

AGENDA ITEM SUMMARY


Department: Department of Economic Sustainability


Motion and Title: Staff recommends motion to Receive and File: one (1) Modification to Subgrant Agreement, one (1) Subordination Agreement and one (1) Amendment to a Loan Agreement as follows:

- Summary:** In accordance with County PPM CW-0-051, all delegated contracts, agreements and grants must be submitted by the initiating Department as a receive and file agenda item. The attached documents have been executed on behalf of the Board of County Commissioners (BCC) by the County Administrator, or designee, in accordance with Resolution/Agenda Item R2009-1677, R2014-1584 and 4B-2 as approved by the BCC on October 6, 2009, October 21, 2014 and June 2, 2015. These executed documents are now being submitted the BCC to receive and file. **These are DRI4 and UHTF funds which do not require a local match.** (JB)

A) Modification No. 14 to Subgrant Agreement (R2010-1411) for DRI4 extended the date of the Agreement to August 31, 2015 to enable the completion of ongoing projects.

C) On October 28, 2014, the County entered into a Loan Agreement (R2014-1922) with New South Bay Villas, LLC, to provide \$1,033,996 in HOME funds for the New South Bay Villas Project, a 131 unit multi-family rental complex in South Bay. Amendment No. 001 extended the loan closing date from July 30, 2015 to October 31, 2015.

Recommended By:  9-25-15
Department Deputy Director Date

Approved By:  10/5/15
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:


Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	✓ ⊖				
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included In Current Budget? Yes _____ No _____

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

- ❖ **No fiscal impact.**

C. Departmental Fiscal Review:


Shairette Major, Fiscal Manager II

III. REVIEW COMMENTS

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

Shen, Ben
OFMB 10 MS 10
40 9/15 9/18 9/23 9/28
9/68 9/24 9/28 9/28

An. J. Jacobson 10/11/15
Contract Development and Control
Bioheals 9-22-15/9-30-15

B. Legal Sufficiency:

James Burt 10/5/15
Assistant County Attorney

C. Other Department Review:

Department Director

Modification to Subgrant Agreement

2013 JUN 23 11:33 AM
6/1/2013

**MODIFICATION NUMBER 14 TO SUBGRANT AGREEMENT BETWEEN
THE DEPARTMENT OF ECONOMIC OPPORTUNITY AND
PALM BEACH COUNTY**

This Modification is made and entered into by and between the State of Florida, Department of Economic Opportunity, ("the Department" or "DEO"), and Palm Beach County, ("the Recipient"), to modify **DEO/DCA Contract Number 10-DB-K4-10-60-01-K29**, award dated June 14, 2010 ("the Agreement").

WHEREAS, the Department and the Recipient entered into the Agreement, pursuant to which the Department provided a subgrant of \$6,533,405 to Recipient under the Disaster Recovery Initiative Program ("DRI") as set forth in the Agreement;

WHEREAS, the Department and the Recipient desire to modify the Agreement;

WHEREAS, pursuant to the provisions of Chapter 2011-142, Laws of Florida, the DCA Division of Housing and Community Development was transferred to the Department of Economic Opportunity effective October 1, 2011; and the parties wish to reflect the new name.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein, the parties agree as follows:

☐ **Reinstate Agreement**

1. The Agreement is hereby reinstated as though it had not expired.

☒ **Extend Agreement**

2. Paragraph 3, Period of Agreement is hereby revised to reflect an ending date of August 31, 2015.

☒ **Revise Activity Work Plan**

3. The Attachment 3, Activity Work Plan section of the Agreement is hereby deleted and is replaced by the revised Attachment 3, Activity Work Plan section, which is attached hereto and incorporated herein by reference.

☒ **Revise Program Budget and Scope of Work**

4. The Attachment A, Program Budget section of the Agreement is hereby deleted and is replaced by the revised Attachment A, the Program Budget, which is attached hereto and incorporated herein by reference.

Modification to Subgrant Agreement

6/1/2013

Modification Number: 14

DEO/DCA Contract Number: 10-DB-K4-10-60-01-K29

Recipient: PALM BEACH COUNTY

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☐ **Change in Participating Parties**

5. The Attachment A, Program Budget section, is hereby modified to delete all references to “(Type in name, if applicable.),” as the Participating Party, and replace them with “(Type in name, if applicable.)” as the Participating Party with the understanding that the Recipient and the new Participating Party will enter into a Participating Party Agreement containing provisions and caveats that meet or exceed the conditions agreed to in the Participating Party Agreement between the Recipient and the original Participating Party.

☐ **Inclusion of an Unmet Need as Addressed in the Original Application**

6. The Attachment A, Program Budget section of the Agreement is hereby deleted and is replaced by the revised Attachment A, the Program Budget, which is attached hereto and incorporated herein by reference.
7. The Attachment , Activity Work Plan section of the Agreement is hereby deleted and is replaced by the revised Attachment , Activity Work Plan section, which is attached hereto and incorporated herein by reference.

☐ **Change in Number of Accomplishments and/or Beneficiaries**

8. The Attachment A, Program Budget section of the Agreement is hereby deleted and is replaced by the revised Attachment A, the Program Budget, which is attached hereto and incorporated herein by reference.

☐ **Reflect Change in Agency from DCA to DEO**

9. This modification to the Subgrant Agreement hereby replaces “Department of Community Affairs” with “Department of Economic Opportunity” where appropriate in context.

