

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 *	0				

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

Budget Account No.:

Fund _____ Dept _____ Unit _____ Object _____ Program Code/Period _____

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

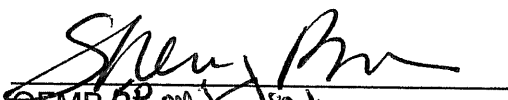
* No fiscal impact.

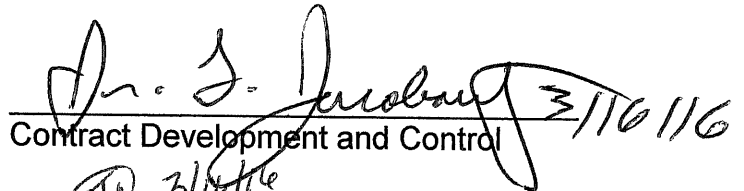
C. Departmental Fiscal Review:


 Shairette Major, Fiscal Manager II

III. REVIEW COMMENTS

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


 OFMB 3/14 3/14 3/14


 Contract Development and Control 3/16/16
 TW 3/16/16

B. Legal Sufficiency:


 Assistant County Attorney 3/17/16

C. Other Department Review:

Department Director

SUMMARY: (Continued from Page1)

The First Amendment to Declaration of Restrictions amends the aforesaid completion date to September 30, 2017, in light of the availability of HFA and HOME financing to enable the project to proceed. It also revises the end of the affordability period from December 31, 2042, to December 31, 2036, for homeowners who must be income approved by the County. The Subordination Agreement renders the County's lien on the western portion of the property as secured by the Declaration of Restrictions, and as amended by the First Amendment to Declaration of Restrictions, junior to the lien of the first mortgage to be held by the HFA.

The Subordination Agreement also contains language whereby the County would agree to not exercise its right to take title to the western portion of the property during the time the HFA first mortgage is in effect. Staff believes the temporary suspension of this right to title poses minimal risk to the County. The County's primary reason for having the right to require CLT's forfeiture of title is to ensure the construction of affordable housing units on the property. The HFA first mortgage financing, together with the financing being provided by the County, will enable the CLT to construct the affordable housing units. The Subordination Agreement will not encumber the portion of the property east of Davis Road, so the County will not be suspending its right to forfeiture as it pertains to the CLT's property east of Davis Road.

Homes constructed at DLW will be sold pursuant to the CLT model under which the CLT leases the land of each home to the homeowner through a 99-year lease and sells the improvements. This approach renders the homes affordable since homeowners do not buy the land but rather make modest land lease payments while only financing the purchase of the improvements. Affordability is further enhanced through HOME Program subsidies. The Delegation of authority to the County Administrator or her designee, will permit the timely subordination of the Declaration of Restrictions, as amended, to the CLT's land lease as each home is sold and will allow the timely delivery of pertinent documents as closings are scheduled for the sale of these homes. **These are Federal CDBG grant funds which require no local match.** District 3 (JB)

Please Return to:
James Brako, Esq.
Palm Beach County Attorney's Office
P.O. Box 1989
West Palm Beach, FL 33402

FIRST AMENDMENT TO THE DECLARATION OF RESTRICTIONS

This Amendment is entered into on _____, by and between **Palm Beach County** ("County") and the **Community Land Trust of Palm Beach County, Inc. (CLT)**

WITNESSETH:

WHEREAS, the CLT executed a Declaration of Restrictions (hereinafter referred to as "Declaration") on February 6, 2009, and recorded said Declaration on February 23, 2009, in Official Records Book 23091, at Page 0700, of the Public Records of Palm Beach County, Florida, for the subject property, hereinafter referred to as the "Property", and described as:

Tracts C, D and E, Block 119 and Tracts C, D and E, Block 120, Palm Beach Farms Company Plat No. 7, according to the map or plat thereof as recorded in Plat Book 5, Page 72, Public Records of Palm Beach County, Florida, LESS that portion of Lot C, Tracts 119 and 120 lying in the Plat of "Augustine Acres" as recorded in Plat Book 26, Page 55, Public Records of Palm Beach County, Florida;

