

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures					
Operating Costs	(\$1,033,996)				
External Revenues	\$1,033,996				
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	-0-				

# ADDITIONAL FTE POSITIONS (Cumulative)	-0-				
-----------------------------------------	-----	--	--	--	--

Is Item Included In Current Budget? Yes X No

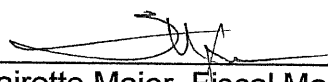
Budget Account No.:

Fund 1103 Dept 143 Unit 1434 Object 8201 Program Code/Period varies

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

Termination of the Loan Agreement with New South Bay Villas, LLC allows the project funds to be unencumbered for use in a new grant agreement with Habitat to be entered into at a later date.


C. Departmental Fiscal Review:



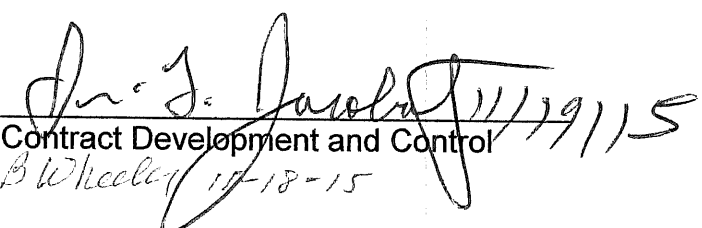
 Shairette Major, Fiscal Manager II

III. REVIEW COMMENTS

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



 OFMB *KB* *MD*
11/18 *11/18* *11/18*



 Contract Development and Control
B. Wheeler 11-18-15

B. Legal Sufficiency:



 Assistant County Attorney

C. Other Department Review:

Department Director

RENO & CAVANAUGH PLLC

October 19, 2015

TO: CARLOS/Betsy/Sherry

Edward W. Lowery, Director

Received 10/20/2015 JM

Julie McGovern
Reno & Cavannugh, PLLC
455 Massachusetts Ave, NW
Washington, DC 20001
202.349.2472 (phone)
202.349.2473 (fax)
jmcgovern@renocavanaugh.com

VIA UPS OVERNIGHT

Mr. Edward Lowery
Director
PBC Department of Economic Sustainability
100 Australian Avenue
Suite 500
West Palm Beach, FL 33401

Re: New South Bay Villas, LLC – Commitment of HOME Investment Partnership Program funds in the amount of \$1,033,996 awarded pursuant to request for proposals DES.2014.1 (RFP) and the loan agreement dated as of October 29, 2014

Dear Edward:

I am writing on behalf of New South Bay Villas, LLC (“Borrower”) regarding commitment of HOME Investment Partnership Program (“HOME”) funds in the amount of \$1,033,996 awarded pursuant to request for proposals DES.2014.1 (RFP) and the loan agreement dated as of October 29, 2014 by and between Borrower and DES both for rehabilitation of South Bay Villas and demolition/new construction of an adjoining public housing project. The completed project (the “Project”) will include sixty-six new housing units and sixty-five rehabilitated housing units. All project units are planned to be supported by project based vouchers (“PBV”) awarded by the Palm Beach County Housing Authority (“PBCHA”). The PBV allows the Borrower to house very low income families by providing supplementing housing assistance.

Unfortunately, the Borrower has discovered HOME and PBV program requirements related to supportive services are in *direct conflict*. As a result, Borrower has decided to return the HOME funds. An explanation follows.

The PBV program can assist more than 25% of units in a multifamily housing project *only if* the units over the 25% cap are filled by either: (1) households consisting of seniors or persons with disabilities or (2) households who are required to receive supportive services as part of the lease. 24 CFR §983.56. While the Project certainly intends to house seniors and persons

Washington, DC 455 Massachusetts Avenue NW, Suite 400 – Washington, DC 20001 – Tel (202) 783 2800
Columbia, MD 10320 Little Patuxent Parkway, Suite 900 – Columbia, MD 21044 – Tel (202) 783 2800
Nashville, TN 424 Church Street, Suite 1750 – Nashville, TN 37219 – Tel (615) 866 3222

renocavanaugh.com

RENO & CAVANAUGH PLLC

with disabilities, only the 504-required percentage will reserved for such households. Depending on the number of households counting as elderly or disabled, at any one time up to 75% of the units must be occupied with households receiving supportive services as a lease condition.

Under the HOME Loan Agreement, Borrower committed to designate 115 of the 131 units (88%) as "HOME units". As you know, in the HOME Program, an Owner cannot make receipt of supportive services a condition of the lease, except in transitional housing.¹ Because this project is not transitional housing, the ban applies.

Thus, up to 75% of units must be occupied by households who *must receive* supportive services as a lease condition AND 88% of units must be occupied by households who *cannot be required to accept* supportive services as a lease condition. Both cannot be true. The Borrower has looked for reconciliation of these two programs in guidance issued by both HUD Office of Community Planning and Development and HUD Office of Public and Indian Housing, and has found nothing.

Reluctantly, the Borrower has determined that receipt of 15 years of PBV assistance outweighs a loan of HOME funds amounting to \$8,991.27 per HOME unit, and has determined to return the HOME funds in time for your Department to reallocate to other qualifying projects. Please feel free to contact Van Johnson,

Specifically,


Julie McGovern, Esq.