☒ **Other: Additional Contract Requirements**

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10. Section (5), RECORD KEEPING, is hereby deleted and the following language added:

(a) As applicable, Recipient's performance under this Agreement shall be subject to the federal OMB Circular No. A-102, *Common Rule: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments* (53 Federal Register 8034) or 2 CFR 215, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations*, and either 2 CFR 225, *Cost Principles for State, Local and Indian Tribal Governments*, 2 CFR 220, *Cost Principles for Educational Institutions*, or 2 CFR 230, *Cost Principles for Non-Profit Organizations*.

(b) Representatives of DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or representatives of the federal government and their duly authorized representatives shall have access to any of Recipient's books, documents, papers, and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions.

(c) Recipient shall maintain books, records, and documents in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by DEO under this Agreement.

(d) Recipient will provide a financial and compliance audit to DEO, if applicable, and ensure that all related party transactions are disclosed to the auditor.

(e) The Recipient shall retain sufficient records to show its compliance with the terms of this Agreement, and the compliance of all contractors and consultants paid from funds under this Agreement, for a period of six years from the date this Agreement is final closed. The Recipient shall ensure that audit working papers are available upon request for a period of six years from the date this Agreement is final closed, unless extended in writing by the Department. The six-year period may be extended for the following exceptions:

1. If any litigation, claim or audit is started before the six-year period expires, and extends beyond the six-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

2. Records for the disposition of non-expendable personal property valued at \$5,000 or more at the time it is acquired shall be retained for six years after final disposition.

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3. Records relating to real property acquired shall be retained for six years after the closing on the transfer of title.

(f) The Recipient shall maintain all records and supporting documentation for the Recipient and for all contractors and consultants to be paid from funds provided under this Agreement, including documentation of all program costs, in a form sufficient to determine compliance with the requirements and objectives of the **Program Budget - Attachment A** - and all other applicable laws and regulations.

(g) The Recipient, its employees or agents, including all contractors and consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to representatives of DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or representatives of the federal government and their duly authorized representatives. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday.

(h) To the extent that it does not conflict with federal regulations, the Recipient shall transfer, at no cost to DEO, all public records upon completion or termination of this Agreement, and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All electronic records shall be provided to DEO in a DEO-compatible format.

(i) The Recipient shall include the aforementioned audit and record keeping requirements in all approved contracts and assignments.

11. Section (6), AUDIT REQUIREMENTS, is hereby deleted and the following language is added:

(a) Review the Audit Requirements listed in Attachment L of this contract. For local government fiscal years beginning after December 26, 2014, a recipient will not have to have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised, unless it expends \$750,000 or more in Federal awards during its fiscal year.

(b) The requirements listed in Attachment L, Part II: State Funded, are not applicable to this subgrant agreement which is a Federal pass-through award.

(c) Within sixty (60) days of the close of the fiscal year, on an annual basis, the recipient shall electronically submit a completed Audit Compliance Certification (a version of this certification is attached hereto as Attachment M to audit@deo.myflorida.com. Recipient's timely submittal of one completed Audit Compliance Certification for each applicable fiscal year will fulfill this requirement

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DEO/DCA Contract Number: 12DB-P5-10-60-01-K43

Recipient: Palm Beach County

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within all agreements (e.g., contracts, grants, memorandums of understanding, memorandums of agreement, economic incentive award agreements, etc.) between DEO and the Recipient.

This form is in addition to the audit certification memo that must be sent to the Department if an audit is not required because the local government spent less than \$500,000 (\$750,000 for fiscal years starting after December 26, 2014) in Federal funds during a fiscal year.

(d) In addition to the submission requirements listed above, each recipient should send an electronic copy of its audit report or certification memo (available on the CDBG website) by June 30 following the end of each fiscal year in which it had an open CDBG subgrant to its grant manager.

12. Section (16)(c), ATTACHMENTS, is hereby modified to add the following:

Attachment L – Audit Requirements
Attachment M – Audit Compliance Certification

13. Section (18), REPAYMENTS, is hereby modified to add the following:

(a) The Recipient and its contractors may only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period; however, pursuant to 24 CFR 570.489(b), reimbursement can be requested for eligible application preparation costs that were listed in the Recipient's *Application for Funding*.

(b) In accordance with Section 215.971, FS, the Recipient shall refund to DEO any balance of unobligated funds which has been advanced or paid to Recipient.

(c) The Recipient shall refund to DEO all funds paid in excess of the amount to which Recipient or its contractors are entitled under the terms and conditions of this Agreement.

14. The following provision is added as Section (24), CONTRACTS:

If the Recipient contracts any of the work required under this Agreement, a copy of the signed contract must be forwarded to the Department to be reviewed to confirm the following: (i) that the contractor is bound by the terms of this Agreement, (ii) that the contractor is bound by all applicable state and federal laws and regulations, (iii) that the contractor shall hold the Department and Recipient harmless against all claims of whatever nature arising out of the contractor's performance of work under this Agreement, to the extent allowed and required by law, and (iv) provisions addressing bid, payment, and performance bonds and liquidated damages. The

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Recipient shall document in the quarterly report the contractor's progress in performing its work under this Agreement.

For each contract, the Recipient shall report to the Department as to whether that contractor, or any subcontractors hired by the contractor, is a minority vendor, as defined in Section 288.703, FS.