LESS that parcel described in O.R. Book 2169, Page 961, more particularly described as: A parcel of land located in Section 30, Township 44 South, Range 43 East, Palm Beach County, Florida, described as commencing at the Northwest corner of Lot 9, Augustine Acres, according to the plat thereof as recorded in Plat Book 26, Page 55, Palm Beach County records, said point being the Point of Beginning. Proceeding thence South 02°51'40" West 120 feet along the West side of Lot 9, to the Southwest corner thereof; thence North 87°08'20" West 75 feet; thence North 02°51'40" East 120 feet; thence south 87°08'20" East 75 feet to the Point of Beginning;

AND LESS that parcel described in O.R. Book 2997, Page 1708, more particularly described as follows: From the Northeast corner of said Tract 120 according to the Palm Beach Farms Company's Plat No. 7, recorded in Plat Book 5, Page 72, Public Records of Palm Beach County, Florida; thence bear South 01° 56' 30" West, along the East line of said Tract 120, a distance of 300.04 feet to the Point of Beginning; thence continue South 01° 56' 30" West along said East line of Tract 120, a distance of 120.02 feet; thence North 87° 08' 20" West a distance of 94.81 feet; thence North 02° 51' 40" East, a distance of 120 feet to the South line of Augustine Acres as recorded in Plat Book 26, Page 55; thence South 87° 08' 20" East along said South line a distance of 92.89 feet to the Point of Beginning;

AND LESS the South 25.0 feet thereof for canal Right of Way

AND

Tracts C, D and E, Block 121, Palm Beach Farms Company Plat No. 7, according to the map or plat thereof as recorded in Plat Book 5, Page 72, Public Records of Palm Beach County, Florida.

and,

WHEREAS, Palm Beach County is the beneficiary of the restrictions against the Property as created by the granting of the Declaration, and

WHEREAS, the parties desire to modify said Declaration as follows:

Section 3:

- a. Replace "December 31, 2012" with "September 30, 2017".
- b. At the end of this Section, delete "Agreement" and replace it with "October 27, 2014, Loan Agreement, as amended, between the CLT and the County".

Section 4:

- a. Replace "December 31, 2012" with "September 30, 2017".
- b. At the end of the second line after the word "the" insert "aforesaid Loan".

Section 5:

Delete the underlined statement which is between quotation marks and replace it with the following:

"This property shall only be sold to, and occupied by, a homeowner in accordance with the Declaration of Restrictions recorded in Official Records Book 23091, at Page 700, as amended by the First Amendment to the Declarations of Restrictions recorded in Official Records Book _____, at Page _____, all in the Public Records of Palm Beach County, Florida. Said Declaration of Restrictions, as amended, requires verification by Palm Beach County of the homeowner prior to closing on the purchase of this property. This restriction shall be in effect until December 31, 2036."

Section 6:

In the first line after "Declaration of Restrictions" insert ", as amended,".

THIS SPACE HAS BEEN INTENTIONALLY LEFT BLANK

NOW THEREFORE, 1) all items in the Declaration in conflict with this Amendment shall be and are hereby changed to conform to this Amendment, and 2) all provisions not in conflict with this aforementioned Amendment are still in effect and shall be performed at the same level as specified in the Declaration.

Signed, sealed, and delivered in the presence of:

Witnesses:

Name: Paul Joseph

Signature:

Paul Joseph

Name: Miguel Berrio

Signature:

Miguel Berrio

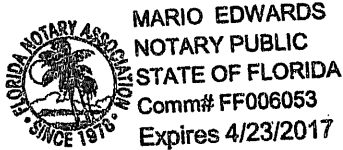
**COMMUNITY LAND TRUST OF
PALM BEACH COUNTY, INC.
a Florida non-profit corporation**

By: [Signature]
Cynthia LaCourse-Blum
Executive Director

(AGENCY SEAL BELOW)

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me on MARCH 11th, 2016, by Cynthia LaCourse-Blum, as Executive Director, of Community Land Trust of Palm Beach County, Inc., who is personally known to me, or who has produced DRIVER LICENSE as identification and who did/did not take an oath.