Cc: Van Johnson, PBCHA
Joseph Glucksman, McCurdy Senior Housing Corporation
Shannon LaRocque, Palm Beach County
Sherry Howard, PBC Department of Economic Sustainability

¹ 24 CFR 92.253(b)(9) states that "The lease may not contain any of the following provisions: ... agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered."



October 30, 2015

New South Bay Villas, LLC
c/o Palm Beach County Housing Authority
Attn: Van Johnson, President
3432 W. 45th Street
West Palm Beach, FL 33407

Department of
Economic Sustainability

Administration

100 Australian Avenue - Suite #500

West Palm Beach, FL 33406

(561) 233-3600

<http://www.pbcgov.com/DES>

□

**Palm Beach County
Board of County
Commissioners**

Shelley Vana, Mayor

Mary Lou Berger, Vice Chair

Hal R. Valeche

Paulette Burdick

Steven L. Abrams

Melissa McKinlay

Priscilla A. Taylor

County Administrator

Verdenia C. Baker

*"An Equal Opportunity
Affirmative Action Employer"*

Re: HOME Investments Partnership (HOME) Program
Termination of Agreement

Dear Mr. Johnson:

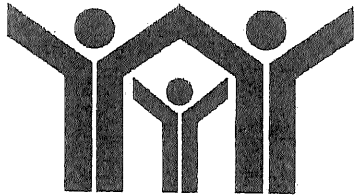
We are in receipt of an October 19, 2015, letter provided on behalf of New South Bay Villas, LLC, by Ms. Julie McGovern of the law firm Reno & Cavanaugh. We understand the conflict between the requirements of the County's HOME Program and the Family Self Sufficiency Voucher Program intended for use in connection with the New South Bay Villas project.

We acknowledge that the benefits to the project and to the prospective occupant families of participating in the Family Self Sufficiency Voucher Program outweigh those that could be provided through the County's HOME Program. We also acknowledge your request to decline the use of HOME Program funds made available through our October 28, 2014, Loan Agreement and accordingly hereby confirm the termination of said Loan Agreement.

We are on the other hand pleased that the project will be moving forward and that the 131 affordable housing units at the project will be completed and wish to convey our support to your efforts to bring additional affordable housing to South Bay. We look forward to working with you in the future if the opportunity arises. Please contact me at (561) 233-3663 if you have any questions.

Sincerely,

Edward W. Lowery, J.D., Director
Department of Economic Sustainability



**Habitat Housing
Solutions, Inc.**

November 12, 2015

Edward W. Lowery
Director
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

Dear Mr. Lowery:

The purpose of this letter is to respectfully request that the Palm Beach County Board of County Commissioners (PBCBCC) allocate \$1,033,996.00 of HOME funding to Habitat Housing Solutions, Inc., (HHSI), a Palm Beach County (PBC) certified Community Housing Development Organization (CHDO). The HOME funds will be used to develop seven (7) properties, five (5) of which are currently under site control of Habitat for Humanity of Palm Beach County, Inc., (HFHPBC), its developer, and two (2) of which are being conveyed to HFHPBC by the City of West Palm Beach. The HOME funds will be used to develop seven (7) affordable, single-family homes for sale to very low-, low-, and moderate-income homebuyers. The properties that will be developed by HHSI in partnership with HFHPBC are located at the following addresses:

1. 315 South F Street, Lake Worth, FL, PCN: 38-43-44-21-15-125-0240
2. 1103 Penn Grove Street, Lake Worth, FL, PCN: 00-42-44-25-15-000-0070
3. 905 South K Street, Lake Worth, FL, PCN: 38-43-44-27-01-026-0100
4. 208 SW Avenue C, Belle Glade, FL, PCN: 04-37-43-31-11-000-0250
5. 137 S Barfield HWY, Pahokee, FL, PCN: 48-37-42-18-12-000-0200

6. 1090 17th Street, West Palm Beach, FL, PCN: 74-43-43-16-08-000-1310 (Conveying)
7. 1053 17th Street, West Palm Beach, FL, PCN: 74-43-43-16-08-000-1220 (Conveying)

HHSI understands that all of the HOME funds must be expended no later than September 30, 2016. Furthermore, HHSI commits to PBC that all of the homes will be sold to income qualified homebuyers no later than December 31, 2016. HHSI has full trust and confidence in its developer, HFHPBC, as it is an organization that has a proven track record of successful completion of all affordable home ownership projects that it has undertaken over its 29 year history in Palm Beach County.

Based on the information provided, HHSI respectfully requests that the PBCBCC approve its request for \$1,033,996.00 of HOME funds for the development of affordable housing for home ownership for very low-, low-, and moderate-income families of Palm Beach County.

Very Respectfully,



Thomas B. Walker
Chairman, Director
Habitat Housing Solutions, Inc.
224 Datura Street, Suite 1314
West Palm Beach, FL 33401

Cc: Bernard J. Godek, CEO
Habitat for Humanity of Palm Beach County, Inc.
6758 N. Military Trail, Suite #301
Riviera Beach, FL 33407