15. The following provision is added as Section (25), PUBLIC RECORDS RESPONSIBILITIES:

In accordance with Chapter 119 of the Florida Statutes, Recipient shall be responsible for responding to all public records requests per the cost structure provided for records made or received by Recipient in conjunction with this Agreement, unless the records are exempt from section 24(a) of Article I of the State Constitution and Section 119.07(1), Florida Statutes. Notice of public records requests received by the Recipient shall be e-mailed to PRRequest@deo.myflorida.com and mailed to:

Public Records Coordinator
Department of Economic Opportunity
107 East Madison Street
Tallahassee, Florida 32399
Office: (850) 245-7140

(b) This Agreement may be terminated by DEO for refusal by the Recipient to comply with Florida's public records laws or to allow public access to any non-exempt public record made or received by the Recipient in conjunction with this Agreement.

16. The following is added as Section (26), EMPLOYMENT ELIGIBILITY VERIFICATION:

1. Executive Order 11-116, signed May 27, 2011, by the Governor of Florida, requires DEO contracts in excess of nominal value to expressly require Recipient to:
 - a. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Recipient during the Agreement term; and,
 - b. Include in all subcontracts under this Agreement, the requirement that subcontractors performing work or providing services pursuant to this Agreement utilize the E-Verify system to verify the employment eligibility of all new employees hired by the

Department of Economic Opportunity – Disaster Recovery Initiative
Modification to Subgrant Agreement

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subcontractors during the term of the subcontract.

2. E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States after the effective date of the required Memorandum of Understanding (MOU); the responsibilities and elections of federal Recipients, however, may vary, as stated in Article II.D.1.c. Of the MOU. There is no charge to employers to use E-Verify. The Department of Homeland Security's E-Verify system can be found at:
 3. If Recipient does not have an E-Verify MOU in effect, Recipient must enroll in the E-Verify system prior to hiring any new employee after the effective date of this Agreement.
17. The following provision is added as Section (27), DISCRIMINATORY VENDOR:

Recipient affirms that it is aware of the provisions of Section 287.134(2)(a), Fla. Stat., and that at no time has Recipient been placed on the Discriminatory Vendor List. Recipient further agrees that it shall not violate such law during the term of this Agreement.

18. The following provision is added as Section (28), FINANCIAL CONSEQUENCES:

If the Recipient provides services to any client more than 180 days after receipt of the client application, without recertification of the client's income eligibility, the Recipient shall be assessed a financial consequence in the amount of one percent (1%) of the total amount of weatherization services provided to the ineligible client's dwelling unit

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2015 MAR 23 AM 11:34

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All provisions of the Agreement and any attachments thereto in conflict with this Modification shall be and are hereby changed to conform to this Modification, effective as of the date of the execution of this Modification by both parties.

All provisions not in conflict with this Modification remain in full force and effect, and are to be performed at the level specified in the Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this document as of the dates set herein.

Department of Economic Opportunity

Recipient: Palm Beach County

By: 

By: 

Name: William B. Killingsworth

Name: Shannon R. LaRocque, P.E.

Title: Director, Division of Community Development

Title: Assistant County Administrator

Date: 3/22/15

Date: 3-19-2015

Approved as to form and legal sufficiency, subject only to full and proper execution by the parties

**Approved as to Terms and Conditions
Dept. of Economic Sustainability**

Office of the General Counsel
Department of Economic Opportunity

By: 

Name: Edward W. Lowery J.D.

Title: Director, DES

By: 

Approved Date: 3/23/15

Approved as to Form and Legal Sufficiency

By: 

Name: James Brako

Title: Assistant County Attorney

Attachment L

Audit Requirements

The administration of resources awarded by DEO to the recipient may be subject to audits and/or monitoring by DEO as described in this section.

Monitoring

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEO staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by DEO. In the event DEO determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by DEO staff to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

Audits

Part I: Federally Funded

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

1. In the event that the recipient expends \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Exhibit 1 to this agreement indicates Federal resources awarded through DEO by this agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from DEO. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this part.

2. In connection with the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

3. If the recipient expends less than \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from the recipient resources obtained from other than Federal entities).

4. Although the audit provisions of OMB Circular A-133 ordinarily do not apply to for-profit sub recipients, in the case of Federal funding provided by the U.S. Department of Health and Human Services, Circular A-133 does apply. See 45 C.F.R. 74.26 for further details.

5. A web site that provides links to several Federal Single Audit Act resources can be found at: <http://harvester.census.gov/sac/sainfo.html>

Part II: State Funded

This part is applicable if the recipient is a non-state entity as defined by Section 215.97(2), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient (for fiscal years ending September 30, 2004 or thereafter), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.;

applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this agreement indicates state financial assistance awarded through DEO by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from DEO, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements.

2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year (for fiscal years ending September 30, 2004 or thereafter), an audit conducted in accordance with the provisions of section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

4. Additional information regarding the Florida Single Audit Act can be found at:

<http://www.myflorida.com/fsaa/statutes.html>.

Part III: Other Audit Requirements

N/A

Part IV: Report Submission

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Part I of this agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following at the address indicated:

A. DEO at each of the following addresses:

Electronic copies (preferred): Audit@deo.myflorida.com

or

Paper (hard copy):

Department Economic Opportunity
MSC # 130, Caldwell Building
107 East Madison Street
Tallahassee, Fl. 32399-4126

B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse) at the following address:

<http://harvester.census.gov/fac/collect/ddeindex.html>

2. Pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320(c), OMB Circular A-133, as revised and any management letter issued by the auditor, to DEO at each of the following addresses:

Electronic copies (preferred): Audit@deo.myflorida.com

or

Paper (hard copy):

Department Economic Opportunity
MSC # 130, Caldwell Building
107 East Madison Street
Tallahassee, FL 32399-4126

3. Copies of financial reporting packages required by PART II of this agreement shall be submitted by or on behalf of the recipient directly to each of the following:

A. DEO at each of the following addresses:

Electronic copies (preferred): Audit@deo.myflorida.com

or

Paper (hard copy):

Department Economic Opportunity
MSC # 130, Caldwell Building
107 East Madison Street
Tallahassee, FL 32399-4126

B. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, FL 32399-1450

Email Address: flaudgen_localgovt@aud.state.fl.us

4. Copies of reports or the management letter required by Part III of this agreement shall be submitted by or on behalf of the recipient directly to:

A. DEO at each of the following addresses:

N/A

5. Any reports, management letter, or other information required to be submitted to DEO pursuant to this agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

6. Recipients, when submitting financial reporting packages to DEO for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (non-profit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

Part V: Record Retention

1. The recipient shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of five (5) years from the date the audit report is issued, or five (5) state fiscal years after all reporting requirements are satisfied and final payments have been received, whichever period is longer, and shall allow DEO, or its designee, CFO, or Auditor General access to such records upon request. In addition, if any litigation, claim, negotiation, audit, or other action involving the records has been started prior to the expiration of the controlling period as identified above, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the controlling period as identified above, whichever is longer. The recipient shall ensure that audit working papers are made available to DEO, or its designee, CFO, or Auditor General upon request for a period of five (5) years from the date the audit report is issued, unless extended in writing by DEO.

Audit Compliance Certification	
<i>Email a copy of this form within 60 days of the end of each fiscal year in which this subgrant was open to audit@deo.myflorida.com.</i>	
Recipient:	
FEIN:	Recipient's Fiscal Year:
Contact Name:	Contact's Phone:
Contact's Email:	
<p>1. Did the Recipient expend state financial assistance, during its fiscal year, that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between the Recipient and the Department of Economic Opportunity (DEO)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the above answer is yes, answer the following before proceeding to item 2.</p> <p>Did the Recipient expend \$500,000 or more of state financial assistance (from DEO and all other sources of state financial assistance combined) during its fiscal year? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, the Recipient certifies that it will timely comply with all applicable state single or project-specific audit requirements of section 215.97, Florida Statutes, and the applicable rules of the Department of Financial Services and the Auditor General.</p>	
<p>2. Did the Recipient expend federal awards, during its fiscal year, that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between the Recipient and DEO? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the above answer is yes, also answer the following before proceeding to execution of this certification:</p> <p>Did the Recipient expend \$500,000 or more in federal awards (from DEO and all other sources of federal awards combined) during its fiscal year? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, the Recipient certifies that it will timely comply with all applicable single or program-specific audit requirements of OMB Circular A-133, as revised.</p>	
By signing below, I certify, on behalf of the Recipient, that the above representations for items 1 and 2 are true and correct.	
Signature of Authorized Representative	Date
Printed Name of Authorized Representative	Title of Authorized Representative

**DEPARTMENT OF ECONOMIC OPPORTUNITY CDBG DISASTER RECOVERY PROGRAM
ATTACHMENT 3 - ACTIVITY WORK PLAN**

**RECIPIENT
CONTRACT NO.**

**PALM BEACH COUNTY
10DB-K4-10-60-01-K29**

**DATE PREPARED
PROJECT BUDGET \$**

**January 20, 2015
\$432,464**

Date Start (month & year)	Date End (month & year)	Describe Proposed Action to be Undertaken or Contract Special Condition Clearance Documentation to be submitted by "Date End"	# Units to be completed by "Date End"	Proposed \$\$ to be Requested by "Date End"	Proposed Administration \$\$ to be Requested by "Date End"
ACTIVITY #1: PBC ENGINEERING—WEST PALM BEACH HOUSING AUTHORITY – SOUTHRIDGE INFRASTRUCTURE IMPROVEMENTS					
March 2014		<u>Status: Contract award pending DEO Funding Increase Approval</u>			
Sept 2014	Oct 2014	Contract award by WPBHA; Notice-to-Proceed issued to contractor; Contractor applies for Permitting Mobilizes Equipment and manpower to start project			
Oct 2014	Nov 2014	Construction In progress; Activity monitoring begins for construction progress and Davis-Bacon compliance via site visits, employee interviews and payroll reviews; Resubmit plans to DEO and Building Department for review and approval Draw Request \$35,260.00		\$35,260	
Dec 2014	Jan 2015	Construction in progress and Activity monitoring continues: Draw Request \$125,000		\$125,000	
Feb 2015	Mar 2015 ⁵	Construction in progress and Activity monitoring continues: Draw Request \$125,000		\$125,000	
Apr 2015	May 2015	Construction in progress and Activity monitoring continues: Draw Request \$125,000		\$105,000	
Jun 2015	Aug 2015	Activity is complete; Engineer's Certificate of Completion issued to DES; Draw Request: Final Payment to contractor		\$42,204	

Note: More than one activity may be included per form.

(Rev. Aug 2004)

**DEPARTMENT OF ECONOMIC OPPORTUNITY CDBG DISASTER RECOVERY PROGRAM
ATTACHMENT 3 - ACTIVITY WORK PLAN**

**RECIPIENT
CONTRACT NO.**

**PALM BEACH COUNTY
10DB-K4-10-60-01-K29**

**DATE PREPARED
PROJECT BUDGET \$**

**March 21, 2013
\$740,744**

Date Start (month & year)	Date End (month & year)	Describe Proposed Action to be Undertaken or Contract Special Condition Clearance Documentation to be submitted by "Date End"	# Units to be completed by "Date End"	Proposed \$\$ to be Requested by "Date End"	Proposed Administration \$\$ to be Requested by "Date End"
ACTIVITY #10: WEST PALM BEACH HOUSING AUTHORITY – NEWTON WOODS DEVELOPMENT – MF HARDENING					
March 2014		<u>Status: Contract awarded Pending Notice to proceed</u>			
March 2014	April 2014	Notice-to-Proceed issued to contractor Contractor applies for Permitting Mobilizes Equipment and manpower to start project			
May 2014	June 2014	Construction Begins; Activity monitoring begins for construction progress and Davis-Bacon compliance via site visits, employee interviews and payroll reviews; Draw Requests Begin: \$125,000		\$ 125,000	
July 2014	Aug 2014	Construction and Activity monitoring continues: Draw Request: \$200,000		\$ 200,000	
Sept. 2014	Oct 2014	Construction and Activity monitoring continues: Draw Request: \$200,000		\$ 200,000	
Nov 2014	Dec 2014	Construction and Activity monitoring continues: Draw Request: \$125,000		\$ 125,000	
Jan 2015	Feb 2015	Activity is complete; Engineer's Certificate of Completion issued to DES; Final Payment to contractor: \$90,744	60	\$ 90,744	

Note: More than one activity may be included per form.

(Rev. Aug 2004)

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (the "Agreement"), is made as of the 28 day of August, 2015, by and among **AMELIA ESTATES, LLC**, a Florida limited liability company (the "Borrower"), **PALM BEACH COUNTY**, a political subdivision of the State of Florida (the "Subordinated Lender"), and **FIRST NATIONAL BANK OF COFFEE COUNTY**, a Georgia banking company (the "Senior Lender");

WITNESSETH:

WHEREAS, the Senior Lender has this day made a loan in the original principal amount of \$6,000,000.00 (the "Loan") to the Borrower pursuant to that certain Term Loan Agreement (the "Loan Agreement") dated August 28, 2015 by and between the Borrower and the Senior Lender; and

WHEREAS, the Loan is evidenced by that certain Term Note dated August 28, 2015 from the Borrower to the order of the Senior Lender in the face principal amount of \$6,000,000.00 (the "Note") and is secured by among other things, that certain Mortgage, Assignment of Leases and Rents, and Security Agreement (the "Mortgage") from the Borrower to the Senior Lender as to 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"); and

WHEREAS, the execution and delivery of this Subordination Agreement is a condition, among others, to the making of the Loan and the extension of any further loans or credit by the Senior Lender to the Borrower; and

WHEREAS, the Subordinated Lender has previously made a loan in the principal amount of \$650,000.00 to the Borrower, which is secured by a lien against the Premises, and may in the future make additional advances or otherwise extend credit to or for the benefit of the Borrower; and

NOW, THEREFORE, to induce the Senior Lender to make the Loan to the Borrower, and in consideration of the Senior Lender's doing so, and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower and the Subordinated Lender hereby agree with the Senior Lender as follows:

1. Definitions. "Senior Indebtedness" shall mean all indebtedness, liabilities, and obligations of the Borrower to the Senior Lender, whether now existing or hereafter created, and evidenced or secured by those certain loan documents, including the Loan Agreement, Note, and Mortgage referenced above, and by any other instruments previously, simultaneously or hereafter executed and delivered by the Borrower to the Senior Lender in connection with the Loan (as the same may be amended, extended, renewed, supplemented, or replaced from time to time, hereinafter collectively referred to as the "Loan Documents"). "Subordinated Debt" shall mean, collectively, all indebtedness and other obligations of the Borrower to the Subordinated Lender, however evidenced or incurred, whether direct or indirect, absolute or contingent, now existing or hereafter arising, due or to become due.

2. Continuing Subordination. The Subordinated Lender, for itself, its successors, and assigns (including, without limitation, all subsequent holders of all documents and instruments evidencing or securing the Subordinated Debt) does hereby subordinate (a) the Subordinated Debt, (b) that certain Conditional Grant Agreement, Amended and Restated Declaration of Restrictions, and all documents evidencing or securing the Subordinated Debt (as the same may be amended, extended, renewed, supplemented, or replaced in accordance with the provisions thereof and hereof, hereinafter collectively referred to as the "Subordinated Loan Documents"), (c) all indebtedness and other obligations now or hereafter evidenced or secured by the Subordinated Loan Documents, and (d) any present or future right, title, lien, and interest it may have in and to any assets of the Borrower or any other assets which are collateral for the Subordinated Debt or any portion thereof, specifically including the Premises, and the issues and profits therefrom, to (i) the Senior Indebtedness, (ii) the Loan Documents, and (iii) all of the right, title, lien, and interest held by the Senior Lender, its successors and assigns (including all subsequent holders of the Senior Indebtedness), in and to the collateral, specifically including the Premises, for the Senior Indebtedness as described in the Loan Documents (the "Collateral"), and the rents, issues, and profits therefrom under and pursuant to the Loan Documents and any and all extensions and supplements to the same.

3. Bankruptcy. Upon any distribution of the assets or properties of the Borrower or upon any dissolution, winding up, liquidation, or reorganization involving the Borrower (whether in bankruptcy, insolvency, or receivership proceedings or upon an assignment for the benefit of creditors or otherwise):

(a) the Senior Lender shall first be entitled to receive payment in full of the principal of and interest on the Senior Indebtedness and all fees and any other payments (including post-petition interest and all costs and expenses) due pursuant to the terms of the Loan Documents, before the Subordinated Lender is entitled to receive any payment on account of any Subordinated Debt;

(b) any payment or distribution of the assets or properties of the Borrower of any kind or character, whether in cash, property, or securities, to which the Subordinated Lender would be entitled except for the provisions of this Agreement, shall be paid by the liquidating trustee or agent or other person making such payment or distribution directly to the Senior Lender;

(c) in the event that, notwithstanding the foregoing, any payment or distribution of the assets or properties of the Borrower of any kind or character, whether in cash, property, or securities, shall be received by the Subordinated Lender on account of principal, interest, fees, or other amounts on or with respect to the Subordinated Debt before all Senior Indebtedness is paid in full, such payment or distribution shall be received and held in trust for and shall be paid over to the Senior Lender forthwith, for application to the payment of such Senior Indebtedness until all such Senior Indebtedness shall have been paid in full.

4. Continuing Benefits. No right of the Senior Lender or any present or future holder of any Senior Indebtedness to enforce subordination as provided herein shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of any Borrower, or by any act or failure to act, in good faith, by the holder of the Senior Indebtedness, or by any noncompliance by any Borrower with the terms of the Note or any other Loan Document regardless of any knowledge thereof which such holder may have or be otherwise charged with.

5. Enforcement of Subordination. The Subordinated Lender, by its execution of this Agreement, authorizes and expressly directs the Senior Lender to take such action as may be necessary or appropriate, in the Senior Lender's sole discretion, from time to time to effectuate the subordination provided herein.

6. Dealings with the Borrower. The Senior Lender will not increase the principal amount of the Loan as stated above without the consent of the Subordinated Lender, except that the Senior Lender may extend, renew, or change the length of the term of the Loan, change the interest rate for the Loan, make protective advances and incur expenses that may become part of the Senior Indebtedness as required to protect the interests of the Senior Lender and all collateral (including the Premises) held as security for the Loan, or extend, renew, modify, or amend the terms of any security therefor and exercise all of its rights and remedies under the Loan Documents, all without notice to or consent of the Subordinated Lender.

7. Assignment of Senior Indebtedness. The Senior Lender may assign or transfer any or all of the Senior Indebtedness or any interest herein and, notwithstanding any such assignment or transfer or any subsequent assignment or transfer thereof, such Senior Indebtedness shall be and remain Senior Indebtedness for the purposes of this Agreement, and every immediate and successive assignee or transferee of any of the Senior Indebtedness or of any interest therein shall, to the extent of the interest of such assignee or transferee in the Senior Indebtedness, be entitled to the benefits of this Agreement to the same extent as if such assignee or transferee were the Senior Lender; provided, however, that, unless the Senior Lender shall otherwise consent in writing, the Senior Lender shall have an unimpaired right, prior and superior to that of any such assignee or transferee, to enforce this Agreement, for the benefit of the Senior Lender, as to those portions of the Senior Indebtedness which the Senior Lender has not assigned or transferred.

8. Waiver; Modification. No delay on the part of the Senior Lender in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the Senior Lender of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any modification or waiver of any of the provisions of this Agreement be binding upon the Senior Lender except as expressly set forth in a writing duly signed and delivered by or on behalf of the Senior Lender.

9. Waiver of Rights. The Subordinated Lender and the Borrower hereby waive (a) notice of acceptance of this Agreement by the Senior Lender, (b) notice of the existence or creation or nonpayment of all or any of the Senior Indebtedness, and (c) all diligence in the collection or protection of or realization upon the Senior Indebtedness or the Collateral therefor.

10. Legend. The Subordinated Lender and the Borrower hereby agree to cause all instruments evidencing indebtedness or other obligations of the Borrower to the Subordinated Lender which are or may be subject to the provisions of this Subordination Agreement to be subject to an appropriate legend to the effect that such indebtedness or other obligation evidenced by such instrument is subordinated to the Senior Indebtedness in the manner and to the extent set forth in this Subordination Agreement, and the Subordinated Lender will make appropriate entries in the books and records of the Subordinated Lender to indicate that the Subordinated Debt is subject to the Senior Indebtedness.

11. Priority. The priorities herein specified are applicable irrespective of the time of creation of the Borrower's indebtedness or obligations to the Senior Lender or the Subordinated Lender.

12. Inducement; Successors and Assigns. The Borrower and the Subordinated Lender hereby expressly agree and represent that this Agreement is to induce the Senior Lender to make the Loan. The provisions hereof shall be binding upon the successors and assigns of the Borrower and the Subordinated Lender, and shall inure to the benefit of the Senior Lender and any participant of the Senior Lender and all subsequent holders of the Senior Indebtedness or any portion thereof. It is hereby further agreed that the Senior Lender may enforce any and all rights derived from this Agreement by suit, either in equity or law, for specific performance of any agreement herein contained or for judgment at law and any other relief whatsoever appropriate to such action or procedure.

13. Default in Subordinated Debt. The Subordinated Lender agrees to deliver a written notice to the Senior Lender within five (5) business days after any default by Borrower as to the Subordinate Debt. Senior Lender shall have the right, without the obligation, to cure any default by Borrower as to the Subordinate Debt within the same period for curing a default that is given to the Borrower under the Loan Documents evidencing or securing the Subordinate Debt, except that the Senior Lender's time period for cure shall begin on the date on which it receives the written notice of default from the Subordinate Lender. Any and all amounts that may be advanced or expended by the Senior Lender in accordance with the Loan Documents to cure a default of the Subordinate Debt shall be deemed to have been advanced by the Senior Lender pursuant to, and shall be secured by the lien of, the Loan Documents.

The Borrower and the Subordinate Lender agree that a default by Borrower as to the Subordinate Debt shall, automatically, and without further action by the parties thereto, constitute a default under the Loan Documents, and the Senior Lender shall have the right to exercise all rights and remedies under the Loan Documents in the same manner as in the case of any other default thereunder.

14. Notices. Any and all notices, elections or demands permitted or required to be given under this Agreement shall be in writing, signed by or on behalf of the party giving such notice, election or demand, and shall be deemed to have been properly given and shall be effective upon being personally delivered, or upon being deposited in the United States mail,

postage prepaid, certified with return receipt required, and shall be deemed to have been received on the earlier of the date shown on the receipt or three (3) business days after the postmarked date thereof, or upon being deposited with an overnight delivery service requiring proof of delivery, to the other party at the address of such other party set forth below or such other address within the continental United States as such other party may designate by notice specifically designated as a notice of change of address and given in accordance herewith; provided, however, that the time period in which a response to any such notice, election, demand or request must be given shall commence on the date of receipt thereof; and provided further that no notice of change of address shall be effective until the date of receipt thereof. Personal delivery to a partner or any officer, partnership, agent or employee of such party at said address shall constitute receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been given shall also constitute receipt. Any such notice, election, demand, request or response shall be addressed as follows:

If given to Subordinated Lender, shall be addressed as follows:

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

with a copy (*which shall not constitute notice*) to:

Palm Beach County Attorney's Office
Attn: J a m e s B r a k o , Esq.
301 N. Olive Avenue, Suite 601
West Palm Beach, Florida 33401

and, if given to Borrower, shall be addressed as follows:

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

with a copy (*which shall not constitute notice*) to:

Shutts & Bowen, LLP
Attn: Sidney C. Calloway, Esq.
200 E. Broward Blvd., Suite 2100
Fort Lauderdale, Florida 33301

and, if given to Senior Lender, shall be addressed as follows:

First National Bank of Coffee County
Attn: Stephen Lewis
420 South Madison Avenue
Douglas, Georgia 31534

with a copy (*which shall not constitute notice*) to:

Davis, Pickren, Seydel & Sneed, LLP
Attn: William Terry Pickren, Esq.
285 Peachtree Center Avenue
2300 Marquis Two Tower
Atlanta, Georgia 30303

15. Miscellaneous Etc. This Agreement shall be construed in accordance with, and the rights of the parties shall be governed by, the laws of the State of Florida. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Time is of the essence of this Agreement.

This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument.

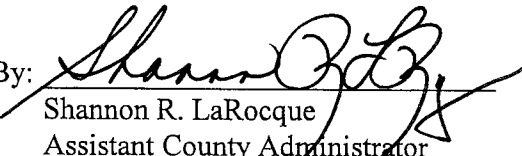
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IN WITNESS WHEREOF, the Borrower, the Senior Lender, and the Subordinated Lender have executed, sealed, and delivered this Agreement as of the date first above written.

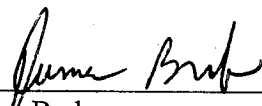
SUBORDINATED LENDER:

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

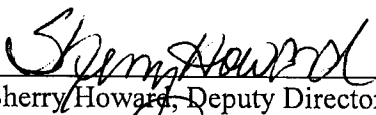
FOR ITS BOARD OF COUNTY COMMISSIONERS

By: 
Shannon R. LaRocque
Assistant County Administrator

Approved as to Form and
Legal Sufficiency

By: 
James Brako
Assistant County Attorney

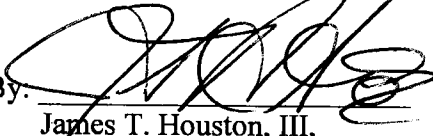
Approved as to Terms and Conditions
Department of Economic Sustainability

By: 
Sherry Howard, Deputy Director
Department of Economic Sustainability


[SIGNATURES CONTINUED ON NEXT PAGE]

BORROWER:

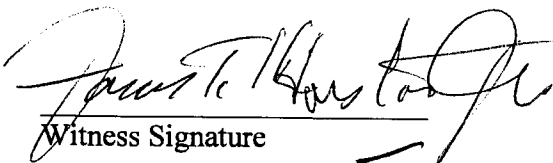
AMELIA ESTATES, LLC,
a Florida limited liability company

By: 
James T. Houston, III,
Manager

Witnesses:

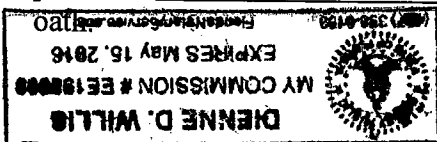

Witness Signature

Dienne D. Willis
Print Witness Name

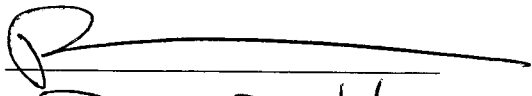

Witness Signature
James T. Houston, Jr.
Print Witness Name

STATE OF FLORIDA
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me on August 14, 2015 by James T. Houston, III, as Manager of Amelia Estates, LLC, who is personally known to me or has produced _____ as identification and who did/did not take an



(NOTARY SEAL ABOVE)

Signature: 

Notary Name: Dienne D. Willis
Notary Public - State of Florida

[SIGNATURES CONTINUED ON NEXT PAGE]

SENIOR LENDER:

FIRST NATIONAL BANK OF COFFEE COUNTY

BY: [Signature]

TITLE: Sr. Lender

Witnesses:

[Signature]
Witness Signature

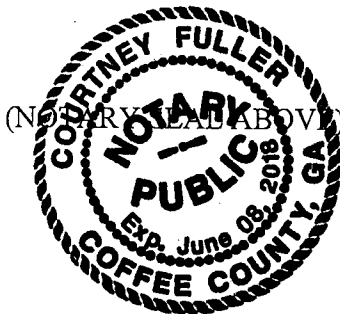
Jessica Phillips
Print Witness Name

[Signature]
Witness Signature

Misty M Kimbrough
Print Witness Name

STATE OF Georgia
COUNTY OF Coffee

The foregoing instrument was acknowledged before me on August 18, 2015, by Stephen Lewis, who is personally known to me or has produced as identification and who did/did not take an oath.



Signature: Courtney Fuller

Notary Name: Courtney Fuller
Notary Public - State of GA

EXHIBIT A

LEGAL DESCRIPTION

All of the land encompassed by AMELIA ESTATES, according to the plat thereof recorded in Plat Book 116, page 111 of the public records of Palm Beach County, Florida, less and except Tracts C and F shown thereon.



AMENDMENT 001 TO THE LOAN AGREEMENT

WITH

NEW SOUTH BAY VILLAS, LLC

Amendment 001 to the Loan Agreement is made and entered into on AUG 26 2015, by and between **Palm Beach County** ("County") and **New South Bay Villas, LLC**, ("Borrower").

WITNESSETH:

WHEREAS, the County entered into a Loan Agreement (R2014-1922) with the Borrower on October 28, 2014, to provide \$1,033,996 of HOME Investment Partnership Program funds for the New South Bay Villas project, a 131 unit multi-family rental complex in South Bay; and

WHEREAS, the closing of the Loan was contingent in part on HUD's release of funds to County in the IDIS reporting system; and

WHEREAS, HUD did not release the funds to County in the IDIS reporting system prior to the anticipated loan closing date July 30, 2015, and the parties were therefore unable to close the Loan; and

WHEREAS, the parties wish to modify the Loan Closing Date and the Commencement of Construction Date.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and various other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

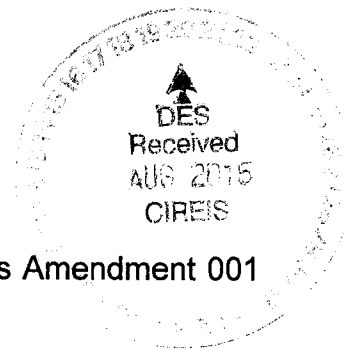
SECTION 2: THE LOAN AND LOAN EXPENDITURE REQUIREMENTS

1. Revise the Loan Closing Date by deleting "July 30, 2015" and replacing it with "October 31, 2015".
2. Revise the Commencement of Construction Date by deleting "September 30, 2015" and replacing it with "January 19, 2016".

SECTION 3 (A) (i): CONDITIONS PRECEDENT TO CLOSING: Title Insurance

Revise the delivery date for the submission of a title commitment from New South Bay Villas, LLC to the County by deleting "March 15, 2015" and replacing it with "October 15, 2015".

Except as modified by this Amendment 001, this Loan Agreement remains unmodified and in full force and effect in accordance with the terms thereof. This Amendment 001 is expressly contingent upon the approval of the County and shall become effective only when signed by all parties.



IN WITNESS WHEREOF, Borrower and the County have caused this Amendment 001 to be executed on the date first above written.

Signed, sealed and delivered in the presence of:

BORROWER:

Witnesses:

NEW SOUTH BAY VILLAS, LLC
a Florida limited liability company

Joseph Glucksman
Witness Signature

By: Van Johnson
Van Johnson, President

Joseph Glucksman
Print Witness Name

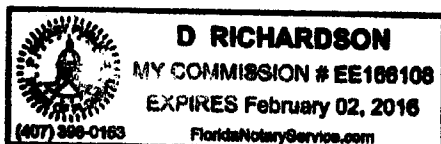
Martha Reuss
Witness Signature

Date: August 19, 2015

Loretta Reeves
Print Witness Name

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 19th day of August, 2015, by Van Johnson as President of New South Bay Villas, LLC, a Florida limited liability company, who is [] personally known to me, or [☒] who has produced Florida driver license as identification.



(NOTARY SEAL ABOVE)

Signature: D. Richardson

Notary Name: D. Richardson
Notary Public - State of Florida

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

By: Shannon R. LaRocque
Shannon R. LaRocque
Assistant County Administrator

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Department of Economic Sustainability

By: James Brako
James Brako
Assistant County Attorney

By: Sherry Howard
Sherry Howard, Deputy Director
Department of Economic Sustainability