(NOTARY SEAL ABOVE)

Signature: [Signature]

Notary Name: MARIO EDWARDS
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: _____
Mary Lou Berger, Mayor

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
Department of Economic Sustainability



CFN 20090060320
 OR BK 23091 PG 0700
 RECORDED 02/23/2009 09:42:35
 Palm Beach County, Florida
 Sharon R. Bock, CLERK & COMPTROLLER
 Pgs 0700 - 702; (3pgs)

Return to:

JAYNE REGISTER BARKDULL, ESQ.
 LEVY KNEEN PL.
 SUITE 300
 1601 FORUM PLACE
 WEST PALM BEACH, FLORIDA 33401

DECLARATION OF RESTRICTIONS

The undersigned, Community Land Trust of Palm Beach County, Inc., a not for profit corporation duly organized and existing under the laws of the State of Florida, having its principal office at 160 Australian Avenue, Suite 500, West Palm Beach, FL 33406, (hereinafter referred to as "CLT", which term as used in every instance herein shall include CLT's successors and assigns), for the property described below, in consideration of the receipt of title to the property described below (herein after referred to as "Land") whose purchase was funded by the Palm Beach County Board of County Commissioners (herein after referred to as "County"), does hereby grant to the County the following restrictions against the subject property described as:

Tracts C, D and E, Block 119 and Tracts C, D and E, Block 120, Palm Beach Farms Company Plat No. 7, according to the map or plat thereof as recorded in Plat Book 5, Page 72, Public Records of Palm Beach County, Florida, LESS that portion of Lot C, Tracts 119 and 120 lying in the Plat of "Augustine Acres" as recorded in Plat Book 26, Page 55, Public Records of Palm Beach County, Florida;

LESS that parcel described in O.R. Book 2169, Page 961, more particularly described as: A parcel of land located in Section 30, Township 44 South, Range 43 East, Palm Beach County, Florida, described as commencing at the Northwest corner of Lot 9, Augustine Acres, according to the plat thereof as recorded in Plat Book 26, Page 55, Palm Beach County records, said point being the Point of Beginning. Proceeding thence South 02°51'40" West 120 feet along the West side of Lot 9, to the Southwest corner thereof; thence North 87°08'20" West 75 feet; thence North 02°51'40" East 120 feet; thence south 87°08'20" East 75 feet to the Point of Beginning;

AND LESS that parcel described in O.R. Book 2997, Page 1708, more particularly described as follows: From the Northeast corner of said Tract 120 according to the Palm Beach Farms Company's Plat No. 7, recorded in Plat Book 5, Page 72, Public Records of Palm Beach County, Florida; thence bear South 01°56'30" West, along the East line of said Tract 120, a distance of 300.04 feet to the Point of Beginning; thence continue South 01°56'30" West along said East line of Tract 120, a distance of 120.02 feet; thence North 87°08'20" West a distance of 94.81 feet; thence North 02°51'40" East, a distance of 120 feet to the South line of Augustine Acres as recorded in Plat Book 26, Page 55; thence South 87°08'20" East along said South line a distance of 92.89 feet to the Point of Beginning;

AND LESS the South 25.0 feet thereof for canal Right of Way

AND

Tracts C, D and E, Block 121, Palm Beach Farms Company Plat No. 7, according to the map or plat thereof as recorded in Plat Book 5, Page 72, Public Records of Palm Beach County, Florida.

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

1. These restrictions shall be deemed a covenant running with the land and are binding upon the undersigned, their heirs, executors, successors, and assigns. These restrictions can only be terminated or released by the Palm Beach County Board of County Commissioners, and/or those persons to whom such authority is formally delegated, and executed with the same formalities as this document.

2. In consideration of receipt of title to the Land, as provided through an Agreement with the County dated January 13, 2008, the CLT hereby covenants and agrees, until December 31, 2042, to use the subject property as described in the CLT's application to the County, and as described in said Agreement, and to comply with the provisions, terms and conditions set forth herein.

3. The CLT shall, by December 31, 2012, construct the maximum permissible number of single-family units on the portion of the Land lying west of Davis Road, and shall sell all such single-family units only to applicants approved by the County, all according to the terms contained in the Agreement.

