entity supplying any labor, materials or services to the Premises or specially fabricating goods to be incorporated therein. Except as otherwise specifically provided herein, no such person or entities are intended to be third party beneficiaries of this Agreement or any document or instrument related to the Grant, or to have any claim or claims in or to any undisbursed or retained Grant proceeds.

(I) Evidence of Satisfaction of Conditions:

The County shall, at all time, be free independently to establish to its good faith and satisfaction, and in its absolute discretion, the existence or nonexistence of a fact or facts which are disclosed in documents or other evidence required by the terms of this Agreement.

(J) Headings:

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

(K) Invalid Provisions to Affect No Others:

If performance of any provision hereof or any transaction related hereto is limited by law, then the obligation to be performed shall be reduced accordingly; and if any clause or provision herein contained operates or would prospectively operate to invalidate this Agreement in part, then the invalid part of said clause or provision only shall be held for naught, as though not contained herein, and the remainder of this Agreement shall remain operative and in full force and effect.

(L) Application of Interest to Reduce Principal Sums Due:

In the event that any charge, interest or late charge is above the maximum rate provided by law, then any excess amount over the lawful rate shall be applied by the County to reduce the sum of the Grant or any other amounts due the County hereunder.

(M) Governing Law:

The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement and the venue shall be in Palm Beach County.

(N) Number and Gender:

Whenever the singular or plural number, masculine or feminine or neuter gender is used herein, it shall equally include the others and shall apply jointly and severally.

(O) Agreement:

The Conditional Grant Documents constitute the entire understanding and agreement between the parties with respect the subject matter hereof, supersede all prior agreements, including commitment letters, and may not be modified or amended, except in writing and signed by all parties hereto.

(P) Waiver:

If the County shall waive any provisions of the Conditional Grant Documents, or shall fail to enforce any of the conditions or provisions of this Agreement, such waiver shall not be deemed to be a continuing waiver and shall never be construed as such; and the County shall thereafter have the right to insist upon the enforcement of such conditions or provisions. Furthermore, no provision of this Agreement shall be amended, waived, modified, discharged or terminated, except by instrument in writing signed by the parties hereto.

(Q) Notices:

All notice from the Grantee to the County and the County to Grantee required or permitted by any provision of this Agreement shall be in writing and sent by registered or certified mail and addressed as follows:

To County:

Board of County Commissioners
c/o Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

With a copy to County's Attorney:

Palm Beach County Attorney's Office
Attn: James Brako, Esq.
301 N. Olive Avenue, Suite 601
West Palm Beach, FL 33401

To Grantee:

Amelia Estates, LLC
Attn: James T. Houston, III
685 Main Street
Belle Glade, FL 33430

With a copy to Shutts & Bowen LLP

Attn: Sidney C. Calloway, Esq.
200 East Broward Blvd, Suite 200
Fort Lauderdale, FL 33301

If either Party changes its mailing address, such change shall be communicated in writing to the other party within ten (10) days of such change.

(R) Submittals:

All information required to be submitted to the County shall be submitted to the County's Department of Economic Sustainability, Attn: Director, 100 Australian Avenue, Suite 500, West Palm Beach, FL 33406.

(S) Successors and Assigns:

This Agreement shall inure to the benefit of and be binding on the parties hereto and their heirs, legal representatives, successors and assigns; but nothing herein shall authorize the assignment hereof by the Grantee.

(T) Counterparts:

This Agreement may be executed in one or more counterparts, all of which shall constitute collectively but one and the same instrument.

(U) Waiver of Jury Trial:

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

19. SUBORDINATION:

County approves a First Mortgage provided that it does not exceed an original principal amount of Six Million Dollars (\$6,000,000.00) plus any protective advances made in accordance with applicable law, and further agrees to subordinate all of its rights and remedies of this Agreement, the Amended and Restated Declaration of Restrictions, or any other document relating to the Grantee and the Premises, to such First Mortgage or any refinancing of the First Mortgage with an independent institutional lender permitted under Section 13(B) hereof. The Mayor of the Board of County Commissioners of Palm Beach County and the Clerk of the Court for Palm Beach County, are hereby authorized to execute subordination agreements required herein without further approval of the Board of County Commissioners of Palm Beach County, Florida, provided such documents are in a form acceptable to the County Attorney and provided that the refinancing does not increase the amount of indebtedness then secured by the First Mortgage. Nothing contained herein shall, however, relieve the Grantee from its obligation to make payments under the Declaration in accordance with its terms. County hereby acknowledges and agrees, however, that nothing in the Conditional Grant Documents, shall operate to prohibit Grantee from pre-payment, at any time, of the County Grant Funds due and owing to the County under the Conditional Grant Documents or the Declaration, and such payment shall be without monetary penalty nor subject to any other condition or requirement imposed under the Conditional Grant Documents or the Declaration.

20. EFFECTIVE DATE OF AGREEMENT:

This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners. The Effective Date shall be the date on which this Grant Agreement is executed by the Board of County Commissioners.

(Remainder of page is left blank intentionally)

IN WITNESS WHEREOF, Grantee and the County have caused this Agreement to be executed on the date first above written.

Signed, sealed and delivered in the presence of:

Witnesses:

AMELIA ESTATES, LLC,
a Florida limited liability company

[Signature]
Witness Signature

By: [Signature]
James T. Houston, III,
Managing Member

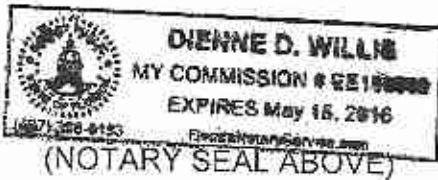
William A. Monahan
Print Witness Name

[Signature]
Witness Signature

Diene D Willis
Print Witness Name

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me on May 22, 2015, by James T. Houston, III, as Managing Member of Amelia Estates, LLC, who is personally known to me or has produced _____ as identification and who did/did not take an oath.



Signature: [Signature]
Notary Name: Diene D Willis
Notary Public - State of Florida

(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: _____
Shelley Vana, 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: _____
James Brako,
Assistant County Attorney

By: [Signature]
Sherry Howard,
Deputy Director

EXHIBIT A

LEGAL DESCRIPTION

A parcel of land located in Lot 8, Block 6, of THE HIATUS between Township 43 South and 44 South, Range 37 East, City of Belle Glade, Palm Beach County, Florida, described as follows:

Commencing at the Northwest corner of said Lot 8, Block 6, thence South 29° 25' 38" West along the West line of said Lot 8, Block 6, which is also the centerline of State Road 715 a distance of 597.39' thence South 60° 34' 22" East on a line perpendicular to said West line of said Lot 8, Block 6 a distance of 50.00' to the Easterly Right-of-Way line of said State Road 715 and the Point of Beginning of the following described parcel, thence South 29° 25' 38" West along the Easterly Right-of-Way line of said State Road 715 a distance of 702.48' thence South 60° 34' 22" East on a line perpendicular to said East Right-of-Way line of State Road 715 a distance of 446.18' to intersect with the South line of said Lot 8, Block 6 which is the same as the North line of Section 6, Township 44 South, Range 37 East, thence North 89° 45' 46" East along said South line of said Lot 8, Block 6, a distance of 88.02', thence North 29° 29' 04" East along the East line of said Lot 8, Block 6, a distance of 571.63', thence North 60° 30' 35" West, a distance of 114.30', thence North 29° 26' 22" East, a distance of 87.19', thence North 60° 34' 36" West, a distance of 409.02' to the Point of Beginning.

EXHIBIT B

Return to:

Palm Beach County
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406
Prepared by: James Brako,
Assistant County Attorney

**AMENDED AND RESTATED
DECLARATION OF RESTRICTIONS**

This Amended and Restated Declaration of Restrictions restates and replaces the Declaration of Restrictive Covenant recorded in Official Records Book 23338, Page 0580 of the Public Records of Palm Beach County, Florida, and the Mortgage and Security Agreement recorded in Official Records Book 23338, page 0565 of the Public Records of Palm Beach County, Florida.

The undersigned, **Amelia Estates, LLC**, a Florida limited liability company duly organized and existing under the laws of the State of Florida, having its principal office at 685 Main Street, Belle Glade, FL 33430, (hereinafter referred to as "Declarant", which term shall include its successors and assigns), for the property described in Exhibit "A" attached hereto and made a part hereof and hereinafter referred to as the "Premises", does hereby grant to Palm Beach County, a political subdivision of the State of Florida (the "County") the following amended and restated restrictions against the Premises.

1. On June 23, 2009, the County provided Declarant with funding in the amount of \$800,000 for the acquisition and development of the Premises pursuant to the terms of the Conditional Grant Agreement between the parties dated April 21, 2009 (R2009-0656).
2. As security for the \$800,000, the Declarant executed a Mortgage and Security Agreement (the "Original Mortgage") in favor of the County on June 23, 2009, which was recorded in Official Records Book 23338, Page 0565, of the Public Records of Palm Beach County, Florida (the "Public Records"), and a Declaration of Restrictive Covenant (the "Original Declaration") in favor of the County on June 23, 2009, which was recorded in Official Records Book 23338, Page 0580, of the Public Records, both of which encumbered the Premises.
3. The Declarant used \$650,000 of the \$800,000 grant for the acquisition of, and/or improvements to, the Premises, after which the housing market changed and Declarant found it necessary to change its plan for the development of the Premises. The requirements, obligations, covenants and conditions contained in the Original Mortgage and the Original Declaration require significant revisions in order to address the Declarant's changes to its plan for the development of the Premises and the reduction in the amount of funding available from County.
4. The parties hereto have agreed to merge certain terms and amend, restate, and replace the Original Mortgage and the Original Declaration in their entirety with this Amended and Restated Declaration of Restrictions (the "Declaration"), acknowledging that this Declaration relates back to the Original Mortgage and Original Declaration and maintains the lien priority of those original documents, which were recorded in succession on June 23, 2009, and restates the obligations of the Declarant.
5. In consideration of the receipt of a Satisfaction of Mortgage from the County for the Original Mortgage, and in consideration of the receipt of a Release of Restrictions releasing the Declarant of its obligations as set forth in the Original Declaration, the Declarant hereby grants the County this Declaration to secure the aforementioned sum of Six Hundred Fifty Thousand and 00/100 Dollars (\$650,000.00) (the "County Grant Funds").

expended by the County for the Declarant's acquisition of, and/or improvements to, the Premises and expressly agrees to the restrictions against the Premises contained herein and agrees to comply with and to perform all of the terms and conditions of this Declaration.

6. The restrictions created by this Declaration shall be deemed a covenant running with the land and are binding upon the undersigned, their heirs, executors, successors, and assigns. This Declaration may only be terminated or released in accordance with the terms and conditions of this Declaration by the Palm Beach County Board of County Commissioners, and/or those persons to whom such authority is formally delegated, and executed with the same formalities as this document; provided, however, that the restrictions created by this Declaration shall be subject to the terms and conditions of the First Mortgage held by First National Bank of Coffee County and of the Subordination Agreement entered into between the County and First National Bank of Coffee County, as recorded in the public records of Palm Beach County, Florida, on even date herewith, while said First Mortgage and Subordination Agreement are in effect.

7. In consideration of the County's expenditure of the County Grant Funds for the Declarant's acquisition and/or improvements of the Premises, as provided through a Conditional Grant Agreement with the County dated _____ (the "Agreement"), the Declarant hereby covenants and agrees to:

- (a) To construct thirty (30) three-bedroom apartments (the "Apartments") on the Premises no later than twenty-four (24) months after the date of closing specified in the Agreement.
- (b) To, thereafter, for a period of twenty (20) years beginning from the date of issuance of the last Certificate of Occupancy by the Building Department with jurisdiction over the Premises evidencing the completion of construction of all Apartments (the "Affordability Period"), lease all Apartments to households whose incomes, adjusted by family size, are at no more than one hundred twenty percent (120%) of the Area Median Income (the "AMI") which shall be the most current area median income published by the U.S. Department of Housing and Urban Development (HUD) for the West Palm Beach-Boca Raton Metropolitan Statistical Area.
- (c) To lease all Apartments for the duration of the Affordability Period to households whose incomes, adjusted by family size, are at no more than one hundred twenty percent (120%) of AMI at rental rates such that the tenant's payment is no more than the Fair Market Rents in effect at the time the lease is executed less any tenant paid utilities using the then current utility allowances from the HUD Utility Schedule Model. The Fair Market Rents, by bedroom size, shall be as published by HUD, from time to time, for comparable existing housing in the area pursuant to 24 CFR Part 888.111. The above specified rates shall apply to all initial leases with tenants, as well as all subsequent leases and lease renewals. The County shall, for the duration of the Affordability Period, establish the monthly utility allowances applicable to Apartments according to the HUD Utility Schedule Model. Such utility allowances shall be used by the Declarant as described above. The Declarant shall annually propose its rent schedule for Apartments, and the County shall review and approve such rent schedule provided it is in compliance with the above limitations. The Declarant shall only use rent schedules approved by the County. Changes in rent levels shall be subject to the provisions of outstanding leases. The Declarant shall provide tenants not less than thirty (30) days written notice before implementing any increase in rent.
- (d) To affirmatively market all Apartments as specified in the Agreement for the duration of the Affordability Period.
- (e) To maintain the Premises and the Improvements in a state of repair pursuant to applicable housing and building codes and as otherwise required by the Agreement.

- (f) To maintain property, flood, and windstorm insurance on the Premises and its improvements as specified in the Agreement.
- (g) To maintain records and submit reports and audited statements as specified in the Agreement.
- (h) To comply with the provisions, terms, and conditions set forth herein and in the Agreement.

8. The Declarant shall, in connection with the lease or sale of all residential units on the Premises, comply with all federal, state and local Fair Housing laws.

9. Notwithstanding any other provision of the Agreement and this Declaration, the parties hereby acknowledge and fully contemplate that Declarant's construction of the Apartments shall also be concurrent with Declarant's construction of twelve (12) three bedroom townhouses (the "Townhouses") on the Premises (Collectively "Phase I"). The parties further acknowledge and agree that notwithstanding any other provision of this Declaration or the Agreement to the contrary, that no portion of the Premises upon which the Townhouses will be constructed, nor any other portion of the Premises for which Declarant may proceed with future sale, conveyance, financing and/or development ("Phase II"), shall be subject to any provision or term of the Agreement or this Declaration except as otherwise provided herein, and in the Agreement, concerning the use of the Premises and the County's subordination of its interest upon the occurrence of a sale or refinancing of debt secured by the Premises.

10. The Premises shall be restricted to residential use. Should Declarant change the use or planned use, or discontinue use of the Premises (including the beneficiaries of such use) from that for which the acquisition or improvements were made, without the prior approval of the County as contemplated herein or in the Agreement, or should the Declarant sell, convey or transfer title to the Premises without the prior approval of the County as contemplated herein or in the Agreement, then the Declarant shall pay the County Grant Funds to the County. The County's approval shall not be unreasonably withheld, conditioned or delayed.

11. The Declarant shall pay, or cause to be paid, all taxes due while the Premises is in its possession and/or in the possession of the Declarant's tenants, and the Declarant shall not voluntarily create, or permit or suffer to be created or to exist, on or against the Premises, or any part thereof, any lien superior to the lien of this Declaration, except with the County's prior written consent. The Declarant shall keep and maintain the Premises free from the claims of all parties supplying labor or materials unto the same. The Declarant agrees to notify the County of any liens, judgments or pending foreclosure on the Premises within five (5) working days of the receipt of said notice by Declarant.

12. The Declarant acknowledges and covenants that the provision specified below constitute a default under this Declaration which shall be subject to all available legal or equitable action by the County.

- (a) Failure of the Declarant to perform any covenant, agreement, term, or condition contained herein or in the Agreement referenced in Section 7 of this Declaration.

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 Premises, 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 subject to action and relief set forth in this Paragraph 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.

13. 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) All available legal or equitable remedies for the forfeiture of Declarant's title, interest to and possession of the Premises; and
- (b) Collection of due and unpaid real estate taxes, assessments, charges and penalties for which the Declarant is obligated to pay, or cause to be paid.

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, or a longer period approved by the County in its sole discretion, from the date such notice is given to cure or correct any default.

14. County hereby acknowledges and agrees that nothing in this Declaration or the Conditional Grant Documents, shall operate to prohibit Declarant from payment, at any time, of the County Grant Funds under this Declaration or the Conditional Grant Documents and such payment shall be without monetary penalty nor subject to any other condition or requirement.

Within ninety (90) days after the Affordability Period, provided the Declarant is then in compliance with the terms and conditions of this Declaration and the Agreement, or upon the County's receipt of an amount equivalent to the County Grant Funds, whichever shall occur first, the County shall cause a Release of this Declaration to be recorded in the public records of Palm Beach County, Florida, thereby removing the lien created by such Declaration on the Premises, and the County shall further provide written notice to Declarant acknowledging the expiration and termination of the Agreement in all respects.

15. The 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.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

16. The Declarant shall cause this Declaration of Restrictions to be recorded in the Public Records of Palm Beach County, Florida, and thereafter the Declarant shall provide it to the Director of the Department of Economic Sustainability, at 100 Australian Avenue, Suite 500, West Palm Beach, Florida 33406.

Executed this _____ day of _____, 20__

SIGNED, SEALED, AND DELIVERED IN THE PRESENCE OF:

AMELIA ESTATES, LLC, a Florida Limited Liability Company

Witness Name: _____ Witness Signature: _____ _____
Witness Name: _____ Witness Signature: _____ _____

By: _____ James T. Houston, III Managing Member

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me on _____, 20__, by James T. Houston, III, as Managing Member of Amelia Estates, LLC, who is personally known to me or has produced _____ as identification and who did/did not take an oath.

Signature: _____

Notary Name: _____
Notary Public - State of Florida

(NOTARY SEAL ABOVE)

EXHIBIT A

LEGAL DESCRIPTION

A parcel of land located in Lot 8, Block 6, of THE HIATUS between Township 43 South and 44 South, Range 37 East, City of Belle Glade, Palm Beach County, Florida, described as follows:

Commencing at the Northwest corner of said Lot 8, Block 6, thence South 29° 25' 38" West along the West line of said Lot 8, Block 6, which is also the centerline of State Road 715 a distance of 597.39' thence South 60° 34' 22" East on a line perpendicular to said West line of said Lot 8, Block 6 a distance of 50.00' to the Easterly Right-of-Way line of said State Road 715 and the Point of Beginning of the following described parcel, thence South 29° 25' 38" West along the Easterly Right-of-Way line of said State Road 715 a distance of 702.48' thence South 60° 34' 22" East on a line perpendicular to said East Right-of-Way line of State Road 715 a distance of 446.18' to intersect with the South line of said Lot 8, Block 6 which is the same as the North line of Section 6, Township 44 South, Range 37 East, thence North 89° 45' 46" East along said South line of said Lot 8, Block 6, a distance of 88.02', thence North 29° 29' 04" East along the East line of said Lot 8, Block 6, a distance of 571.63', thence North 60° 30' 35" West, a distance of 114.30', thence North 29° 26' 22" East, a distance of 87.19', thence North 60° 34' 36" West, a distance of 409.02' to the Point of Beginning.

EXHIBIT C

MONTHLY PERFORMANCE REPORT

PALM BEACH COUNTY DEPARTMENT OF ECONOMIC SUSTAINABILITY

Report For:	Month: _____ Year: 20____
Project Name:	Amelia Estates
Report Prepared By:	_____ Name Signature Date

FINANCING ACTIVITIES

Describe your accomplishments during the reporting period: _____

DESIGN AND LAND PLANNING ACTIVITIES

Describe your accomplishments during the reporting period: _____

CONSTRUCTION ACTIVITIES

Describe your accomplishments during the reporting period: _____

MARKETING AND LEASE ACTIVITIES

Describe your accomplishments during the reporting period: _____

I, _____, do hereby certify that the Amelia Estates Project has met all of its Monthly Performance Requirements during this reporting period as referenced in the Grant Agreement.

Name & Title of Certifying Representative

EXHIBIT D

TENANT INFORMATION REPORT

PALM BEACH COUNTY DEPARTMENT OF ECONOMIC SUSTAINABILITY

Project Name:	Amelia Estates		
Report Period:	From _____, 20__	to _____, 20__	
Prepared By:			
Report Date:	_____, 20__	Page ___ of ___ Pages	

Fill in the required information for each housing unit or place a check mark where applicable.

ADDRESS:	
Tenant Name:	
Lease start date:	
No. of bedrooms:	
Household Income at or below 120% of AMI	<input type="checkbox"/>
Female Head of Household	<input type="checkbox"/>
Disabled Head of Household	<input type="checkbox"/>
Hispanic Ethnicity	<input type="checkbox"/>
White	<input type="checkbox"/>
African American	<input type="checkbox"/>
Asian	<input type="checkbox"/>
American Indian or Alaskan Native	<input type="checkbox"/>
Native Hawaiian Pacific Islander	<input type="checkbox"/>
American Indian or Alaskan Native and White	<input type="checkbox"/>
Asian and White	<input type="checkbox"/>
African American and White	<input type="checkbox"/>
American Indian/Alaskan Native and African American	<input type="checkbox"/>
Other Multi-racial	<input type="checkbox"/>

EXHIBIT E

ANNUAL RENT ROLL

PALM BEACH COUNTY DEPARTMENT OF ECONOMIC SUSTAINABILITY

Project Name:	Amelia Estates		
Report Period:	From _____, 20__	to _____, 20__	
Prepared By:			
Report Date:	_____, 20__	Page ____	of ____ Pages

Fill in the required information for each apartment or place a check mark where applicable.

Building Address:				
	Apt. No. ____	Apt. No. ____	Apt. No. ____	Apt. No. ____
Tenant Name:				
Lease start date:	/ /	/ /	/ /	/ /
Contract Rent:	\$	\$	\$	\$
Tenant Rent:	\$	\$	\$	\$
No. of bedrooms:				
No. of occupants:				
Date last income certified:	/ /	/ /	/ /	/ /
Annual income:	\$	\$	\$	\$
Household Income at 120% of AMI or less	[]	[]	[]	[]
	Apt. No. ____	Apt. No. ____	Apt. No. ____	Apt. No. ____
Tenant Name:				
Lease start date:	/ /	/ /	/ /	/ /
Contract Rent:	\$	\$	\$	\$
Tenant Rent:	\$	\$	\$	\$
No. of bedrooms:				
No. of occupants:				
Date last income certified:	/ /	/ /	/ /	/ /
Annual income:	\$	\$	\$	\$
Household Income at 120% of AMI or less	[]	[]	[]	[]

Prepared by: James Brako
Assistant County Attorney III
Return to:

SATISFACTION OF MORTGAGE

Know All Men By These Presents: Palm Beach County, a political subdivision of the State of Florida, the owner and holder of a certain Mortgage and Security Agreement executed by **AMELIA ESTATES, LLC**, a Florida limited liability company, dated June 23, 2009, and recorded in Official Records Book 23338, Page 0580, 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 Eight Hundred Thousand Dollars and 00/100 Cents (\$800,000), and containing certain promises and obligations set forth in said Mortgage, upon the property situate in said State and County as described in Exhibit 1 attached hereto and made a part hereof, 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.

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: _____
Shelley Vana, Mayor
Palm Beach County

By: _____
Deputy Clerk

Document No.: _____

Approved as to Form and
Legal Sufficiency

By: _____
James Brako,
Assistant County Attorney III

EXHIBIT 1

LEGAL DESCRIPTION

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Prepared by: James Brako
Assistant County Attorney III
Return to:

RELEASE OF RESTRICTIONS

Palm Beach County, a political subdivision of the State of Florida, the owner and holder of a certain Declaration of Restrictive Covenant for Affordable Housing executed by the **AMELIA ESTATES, LLC**, a Florida limited liability company, having its principal office at 685 Main Street, Belle Glade, FL 33430, ("Grantor"), to Palm Beach County, bearing the date of June 23, 2009, recorded in Official Records Book 23338, at Page 0580, of the Office of the Clerk and Comptroller of Palm Beach County, Florida, and containing certain conditions restrictions, promises, and obligations made by the Grantor of said Declaration of Restrictive Covenant for Affordable Housing in connection with the property situate in said county and state, and described in Exhibit 1 attached hereto and made a part hereof, hereby releases its interest in the above stated Declaration of Restrictive Covenant for Affordable Housing.

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: _____
Shelley Vana, Mayor
Palm Beach County

By: _____
Deputy Clerk

Document No.: _____

Approved as to Form and
Legal Sufficiency

By: _____
James Brako,
Assistant County Attorney III

EXHIBIT 1

LEGAL DESCRIPTION

A parcel of land located in Lot 8, Block 6, of THE HIATUS between Township 43 South and 44 South, Range 37 East, City of Belle Glade, Palm Beach County, Florida, described as follows:

Commencing at the Northwest corner of said Lot 8, Block 6, thence South 29° 25' 38" West along the West line of said Lot 8, Block 6, which is also the centerline of State Road 715 a distance of 597.39' thence South 60° 34' 22" East on a line perpendicular to said West line of said Lot 8, Block 6 a distance of 50.00' to the Easterly Right-of-Way line of said State Road 715 and the Point of Beginning of the following described parcel, thence South 29° 25' 38" West along the Easterly Right-of-Way line of said State Road 715 a distance of 702.48' thence South 60° 34' 22" East on a line perpendicular to said East Right-of-Way line of State Road 715 a distance of 446.18' to intersect with the South line of said Lot 8, Block 6 which is the same as the North line of Section 6, Township 44 South, Range 37 East, thence North 89° 45' 46" East along said South line of said Lot 8, Block 6, a distance of 88.02', thence North 29° 29' 04" East along the East line of said Lot 8, Block 6, a distance of 571.63', thence North 60° 30' 35" West, a distance of 114.30', thence North 29° 28' 22" East, a distance of 87.19', thence North 60° 34' 36" West, a distance of 409.02' to the Point of Beginning.