4. Should the CLT not complete the construction of the single-family units and sell all such units to applicants approved by the County by December 31, 2012, according to the terms contained in the Agreement, then the CLT shall convey the portion of the Land lying west of Davis Road back to the County or pay the County an amount equal to the current appraised value within 30 days of written demand by the County.

5. The CLT shall include, in the deed of sale conveying title to each single-family unit constructed on the Land and sold to applicants approved by the County as required herein, a restriction stating the following: "This property shall only be sold to, and occupied by, a homeowner in accordance with the Declaration of Restrictions recorded in ORB _____ Page _____ of the Public Records of Palm Beach County. Said Declaration of Restrictions requires verification by Palm Beach County of the homeowner prior to closing. This restriction shall be in effect until December 31, 2042."

6. The CLT shall, while this Declaration of Restrictions is in force and effect, obtain the County's approval of all successor homeowners to whom the single-family units are sold, and the CLT shall include the same restrictions stated above in their deeds of sale.

7. The CLT shall, by December 31, 2012, construct the maximum permissible number of multi-family rental units on the portion of the Land lying east of Davis Road, and shall thereafter, until December 31, 2017, rent at least fifty-one percent (51%) of all such multi-family rental units to renters approved by the County, all according to the terms contained in the Agreement.

8. Should the CLT not complete the construction of the multi-family rental units by December 31, 2012, or should the CLT after said completion of construction, and until December 31, 2017, not rent at least fifty-one percent (51%) of all such multi-family rental units to renters approved by the County, according to the terms contained in the Agreement, then the CLT shall convey the portion of the Land lying east of Davis Road back to the County or pay the County an amount equal to the current appraised value within 30 days of written demand by the County.

9. CLT shall pay, or cause to be paid, all taxes due while the Land is in its possession, and CLT shall not voluntarily create, or permit or suffer to be created or to exist, on or against the Land, or any part of thereof, any lien superior to the lien of this Declaration of Restrictions, (hereinafter "Declaration") except with the County's prior written consent as provided for in the above stated Agreement. CLT shall keep and maintain the Land free from the claims of all parties supplying labor or materials unto the same. CLT agrees to notify the County of any liens, judgements or pending foreclosure on the Land within five (5) working days of the receipt of said notice by CLT.

10. CLT acknowledges and covenants that the provisions specified below constitute a default under this Declaration for which there may be a forfeiture of CLT's title to the Land:

- A. Failure of CLT to perform any covenant, agreement, term, or condition contained herein or in the Agreement referenced in Section 2 above.

Notwithstanding the foregoing, and at the sole discretion of the County, upon providing notice to CLT of its determination that CLT 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 Land, 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 CLT to the County in addition to the legal rate of interest from the time of expenditure and shall constitute a lien against the Land which may be foreclosed if not discharged and satisfied within three (3) months of expenditure of such funds by the County. The County shall also become subrogated to whatever rights the holders of a prior lien might have under such instrument.

11. If CLT 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:

THIS INSTRUMENT IS TO BE FILED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

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

In addition to any remedy set forth herein the County shall have such other remedies as are available at law or equity. The exercise or attempted exercise by the County of any right or remedy available under this Declaration shall not preclude the County from exercising any other right or remedy so available, nor shall any such exercise or attempted exercise constitute or be construed as an election of remedies. CLT 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 CLT written notice of the default complained of which such notice shall be given to the CLT at their address shown above. CLT shall then have ten (10) working days from the date such notice is given to cure or correct any default.

12. CLT shall cause this Declaration to be recorded in the Public Records of Palm Beach County, Florida.

Executed this 6 day of February, 2009.

SIGNED, SEALED, AND DELIVERED IN THE PRESENCE OF:

Witness Name:	
Witness Signature:	
X	<u>[Signature]</u> <u>Cynthia LaCourse-Blum</u>
Witness Name:	
Witness Signature:	
X	<u>[Signature]</u> <u>Angela D. What</u>

COMMUNITY LAND TRUST OF PALM BEACH COUNTY, INC.

By: Dr. D. M. Walker, President
Signature:
X <u>[Signature]</u>

(CORPORATE SEAL BELOW)

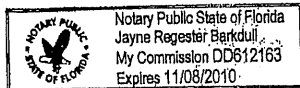
STATE OF FLORIDA
COUNTY OF PALM BEACH

The forgoing instrument was acknowledged before me this 6 day of February, 2009; by Dr. D. M. Walker, who is personally known to me or has produced Florida Driver's License as identification and who did (did not) take an oath.

Signature: [Signature]

Notary Name: _____
Notary Public - State of Florida

(NOTARY SEAL ABOVE)



SUBORDINATION AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

Palm Beach County, a Political Subdivision of the State of Florida, as present legal holder and owner of that certain Declaration of Restrictions (the "Declaration"), dated February 6, 2009 and executed by Community Land Trust of Palm Beach County, Inc. ("CLT"), to Palm Beach County (the "County"), being recorded on February 23, 2009, in Official Record Book 23091, at Page 0700, in the Public Records of Palm Beach County, Florida, encumbering the real property situate, lying and being in Palm Beach County, Florida, described as follows:

SEE ATTACHED "EXHIBIT A"

For good and valuable consideration, to wit: The County has and by these presents does waive the priority of the lien of the above Declaration insofar as the following described Mortgage and Security Agreement is concerned, but not otherwise:

That certain Mortgage and Security Agreement dated _____, 2016, from Community Land Trust of Palm Beach County, Inc., as Mortgagor, to Housing Finance Authority of Palm Beach County, Florida (the "HFA"), as Mortgagee, securing payment of a Note in the original principal amount which shall not exceed \$3,400,000.00.

The undersigned Palm Beach County hereby consenting that the lien of the Declaration be taken as subordinate and inferior to the last above described Mortgage and Security Agreement.

Further, the County agrees that there shall be no forfeiture to the County of the CLT's interest in the property described in Exhibit "B" attached hereto and made a part hereof, pursuant to the terms of the Declaration so long as the Mortgage and Security Agreement last above described remains unsatisfied or unterminated.

WITNESS hand and seal this day of _____, A.D.

Florida

Signed, Sealed and Delivered in the Presence of:

Witness: _____

Witness: _____

(COUNTY SEAL)

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

BOARD OF COUNTY COMMISSIONERS

By: _____
Mary Lou Berger, Mayor
Board of County Commissioners

ATTEST:
Sharon R. Bock, Clerk & Comptroller

By: _____
Deputy Clerk

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*
Sherry Howard, Deputy Director
Department of Economic Sustainability

EXHIBIT A

Tracts C, D and E, Block 119 and Tracts C, D and E, Block 120, Palm Beach Farms Company Plat No. 7, according to the map or plat thereof as recorded in Plat Book 5, Page 72, Public Records of Palm Beach County, Florida, LESS that portion of Lot C, Tracts 119 and 120 lying in the Plat of "Augustine Acres" as recorded in Plat Book 26, Page 55, Public Records of Palm Beach County, Florida;

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AND LESS that parcel described in O.R. Book 2997, Page 1708, more particularly described as follows: From the Northeast corner of said Tract 120 according to the Palm Beach Farms Company's Plat No. 7, recorded in Plat Book 5, Page 72, Public Records of Palm Beach County, Florida; thence bear South 01°56'30" West, along the East line of said Tract 120, a distance of 300.04 feet to the Point of Beginning; thence continue South 01°56'30" West along said East line of Tract 120, a distance of 120.02 feet; thence North 87°08'20" West a distance of 94.81 feet; thence North 02°51'40" East, a distance of 120 feet to the South line of Augustine Acres as recorded in Plat Book 26, Page 55; thence South 87°08'20" East along said South line a distance of 92.89 feet to the Point of Beginning;

AND LESS the South 25.0 feet thereof for canal Right of Way

AND

Tracts C, D and E, Block 121, Palm Beach Farms Company Plat No. 7, according to the map or plat thereof as recorded in Plat Book 5, Page 72, Public Records of Palm Beach County, Florida.

EXHIBIT B

TRACT A, DAVIS LANDINGS WEST, AS RECORDED IN PLAT BOOK 121, PAGES 46 AND 47 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 179,690 SQUARE FEET OR 4.1251 ACRES, MORE OR LESS.

LYING IN SECTION 30, TOWNSHIP 44 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA