

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date:	May 17, 2016	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
Department:	Department of Economic Sustainability		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to Receive and File: one (1) Amendment to Loan Agreement and one (1) Agreement as follows:

- A)** Amendment No. 004 to the Loan Agreement (R2014-1921) with Community Land Trust of Palm Beach County, Inc. (CLT) under the Home Investment Partnership Program (HOME) (District 3); and
- B)** Agreement with Habitat for Humanity of Palm Beach County, Inc. and Habitat Housing Solutions, Inc. under HOME (Districts 3, 6 and 7).

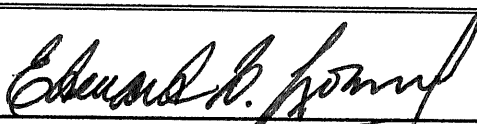

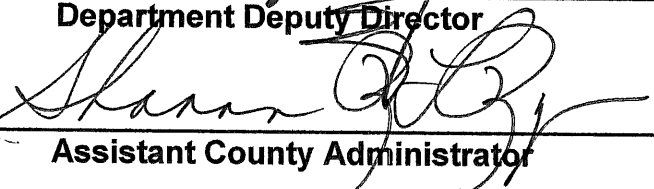
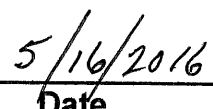
Summary: In accordance with County PPM CW-0-051, all delegated contracts, agreements and grants must be submitted by the initiating Department as a receive and file agenda item. The attached documents have been executed on behalf of the Board of County Commissioners (BCC) by the County Administrator, or designee, in accordance with Resolution(s)/Agenda Item(s) 31-4 and 31-3 as approved by the BCC on October 21, 2014, and December 1, 2015. These executed documents are now being submitted to the BCC to receive and file. **HOME Program matching requirement is met from State SHIP funds.** (JB)

Background and Justification:

A) On October 27, 2014, the County entered into a Loan Agreement (R2014-1921) with the CLT to provide \$1,440,000 loan from HOME funds for the Davis Landings West project to be located at 4938 Davis Road in unincorporated Palm Beach County. Amendment No. 001 (R2015-0855) dated July 7, 2015, extended the closing date from May 30, 2015 to November 30, 2015. Amendment No. 002 (R2015-1709) dated September 29, 2015, increased the loan amount to \$1,747,743. Amendment No. 003 (R2015-0186) dated November 19, 2015, extended the closing date from November 30, 2015 to March 31, 2016. Amendment No. 004 dated March 28, 2016, imposed additional preconditions to loan closing and funds disbursement, changed the manner by which allocated funds are secured from 22 mortgages to one (1) mortgage, modified project costs allowable for reimbursement, and amended documents to be used for the project.

B) On December 1, 2015, the BCC conceptually approved (Agenda Item 31-3) the award of \$1,033,996 in HOME funds to Habitat for Humanity of Palm Beach County, Inc. (Habitat) and Habitat Housing Solutions, Inc., and delegated authority to the County Administrator, or her designee, to execute an Agreement with these two parties for the use of these funds. The Agreement, which was executed on March 16, 2016, provided \$940,460 in HOME funding for the construction of five (5) homes on lots owned by Habitat and required that they be sold to households with incomes at or below 80% of Area Median Income. One (1) home will be in Lake Worth, one (1) in West Palm Beach, one (1) in Pahokee and two (2) in unincorporated Palm Beach County. The balance of authorized funds which were not included in the Agreement will be added to the Agreement upon Habitat's acquisition of an additional lot.

Attachments: Documents as listed in A and B above.

Recommended By:	 Department Deputy Director	 Date
Approved By:	 Assistant County Administrator	 Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures					
Grant Expenditures	\$940,460				
External Revenues	(\$940,460)				
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	-0-				

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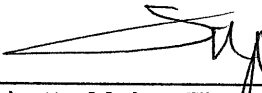
Is Item Included In Current Budget? Yes X No

Fund 1103 Dept 143 Unit 1434 Object 8201 Program Code/Period varies LTM 65F/Various

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

The Agreement with Habitat for Humanity of Palm Beach County, Inc. and Habitat Housing Solutions, Inc. allocates \$940,460 in HOME funds.

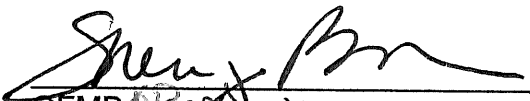
C. Departmental Fiscal Review:



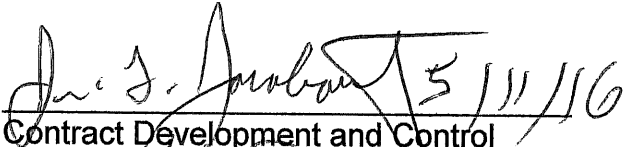
Shairette Major, Fiscal Manager II

III. REVIEW COMMENTS

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



OFMB 5/15/16



Contract Development and Control 5/11/16

B. Legal Sufficiency:



Assistant County Attorney

C. Other Department Review:

Department Director

AGREEMENT BETWEEN PALM BEACH COUNTY
AND
HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.
AND
HABITAT HOUSING SOLUTIONS, INC.

THIS AGREEMENT, entered into on MAR 16 2016, by and between **Palm Beach County**, a political subdivision of the State of Florida (hereinafter "County"), for the use and benefit of its HOME Investment Partnerships Program (hereinafter "HOME"), and **Habitat Housing Solutions, Inc.**, a non-profit corporation duly organized and existing by virtue of the laws of the State of Florida, whose principal office is at 224 Datura Street, Suite 1314, West Palm Beach, FL 33401, whose Federal Tax Identification number is 46-3352865, and whose DUNS number is 007534608 (hereinafter "HHS"), and **Habitat for Humanity of Palm Beach County, Inc.**, a non-profit corporation duly organized and existing by virtue of the laws of the State of Florida, whose principal office is at 6758 N. Military Trail, Suite 301, Riviera Beach, FL 33407-1224, whose Federal Tax Identification number is 59-3525576, and whose DUNS number is 839609781 (hereinafter "Habitat").

WHEREAS, Palm Beach County is in receipt of HOME funds from the United States Department of Housing and Urban Development; and

WHEREAS, Palm Beach County made \$940,460 of these HOME funds available to HHS and Habitat for use on eligible affordable housing costs as more fully described herein; and

WHEREAS, on December 1, 2015, Palm Beach County conceptually approved the award of \$940,460 in HOME funds to be made available to HHS and Habitat subject to the execution of this Agreement; and

WHEREAS, HHS and Habitat wish to use the aforesaid funds to construct five (5) homes and to sell or lease these homes to households having certain income levels as more particularly described in Exhibit A, attached hereto and made a part hereof; and

WHEREAS, HHS, Habitat and Palm Beach County have negotiated the terms and conditions of, and wish to enter into, this Agreement in order to set forth the terms and conditions for the disbursement of the aforesaid funds.

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

1. DEFINITIONS

- (1) "County" means Palm Beach County.
- (2) "HHS" means Habitat Housing Solutions, Inc.
- (3) "Habitat" means Habitat for Humanity of Palm Beach County, Inc.
- (4) "HOME" means the HOME Investment Partnerships Program of the United States Department of Housing and Urban Development as authorized by 24 CFR Part 92 which regulations shall be applicable to all activities funded through this Agreement.
- (5) "HUD" means the Secretary of Housing and Urban Development or a person authorized to act on its behalf.
- (6) "DES" means Palm Beach County Department of Economic Sustainability.
- (7) "DES Approval" means the written approval of the DES Director or his designee.
- (8) "HOME Assisted Units" means the five (5) homes to be constructed by HHS and occupied as more particularly described in Exhibit A and for which the County expends funds made available through this Agreement.

2. PURPOSE

The purpose of this Agreement is to state the covenants and conditions under which HHS and Habitat will implement the Scope of Services set forth below.

3. SCOPE OF SERVICES

HHS and Habitat shall, in a satisfactory and proper manner as determined by DES, perform the tasks necessary to implement the Project outlined in Exhibit A as attached hereto and made a part hereof.

4. MAXIMUM COMPENSATION

HHS agrees to accept as full payment for services rendered pursuant to this Agreement the actual amount of budgeted, eligible, and DES Director or designee-approved expenditures and encumbrances made by HHS under this Agreement. Said services shall be performed in a manner satisfactory to DES. In no event shall the total compensation or reimbursement to be paid hereunder exceed the maximum and total authorized sum of \$940,460 in HOME funds. From the date of this Agreement through and including September 30, 2016, HHS, subject to DES approval, may receive the above specified amount in payment or reimbursement for the herein described eligible costs if incurred as of December 1, 2015. The release of these HOME funds by the County is contingent upon HUD's release of these funds to County in HUD's IDIS reporting system.

Except as otherwise provided herein, payments and reimbursements made hereunder shall be made to **Habitat Housing Solutions, Inc.**

Any HOME funds not drawn or expended by the dates provided below shall remain with the County and not be eligible for payment or reimbursement to HHS and the County may reallocate such funds for other projects or needs, unless revised by written agreement between the parties. Furthermore, the County shall not be obligated to replace HOME funds that were not drawn or expended with funds from another source, and the County's right to reallocate such HOME funds shall not be subject to the rights of any other lender or the terms of any subordination agreement.

Nothing in this Agreement shall obligate the Palm Beach County Board of County Commissioners to provide funding from the County's annual budget and appropriations, or from any other funding source, for any reason.

Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the County of a release of funds from HUD under 24 CFR Part §58. The Director of the County's Department of Economic Sustainability shall notify HHS in writing upon its receipt of said release of funds from HUD.

The parties further agree that the provision of any funds to the Project is conditioned on the County's determination to proceed with, modify or cancel the Project based on the results of a subsequent environmental review.

HHS shall not undertake nor commit any of its funds, regardless of the source of such funds, to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance. HHS acknowledges that a violation of the afore-stated prohibition to undertake or commit funds to the described actions may result in the County's denial of any funds made available through this Agreement.

5. TIME OF PERFORMANCE

The effective date of this Agreement and all rights and duties designated hereunder are contingent upon the timely release of HOME funds for this Project by HUD. The effective date shall be the date of execution of this Agreement, and the services of HHS and Habitat shall be undertaken and completed in light of the purposes of this Agreement. HHS shall expend all \$940,460 made available through this Agreement on the herein described eligible costs.

HHS shall diligently carry out the Project such that all \$940,460 have been drawn from the County's HOME funds by September 30, 2016.

HHS and Habitat shall complete all services required hereunder, including, but not limited to, the sale or rental of all HOME Assisted Units to County approved income eligible households as required herein, by September 30, 2017. This Agreement shall expire on September 30, 2017.

This Agreement may be amended to decrease and/or recapture grant funds from HHS depending upon the timely completion of the Project and/or the rate of expenditure of funds, as determined by DES. Failure by HHS and Habitat to diligently carry out the Project may negatively impact ability to receive future grant awards.

HHS and Habitat further agree that DES, in consultation with any parties it deems necessary, shall be the final arbiter of HHS's and Habitat's compliance with the above.

6. METHOD OF PAYMENT

The County agrees to make payments and to reimburse HHS for all eligible costs permitted by Federal, State, and County guidelines. HHS shall not request reimbursement for payments made by HHS for costs incurred prior to December 1, 2015. HHS shall not request reimbursement for payments made after September 30, 2016. In no event shall the County provide advance funding to HHS or any subcontractors hereunder except as expressly set forth herein in connection with the acquisition of property (if any). HHS shall request payments or reimbursements from the County by submitting to DES proper documentation of expenditures consisting of originals of invoices, receipts, or other evidence of indebtedness, and when original documents cannot be presented, HHS may furnish copies if deemed acceptable by DES. Each request for payment or reimbursement submitted by HHS shall be accompanied by a letter from HHS, provided on HHS's letterhead, referencing the name of the project funded herein, the date of this Agreement and/or its document number, and containing a statement requesting the payment or reimbursement and its amount, as well as the name and signature of the person making the request. Payment shall be made by the Palm Beach County Finance Department upon presentation of the aforesaid proper documentation of expenditures as approved by DES.

7. CONDITIONS ON WHICH PAYMENT IS CONTINGENT

- (1) IMPLEMENTATION OF PROJECT ACCORDING TO REQUIRED PROCEDURES
HHS and Habitat shall implement this Agreement in accordance with applicable Federal, State, County, and local laws, ordinances and codes. The Federal, State, and County laws, ordinances and codes are minimal regulations supplemented by more restrictive guidelines set forth by DES.
- (2) FINANCIAL ACCOUNTABILITY
The County may have a financial systems analysis and/or an audit of HHS, Habitat, or of any of their subcontractors, by an independent auditing firm employed by the County or by the County Internal Audit Department at any time the County deems necessary to determine if the project is being managed in accordance with Federal, State, and County requirements.
- (3) CONTRACTING
All work or services contracted by HHS and funded hereunder shall be specifically by written contract, written agreement, or purchase order and shall be subject to Federal, State and County laws and regulations (including, but not limited to, the non-discrimination requirements specified herein). All such contracts, agreements and purchase orders shall be submitted by HHS to DES and approved by DES prior to execution as required herein. All consultant contracts and fee schedules shall meet the minimum standards as established by HUD, and if applicable, by the County. Contracts for architecture, engineering, survey, and planning shall be fixed fee contracts and reimbursables thereunder shall be at cost.

(4) PURCHASING

All purchasing for services and goods to be funded by this Agreement, including capital equipment, shall be made by purchase order or by a written contract and in conformity with the procedures prescribed herein.

(5) REPORTS, AUDITS, AND EVALUATIONS

Payment may be contingent on the timely receipt of complete and accurate reports required by this Agreement, and on the resolution of monitoring or audit findings identified pursuant to this Agreement.

(6) ADDITIONAL DES, COUNTY, AND HUD REQUIREMENTS

DES shall have the right under this Agreement to suspend or terminate payments if after 15 days written notice HHS has not complied with any additional reasonable conditions that may be imposed, at any time, by DES or the County, or any additional conditions that may be imposed by HUD.

(7) SOURCE OF FUNDING

This Agreement and all obligations of County hereunder are subject to and contingent upon receipt of funding from HUD. Nothing in this Agreement shall obligate the Palm Beach County Board of County Commissioners to provide funding from the County's annual budget and appropriations.

8. CIVIL RIGHTS COMPLIANCE, PROHIBITION OF INQUIRIES AND OPPORTUNITIES FOR RESIDENTS

HHS and Habitat acknowledge that it is the express policy of the Board of County Commissioners of Palm Beach County, Florida that the County shall not conduct business with nor appropriate any funds to any organization that practices discrimination on the basis of race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information. In compliance with the County's requirements contained in Resolution R2014-1421, HHS and Habitat have either submitted a copy of their written non-discrimination policy which is consistent with the policy detailed above, or have submitted an executed statement affirming that their non-discrimination policy is in conformance with the policy detailed above.

In furtherance of such policy, neither HHS nor Habitat shall, on the basis of race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information, exclude any person from the benefits of, or subject any person to discrimination under, any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the County shall have the right to terminate this Agreement.

HHS and Habitat each agree that it may not inquire about the sexual orientation or gender identity of an applicant for, or occupant of a HOME Assisted Unit, whether renter- or owner-occupied, for the purpose of determining eligibility for the housing or otherwise making such housing available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity. This prohibition on inquiries does not prohibit lawful inquiries of an applicant or occupant's sex where the housing provided or to be provided to the individual is temporary, emergency shelter that involves the sharing of sleeping areas or bathrooms, or inquiries made for the purpose of determining the number of bedrooms to which a household may be entitled.

To the greatest extent feasible, lower-income residents of the project areas shall be given opportunities for training and employment; and to the greatest feasible extent eligible business concerns located in or owned in substantial part by persons residing in the project areas shall be awarded contracts in connection with the project. HHS and Habitat shall comply with the Section 3 Clause of the Housing and Community Development Act of 1968.

HHS and Habitat shall also comply with 24 CFR 5.105(a) regarding discrimination.

HHS and Habitat shall comply with all Federal regulations issued pursuant to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against individuals with disabilities or handicaps in any Federally assisted program.

9. OPPORTUNITIES FOR SMALL AND MINORITY / WOMEN-OWNED BUSINESS ENTERPRISES

In the procurement of supplies, equipment, construction, or services to implement this Agreement, HHS shall make a positive effort to utilize small business and minority/women-owned business enterprises of supplies and services, and provide these sources the maximum feasible opportunity to compete for contracts to be performed pursuant to this Agreement. To the maximum extent feasible, these small business and minority/women-owned business enterprises shall be located in or owned by residents of areas designated by Palm Beach County in the Annual Consolidated Plan approved by HUD.

10. EVALUATION AND PERFORMANCE MONITORING

HHS and Habitat agree that DES may carry out performance monitoring and evaluation activities as determined necessary by DES or the County, along with other applicable federal, state and local laws, regulations, and policies governing the funds provided under this Agreement. **Due to the strict HUD expenditure and completion deadlines, performance requirements as detailed herein will be closely monitored by DES. Substandard performance, as determined by DES, will constitute noncompliance with this Agreement. If corrective action is not undertaken by HHS or Habitat within a reasonable period of time after being notified by DES, contract termination or suspension procedures may be initiated. HHS agrees that payment, reimbursement, or the continuation of this Agreement is dependent upon satisfactory evaluation conclusions based on the terms of this Agreement.**

HHS and Habitat agree to furnish upon request to DES, the County, or the County's designees copies of transcriptions of such records and information as is determined necessary by DES or the County. HHS and Habitat shall submit status reports required under this Agreement on forms approved by DES to enable DES to evaluate progress. HHS and Habitat shall provide information as requested by DES to enable DES to complete reports required by the County or HUD. HHS and Habitat shall allow DES, the County, or HUD to monitor the Project on site. Such visits may be scheduled or unscheduled as determined by DES or HUD.

11. FINANCIAL STATEMENTS TO BE FURNISHED

HHS and Habitat shall furnish to the County:

- (1) Upon the County's request, a complete and current financial statement of all assets and liabilities, contingent or otherwise, prepared in accordance with generally accepted accounting principles and verified by affidavit of HHS and Habitat and, at the request of the County, certified (in form satisfactory to the County) by an independent certified public accountant acceptable to the County.
- (2) Within ninety (90) days after the end of each fiscal year of HHS and Habitat, a balance sheet and statements of income, surplus, and cash flow, together with schedules, all compiled and presented by an independent accounting firm in accordance with standard and uniform accounting practices showing the financial condition of HHS and Habitat at the close of each year and the results of operations. HHS's above obligation shall cease after HHS has met the requirements of this paragraph for HHS's fiscal year in which the last ground lease described in Exhibit A has expired. Habitat's above obligation shall cease after Habitat has met the requirements of this paragraph for Habitat's fiscal year in which the last property described in Exhibit A has been sold.
- (3) Other information regarding the operations, business, affairs, and financial condition of HHS and Habitat as the County may reasonably request.

12. UNIFORM ADMINISTRATIVE REQUIREMENTS

HHS and Habitat agree to comply with the applicable uniform administrative requirements as described in 2 CFR Part 230 (OMB Circular A-122) and 24 CFR Part 84.

13. REVERSION OF ASSETS

Any real property under HHS's or Habitat's control upon expiration of this Agreement which was acquired or improved, in whole or part, with HOME funds made available through this Agreement in excess of \$25,000 must either be used to provide affordable housing to eligible households as specified herein for the period specified herein, or HHS and Habitat shall pay the County an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-HOME funds for the acquisition of, or improvement to, the property.

14. DATA BECOMES COUNTY PROPERTY AND RECORD RETENTION

All reports, plans, surveys, information, documents, maps, and other data produced, developed, prepared, assembled, or completed by HHS and Habitat for the purpose of this Agreement shall be made available to the County by HHS at any time upon request by the County or DES. Upon completion of all work contemplated under this Agreement copies of all documents and records relating to this Agreement shall be surrendered to DES if requested.

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

- (1) In connection with homes sold by Habitat, documents imposing recapture/resale restrictions shall be retained by Habitat for five (5) years after the affordability period terminates.
- (2) In connection with homes rented/leased by Habitat, records of individual tenant income verifications, project rents and project inspections shall be retained by Habitat for five (5) years after the affordability period terminates.
- (3) If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required retention period records in connection with the aforesaid shall be retained by HHS and Habitat until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

15. INDEMNIFICATION

HHS and Habitat shall protect, defend, reimburse, indemnify and hold the County, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during performance of the terms of this Agreement or due to the acts or omissions of HHS or Habitat. HHS's and Habitat's aforesaid indemnity and hold harmless obligation, or portion or applications thereof, shall apply to the fullest extent permitted by law. HHS and Habitat will hold the County harmless and will indemnify the County for funds which the County is obligated to refund the Federal Government arising out of the conduct of activities and administration of HHS and Habitat.

16. CONFLICT OF INTEREST

HHS and Habitat covenant that no person (an employee, agent, consultant, officer, or elected or appointed official of the County or HHS) who exercises or has exercised any functions or responsibilities with respect to activities assisted under this Agreement, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under this Agreement, may obtain a financial interest or benefit from an assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has business or immediate family ties, during his or her tenure or for one (1) year thereafter.

Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.

Any possible conflict of interest on the part of HHS or Habitat, or any person as described above, shall be disclosed in writing to the County.

No owner, developer, or sponsor of the project assisted through this Agreement (or officer, employee, agent, elected or appointed official or consultant of HHS, Habitat, owner, developer or sponsor or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official or consultant of HHS, Habitat, owner, developer or sponsor) whether private, for-profit or non-profit (including a community housing development organization (CHDO) when acting as an owner, developer or sponsor) may occupy a HOME Assisted Unit (a HOME-assisted affordable housing unit) during the required period of affordability specified in 24 CFR 92.252(e) or 24 CFR 92.254(a)(4). This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. All written requests for exceptions to the above requirement regarding the occupancy of a HOME Assisted Unit shall be submitted to the County.

17. RECOGNITION

All facilities purchased or constructed pursuant to this Agreement shall be clearly identified as to funding source. HHS and Habitat will include a reference to the financial support herein provided by DES in all publications and publicity. In addition, HHS and Habitat will make a good faith effort to recognize DES's support for all activities made possible with funds made available under this Agreement.

18. TERMINATION

In event of termination for any of the following reasons, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports prepared, and capital equipment secured by HHS or Habitat with funds under this Agreement shall be returned to DES or the County. In the event of termination, neither HHS nor Habitat shall be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Agreement by HHS or Habitat, and the County may withhold any payment to HHS for set-off purposes until such time as the exact amount of damages due to the County is determined.

(1) TERMINATION FOR CAUSE

If, through any cause, any party shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if any party shall violate any of the covenants, agreements, or stipulations of this Agreement, any other party shall thereupon have the right to terminate this Agreement in whole or part by giving a fifteen (15) working day written notice of such termination to the other parties and specifying therein the effective date of termination, provided, however, that with respect to non-monetary defaults, the County shall give written notice to HHS and Habitat, who shall have ninety (90) calendar days to cure, and provided that, with respect to monetary defaults, the County shall give written notice to HHS and Habitat, who shall have thirty (30) calendar days to cure, and provided that HHS and Habitat promptly initiate and diligently pursues such cure.

(2) TERMINATION FOR CONVENIENCE

At any time during the term of this Agreement, any party may, at its option and for any reason, terminate this Agreement upon ten (10) working days written notice to the other parties. Upon termination, the County shall pay HHS for services rendered pursuant to this Agreement through and including the date of termination, provided that such payment shall be limited to HOME Assisted Units that have been sold or rented and occupied as required herein.

If HHS or Habitat elect to terminate this Agreement after the County has provided HOME funds to HHS, then HHS and Habitat shall refund the County all HOME funds expended by the County for HOME Assisted Units that have not been sold or rented and occupied as required herein.

(3) TERMINATION DUE TO CESSATION

In the event the HOME grant to the County is suspended or terminated, this Agreement shall be suspended or terminated effective on the date HUD specifies.

19. SEVERABILITY OF PROVISIONS

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

20. AMENDMENTS

The County may, at its discretion, amend this Agreement to conform with changes required by Federal, State, County, or HUD guidelines, directives, and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement and shall be subject to approval of the Palm Beach County Board of County Commissioners, or designee. Except as otherwise provided herein, no amendment to this Agreement shall be binding on either party unless in writing, approved by the Board of County Commissioners, or designee, and signed by both parties.

21. NOTICES

All notices required to be given under this Agreement shall be sufficient when delivered to DES at its office at 100 Australian Avenue, Suite 500, West Palm Beach, Florida 33406, and to HHS and Habitat when delivered to their offices at the addresses listed on the first page of this Agreement.

22. INDEPENDENT AGENT AND EMPLOYEES

HHS and Habitat agree that, in all matters relating to this Agreement, they will be acting as independent agents and that their employees are not Palm Beach County employees and are not subject to the County provisions of the law applicable to County employees relative to employment, hours of work, rates of compensation, leave, unemployment compensation and employee benefits.

23. NO FORFEITURE

The rights of the County under this Agreement shall be cumulative and failure on the part of the County to exercise promptly any rights given hereunder shall not operate to forfeit or waive any of the said rights.

24. REMEDIES

This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

25. EXCLUSION OF THIRD PARTY BENEFICIARIES

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

26. PUBLIC ENTITY CRIMES

As provided in F.S. 287.133 by entering into this Agreement or performing any work in furtherance hereof, HHS and Habitat each certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3) (a).

27. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL

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

28. ENTIRE UNDERSTANDING

This Agreement and its provisions merge any prior agreements, if any, between the parties hereto and constitutes the entire understanding. The parties hereby acknowledge that there have been and are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.

29. COUNTERPARTS OF THE AGREEMENT

This Agreement, consisting of forty-five (45) enumerated pages which include the exhibits referenced herein, shall be executed in three (3) counterparts, each of which shall be deemed to be an original, and such counterparts will constitute one and the same instrument.

THIS SPACE HAS BEEN LEFT BLANK INTENTIONALLY

30. **INCORPORATION BY REFERENCE**

Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

MAR 16 2016

WITNESS our Hands and Seals on this ____ day of _____, 20____.

(SEAL BELOW)

**HABITAT FOR HUMANITY OF
PALM BEACH COUNTY, INC.**

By: 
Brad T. Jankowski, President

Date: 3/4/2016

By: 
Laura E. Clark, Secretary


Date: 3/4/2016

(SEAL BELOW)

HABITAT HOUSING SOLUTIONS, INC.

By: 
Thomas B. Walker, President


Date: 3/4/2016

By: 
Bernard J. Godek, Secretary

Date: 3/4/2016

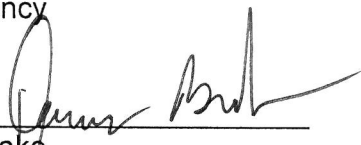
**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida**

FOR ITS BOARD OF COUNTY COMMISSIONERS

By: 
Shannon R. LaRocque
Assistant County Administrator

Date: 3-16-16

Approved as to Form and
Legal Sufficiency

By: 
James Brako
Assistant County Attorney

Approved as to Terms and Conditions
Department of Economic Sustainability

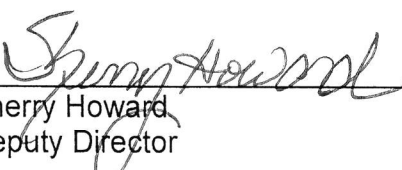
By: 
Sherry Howard
Deputy Director

EXHIBIT A
WORK PROGRAM NARRATIVE

PART 1 - HHS AND HABITAT AGREE TO:

SECTION A: OVERVIEW OF THE PROJECT:

Habitat holds title to the five (5) below enumerated properties and has provided DES evidence thereof by having submitted a copy of a deed recorded in the Public Records of Palm Beach County for each of the following:

- (a) 315 South F Street, Lake Worth, FL 33460
Property Control Number: 38-43-44-21-15-125-0240
- (b) 1103 Penn Grove Street, Lake Worth, FL 33461
Property Control Number: 00-42-44-25-15-000-0070
- (c) 2100 Worthington Road, West Palm Beach, FL 33409
Property Control Number: 00-43-43-29-02-005-0200
- (d) 137 S. Barfield HWY, Pahokee, FL 33476
Property Control Number: 48-37-42-18-12-000-0200
- (e) 1053 17th Street, West Palm Beach, FL 33407
Property Control Number: 74-43-43-16-08-000-1220

Habitat warrants to the County that all above listed properties are vacant unoccupied properties.

Pursuant to this Agreement, the Project entails the construction of detached single family dwellings containing two (2), three (3), four (4) or five (5) bedrooms on said properties (which have been approved by DES as HOME Assisted Units) and which shall then be sold or leased as required herein. HHS shall receive the HOME funds made available herein in exchange for the construction of the aforesaid dwellings.

Prior to entering into this Agreement, Habitat shall have leased the above listed properties to HHS to provide HHS site control thereby enabling it to undertake the construction of the desired housing units. Site control shall have been provided by Habitat to HHS by means of a separate ground lease given by Habitat to HHS for each of the above listed properties. These ground leases shall provide HHS the ability to encumber the properties with Habitat, and they shall have been made to expire upon the issuance of a certificate of occupancy by the building department with jurisdiction over the properties after HHS has completed the construction of the dwellings. Each ground lease shall have required HHS, upon expiration of the lease, to transfer full ownership of the improvements (the HOME Assisted Unit) to the Habitat, at no cost to, or obligation by the Habitat towards HHS. All ground leases shall have been approved by the County and shall be recorded in the manner specified herein.

Habitat shall, upon the completion of construction of the aforesaid dwellings and the transference of their ownership from HHS to Habitat, sell or lease the dwellings as required herein for the duration of the affordability period as also set forth herein.

Only those properties that have been approved by DES to be HOME Assisted Units and that are specifically identified above shall be eligible for HOME funding through this Agreement. Additional properties may be added to this Agreement by amendment, at County's sole discretion, provided HHS has met site control and other requirements imposed by HUD and the County, and provided funding is available for development of the additional properties.

Notwithstanding anything to the contrary in this Agreement, all construction must be completed within the term of this Agreement in sufficient time to allow HHS to realize beneficiaries for all HOME Assisted Units prior to September 30, 2017. Upon development of these homes, each shall be sold to a County approved income eligible household to be occupied as a principal place of residence, and if not sold within a specified period, shall be rented to a County approved income eligible household.

SECTION B: MAXIMUM PER UNIT SUBSIDY AMOUNT:

HHS shall comply with applicable HOME regulations establishing the maximum per-unit subsidy amount for affordable housing where the total amount of HOME funds that may be expended on a per-unit basis shall not exceed the per-unit dollar limitation established in 24 CFR 92.250 which is \$195,304.80 per 2-bedroom unit, \$252,662.40 per 3-bedroom unit and \$277,344 per 4-bedroom and 5-bedroom unit.

HHS must spend a minimum of \$1,000 per HOME Assisted Unit. Notwithstanding the maximum amount allowed to be spent per unit, nothing herein authorizes HHS to be reimbursed under this Agreement for any sum in excess of the maximum and total authorized sum of **\$940,460**. Declarations of Restrictions shall be recorded securing the initial amount of **\$188,092** for each property, which amount shall be increased or decreased as necessary to reflect that actual amount of HOME funds provided for each property.

SECTION C: TRACKING OF COSTS AND COST ALLOCATION:

HHS and Habitat acknowledge and understand the importance of tracking their expenditures associated with each HOME Assisted Unit individually in order to clearly establish the development cost of each HOME Assisted Unit, the level of HOME funding for each HOME Assisted Unit and the level of subsidy for the occupants of each HOME Assisted Unit. HHS and Habitat shall accordingly maintain records clearly evidencing its expenditures for each HOME Assisted Unit individually including, but not limited to, contracts, invoices, receipts and bank statements, and where expenditures affect more than one HOME Assisted Unit, a record of how such expenditures were allocated to each HOME Assisted Unit. No duplications shall be permitted and the County shall only allow documentation presented by HHS and Habitat to establish the expenditures for each HOME Assisted Unit that the County deems acceptable in its sole opinion.

SECTION D: RIGHT OF ACCESS:

For purposes of assuring compliance with this Agreement, representatives from DES and the County shall have the right of access to the properties acquired and/or improved with funds made available through this Agreement, without charges or fees and during reasonable times. The right of access purposes may include, but are not limited to, inspection of the work being performed, compliance by HHS and Habitat of all safety rules, and HHS's and Habitat's compliance with all other terms of this Agreement.

SECTION E: ELIGIBLE COSTS:

HHS may receive compensation or payment for the below enumerated cost categories for HOME Assisted Units, subject to the County's approval, provided HHS has complied with the requirements of this Agreement in connection with such cost categories. In certain instances, the County may itself pay for certain of these cost categories and deduct the payment from funds allocated to HHS herein.

1. Project Costs:

(a) **Environmental Review Associated Costs:**

Costs incurred by HHS to comply with the environmental review requirements as imposed by DES. In addition, costs incurred by DES for environmental reviews may be charged to the budget made available through this Agreement. DES shall notify HHS of any such costs.

(b) **Appraisals:**

Costs of appraisals prepared by independent licensed or certified Florida appraisers and which are prepared in conformance with the requirements of 49 CFR Part 24.103 and the relevant sections found in Appendix A thereof.

- (c) Land Surveys:
Costs of property surveys prepared by Florida licensed surveyors.
- (d) Recording Fees:
Costs of recording the herein required Declarations of Restrictions in the public records of Palm Beach County.
- (e) Consultant Services:
Costs of Florida Registered Architects, Florida Professional Engineers and, when necessary, costs of other consultants whose services are deemed necessary for the Project by the County.
- (f) Asbestos Inspections and Asbestos Abatement:
In connection with the demolition of the structure located at 2100 Worthington Road, West Palm Beach, FL 33409: the cost of an asbestos inspection undertaken by a Florida licensed asbestos consultant, the cost of a Florida licensed asbestos abatement contractor, and the cost of a Florida licensed asbestos monitoring consultant.
- (g) Construction Costs:
Construction costs incurred by HHS for the construction of new single-family homes, building permits, impact fees, utility connection fees, soil testing and builder's risk insurance. HHS's receipt of the above reimbursement shall be subject to HHS's compliance with the property standards at 24 CFR Part 92.251 in the sole opinion of the County. Included in these eligible construction costs is the cost of demolishing the structure located at 2100 Worthington Road, West Palm Beach, FL 33409.
- (h) Property and Wind Insurance:
Costs of property and wind insurance as required herein.
- (i) Title Insurance:
Costs of title insurance as required herein. Title policies shall be issued by a title insurance companies qualified to do business in the State of Florida and their issuance shall comply with Florida Statutes Chapter 626.

2. Developer Fees:

HHS may receive payment of a developer fee not to exceed \$15,000 per HOME Assisted Unit upon the presentation to the County of a Certificate of Occupancy for each such unit. The County may, however, at its sole discretion, authorize the earlier release of the developer fees upon its determination that satisfactory progress has been made towards obtaining the Certificate of Occupancy. The developer fee shall be part of the maximum per-unit subsidy allowed as set forth previously in Part 1, Section B.

3. Other Costs Not Listed Above:

In regard to costs not listed above, HHS may submit a request to the County for reimbursement of payments made by HHS in connection with this Agreement, and the County shall reimburse HHS for such payments provided that the County, in its sole discretion, shall have determined that the costs requested for reimbursement are eligible costs under HOME and are otherwise in conformance with this Agreement. Upon the County's determination that the costs requested for reimbursement are eligible costs, HHS shall provide the County with a written reimbursement request for such costs along with evidence of payment, and other supporting documentation as established by the County and communicated to HHS.

SECTION F: CONDITIONS PRECEDENT TO THE EXPENDITURE OF HOME FUNDS:

HOME funds made available through this Agreement may only be released by the County after HHS and Habitat have submitted the following to DES for each HOME Assisted Unit:

1. Title Insurance:

Habitat shall obtain a title insurance policy for all properties on which HOME funds are to be expended. Such policy shall be issued by a title insurance company qualified to do business in the State of Florida.

Only title insurance policies acceptable to County shall be deemed to have met these requirements. Where necessary, Habitat may perfect/cure title to a property in order to render the policy acceptable to the County. HOME funds may not be used for costs associated with perfecting/curing title to the property.

HHS and Habitat understand that the County may, in its sole discretion, decline to fund any costs associated with a property where the title insurance policy is not acceptable to County. **Furthermore, HHS and Habitat acknowledge and understand that the County's release of funds for any HOME Assisted Unit shall be subject to the County's acceptance of its title insurance policy.**

2. Ground Lease and Declaration of Restrictions:

Prior to entering into this Agreement, Habitat shall have entered into a separate ground lease with HHS for each property on which HOME funds are to be expended. Such ground leases shall be made according to the requirements provided herein, shall be subject to the County's approval and shall be recorded against such properties prior to the recordation of the below described Declarations of Restrictions. Habitat shall provide the County a copy of all such recorded ground leases.

Thereafter, HHS and Habitat shall provide the County an original Declaration of Restrictions recorded in the public records of Palm Beach County for all properties on which HOME funds are to be expended. A separate Declaration of Restrictions for each HOME Assisted Unit, as provided in Exhibit B attached hereto, shall be executed by HHS and Habitat. Each such Declaration of Restrictions shall secure \$188,092.

HHS and Habitat shall cause each Declaration of Restrictions to be recorded in a first lien position in the Public Records of Palm Beach County, except that upon HHS's and Habitat's request, DES may allow other lenders to be in a senior lien position.

Declarations of Restrictions may be amended to increase or decrease the amount secured to match the anticipated expenditure per home provided that the total secured by all recorded Declarations of Restrictions shall never be less than the total amount of HOME funds expended pursuant to this Agreement and provided that the amount secured by each Declaration of Restrictions shall never be less than the amount of HOME funds expended on the property associated with each such Declaration of Restrictions. Any such amendment must be executed by the County, HHS and Habitat.

SECTION G: PROPERTY AND WIND INSURANCE:

Habitat shall, for the duration of the Declaration of Restrictions and for each home, assure continued and uninterrupted insurance coverage such that the below specified coverage is in full force and effect at all times except while the herein required builder's risk insurance is in full force and effect.

1. Property Insurance:

Habitat shall maintain property insurance written on a replacement cost basis in an amount not less than 100% of the replacement cost of the home and contents. Coverage shall be written on a replacement cost basis and include an endorsement for Ordinance & Law coverage.

2. Windstorm Insurance:

Habitat shall maintain windstorm insurance, unless included as a covered peril in the property insurance, in an amount not less than 100% of the actual cash value of the home and contents, or the maximum amount available under the Florida Windstorm Underwriting Association, whichever is less.

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

Habitat shall provide the County, within 10 business days after the effective date of this Agreement and within 10 business days after the cessation of coverage under the herein required builder's risk insurance, with a certificate of property and windstorm insurance as specified above.

The requirements of this clause shall survive the expiration or early termination of this Agreement.

SECTION H: CONSULTANT SERVICES:

HHS shall retain the services of an architectural consultant who is a Florida Registered Architect (the "Consultant") for this Project to provide (design services to create plans and specifications) for the construction of all HOME Assisted Units described herein. The Consultant shall assist HHS to procure construction services; inspect work in progress; recommend payment to contractors; review and approve change orders and provide other professional services customarily provided by similar professionals for this type of project. Additional consultants, such as professional engineers, may be retained on an as needed basis by HHS to cooperate with the Consultant, or may be retained as sub-consultants to the Consultant.

All consultant contracts shall include the pertinent HOME requirements in order to be eligible to for reimbursement under this Agreement. HHS shall obtain such requirements from DES.

SECTION I: ASBESTOS INSPECTION AND ABATEMENT:

These requirements apply to the demolition of the structure located at 2100 Worthington Road, West Palm Beach, FL 33409. Said structure shall be inspected for the presence of asbestos containing materials. The inspection shall be performed by a Florida licensed asbestos consultant according to the requirements shown in Exhibit C attached hereto. HHS shall provide DES a copy of the report containing the results of the asbestos inspection. HHS shall, as a prerequisite to the demolition of such structures, abate any asbestos containing materials identified in the inspection report pursuant to requirements shown in Exhibit C attached hereto and as required by DES.

HHS may pay for the cost of the asbestos inspection and receive reimbursement for such payment only if the inspection has been accomplished pursuant to Exhibit C attached hereto. In the alternative, should the County have a contract for asbestos inspection services in place, then HHS may request DES to obtain these services for said structure. Costs incurred by DES for these services shall be charged to the budget made available under this Agreement.

Abatement costs incurred by HHS are eligible for reimbursement as provided herein only if the abatement has been accomplished pursuant to Exhibit C attached hereto and as required by DES. In the alternative, HHS may request DES to obtain the services of an asbestos abatement contractor (and if necessary, the services of an asbestos monitoring consultant) in order to accomplish such abatement. The cost of the asbestos abatement and the monitoring consultant shall be paid by the County for the benefit of HHS and charged to the budget made available under this Agreement.

Failure of HHS, in the sole opinion of the County, to comply with DES requirements and those in Exhibit C in connection with the asbestos inspection or abatement of said structure may be grounds for DES to deny the reimbursement of inspection and abatement costs incurred by the Agency and to discontinue funding any further activities associated the property where the structure is located. In such instance, HHS shall reimburse the County all expenditures made by the County in connection with such property.

SECTION J: CONSTRUCTION OF HOMES:

1. Construction Contractor Procurement:

The parties hereto recognize that Habitat is a beneficiary of the exemptions provided under Chapter 489.103, Florida Statutes, and is accordingly able to construct the HOME Assisted Units contemplated herein. HHS may, as such, hire Habitat as the construction contractor of the HOME Assisted Units. HHS shall enter into a separate construction contract for each of the five (5) HOME Assisted Units. Each such construction contract shall comply with the requirements provided herein.

2. DES Review of Proposed Construction Contract:

HHS shall submit to DES each proposed construction contract (including drawings and specifications). HHS shall have obtained from DES, and included in its proposed construction contract, a document containing the HOME requirements applicable to the construction contract.

Each proposed construction contract shall include all construction work in connection with each home. Each proposed construction contract submitted to DES shall identify the proposed contractor, show the proposed contract amount per home and include a schedule of values (on form AIA G-702/703 or equivalent form) for each home to be constructed. HHS is prohibited from including the cost of donated materials, equipment, labor and services in the construction contract amount.

The proposed construction contract for each home shall include drawings and specifications the execution of which will result in the construction of the home and attendant site improvements to the extent required herein and by the building department with jurisdiction such that a certificate of occupancy for the home will be issued by such building department upon completion of construction. The proposed construction contract shall also address the below requirements as well as any construction related improvements to the property in order to comply with the requirements of the environmental review.

(a) **Property Standards:**

Each home to be constructed in connection with this Agreement shall meet all applicable State and local codes, ordinances, and zoning requirements and the property standards at 24 CFR Part 92.251.

(b) **Prohibition Against the Use of Materials Containing Asbestos:**

HHS shall ensure that its construction contract documents contain a prohibition against the use of any materials containing asbestos in connection with the construction the homes described herein. Said documents must clearly state that all materials to be used in connection with the construction of these homes shall be asbestos-free.

(c) **Builder's Risk Insurance:**

HHS shall ensure that its construction contract documents contain the following builder's risk requirement and shall provide evidence of such insurance coverage as required by DES:

"The Contractor, prior to commencement of work, agrees to maintain an Inland Marine Builder's Risk coverage form providing coverage to protect the interests of Palm Beach County, Habitat Housing Solutions, Inc., the Contractor, sub-contractors, architects, and engineers, including property acquired under a sales tax incentive program, property in transit, and property on or off-premises, which shall become part of the building, or Project. Coverage shall be written on an All-Risk, Replacement Cost, and Completed Value Form basis in an amount at least equal to 100% of the projected completed value of the Project as well as subsequent modifications of that sum. The Contractor agrees not to maintain a wind sublimit less than 25% of the projected completed value of the project. The Contractor agrees any flat deductible(s) shall not exceed \$25,000, and any wind percentage deductible (when applicable) shall not exceed five-percent (5%). The Contractor agrees to endorse the policy with a manuscript endorsement

eliminating the automatic termination of coverage in the event the building is occupied in whole or in part, or put to its intended use, or partially accepted by Habitat Housing Solutions, Inc. The manuscript endorsement shall amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, the interest of Habitat Housing Solutions, Inc., in the building ceases, or the building is accepted or insured by the Habitat Housing Solutions, Inc."

(d) Bonding Requirements:

Construction contracts and subcontracts exceeding \$100,000 shall require a performance bond and a separate payment bond each in the amount of one hundred percent (100%) of the construction contract price, executed by a corporate surety company of recognized standing, authorized to do business in the State of Florida, as security for the faithful performance and payment of all contractor's obligations under the construction contract. During the construction periods the surety company shall hold a current certificate of authority as an acceptable surety on Federal Bonds, in accordance with U. S. Department of Treasury Circular 570, Current Revision.

3. Federal Requirements:

HHS shall obtain from the County, and include in its contract documents the applicable Federal requirements for the Project. HHS shall assure compliance with all applicable Federal requirements, including, but not limited to, the following:

(a) Section 3 Requirements:

HHS agrees to comply with all Section 3 requirements applicable to contracts funded through this Agreement. HHS shall include the following, referred to as the Section 3 Clause, in every solicitation and every contract for every Section 3 covered project:

Section 3 Clause

- (i) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U. S.C. 170 1u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (ii) The parties to this contract agree to comply with HUD's requirements in 24 CFR Part 135, which implements Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (iii) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers representative of the contractor's commitment under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (iv) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an

applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

- (v) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (vi) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

4. Construction Contract Award and Change Order Approval:

HHS shall, for each procurement, obtain DES approval prior to awarding the construction contract to be funded through this Agreement. After awarding such contract, HHS shall:

- (a) Provide DES a copy of the executed construction contract.
- (b) Provide DES a copy of the forms included in the "Requirements for Federally Funded Projects" fully executed by the contractor.
- (c) Obtain DES approval prior to executing any change orders to such contract.
- (d) Provide DES a copy of all executed change orders to the construction contract.

5. Reimbursement for Construction Costs:

Reimbursements by the County to HHS for construction costs shall be limited to costs that in the sole opinion of the County are eligible under HOME. HHS shall only request reimbursement for materials and equipment that have been installed. However, HHS may request reimbursement for purchased materials or equipment received and stored on the project site or elsewhere provided HHS has obtained the prior written approval of the County to do so. The County, in its sole discretion, shall determine whether HHS's request is warranted. HHS understands that the County may impose additional requirements on HHS associated with such approval.

HHS shall, for each reimbursement request for construction costs, provide a reimbursement request letter as specified herein along with evidence of HHS's payment for construction costs and a copy of the prime contractor's request for payment prompting HHS's payment. The contractor shall be required to use American Institute of Architects (AIA) form G702/703, or an equivalent form, to request payment, and the Consultant shall approve the contractor's payment request on each such form.

- (a) Additional Condition to Release of HOME Funds for Construction:
HHS shall have addressed all environmental review requirements associated with the homes to be built under the construction contract as identified by DES.
- (b) Documentation to Accompany Reimbursement Requests:
HHS shall provide DES construction documentation as requested by DES including but not limited to: evidence of the payment and performance bonds, evidence of builder's risk insurance, contractor's roof nailing affidavit or roof inspection approval, contractor's warranty, contractor's release of lien, subcontractors' releases of lien, product approvals, manufacturers' warranties for equipment and appliances, building permits with building department final approval of permits, and Certificates of Completion or Certificates of Occupancy.

- (c) Retainage and Release of Retainage:
HHS shall withhold a minimum of five percent (5%) retainage on each payment requested by the prime contractor, which retainage shall only be released to the prime contractor with the final payment upon the prime contractor's (and subcontractors') full compliance with the terms and conditions of the construction contract including compliance with the requirements associated with the use of HOME funds. HHS shall obtain the County's approval prior to releasing the accumulated retainage with the final payment.

SECTION K: INCOME REQUIREMENTS FOR OCCUPANT HOUSEHOLDS:

Regardless of whether the HOME Assisted Units are sold by Habitat as provided herein or leased to tenants as described below, Habitat shall comply with the following income requirements:

All HOME Assisted Units shall be occupied by households whose incomes, adjusted by family size, are at no more than eighty percent (80%) of Area Median Income (hereinafter "AMI") at the time these units are first occupied, and thereafter, at any time new households occupy these units, regardless of whether these households have purchased or rented these units. AMI shall mean the most current area median income published by HUD for the West Palm Beach-Boca Raton Metropolitan Statistical Area.

SECTION L: AFFIRMATIVE MARKETING:

In furtherance of the County's commitment to non-discrimination and equal opportunity in housing, DES has established policies and procedures to affirmatively market housing units produced through the use of HOME funds among other sources of funds. These affirmative marketing procedures are implemented comprehensively for all housing programs through DES and aim to effect greater participation of eligible persons without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression or genetic information.

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

- (a) Use the Equal Opportunity logo or slogan in advertisements;
- (b) Solicit applications from persons in the housing market area who are not likely to apply for housing without special outreach. Habitat may satisfy this requirement by posting a notice of vacancies in any or all of the following:
- Community Organizations
 - Fair Housing Groups
 - Housing Counseling Agencies
 - Commercial Media
 - Employment Centers
 - Local Public Housing Authorities (PHA's) or Other Similar Agencies
 - Mobile Home Communities
 - Agencies for the disabled
 - Churches and other related organizations
- (c) Habitat shall keep records of its efforts to affirmatively market units and Habitat shall provide DES copies of its records, including advertisements, minutes of meetings, income documentation, and census tract information, as applicable, as evidence of Habitat's efforts.
- (d) The requirements of 24 CFR 92.351 concerning affirmative marketing, and resulting from the use of HOME funds, are hereby incorporated into this Agreement. Habitat must take steps to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market, to the available housing. Failure to comply will result in a contract violation, possibly requiring repayment of any Federal funds.

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

SECTION M: SALE OF HOME ASSISTED UNITS FOR HOMEOWNERSHIP:

1. Diligent Effort to Sell and Conversion to Rental Property:

Habitat shall sell all newly constructed HOME Assisted Units according to the requirements of this Agreement. For each HOME Assisted Unit, if Habitat is not able to enter into a "ratified sales contract" for the HOME Assisted Unit with an eligible homebuyer within nine (9) months of the date of completion of construction, then the HOME Assisted Unit shall be rented to an eligible tenant according to the requirements of Part 1, Section N below. The date of completion of construction shall be the date of the Certificate of Completion or Certificate of Occupancy as issued by the building department with jurisdiction over the HOME Assisted Unit. For the purposes of this clause, a "ratified sales contract" shall mean a legally binding and enforceable agreement that has been agreed to by both the homebuyer and Habitat and that specifies the price, proposed closing and occupancy dates, type of mortgage financing sought by the homebuyer and any contingencies.

2. Duration of Applicability:

The requirements of this Section shall apply to each newly constructed HOME Assisted Unit sold by Habitat for the duration of fifteen (15) years beginning with the date the homebuyer acquires fee simple title to the HOME Assisted Unit.

3. Permanent Ownership Housing:

All HOME Assisted Units sold by Habitat shall be conveyed in fee simple title to be the principal place of residence of the homebuyer.

4. Homebuyer Income Certification:

Habitat shall, for each homebuyer intending to purchase a HOME Assisted Unit, submit the prospective homebuyer's household income information to DES to enable DES to income certify the homebuyer. The information submitted for each prospective homebuyer's household shall include income information for all persons intending to live in the HOME Assisted Unit. DES shall provide Habitat with income verification guidelines to facilitate Habitat's submission of the homebuyer's household income information.

DES income certifications of homebuyers shall be valid for a period of six (6) months. Habitat shall, for homebuyers who have been income certified by DES and who have not completed their purchase of a HOME Assisted Unit by acquiring a fee simple title to such unit within the aforesaid six (6) month period, resubmit the prospective homebuyer's household income information to DES to enable DES to income certify the homebuyer for an additional period of six (6) months.

5. Purchase Price and Sales Contract:

The Purchase Price at which Habitat shall sell each HOME Assisted Unit shall be the lesser of:

- (a) 95% of the median purchase price of homes for the area using the Federal Housing Administration's single family mortgage program data for newly constructed housing in effect at the time Habitat enters into a Sales Contract with the homebuyer and as provided by DES to Habitat from time to time; or
- (b) The appraised value of the home based on an appraisal prepared by an appraiser qualified to perform property appraisal services in the State of Florida, prepared in conformance with the Uniform Standards of Professional Appraisals Practice (USPAP) and prepared within 90 days of the date of the Sales Contract with the homebuyer.

Habitat shall, prior to entering into a Sales Contract, obtain DES approval of the Purchase Price for each HOME Assisted Unit.

6. Homebuyer's Debt Capacity:

Habitat shall cap the amount of debt that each homebuyer of a HOME Assisted Unit may borrow towards the purchase of such a unit such that the homebuyer's household does not expend more than thirty-five percent (35%) of the household's gross income, as calculated by DES, on the sum of the mortgage principal and interest, real estate taxes, property insurance, and homeowner association fees for the HOME Assisted Unit at the time of occupancy. This cap shall apply to the combined debt to be serviced by the homebuyer in connection with the purchase a HOME Assisted Unit regardless of the source of financing of such debt, that is, regardless of whether the source of financing is from an institutional lender, a public agency, Habitat or a combination of the aforesaid.

7. First Mortgage Source, Guidance and Approval, Prohibition of Shared Appreciation and Right of First Refusal:

The parties hereto recognize that Habitat shall also be the lender providing the first mortgage to the homebuyers of the HOME Assisted Units specified herein. Habitat shall provide guidance and information to prospective homebuyers regarding the financial arrangements of the intended purchase transaction (including the first, second and third mortgages associated with the purchase transaction).

The amount of the first mortgage to be borrowed by prospective homebuyers shall be subject to DES approval and shall be such that it maximizes the debt burden on the prospective homebuyer having taken into account the prospective purchaser's credit worthiness and the debt capacity described above.

Habitat shall be prohibited from entering into a shared appreciation agreement with all homebuyers of HOME Assisted Units.

Habitat's first mortgage may contain a right of first refusal allowing Habitat to purchase a HOME Assisted Unit being sold by a homeowner. The parties hereto recognize that should Habitat exercise such right and purchase a HOME Assisted Unit, then the period during which the unit is in Habitat's ownership represents an interruption in the affordability period the duration of which the property must be occupied by an income approved household as delineated in Part 1, Section M.2.

Should Habitat exercise its right of first refusal in connection with any HOME Assisted Unit then it shall take ownership subject to the County's second mortgage described herein. In such instance, Habitat shall sell the HOME Assisted Unit to a successor homeowner approved by the County within one (1) year from the date it takes ownership. The County may exercise its rights and remedies as made available under the second mortgage should Habitat fail to sell the HOME Assisted Unit during said period. HOME Assisted Units sold to successor homeowners approved by the County shall be occupied by such homeowners for the balance of the affordability period the computation of which shall exclude the time during which the property was in Habitat's ownership.

8. Determining the Development Subsidy:

HHS and Habitat shall, at the time Habitat enters into a Sales Contract, provide DES with the Development Costs for each HOME Assisted Unit to be sold. The Development Costs shall include all costs incurred by HHS and Habitat in producing the unit up to the date of the Sales Contract for such HOME Assisted Unit (except that the cost of donated materials, equipment, labor and services shall not be included in the Development Costs). These costs, regardless of the source of funding to pay for these costs, may for example include acquisition, design, construction, advertising and insurance. HHS and Habitat shall, upon DES request, provide DES detailed information on how the Development Costs was calculated for each HOME Assisted Unit.

The Development Subsidy for each HOME Assisted Unit shall be computed by deducting the Purchase Price for such unit as approved by DES from the Development Costs for such unit as deemed acceptable to DES. If the Purchase Price of the Assisted Unit exceeds the Development Costs then the Development Subsidy amount to be used below shall be zero (0).

9. Determining the Available Direct Subsidy:

The Available Direct Subsidy amount for each HOME Assisted Unit shall be computed by deducting the Development Subsidy amount for such unit as determined above from the total amount of HOME funds expended by DES for such unit.

10. Overall Financing for HOME Assisted Units and Third Mortgage Gap Financing

Habitat shall examine the overall financing needed for each HOME Assisted Unit to be sold by examining the financing anticipated to be made available to meet the Purchase Price. Habitat shall deduct the amount of the first mortgage (documented through a loan commitment) plus the homebuyer's contribution (as minimally required by the first mortgage lender) from the Purchase Price for each HOME Assisted Unit and compare the difference to the amount of Available Direct Subsidy determined above for such unit and proceed as described below:

- (a) If such difference is equal to the Available Direct Subsidy then the entire amount of the Available Direct Subsidy shall be regarded as the Direct Subsidy to the homebuyer and such entire amount shall be the amount to be secured by a Second Mortgage and Promissory Note as described below.
- (b) If such difference is more than the Available Direct Subsidy then the entire amount of the Available Direct Subsidy shall be regarded as the Direct Subsidy to the homebuyer to be secured by a Second Mortgage and Promissory Note as described below. The above condition will result in a financing gap being the amount above the Available Direct Subsidy up to the aforementioned difference. In this instance, unless the homebuyer is able to provide the remaining gap in the financing, Habitat shall assist the homebuyer in seeking to secure the gap in financing needed to fully fund the Purchase Price. This gap in financing, if not provided by the homebuyer, shall be secured by a third mortgage to be held by Habitat.
- (c) If such difference is less than the Available Direct Subsidy then the amount of the difference shall be regarded as the Direct Subsidy to the homebuyer and such amount shall be the amount to be secured by a Second Mortgage and Promissory Note as described below.

11. Mandatory Counseling:

Prior to closing, each prospective homebuyer of a HOME Assisted Unit shall attend and complete eight (8) hours of homeownership counseling including at least six (6) hours in a classroom setting and two (2) hours of one-on-one (individual) counseling sessions. Homeownership counseling must be conducted by a HUD-approved counseling agency. Each prospective homebuyer shall obtain and provide DES a copy of a certificate issued by the counseling agency evidencing attendance and completion of the above described counseling. The certificate shall be valid for a one (1) year period from its date of issue and must show the name of the provider, the date(s) of counseling, the total number of hours of counseling, the signature of the authorized counselor.

The provision of the above stated certificate to DES shall be a pre-condition for closing.

12. Closing Statement:

In order to assure that these requirements have been met, Habitat shall, prior to the closing for the sale of each HOME Assisted Unit, provide the closing statement to DES for approval. Habitat shall not proceed with closing unless DES has approved the closing statement for each sale.

13. Second Mortgage and Promissory Note:

Habitat shall, at the closing, cause each DES approved prospective homebuyer to execute a Second Mortgage and Promissory Note in favor of the County, as provided in Exhibit D herein. In exchange for the receipt of said Second Mortgage and Promissory Note the County shall release the Declaration of Restrictions executed by Habitat in connection with the property. The execution and delivery of said releases of the Declarations of Restrictions is hereby delegated to the County Administrator, or her designee, and shall not require any further action by the Palm Beach County Board of County Commissioners. Habitat shall cause the recording of these releases and the Second Mortgage and

Promissory Note in the public records of Palm Beach County, and thereafter cause the original Second Mortgage and Promissory Note to be provided to DES. The Second Mortgage and Promissory Note shall only be subordinate to the instrument securing the first mortgage financing.

The amount to be secured by the Second Mortgage and Promissory Note shall be the Direct Subsidy amount as calculated for each HOME Assisted Unit according to the method provided above.

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

SECTION N: RENTAL of HOME ASSISTED UNITS TO TENANTS:

The following shall apply to all HOME Assisted Units that Habitat was not able to sell as required herein and that Habitat must rent.

1. Diligent Effort, Rental Occupancy, and Repayment of HOME Funds:

Habitat shall make a diligent effort to market and rent each rental HOME Assisted Unit. Each such unit must, within six (6) months following the date of Project Completion, be occupied by a household that has met the income requirements herein. The date of Project Completion shall be determined by DES according to the HOME regulations at 24 CFR Part 92 and shall be communicated by DES to Habitat as soon as possible. If Habitat is unable to meet this occupancy requirement within the aforesaid six-month period, then Habitat shall, within ten (10) calendar days after the end of said period, provide DES a report containing its marketing information to show its effort to date to rent the unit and shall also provide DES its marketing plan to rent the HOME Assisted Unit after the date of the report. If Habitat has not rented the HOME Assisted Unit to a household that has met the income requirements herein within eighteen (18) months following Project Completion, then Habitat shall repay the County all HOME funds expended by the County on such unit.

2. Duration of Applicability:

The requirements of this Section shall apply to each rental HOME Assisted Unit for the duration of the Declaration of Restrictions pertinent to such unit, that is for the duration of the twenty (20) year affordability period beginning with the date of Project Completion as defined herein.

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

3. Permanent Housing:

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

4. Rental Rates, Utility Allowances and Rent Schedules:

The following rental rates shall apply to all HOME Assisted Units to be rented by Habitat.

- (a) HOME Assisted Units to be rented by Habitat to households whose incomes, adjusted by family size, are no more than eighty percent (80%) of AMI, at the time these units are first occupied, and thereafter, at any time new tenants occupy these units shall be rented at a rate such that the tenant's payment is no more than the High HOME Rent Limit in effect at the time the lease is executed less any tenant paid utilities using the then current utility allowances from the HUD Utility Schedule Model. The High HOME Rent Limit, by bedroom size, shall be as published by HUD, from time to time, for the West Palm Beach-Boca Raton HUD Metro FMR Area pursuant to 24 CFR 92.252.

The above specified rates shall apply to all initial leases with tenants, as well as all subsequent leases and lease renewals.

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

5. Tenant Income Verification:

Habitat shall, for all HOME Assisted Units to be rented, submit the prospective tenant's household income information to DES to enable DES to income certify the tenant at the time such unit is first occupied, and thereafter, at any time new tenants occupy the unit.

For each tenant in occupancy of a HOME Assisted Unit, Habitat shall **annually** submit to DES a written statement from the tenant of the amount of the tenant's annual household income and a certification from Habitat that the information is complete and accurate and that the tenant's household will provide source documents upon request.

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

DES income certifications of tenants shall be valid for a period of six (6) months. Habitat shall, for tenants who have been income certified by DES and who have not completed their lease transaction of a HOME Assisted Unit within the aforesaid six (6) month period, resubmit the prospective Tenant's household income information to DES to enable DES to income certify the tenant for an additional period of six (6) months.

6. Tenant Records to be Maintained:

Habitat shall, for each household that is rented a HOME Assisted Unit, maintain a file that, at minimum, contains the following:

- (a) An application for lease, signed and dated by the applicant(s), identifying the household members that intend to occupy the apartment, the household characteristics, and the household income they have disclosed.
- (b) At the time a HOME Assisted Unit is first occupied, and thereafter, at any time new tenants occupy the unit, source documentation evidencing Habitat's verification of the applicant's household income and a computation sheet demonstrating Habitat's determination of the applicant's income eligibility to occupy the unit. Household income computation shall follow the HUD Section 8 method (24 CFR 5.609).
- (c) In addition, copies of tenants' annual statements certifying household income as specified in Part 1, Section N.5 above.
- (d) A copy of the HUD income levels in effect at the time the initial lease is signed.
- (e) A computation sheet and supporting documentation demonstrating that the rent charged by Habitat is at the applicable rental rate specified herein.
- (f) An original of all executed written leases with the applicant/tenant identifying the unit number/address and the rental rate.
- (g) Any other documentation evidencing Habitat's compliance with this Agreement.

7. Tenant Selection, Lease Agreement Requirements and Compliance with 24 CFR Subpart A:

Habitat shall comply with the following requirements:

- (a) Habitat shall comply with the following tenant selection requirements. In this regard, Habitat shall submit to the County for review, and shall adopt and follow written tenant selection policies and criteria that:
 - (i) Are consistent with the purpose of providing housing to families at the income levels specified herein.
 - (ii) Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease.
 - (iii) Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable.
 - (iv) Give prompt written notification to any rejected applicant of the grounds for any rejection.

Habitat shall not refuse to rent HOME Assisted Units to a certificate or voucher holder under 24 CFR Part 982 - Section 8 Tenant-Based Assistance: Unified Rule for Tenant-Based Assistance under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program, or to the holder of a comparable document evidencing participation in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.

- (b) Habitat shall submit a copy of its proposed Lease Agreement for approval by DES. In the event that future material revisions may occur, Habitat shall submit an updated Lease Agreement for approval (which shall not be unreasonably withheld or delayed) as revisions occur.
- (c) The lease between a tenant and Habitat must be for not less than one (1) year, unless by mutual agreement between the tenant and Habitat.
- (d) Habitat shall utilize leases which require parents to be held legally and financially liable for the acts of their children in connection with the HOME Assisted Unit, and which allow management to terminate the lease where a household member is engaged in illegal or criminal activity or where a household member is engaged in anti-social behavior which denies the Project or area residents the right to quiet and peaceful enjoyment of their homes or businesses.
- (e) Habitat may not terminate the tenancy or refuse to renew the lease of a tenant at a HOME Assisted Unit, except for serious or repeated violation of the terms and conditions of the lease; violation of applicable Federal, State, or local law; or for other good cause. Good cause does not include an increase in the tenant's income or refusal of the tenant to purchase the housing. To terminate or refuse to renew tenancy, Habitat must serve written notice upon the tenant specifying the grounds for the action at least thirty (30) days before the termination of tenancy.
- (f) Habitat is prohibited, from including any of the following lease terms in the Lease Agreement of HOME Assisted Units:
 - (i) Agreement to be Sued: Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of Habitat in a lawsuit brought in connection with the lease.

- (ii) Treatment of Property: Agreement by the tenant that Habitat may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. Habitat may dispose of this personal property in accordance with State law.
- (iii) Excusing Habitat from Responsibility: Agreement by the tenant not to hold Habitat or Habitat's agents legally responsible for any action or failure to act, whether intentional or negligent.
- (iv) Waiver of Notice: Agreement of the tenant that Habitat may institute a lawsuit without notice to the tenant.
- (v) Waiver of Legal Proceedings: Agreement by the tenant that Habitat may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.
- (vi) Waiver of a Jury Trial: Agreement by the tenant to waive any right to a trial by jury.
- (vii) Waiver of Right to Appeal Court Decision: Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.
- (viii) Tenant Chargeable with Cost of Legal Actions Regardless of Outcome: Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by Habitat against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
- (ix) Mandatory Supportive Services: Agreement by the tenant to accept supportive services that are offered.

8. Development Costs of Rental HOME Assisted Unit:

HHS and Habitat shall provide DES with the Development Costs of all HOME Assisted Units that Habitat was not able to sell as required herein and that Habitat must rent. HHS and Habitat shall do so at the time each such unit is initially occupied by a tenant, and the Development Costs provided to DES shall include all costs incurred by HHS and Habitat in producing the unit up to the date the unit is initially occupied by a tenant. Except for the time of submission of the Development Costs to DES and the period for which costs are to be provided, all other requirements of Part 1, Section M.8 shall apply to Part 1, Section N.8.

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

SECTION O: LEASE-PURCHASE REQUIREMENTS:

Habitat may convert to homeownership HOME Assisted Units that Habitat was not initially able to sell as required herein and that Habitat was consequently required to rent as specified herein. Such conversion is intended to enable tenants to voluntarily purchase such HOME Assisted Units as provided below, that is, under a lease-purchase arrangement, however, refusal by a tenant to purchase a HOME Assisted Unit shall not constitute grounds for eviction or for Habitat's failure to renew the lease.

1. Other Applicable Requirements:

The income requirements for occupant households specified in Part 1, Section K shall also apply to HOME Assisted Units under a lease-purchase arrangement. In addition to the requirements of this Section, the requirements of the following Sections shall also apply to HOME Assisted Units under a lease-purchase arrangement: Part 1, Sections M.3 through M.7, inclusive, Part 1, Sections M.9 through M.13, inclusive, and Part 1, Sections N.3 through N.8, inclusive.

2. Affordability Period:

If no additional HOME funds are used to enable tenants to become homeowners, then the period of affordability of the HOME Assisted Units sold to tenants under a lease-purchase arrangement shall be equal to the remaining affordability period of such units if the units had continued as rental units, and such remaining affordability period shall for each tenant begin on the date title is conveyed from Habitat to the tenant. If additional HOME funds are used to directly assist tenants to become homeowners then the affordability period shall be established by the County in connection with the provision of such additional HOME funds but shall not be less than the period specified at 24 CFR 92.254(a)(4) based on the amount of direct homeownership assistance provided.

3. Lease-Purchase Agreement and Term:

Habitat shall enter into a Lease-Purchase Agreement with each tenant desirous of purchasing a HOME Assisted Unit under a lease-purchase arrangement. The Lease-Purchase Agreement shall at minimum comply with the following requirements:

- (a) Lease: The lease period shall be for twelve (12) months (without penalty for early purchase prior to the end of the lease) and may be renewed annually as provided herein.
- (b) Purchase Option Price: The Purchase Option Price must be determined at the time the Lease-Purchase Agreement is signed according to the requirements of Part 1, Section M.5. Habitat shall obtain DES approval of the Purchase Option Price for each Lease-Purchase Agreement. Habitat shall cause an appraiser to re-appraise the unit within 90 days of the date that the lease-purchaser exercises the option to purchase. If the re-appraisal at that time is lower than the Purchase Option Price, then Habitat shall reduce the Purchase Option Price to the value determined by the re-appraisal, subject to DES approval and subject to the requirements of Part 1, Section M.5(a).

Appraisals and re-appraisals shall be prepared by an appraiser qualified to perform property appraisal services in the State of Florida and shall be prepared in conformance with the Uniform Standards of Professional Appraisals Practice (USPAP).

- (c) Lease Renewal: Habitat may renew the lease-purchase option based upon the following:
 - i) Favorable report of monthly lease payments.
 - ii) Favorable resolution of any maintenance items that are the lease-purchaser's responsibility.
 - iii) Progress on lease purchaser's action plan, including:
 - Progress toward retiring debt and lowering back-end ratio (at minimum, not taking on further debt).
 - Raising FICO score toward mortgage requirements.
 - Adherence to budget plan.
 - Savings accumulation.

- iv) Each lease-purchaser shall be allowed no more than two (2) lease renewals for a total period of three (3) years under the lease-purchase arrangement. Thereafter, the property shall be leased according to the rental requirements herein.
- v) Each HOME Assisted Unit under a Lease-Purchase Agreement must be purchased by the lease-purchaser within 36 months of signing the Lease-Purchase Agreement.

4. Assistance with Lease-Purchaser's Contribution:

At the time of purchase, Habitat may assist the lease-purchaser with the needed contribution towards the purchase of the HOME Assisted Unit. During the leasing period, Habitat may designate a portion of the lease-purchaser's monthly lease payment (based upon sufficient cash flow) to be set aside for a potential rebate at closing to cover closing or other costs. This rebate can be used toward the lender's cash requirements, as permitted. Note: The cash accumulation from monthly payments is clearly owned by Habitat, and the potential homebuyer has no legal rights to this cash. Furthermore, such funds, if not disbursed by Habitat for the benefit of a lease-purchaser shall be treated as rental income.

5. Exit Strategy:

For the lease-purchaser who is a solid tenant yet cannot consummate the purchase, Habitat will make its best effort based upon available resources to provide the following financial incentives:

- (a) A portion of the monthly rent will be accumulated for a rebate at purchase, and made available only if the lease-purchaser closes on the sale of the property.
- (b) Lease-purchaser will be advised on down payment assistance loans.
- (c) Lease-purchaser will be advised on special purchase financing.

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

SECTION P: REPORTS:

HHS and Habitat shall submit to DES detailed reports as described below, and any additional reports as may be required by DES and HUD:

1. Monthly Performance Report:

Either HHS or Habitat shall submit to the County a Monthly Performance Report (as shown in Exhibit E to this Agreement) provided that such report contain Project information encompassing the activities undertaken by both HHS and Habitat. The report shall first be submitted on the last day of the month during which this Agreement is executed, and thereafter, on the last day of each subsequent month. Submission of such report may be discontinued after the County's receipt of a report for the month during which the last HOME Assisted Unit undertaken hereunder is occupied by an eligible household.

2. Tenant Information Report (for rental properties only):

Habitat shall submit to the County a Tenant Information Report in the form provided as Exhibit F to this Agreement. Habitat shall first submit this report on the last day of the month during which the first HOME Assisted Unit is occupied by an eligible tenant, and thereafter, on the last day of each subsequent month until the last HOME Assisted Unit is occupied by an eligible tenant. After Habitat provides this report for all HOME Assisted Units described herein, Habitat may cease submitting this Report.

3. Annual Rent Roll (for rental properties only):

Habitat shall submit to the County an Annual Rent Roll in the form provided as Exhibit G to this Agreement. Habitat shall first submit the Annual Rent Roll on the first anniversary of its submission of the first Tenant Information Report identified above, and annually thereafter for the duration of the Declaration of Restrictions.

4. Section 3 Report:

HHS shall submit to the County a Section 3 Report to be provided for each contract awarded in connection with this Agreement. The Section 3 Report shall be submitted on a monthly basis for the duration of each contract. The format and content of said report shall be determined by the County at a later date and promptly communicated to HHS.

5. Other Reports:

HHS and Habitat agree to submit to DES any other reports required by HUD and/or DES in connection with activities undertaken through this Agreement.

PART 2 - THE COUNTY AGREES TO:

SECTION A:

Provide funding for approved Eligible Costs enumerated in Part 1, Section 1.E above in the amount of **\$940,460** during the term of this Agreement, subject to the requirements of the Agreement and as permitted therein.

SECTION B:

Provide a determination that applicant households are income eligible under HUD guidelines based on income and household size. Provide a determination that the sites are in conformance with Federal environmental requirements.

SECTION C:

Provide technical assistance to ensure compliance with HUD, U.S. HUD, and applicable State, Federal and County regulations and this Agreement.

SECTION D:

Provide overall administration and coordination activities to ensure that planned activities are completed in a timely manner.

SECTION E:

Monitor HHS and Habitat at any time during the term of this Agreement as deemed necessary and reasonable by the County. Visits may be scheduled or unscheduled as determined by DES, be conducted by DES staff or its contractor, and will serve to ensure compliance with HUD regulations, that planned activities are conducted in a timely manner, and to verify the accuracy of reporting to DES on program activities.

SECTION F:

Perform an environmental review of the projects and review and approve project design and proposed construction contracts submitted for the work. The County shall also perform Davis Bacon Act Labor Standards monitoring and enforcement (if applicable). Environmental review costs incurred by the County may be charged to the project budget identified above.

EXHIBIT B

DECLARATION OF RESTRICTIONS

Return to:

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

This Declaration of Restrictions is granted by the undersigned, **Habitat Housing Solutions, Inc.**, a non-profit corporation duly organized and existing by virtue of the laws of the State of Florida, having its principal office at 224 Datura Street, Suite 1314, West Palm Beach, FL 33401, (hereinafter referred to as "HHS", which term as used in every instance herein shall include HHS's successors and assigns), and **Habitat for Humanity of Palm Beach County, Inc.**, a non-profit corporation duly organized and existing by virtue of the laws of the State of Florida, having its principal office at 6758 N. Military Trail, Suite 301, Riviera Beach, FL 33407-1224 (hereinafter referred to as "Habitat", which term as used in every instance herein shall include Habitat's successors and assigns). HHS and Habitat shall hereinafter collectively be referred to as "Declarant".

The Declarant, for the property described below, in consideration of funding in the amount of _____ and /100 Dollars (\$) received from the Palm Beach County Board of County Commissioners (the "County") for improvements to the subject property described below and hereinafter referred to as the "Property", does hereby grant to the County the following restrictions against Property.

Legal Description

Property Control Number:

Property Address:

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.

These restrictions are granted by HHS by virtue of its interest in the Property under a Ground Lease recorded on _____, in Official Records Book _____, at Page _____, of the Public Records of Palm Beach County, Florida. HHS's obligation hereunder shall terminate upon the expiration of said Ground Lease as established in the below described Agreement and upon the County's determination, in its sole discretion, that HHS is in compliance with the provisions, terms, and conditions set forth herein and in the Agreement.

These restrictions are granted by Habitat by virtue of its interest in the Property as title holder as evidenced by a _____ recorded on _____, in Official Records Book _____, at Page _____, of the Public Records of Palm Beach County, Florida.

2. In consideration of the County's expenditure of funds for improvements to Declarant's Property, as provided through an Agreement between the County, HHS and Habitat dated _____, Declarant hereby covenants and agrees that as of the date of this Declaration of Restrictions Declarant agrees:

- (a) To construct a home on the Property as specified in the Agreement.
- (b) To, thereafter, sell, rent, or lease-purchase, the Property to an income eligible household as required in the Agreement, and:
- (c) To maintain the Property as decent, safe and sanitary housing in a state of good repair pursuant to applicable housing and building codes and the County's property standards.
- (d) To permit the County to inspect the Property and to inspect Declarant's records related to the Property.
- (e) To affirmatively market the Property as specified in the Agreement.
- (f) To maintain property and windstorm insurance on the Property and its improvements as specified in the Agreement.
- (g) To maintain records and submit reports and audited statements as specified in the Agreement.
- (h) To comply with the provisions, terms, and conditions set forth herein and in the Agreement.

3. The County shall release the lien of this Declaration of Restrictions upon the occurrence of one of the following events:

- (a) Declarant's sale of the Property pursuant to the provisions, terms, and conditions set forth herein and in the Agreement; or
- (b) Declarant's compliance with the provisions, terms, and conditions set forth herein and in the Agreement for a period beginning with the date of this Declaration of Restrictions and ending twenty (20) years after the date of Project Completion, which date shall be determined by the County according to the HOME regulations at 24 CFR §92. Declarant acknowledges that the Property is part of a Project as defined in 24 CFR §92.2, and that the date of Project Completion shall be determined, in part, after all necessary title transfer requirements and construction work have been performed, the final drawdown of HOME funds has been disbursed and the Project information has been entered into the disbursement and information system established by the U.S. Department of Housing and Urban Development. Once the Project Completion date has been determined by the County, Declarant shall request that County amend this Declaration of Restrictions in order to clearly define the Project Completion date and end of the twenty (20) year period. Declarant shall record the amendment document in the Public Records of Palm Beach County.

4. Declarant shall in connection with the lease or sale of the Property comply with all federal, state and local Fair Housing laws.

5. Declarant shall not change the use or planned use of the Property, discontinue the use of the Property, or change the beneficiaries of such use from that for which the acquisition or improvements were made, without the prior written approval of the County. Declarant shall not sell, convey or transfer title to the Property without the prior approval of the County, or in violation of the provisions, terms, and conditions set forth herein and in the Agreement. In the event Declarant does not comply with the restrictions contained in this paragraph, Declarant shall, within 30 days of written demand by the County, pay the County an amount equal to the entire amount expended by the County in connection with the improvements to the Property. The final determination of the amount of any such payment to the County under this paragraph shall be made by the County.

6. Declarant shall pay, or cause to be paid, all taxes due while the Property is in its possession and/or in the possession of Declarant's tenants. Declarant shall not allow any lien superior to the lien of this Declaration of Restrictions to be created on or against the Property, or any portion of thereof, unless the County has consented in writing to such lien. Declarant shall keep and maintain the Property free from the claims of all parties supplying

labor or materials unto the same. Declarant agrees to notify the County of any liens, judgments or pending foreclosure on the Property within five (5) working days of the receipt of said notice by Developer.

7. Declarant acknowledges and covenants that the provisions specified below constitute a default under this Declaration of Restrictions for which there may be a forfeiture of Declarant's title to the Property:

- (a) Failure of Declarant 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 Declarant of its determination that Declarant is in default of the terms of this Declaration of Restrictions, the County may, from time to time, at its sole discretion, cure each default under any covenant so curable in this Declaration of Restrictions, or in any instrument creating a lien upon the Property, 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 Declarant to the County in addition to the legal rate of interest from the time of expenditure and shall constitute a lien against the property which may be 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.

8. If Declarant fails, neglects or refuses to perform any of the provisions, terms and conditions set forth herein, for any breach of this Declaration of Restrictions, the County shall have the right to file in court of competent jurisdiction an action for:

- (a) Forfeiture of all Declarant's right, title, and interest in the Property for a breach of the restrictive covenants contained in this Declaration of Restrictions; and
- (b) Collection of due and unpaid real estate taxes, assessments, charges and penalties for which Declarant is obligated to pay, or cause to be paid.

In addition to any remedy set forth herein the County shall have such other remedies as are available at law or equity. The exercise or attempted exercise by the County of any right or remedy available under this Declaration of Restrictions 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. Declarant shall pay any reasonable expenses, including reasonable attorney's fees and costs incurred by the County, under this Declaration of Restrictions 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 of Restrictions 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 of Restrictions, the County shall first give Declarant written notice of the default complained of which such notice shall be given to Declarant at their address shown above. Declarant shall then have ten (10) working days from the date such notice is given to cure or correct any default.

9. Declarant shall submit to the County once each year a report detailing Declarant's compliance with the terms of the grant Agreement and this Declaration of Restrictions.

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

Executed this _____ day of _____, 20____.

SIGNED, SEALED, AND DELIVERED IN
THE PRESENCE OF:

HABITAT HOUSING SOLUTIONS, INC.

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

By: Thomas B. Walker, President Signature: _____ X (DO NOT SIGN THIS EXHIBIT) _____

(CORPORATE SEAL BELOW)

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me on _____, 20____,
by Thomas B. Walker as President of Habitat Housing Solutions, Inc., who is personally
known to me or has produced _____ as identification and
who did/did not take an oath.

(DO NOT SIGN THIS EXHIBIT)

Signature: _____

Notary Name: _____
Notary Public - State of Florida

(NOTARY SEAL ABOVE)

SIGNED, SEALED, AND DELIVERED IN
THE PRESENCE OF:

**HABITAT FOR HUMANITY OF
PALM BEACH COUNTY, INC.**

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

By: Brad T. Jankowski, President Signature: _____ X (DO NOT SIGN THIS EXHIBIT) _____
--

(CORPORATE SEAL BELOW)

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me on _____, 20____,
by Brad T. Jankowski as President of Habitat for Humanity of Palm Beach County Inc.,
who is personally known to me or has produced _____ as
identification and who did/did not take an oath.

(DO NOT SIGN THIS EXHIBIT)

Signature: _____

Notary Name: _____
Notary Public - State of Florida

(NOTARY SEAL ABOVE)

EXHIBIT C

ASBESTOS REQUIREMENTS
SPECIAL CONDITIONS FOR DEMOLITION AND RENOVATION OF BUILDINGS

The provisions of this part apply to all demolition and renovation work contemplated in this Agreement and described in Exhibit A of this Agreement.

I. DEFINITIONS

ACBM:	Asbestos Containing Building Materials
AHERA:	Asbestos Hazard Emergency Response Act
EPA:	Environmental Protection Agency
FLAC:	Florida Licensed Asbestos Consultant
DES:	Palm Beach County Department of Economic Sustainability
NESHAP:	National Emission Standards for Hazardous Air Pollutants
NRCA:	National Roofing Contractors Association
NVLAP:	National Voluntary Laboratory Accreditation Program
OSHA:	Occupational Health and Safety Administration
PBCAC:	Palm Beach County Asbestos Coordinator (in Risk Management)
TEM:	Transmission Electron Microscopy

II. ASBESTOS SURVEYS

All properties scheduled for renovation or demolition are required to have a comprehensive asbestos survey conducted by a Florida Licensed Asbestos Consultant, (FLAC). The survey shall be conducted in accordance with AHERA guidelines. Analysis must be performed by a NVLAP accredited laboratory.

For Renovation Projects (projects which will be reoccupied):

- Point counting must be done for all asbestos containing building materials (ACBM) indicating less than 1% asbestos (to determine if any asbestos is present).
- Samples of vinyl floor tile indicating asbestos not detected must be confirmed by transmission electron microscopy (TEM).
- Joint compound shall be analyzed as a separate layer.
- Roofing material shall be sampled only if a renovation requires the roof to be disturbed (in lieu of sampling the roof, it may be presumed to contain asbestos).

For Demolition Projects:

- Point counting must be done for all "friable" asbestos containing building materials (ACBM), indicating less than 1% asbestos. This includes joint compounds (to be analyzed as a separate layer), and vinyl asbestos tile.
- Roof materials shall be presumed to be asbestos containing.

If HHS has a recent asbestos survey report prepared by a licensed asbestos consultant, a copy may be provided to DES and PBCAC for review to determine if the survey is adequate to proceed with renovation/demolition work. If no survey is available, a survey may be initiated by HHS or requested by DES. A copy of the completed survey will be forwarded to HHS. All asbestos survey's shall be forwarded to the PBCAC.

III. ASBESTOS ABATEMENT

A. RENOVATION

- (a) Prior to a renovation, all asbestos containing materials that will be disturbed during the renovation, must be removed by a Florida Licensed Asbestos Contractor under the direction of a FLAC. Exceptions may be granted by DES prior to the removal, (such as asbestos containing roofs, transite pipe). HHS must obtain approval for all exceptions from DES. DES will request the PBCAC to review and approve all exceptions.
- (b) Asbestos Abatement work may be contracted by HHS or by DES upon request.

- (c) If HHS contracts the asbestos abatement, the following documents are required to be provided to the DES and the PBCAC.
 - 1. An Asbestos Abatement Specification (Work Plan), sealed by a FLAC.
 - 2. Pre and Post Job submittals, reviewed and signed by the FLAC.
- (d) If HHS requests DES to contract the asbestos abatement, DES will initiate the request through the PBCAC who will contract the asbestos abatement. DES will provide a copy of all contractor and consultant documents to HHS.
- (e) Materials containing <1% asbestos are not regulated by EPA/NESHAPS. However, OSHA compliance is mandatory. OSHA requirements including training, wet methods, prompt cleanup in leak tight containers, etc. The renovation contractor must comply with US Dept of Labor, Standard Interpretation (OSHA), Compliance requirements for renovation work involving material containing <1% asbestos, 11/24/2003. The renovation contractor must submit a work plan to DES and the PBCAC prior to removal of the materials.

B. DEMOLITION

All "friable" ACBM must be removed by a Florida Licensed Asbestos Contractor under the direction of a FLAC prior to demolition. Friable materials include: resilient asbestos tile and mastic which is not intact, linoleum, asbestos containing joint compound, asbestos containing cement panels (e.g. transite), etc.

Intact resilient tile and asbestos roof materials may be demolished with adequate controls (e.g. wet method) by a demolition contractor provided the contractor is aware of the asbestos containing materials present and exercises adequate control techniques (wet methods, etc.). In all cases, demolition work should be monitored by a FLAC to insure proper control measures and waste disposal. Any exceptions to these guidelines may be requested through DES prior to the removal, (such as asbestos containing roofs, transite pipe). Exceptions may be granted by DES prior to the removal, (i.e. asbestos containing roofs, transite pipe). HHS must obtain approval for all exceptions from DES and the PBCAC.

- (a) Asbestos Abatement work may be contracted by HHS or by DES upon request.
- (b) If HHS contracts the asbestos abatement, the following documents must be provided to the PBC/DES and reviewed by the PBCAC.
 - 1. An Asbestos Abatement Specification (Work Plan), sealed by a FLAC.
 - 2. Pre and Post Job submittals, reviewed and signed by the FLAC.
- (c) If HHS requests DES to contract the asbestos abatement, DES will initiate the request through the PBCAC who will contract the asbestos abatement. DES will provide a copy of all contractor and consultant documents to HHS.
- (d) Recycling, salvage or compacting of any asbestos containing materials or the substrate is strictly prohibited.
- (e) In all cases, compliance with OSHA "Requirements for demolition operations involving material containing <1% asbestos is mandatory.
- (f) For all demolitions involving asbestos containing floor tile, asbestos containing roofing material and materials containing <1%, the Demolition Contractor shall submit the following documents to DES. DES will provide a copy of these documents to PBCAC.
 - 1. Signed statement that the demolition contractor has read and understood the requirements for complying with EPA, OSHA and the State of Florida Licensing regulations for demolition of structures with asbestos materials.

2. Submit a plan for the demolition of asbestos containing roofing and floor tile. State if these materials are likely to remain intact. Include in the plan what shall occur if materials become "not intact".
 3. Submit a plan for compliance with OSHA requirements such as but not limited to: competent person, establishing a regulated area, asbestos training of workers, respiratory protection, use of disposable suits, air monitoring, segregation of waste, containerizing asbestos waste, waste disposal.
- (g) If materials are discovered that are suspect asbestos materials that were not previously sampled, stop all work that will disturb these materials and immediately notify DES.

IV. NESHAPS NOTIFICATION

A. RENOVATION

A NESHAP form must be received by the Palm Beach County Health Department at least ten working days prior to an asbestos renovation that includes regulated asbestos containing material greater than 160 square feet or 260 linear feet or 35 cubic feet. For lesser quantities, HHS (or its contractor) shall provide a courtesy notification to the Palm Beach County Health Department at least ten working days prior to an asbestos renovation. The removal of vinyl asbestos floor tile and linoleum shall be considered regulated. Asbestos roof removal requires a notification at least 3 working days prior to the removal.

B. DEMOLITION

A NESHAP form must be received by the Palm Beach County Health Department at least ten working days prior to the demolition.

The NESHAP notification shall be sent return receipt requested to the address shown below with a copy to DES. DES shall provide a copy to the PBCAC. All fees shall be paid by HHS.

Palm Beach County Department of Health
Asbestos Coordinator
800 Clematis Street
Post Office Box 29
West Palm Beach, Florida 33402

V. APPLICABLE ASBESTOS REGULATIONS/GUIDELINES

HHS, through its demolition or renovation contractor, shall comply with the following asbestos regulations/guidelines. This list is *not* all inclusive:

- (a) Environmental Protection Agency (EPA) NESHAP, 40 CFR Parts 61 Subpart M National Emission standard for Asbestos, revised July 1991
- (b) Occupational Health and Safety Administration (OSHA) Construction Industry Standard, 29 CFR 1926.1101
- (c) EPA: A Guide to Normal Demolition Practices Under the Asbestos NESHAP, September 1992
- (d) Demolition practices under the Asbestos NESHAP, EPA Region IV
- (e) Asbestos NESHAP Adequately Wet Guidance

- (f) Florida State Licensing and Asbestos Laws
 - 1. Title XVIII, Chapter 255, Public property and publicly owned buildings.
 - 2. Department of Business and Professional Regulations, Chapter 469 Florida Statute, Licensure of Asbestos Consultants and Contractors
- (g) Resilient Floor Covering Institute, NRCI, Updated Recommended Work Practices and Asbestos Regulatory Requirements, September 1998.
- (h) Florida Roofing Sheet Metal and Air Conditioning Contractors Association, NRCA, June 1995
- (i) US Dept of Labor, Standard Interpretation (OSHA)
 - 1. Application of the asbestos standard to demolition of buildings with ACM in Place, 8/26/2002.
 - 2. Requirements for demolition operations involving material containing <1% asbestos, 8/13/1999.
 - 3. Compliance requirements for renovation work involving material containing <1% asbestos, 11/24/2003.

EXHIBIT D

Return to:
Palm Beach County
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, Florida 33406
Attention: Carol Eaddy Langford
Prepared by: James Brako,
Assistant County Attorney

SECOND MORTGAGE
(HOME PROGRAM)

**THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL
PAYMENT OR THE PRINCIPAL BALANCE DUE UPON
MATURITY IS \$_____ AND ALL ADVANCEMENTS MADE BY
THE MORTGAGEE UNDER THE TERM OF THIS MORTGAGE.**

THIS MORTGAGE executed on _____, by _____
whose address is _____, hereinafter the "Mortgagor", to Palm
Beach County, whose address is 301 North Olive Ave., West Palm Beach, Florida 33401,
hereinafter the "Mortgagee". (Wherever used herein the terms "Mortgagor" and
"Mortgagee" include all the parties to this instrument and the heirs, legal representatives
and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH, that for good and valuable considerations, and also in consideration of the
aggregate sum named in the Promissory Note of even date herewith, a copy of which is
attached hereto as Attachment 1, the Mortgagor hereby grants, bargains, sells, aliens,
remises, conveys and confirms unto the Mortgagee all the certain land of which the
Mortgagor is now seized and in possession situate in Palm Beach County, Florida,
hereinafter the "Property", viz:

Legal Description

Property Control Number:

Property Address:

TO HAVE AND TO HOLD the same, together with tenements, hereditaments and
appurtenances thereto belonging, and the rents, issues and profits thereof, unto the
Mortgagee, in fee simple.

AND the Mortgagor covenants to the Mortgagee that the Mortgagor is indefeasibly seized
of said land in fee simple; that the Mortgagor has good right and lawful authority to convey
said land as aforesaid; that the Mortgagor will make such further assurances to perfect the
fee simple title to said land in the Mortgagee as may reasonably be required; that the
Mortgagor hereby fully warrants the title to said land and will defend the same against the
lawful claims of all persons whomsoever; and at said land is free and clear of all
encumbrances. In the event the subject Property or any interest therein shall be sold,
conveyed or in any other manner disposed of, including by Agreement for Deed, this
Mortgage shall become due and payable in full.

PROVIDED ALWAYS, that if said Mortgagor shall pay unto said Mortgagee the sum
named in the Promissory Note and shall perform, comply with and abide by each and
every agreement, stipulation, condition and covenant thereof, and of this Mortgage, then
this Mortgage and the estate hereby created, shall cease, terminate and be null and void.

AND, Mortgagor hereby further covenants and agrees to pay promptly when due the
principal and interest and other sums of money provided for in said Promissory Note and
this Mortgage, or either; to pay all and singular the taxes, assessments, levies, liabilities,
obligations, and encumbrances of every nature on said Property; to permit, commit or

suffer no waste, impairment or deterioration of said land or the improvements thereon at any time; to keep the buildings now or hereafter on said land fully insured in a sum of not less than full insurable value with a company acceptable to the Mortgagee. The policy or policies to be held by, and payable to, said Mortgagee. In the event any sum or money becomes payable by virtue of such insurance the Mortgagee shall have the right to receive and apply the same to the indebtedness hereby secured.

In the event the Mortgagor fails to pay when due any tax, assessment, insurance premium or other sum of money payable by virtue of said note and this Mortgage, or either, the Mortgagee may pay the same, without waiving or affecting the option to foreclose or any other right hereunder, and all such payments shall bear interest from date hereof at the highest lawful rate then allowed by the laws of the State of Florida.

In any event, as long as the Property is encumbered by the First Mortgage, all property insurance payments and property tax payments are to be secured through escrow and paid by the First Mortgage.

AND, Mortgagor agrees further that Mortgagor shall reside in the Property as the Mortgagor's principal place of residence for the term of this Mortgage.

AND, Mortgagor further recognizes that any secondary or junior financing placed upon the Property, (a) may divert funds which would otherwise be used to pay the Promissory Note secured hereby; (b) could result in acceleration and foreclosure by any such junior encumbrance which would force Mortgagee to take measures and incur expenses to protect its security; (c) could detract from the value of the Property should Mortgagee's right to accept a deed in lieu of foreclosure, as a foreclosure by Mortgagee would be necessary to clear the title to the Property; and (d) require the Mortgagor to have housing expenses which exceed the guidelines for affordability under the Mortgagee's HOME Program requirements.

In accordance with the foregoing and for the purposes of (i) protecting Mortgagee's security; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; (iii) keeping the premises free of subordinate financing liens; and (iv) meeting HOME Program requirements for affordability, Mortgagor agrees that if this paragraph be deemed a restraint on alienation, that it is a reasonable one and that any sale, conveyance, assignment, further encumbrance or other transfer of title to the Property or any interest therein (whether voluntarily or by operation of law) without the Mortgagee's prior written consent, which may be withheld for any reason, shall be an Event of Default hereunder.

For the purpose of and without limiting the generality of the preceding sentence, the occurrence any time of any of the following events shall be deemed to be an unpermitted transfer of title to the Property and therefore an Event of Default hereunder.

(a) any sale, conveyance, assignment or other transfer of or the grant of security interest in, all or any part of the title to the Property within **fifteen (15) years** of the date of this Mortgage without the prior written consent of the Mortgagee.

(b) any new or additional liabilities without the prior written consent of Mortgagee. Any consent by the Mortgagee, or any waiver of an event of default, under this paragraph shall not constitute a consent to, or waiver of any right, remedy or power of the Mortgagee upon a subsequent event of default under this paragraph. If any sum of money herein referred to be not promptly paid within 15 days after the same becomes due, or if each and every agreement, stipulation, condition and covenant of said note and this Mortgage, or either, are not fully performed, complied with and abided by, then the entire sum mentioned in said Promissory Note, and this Mortgage, or the entire balance unpaid thereon, shall forthwith or thereafter, at the option of the Mortgagee, become and be due and payable, anything in said Promissory Note or herein to the contrary notwithstanding. Failure by the Mortgagee to exercise any of the rights or options herein provided shall not constitute a waiver of any rights or options under said note or this Mortgage accrued or thereafter accruing.

This Mortgage is expressly made subject and subordinate to the terms and conditions specified in that certain mortgage from Mortgagor to _____, hereinafter the "First Lender", dated _____, and recorded in Official Records Book _____, at Page _____, of the Public Records of Palm Beach County, Florida, hereinafter the "First Mortgage", securing that certain note having an original principal face amount of _____ and 00/100 Dollars (\$_____), dated _____, hereinafter the "First Note", made by Mortgagor and payable to the First Lender.

If any provision of the Promissory Note or this Mortgage conflicts with any provision of the First Note or the First Mortgage, the terms and provisions of the First Note, and First Mortgage, shall govern.

THIS IS A SECOND MORTGAGE AND THE FINAL PRINCIPAL PAYMENT OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$_____ TOGETHER WITH ACCRUED INTEREST, IF ANY AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS MORTGAGE.

IN WITNESS WHEREOF, the said Mortgagor has hereunto signed and sealed these presents the day and year first above written.

SIGNED, SEALED, AND DELIVERED
IN THE PRESENCE OF:

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

By: _____ Signature: _____ X _____
By: _____ Signature: _____ X _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The forgoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, who is personally known to me or has produced _____ as identification and who did (did not) take an oath.

Signature: _____

NotaryName: _____
Notary Public - State of Florida

(NOTARY SEAL ABOVE)

ATTACHMENT 1

PROMISSORY NOTE
(HOME PROGRAM)

Amount: \$ _____

Date: _____

Property Address: _____

Place: Palm Beach County, Florida

FOR VALUE RECEIVED, the undersigned jointly and severally promise(s) to pay to the order of Palm Beach County, Florida, (herein the "County"), acting by and through its Board of County Commissioners, the remaining balance on the principal sum of _____ and 00/100 Dollars (\$ _____), which remaining balance shall be payable in full upon the sale, lease, or transfer of the property, identified and legally described in the Mortgage used to secure this Promissory Note, from the undersigned, (herein the "Maker"), signing this Promissory Note (being the owner(s) having fee simple title to the mortgaged property) to any other person(s) without the prior written consent of the County.

Upon the sale, transfer, conveyance or alienation of any part or all of the mortgaged property within fifteen (15) years of the date of this note, full repayment of the principal sum plus accrued interest, if any, plus any advancements made pursuant to the terms of the Mortgage, shall become immediately due and payable.

In the event of a refund of any governmental fees to the undersigned, the undersigned assigns such reimbursement directly to the County to be credited towards the total amount due under this Promissory Note.

The undersigned reserve(s) the right to prepay at any time all or any part of the principal amount of this Promissory Note without the payment of penalties or premiums.

This Promissory Note and the Second Mortgage securing payment of this Promissory Note is expressly made subject and subordinate to the terms and conditions specified in that certain promissory note having an original principal face amount of _____ and 00/100 Dollars (\$ _____), dated _____, hereinafter the "First Note", made by the Maker payable to _____, hereinafter the "First Lender", and secured by that certain mortgage from the Maker to the First Lender, dated _____, and recorded in Official Records Book _____, at Page _____, of the Public Records of Palm Beach County, Florida, hereinafter the "First Mortgage".

The County consents to any agreement or arrangement in which the First Lender waives, postpones, extends, reduces or modifies any provisions of the First Note or the First Mortgage, including any provision requiring the repayment of money.

If any provision of this Promissory Note or the Maker's Mortgage conflicts with any provision of the First Note or the First Mortgage, the terms and provisions of the First Note and the First Mortgage shall govern.

If default be made in the performance of any of the covenants, understandings and agreements obtained and entered into to secure financing used in connection with this Promissory Note or in said Mortgage, then the entire unpaid principal amount of this Promissory Note, together with accrued interest computed **at a rate of eight percent (8%) per annum from the date of default**, shall become at once due and payable, at the option of the County, without notice to the undersigned, time being of the essence.

Failure of the County to exercise such option shall not constitute a waiver of such default, nor a waiver of the right to exercise the same in the event of any subsequent default. If this Promissory Note be reduced to judgment, such judgment shall bear the statutory interest due on judgments, but not to exceed eight percent (8%) per annum.

Fifteen (15) years from the date of this Promissory Note, if the following two conditions have been met, the entire Promissory Note will be deemed satisfied and the Maker shall have no further obligation to the County under this Promissory Note:

- 1) There have been no defaults in the performance of any of the covenants, understandings and agreement obtained and entered into to secure financing used in connection with this Promissory Note or in said Mortgage; and
- 2) There has been no sale, transfer, conveyance or alienation of any part or all of the property secured in said Mortgage.

If suit is instituted by the County to recover on this Promissory Note, the undersigned agree(s) to pay all costs of such collection including reasonable attorney's fees and court costs at the trial and appellate levels.

THIS PROMISSORY NOTE is secured by a Mortgage of even date herewith, duly filed for record in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida.

DEMAND, protest and notice of demand and protest are hereby waived, and the undersigned hereby waive(s), to the extent authorized by law, any and all homestead and other exemption rights, which otherwise would apply to the debt evidenced by this Promissory Note.

This Promissory Note has been duly executed by the undersigned on the date first above written.

Name: _____ Signature: _____

Name: _____ Signature: _____

EXHIBIT E

PALM BEACH COUNTY DEPARTMENT OF ECONOMIC SUSTAINABILITY
MONTHLY PERFORMANCE REPORT

Report For:	Month: _____ Year: _____
Name:	
Project Name:	HOME Program - Habitat Various Sites
Report Prepared By:	
	Name _____ Signature _____ Date _____

BUDGETING AND EXPENDITURES

Amounts Expended this Reporting Period: HOME Funds:\$_____ Other Funds:\$_____
Amounts Expended to Date:

//////////////////////////////////// ///	BUDGETED	EXPENDED	PERCENTAGE
HOME Funds:	\$	\$	%
Other Funds:_____	\$	\$	%
Other Funds:_____	\$	\$	%
TOTAL:	\$	\$	%

Describe any changes in budgeted amounts during this reporting period and the source of funds: _____

PROJECT ACTIVITIES

Describe your accomplishments during the reporting period: _____

Describe any problems encountered during this reporting period: _____

CONSTRUCTION ACTIVITIES

Describe your accomplishments during the reporting period: _____

Other comments: _____

Send Report to: Bud Cheney, Manager
Capital Improvement, Real Estate & Inspections Services
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

EXHIBIT F

PALM BEACH COUNTY DEPARTMENT OF ECONOMIC SUSTAINABILITY

TENANT INFORMATION REPORT

Project Name:	Habitat for Humanity of Palm Beach County, Inc.		
Report Period:	From _____, 20__ to _____, 20__		
Prepared By:			
Report Date:	_____, 20__	Page ____ of ____ Pages	

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

	Address: _____ _____	Address: _____ _____	Address: _____ _____
Tenant Name:			
Lease start date:			
No. of bedrooms:			
No. of persons in household:			
Household Income at 50% of AMI or less	[]	[]	[]
Female Head of Household	[]	[]	[]
Disabled Head of Household	[]	[]	[]
Hispanic Ethnicity	[]	[]	[]
White	[]	[]	[]
African American	[]	[]	[]
Asian	[]	[]	[]
American Indian or Alaskan Native	[]	[]	[]
Native Hawaiian Pacific Islander	[]	[]	[]
American Indian or Alaskan Native and White	[]	[]	[]
Asian and White	[]	[]	[]
African American and White	[]	[]	[]
American Indian/Alaskan Native and African American	[]	[]	[]
Other Multi-racial	[]	[]	[]

EXHIBIT G

PALM BEACH COUNTY DEPARTMENT OF ECONOMIC SUSTAINABILITY
ANNUAL RENT ROLL

Project Name:	Habitat for Humanity of Palm Beach County, Inc.		
Report Period:	From _____, 20__ to _____, 20__		
Prepared By:			
Report Date:	_____, 20__	Page ____ of ____ Pages	

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

	Address: _____ _____	Address: _____ _____	Address: _____ _____	Address: _____ _____
Tenant Name:				
Lease start date:	/ /	/ /	/ /	/ /
Contract Rent:	\$	\$	\$	\$
Tenant Rent:	\$	\$	\$	\$
No. of bedrooms:				
No. of occupants:				
Date last income certified:	/ /	/ /	/ /	/ /
Annual income:	\$	\$	\$	\$
Household Income at 50% of AMI or less	[]	[]	[]	[]
	Address: _____ _____	Address: _____ _____	Address: _____ _____	Address: _____ _____
Tenant Name:				
Lease start date:	/ /	/ /	/ /	/ /
Contract Rent:	\$	\$	\$	\$
Tenant Rent:	\$	\$	\$	\$
No. of bedrooms:				
No. of occupants:				
Date last income certified:	/ /	/ /	/ /	/ /
Annual income:	\$	\$	\$	\$
Household Income at 50% of AMI or less	[]	[]	[]	[]

AMENDMENT 004 TO THE LOAN AGREEMENT
WITH
COMMUNITY LAND TRUST OF PALM BEACH COUNTY, INC.

Amendment 004 to the Loan Agreement is made and entered into on **MAR 28 2016**, by and between **Palm Beach County** ("County") and **Community Land Trust of Palm Beach County, Inc.** ("Borrower").

WITNESSETH:

WHEREAS, the County entered into a Loan Agreement (R2014-1921), with the Borrower on October 27, 2014, as amended by Amendment No. 001 (R2015-0855) on July 7, 2015, by Amendment No. 002 (R2015-1709) on September 29, 2015, and by Amendment No. 003 (R2015-0186) on November 19, 2015, to provide \$1,747,743 of HOME Investment Partnerships Program funds for the construction of 22 affordable homes to be known as Davis Landings West; and

WHEREAS, the parties wish to modify the Loan Agreement.

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:

A. SECTION 1: RECITALS

The foregoing recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning as ascribed to them in the Agreement.

B. SECTION 2: OVERVIEW OF THE PROJECT

Delete the second paragraph of this Section and replace it with the following:

The Borrower shall, prior to closing, create and record in the Public Records of Palm Beach County a boundary plat for the Premises (the "Plat"), and shall thereafter, based on such Plat, create a metes-and-bounds legal description for each of the twenty-four (24) lots upon which the aforesaid twenty-four (24) housing units shall be constructed. At the closing, the Borrower shall execute the Promissory Note and the Mortgage attached hereto and incorporated herein by reference as Exhibit B-1 and Exhibit C-1, respectively. The Promissory Note and the Mortgage shall be delivered to the County as set forth below. The portion of the Loan to be made available hereunder per HOME Assisted Unit shall not exceed \$79,442.86 as further described below. All HOME funds disbursed by the County on each HOME Assisted Unit shall be due and payable, with accrued interest, upon the sale of the HOME Assisted Unit at which time the County shall provide the Borrower a partial release of mortgage for the HOME Assisted Unit being sold.

C. SECTION 3: THE LOAN AND LOAN EXPENDITURE REQUIREMENTS

1. In the third, fifth and seventh lines of the first paragraph of this Section replace "Notes" with "Note" and "Mortgages" with "Mortgage".
2. Add the following to the end of this Section

Prior to the disbursement of any Loan funds, the Borrower shall have complied with the following:

- The Borrower shall have obtained and provided the County copies of all its building permits and permits for on-site improvements associated with the Project.
- The Borrower shall have provided the County a copy of its executed construction contract as specified in Section 7(D) herein.

- The Borrower shall have provided the County, to the County's satisfaction, evidence that easements have been granted for the benefit of each lot pertaining to HOME Assisted Units that guarantee: ingress and egress, use of air space, maintenance, repair and replacement, utility services, public services, and access to on-site amenities.

D. SECTION 4: CONDITIONS PRECEDENT TO CLOSING

1. Section 4(A)(i)(a): In the fourth line delete "for each HOME Assisted Unit," and in the fifth line delete "associated".
2. Section 4(A)(i)(b): In the second line delete "for each HOME Assisted Unit".
3. Section 4(A)(i)(c): In the first line delete "for each HOME Assisted Unit" and replace "2014" with "2015".
4. Section 4(A)(iii): In two (2) instances replace "Notes" with "Note".
5. Section 4(A)(iv): In six (6) instances replace "Mortgages" with "Mortgage", insert "a" in front of "valid", and replace "liens" with "lien".
6. Section 4(A)(vi)(d): In the first and second lines delete: "the Declaration of Condominium as approved by the State of Florida,".
7. Section 4(A)(ix): Delete the entire contents of this subsection and replace them with the word "RESERVED".
8. Section 4(A)(xi)(f): In two (2) instances replace "Mortgages" with "Mortgage" and replace "liens" with "lien".
9. Section 4(A)(xi) entitled Loan Fee shall be renumbered as Section 4(A)(xii).
10. Section 4(A)(xii) entitled Budget and Schedule shall be renumbered as Section 4(A)(xiii).
11. Add a new Section 4(A)(xiv) as follows:

Satisfaction of the Florida Housing Finance Corporation Mortgage:

The Borrower shall have paid off the amount borrowed from its \$500,000 loan secured by the Premises and received by the Borrower from the Florida Housing Finance Corporation. As evidence of the Borrower having met the preceding requirement, the Borrower shall provide the County a copy of a recorded satisfaction of mortgage from the Florida Housing Finance Corporation. In the event of a simultaneous closing on this Loan and the loan of the First Mortgage, the County shall, in lieu of receiving aforesaid copy of a recorded satisfaction, accept evidence that sufficient funds needed to satisfy the payoff amount of the Florida Housing Finance Corporation's loan have been disbursed at such simultaneous closing from the First Mortgage loan.

E. SECTION 7: DISBURSEMENT OF LOAN FUNDS FOR ELIGIBLE PROJECT COSTS

1. Section 7(E): In two (2) instances replace "\$3,000" with "\$3,500".
2. Insert a new subsection (F) as follows:

(F) Costs Associated with the Florida Housing Finance Corporation Loan:

The Borrower may submit a request to the County for reimbursement of payments made by the Borrower to the Florida Housing Finance Corporation to pay off the outstanding balance on its \$500,000 loan from said entity provided that:

- (i) The Borrower shall provide the County with a copy of the loan payoff statement from the Florida Housing Finance Corporation identifying the outstanding balance on its loan.

(ii) The Borrower may only receive reimbursement for eligible costs permitted herein for which the Borrower received loan funds from the Florida Housing Finance Corporation and for which the loan payoff has been made. The Borrower shall submit supporting documentation satisfactory to the County evidencing the eligibility of such costs under this Agreement.

(iii) A letter from the Borrower, on the Borrower's letterhead, shall be provided for the reimbursement request pertaining to the aforesaid loan payoff. The letter shall reference the Project, the date of this Agreement and its document reference number (if such number is available), and shall contain a statement requesting payment of the amount pertaining to the eligible costs permitted herein, as well as the name and signature of a person authorized by the Borrower to make such a request.

(iv) Evidence of payment made by the Borrower for said loan payoff shall accompany the reimbursement request letter.

3. The last subsection entitled "Other Costs Not Listed Above" and identified as "(F)" is hereby changed to "(G)".

F. SECTION 11: SALE OF HOME ASSISTED UNITS FOR HOMEOWNERSHIP

1. Section 11(F): In the fourth line: Insert "land lease," in front of "real estate taxes".
2. Section 11(H): In the second line: Delete "the" and insert "at the" after "interest".
3. Section 11(K): Delete the title and contents of this subsection and replace them with the following:

Deed Restriction, Second Mortgage, Promissory Note and Release and Satisfaction of the Mortgage:

The Borrower shall, for each HOME Assisted Unit, place in its deed conveying title to the buildings and improvements on the lot pertaining to the HOME Assisted Unit the restrictions found in the Declaration of Restrictions, as amended, which document is recorded in Official Records Book 23091, at Page 700, in the Public Records of Palm Beach County, Florida.

For each HOME Assisted Unit, the Borrower shall, at the closing, cause each DES approved prospective homebuyer to execute, in favor of the County, a Second Mortgage and Promissory Note in the amount of the purchase subsidy which documents are provided in Exhibit F-1 attached hereto and made a part hereof. Said Second Mortgage shall encumber the buildings and improvements being conveyed by the Borrower to the DES approved prospective homebuyer. The Borrower shall provide consent and joinder to said Second Mortgage as set forth in Exhibit F.

In exchange for the receipt of said Second Mortgage and Promissory Note and the Borrower's repayment of that portion of the Loan associated with the HOME Assisted Unit being sold, the County shall provide a HOME Partial Release of Mortgage for the lot associated with the HOME Assisted Unit being sold by the Borrower. The HOME Partial Release of Mortgage shall remove the lien of the Mortgage from the HOME Assisted Unit being sold.

The execution and delivery of said HOME Partial Release of Mortgage is hereby delegated to the County Administrator, or her designee, and shall not require any further action by the Palm Beach County Board of County Commissioners. The Borrower shall cause the recording of the HOME Partial Release of Mortgage and the Second Mortgage (with a copy of its associated Promissory Note) in the public records of Palm Beach County, and thereafter cause the original Second Mortgage and Promissory Note to be provided to DES. The Second Mortgage shall only be subordinate to the instrument securing the first mortgage financing.

The County shall, in connection with the Borrower's sale of the last HOME Assisted Unit, provide the Borrower a Satisfaction of Mortgage in lieu of the above stated HOME Partial Release of Mortgage thereby evidencing the full satisfaction of the Mortgage. The execution and delivery of said Satisfaction of Mortgage is hereby delegated to the County Administrator, or her designee, and shall not require any further action by the Palm Beach County Board of County Commissioners.

G. SECTION 12: RENTAL OF HOME ASSISTED UNITS TO TENANTS

1. Section 12(G): Delete "Background Check," from the title of this subsection.
2. Section 12(G)(i): Delete the entire contents of this sub-subsection and replace them with the word "RESERVED".

H. SECTION 18: DEFAULT

1. The title of the fourth subsection identified as "(C) Failure to Use Funds or Close Loan" is hereby changed to "(D) Failure to Use Funds or Close Loan", the fifth subsection identified as "(D) Failure to Commence or Complete Construction" is hereby changed to "(E) Failure to Commence or Complete Construction", and the sixth subsection identified as "(G) Default Under the First Mortgage" is hereby changed to "(F) Default Under the First Mortgage".
2. In the second line of the subsection now identified as "(D) Failure to Use Funds or Close Loan", delete "by September 30, 2015, and".
3. In the sixth line of the subsection now identified as "(D) Failure to Use Funds or Close Loan", insert the following after "parties": ", and the County shall not be obligated to replace the HOME funds with funds from another source. The County's right to reallocate remaining HOME funds shall not be subject to the rights of any other lender or the terms of any subordination agreement".

I. SECTION 20(V): GENERAL TERMS

Insert the following after "appropriation" which is the last word of this subsection: ", or from any other funding source, for any reason".

J. SECTION 21: SUBORDINATION

Re-title this Section as "SUBORDINATION AND RELEASES", then delete the entire contents of this Section and replace them with the following:

SUBORDINATION AND RELEASES

The Lender hereby approves the First Mortgage provided that it does not exceed \$3,885,000 plus any protective advances made in accordance with applicable law, and further agrees to subordinate its Mortgage securing the financing made available through this Loan Agreement to such First Mortgage or any refinancing of the First Mortgage with an independent institutional lender permitted under Section 15(B) hereof. The Mayor of the Board of County Commissioners of Palm Beach County and the Clerk of the Court for Palm Beach County are hereby authorized to execute Subordination Agreements required herein without further approval of the Board of County Commissioners of Palm Beach County, Florida, provided such documents are in a form acceptable to the County Attorney. In the event the County Administrator has been delegated the authority to execute this Loan Agreement, then that delegation shall also include the authority to execute Subordination Agreements in compliance with the terms of this Section 21 provided such documents are in a form acceptable to the County Attorney. Nothing contained herein shall, however, relieve the Borrower from its obligation to make payments under the Promissory Note in accordance with its terms.

The parties recognize the Lender's lien on the Premises (and on the Borrower's property immediately east of the Premises along Davis Road) as created by the Mortgage and Security Agreement recorded in Official Records Book 24673 at Page 1197, the Notice of Future Advance recorded in Official Records Book 24992 at Page 1765, the Declaration of Restrictions for Rental Properties recorded in Official Records Book 24673 at Page 1193, and the First Amendment to the Declaration of Restrictions for Rental Properties recorded in Official Records Book 24992 at Page 1762, all in the

Public Records of Palm Beach County, Florida (collectively the "NPS2 Restrictions"). The Lender agrees to release its lien on the Premises, as created by the NSP2 Restrictions, upon the Borrower's closing on the First Mortgage. The lien of the NSP2 Restrictions shall remain a valid lien on the remainder of the Borrower's property immediately east of the Premises along Davis Road as encumbered by the NSP2 Restrictions.

The parties recognize the Lender's lien on the Premises as created by the Declaration of Restrictions recorded in Official Records Book 23091 at Page 0700, in the Public Records of Palm Beach County, Florida. The Lender hereby also agrees to subordinate its lien on the Premises relating to said Declaration of Restrictions, and any amendments thereto (collectively the "CDBG Restrictions"), to the First Mortgage or any refinancing of the First Mortgage with an independent institutional lender permitted under Section 15(B) hereof and to execute Subordination Agreements as specified above. The provision of such subordination shall be conditioned on the Borrower closing on the First Mortgage.

The Lender shall in conjunction with the its delivery of each HOME Partial Release of Mortgage and Satisfaction of Mortgage as delineated in Section 11(K), provide a subordination of the CDBG Restrictions to the Borrower's land lease for the legal description of the lot pertaining to the home being sold by the Borrower.

K. EXHIBIT B:

Delete Exhibit B and replace it with Exhibit B-1 which is attached hereto and which is made a part of the Agreement.

L. EXHIBIT C:

Delete Exhibit C and replace it with Exhibit C-1 which is attached hereto and which is made a part of the Agreement.

M. EXHIBIT F:

Delete Exhibit F and replace it with Exhibit F-1 which is attached hereto and which is made a part of the Agreement.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

Except as modified by this Amendment 004, and previously, the Loan Agreement remains unmodified and in full force and effect in accordance with the terms thereof. This Amendment 004 is expressly contingent upon the approval of the County and shall become effective only when signed by all parties.

IN WITNESS WHEREOF, the Borrower and the County have caused this Amendment 004 to be executed on the date first above written.

BORROWER

(SEAL)

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

By: [Signature]
Cynthia LaCourse-Blum, Executive Director

Date: 3/24/16

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me on 3/24, 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
as identification and who did/did not take an oath.



Signature: [Signature]

Notary Name: Tanya Ward
Notary Public - State of Florida

(NOTARY SEAL ABOVE)

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

By: [Signature]
Shannon R. LaRocque
Assistant County Administrator

Date: 3-28-16

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Department of Economic Sustainability

By: [Signature]
James Brako
Assistant County Attorney

By: [Signature]
Sherry Howard, Deputy Director
Department of Economic Sustainability

EXHIBIT B-1

PROMISSORY NOTE

\$1,747,743

West Palm Beach, Florida
Date: _____

FOR VALUE RECEIVED the undersigned **COMMUNITY LAND TRUST OF PALM BEACH COUNTY, INC.**, a Florida non-profit corporation ("Maker"), promises to pay to the order of **PALM BEACH COUNTY**, a political subdivision of the State of Florida, together with any other holder hereof ("Holder"), at 301 North Olive Avenue, West Palm Beach, Florida 33401, or such other place as Holder may from time to time designate in writing, in lawful money of the United States of America, the principal sum of **One Million Seven Hundred Forty-Seven Thousand Seven Hundred Forty-Three and 00/100 Dollars (\$1,747,743.00)** (the "Loan"), or such lesser sum as shall have been advanced hereunder pursuant to the Loan Agreement referred to below, plus accrued interest, as follows:

- 1) The entire Loan is non-amortizing and this Note shall bear interest at the stated rate of **three percent (3%) per annum** (compounded annually) computed only on the outstanding principal balance from time to time remaining unpaid from the date of each disbursement.
- 2) Unless acceleration is made by Holder pursuant to the provisions hereof, the outstanding principal balance from time to time remaining unpaid from the date of each disbursement, plus accrued interest thereon, plus any amounts due under this Note or any other Loan Document shall be paid in full no later than **September 30, 2017 (Maturity Date)**, or prior to the Maturity Date upon the earlier occurrence of either:
 - (a) The Maker's sale, pursuant to the Loan Agreement, of the HOME Assisted Units for which this Loan is made; or
 - (b) When otherwise required by the Loan Documents.
- 3) This Note may be prepaid in whole or in part at any time, without penalty or premium. Any prepayment hereunder shall be applied first to unpaid costs of collection, servicing fees, and late charges, if any, then to accrued, deferred and unpaid interest and the balance, if any, to the principal balance. The prepayment of this Note shall not relieve the Maker of its obligations under the Loan Documents referred to below.
- 4) After maturity or acceleration, this Note shall bear interest at the Default Interest Rate which shall be the maximum interest rate allowed by applicable law, until paid in full.
- 5) All terms hereunder shall be as construed and defined in Chapter 91-28, Florida Administrative Code.

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

This Note is executed pursuant to the terms and conditions of that certain Loan Agreement dated October 27, 2014, as amended, between Maker, as Borrower, and Holder, as Lender, is secured by a Mortgage and Security Agreement (the "Mortgage"), of even date herewith, encumbering certain real property located in Palm Beach County, Florida. The foregoing and all other agreements, instruments and documents delivered in connection therewith and herewith are collectively referred to as the "Loan Documents". Project is the Davis Landings West project which is more fully described in the Loan Documents.

The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of all amounts then due and payable (including, but not limited to, all amounts due and payable by virtue of any default or acceleration or upon maturity) with respect to the First Mortgage indebtedness as set forth in Mortgage.

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

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

Holder shall have the right to declare the total unpaid balance hereof to be immediately due and payable in advance of the Maturity Date upon the failure of Maker to pay when due any payment of interest or other amount due hereunder; or upon the occurrence of an Event of Default pursuant to any other Loan Documents now or hereafter evidencing, securing or guarantying payment of this Note. Notwithstanding the foregoing, Holder shall not exercise any remedies hereunder prior to the expiration of any notice and cure period in the Loan Agreement.

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

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

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

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

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

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

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

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

Maker and any other person liable for the payment hereof respectively, hereby (a) expressly waive any valuation and appraisal, presentment, notice of dishonor, protest, and diligence in collection; (b) consent that Holder may, from time to time and without notice to any of them or demand, (i) extend, rearrange, renew or postpone any or all payments, (ii) release, exchange, add to or substitute all or any part of the collateral for this Note, and/or (iii) release Maker (or any co-maker) or any other person liable for payment hereof, without in any way modifying, altering, releasing, affecting or limiting their respective liability or the lien of any security instrument; and (c) agree that Holder, in order to enforce payment of this Note against any of them, shall not be required first to institute any suit or to exhaust any of its remedies against Maker (or any co-maker) or against any other person liable for payment hereof or to attempt to realize on any collateral for this Note.

ANYTHING CONTAINED HEREIN TO THE CONTRARY NOTWITHSTANDING, IN THE EVENT OF ANY DEFAULT, SUBJECT TO APPLICABLE NOTICE AND CURE PROVISIONS, BY THE MAKER UNDER THE LOAN REFERENCED HEREIN, THE SOLE REMEDY OF THE HOLDER SHALL BE TO FORECLOSE AGAINST THE PROPERTY GIVEN AS SECURITY FOR THIS LOAN, AND IN NO EVENT SHALL THE MAKER HAVE ANY LIABILITY FOR THE PAYMENT OF THE LOAN OR FOR ANY OTHER OBLIGATIONS REFERENCED HEREIN, OR FOR THE PAYMENT OF ANY DEFICIENCY FOLLOWING THE FORECLOSURE AGAINST THE PROPERTY GIVEN AS SECURITY FOR THE LOAN.

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

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

Signed, sealed and delivered
in the presence of:

MAKER:

Witnesses:

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

Witness Signature

Print Witness Name

By: _____
Cynthia LaCourse-Blum,
Executive Director

Witness Signature

Print Witness Name

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of, _____, 20__,
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
_____ as identification and who did/did not take an oath.

Signature: _____

(NOTARY SEAL ABOVE)

Notary Name: _____
Notary Public - State of Florida

EXHIBIT C-1

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

NOTE TO RECORDER: THIS INSTRUMENT IS NOT SUBJECT TO FLORIDA INTANGIBLE TAX.

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (this "Mortgage"), executed on _____, by **Community Land Trust of Palm Beach County, Inc.**, a Florida non-profit corporation, (the "Mortgagor"), as Party of the First Part, and **Palm Beach County**, a political subdivision of the State of Florida (the "Mortgagee") (which term as used in every instance shall include the Mortgagee's successors and assigns), as Party of the Second Part;

WITNESSETH:

The Mortgagor is the owner of the premises described in Exhibit "A" attached hereto (hereinafter the "Premises") and made a part hereof. Mortgagee has this date loaned **One Million Seven Hundred Forty-Seven Thousand Seven Hundred Forty-Three and 00/100 Dollars (\$1,747,743.00)** to Mortgagor and in connection therewith Mortgagor has this date executed and delivered to Mortgagee its Promissory Note in that amount (the "Note"). A true copy of the Note is annexed hereto as Exhibit "B-1" and forms a part hereof.

This Mortgage is given in accordance with that certain Loan Agreement between Mortgagor and Mortgagee as executed on October 27, 2014. This Mortgage and Security Agreement, the Note, and the Loan Agreement shall hereinafter collectively be referred to as the "Loan Documents".

GRANTING CLAUSE

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

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

TO HAVE AND TO HOLD the Premises and all parts, rights, members and appurtenances thereof, to the use, benefit and behalf of the Mortgagee, its successors and assigns in fee simple forever, and the Mortgagor covenants that the Mortgagor is lawfully seized and possessed of the Premises in fee simple and has good right to convey the same, that the same are unencumbered excepting taxes accruing subsequent to 2015, and those certain exceptions appearing on the Mortgagee's Title Insurance Policy given in connection herewith and specifically approved by Mortgagee, and that the Mortgagor will warrant and defend the title thereto against the claims of all persons whomsoever, except as hereinafter expressly provided.

Notwithstanding the foregoing, this Mortgage shall be subject and subordinate to separate mortgage and security agreements and related loan documents encumbering the Premises upon their execution by Mortgagor in favor of Housing Finance Authority of Palm Beach County, Florida, in an original principal amount not to exceed \$3,885,000 ("First Mortgage"), and

PROVIDED ALWAYS that if the Mortgagor shall pay unto the Mortgagee all sums required under the terms of the Note, which Note is in the original principal amount of **\$1,747,743.00** and has a maturity date of **September 30, 2017**, unless such maturity is accelerated as set forth in the Note, and shall comply with and abide by each and every one of the stipulations, agreements, conditions and covenants of the Loan Documents, then in such event this Mortgage and Security Agreement and the estate hereby created shall cease and be null and void.

The Mortgagor covenants with the Mortgagee as follows:

ARTICLE 1

1.1 Payments of Indebtedness:

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

1.2 Taxes, Liens and Other Charges.

(a) The Mortgagor, from time to time when the same shall become due and payable but in any event prior to delinquency, will pay and discharge all taxes of every kind and nature, all general and special assessments, levies, permits, inspection and license fees, all water and sewer rents and charges and all other public charges, whether of a like or different nature, imposed upon or assessed against the Mortgaged Property or any part thereof or upon the revenues, rents, issues, income and profits of the Mortgaged Property or arising in respect of the occupancy, use or possession thereof. This requirement does not in any way preclude Mortgagor from contesting real or personal property taxes when appropriate. The Mortgagor will, upon the request of the Mortgagee, deliver to the Mortgagee copies of receipts evidencing the payment of all such taxes, assessments, levies, fees, rents and other public charges imposed upon or assessed against the Mortgaged Property or the revenues, rents, issues, income or profits thereof.

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

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

1.3 Insurance:

The Mortgagor will keep the Mortgaged Property continuously insured in an amount no less than full insurable value which coverage shall insure the Mortgaged Property against loss or damage by fire and by the perils covered by extended coverage and against such other hazards as the Mortgagee, in its sole discretion, shall from time to time require, for the benefit of the Mortgagee. All such insurance at all times will be in an insurance company or companies in such amounts and with terms reasonably acceptable to the Mortgagee, with loss, if any, payable to the Mortgagee as its interest may appear, pursuant to a non-contributory mortgagee clause which shall be satisfactory to the Mortgagee; and forthwith upon the issuance of such policies they will deliver to the Mortgagee copies of receipts for the premiums paid thereon and certificates of insurance and copies of such policies. In the event of a foreclosure or other transfer of title to the Property in lieu of foreclosure, or by purchase at the foreclosure sale, all interest in any proceeds due in connection with any claims made under the policy(ies) (for events arising prior to the title transfer) shall pass to Mortgagee, transferee or purchaser, as the case may be. Subject to the rights of the Mortgagee pursuant to the First Mortgage, the Mortgagee is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies on the Mortgaged Property jointly with the Mortgagor. Each insurance company is hereby authorized and directed to make payment for all such losses to the Mortgagor and the Mortgagee jointly. Unless Mortgagor and Mortgagee otherwise agree in writing, insurance proceeds shall be applied to restoration or repair, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby materially impaired. In order to determine whether restoration is economically feasible, Mortgagor must provide evidence to the Mortgagee that the Mortgagor has sufficient funds to completely restore or repair the Mortgaged Property to a multi-family affordable housing complex in accord with the Loan Agreement and the NSP2 requirements described therein. If such restoration or repair is not economically feasible or if the security of this Mortgage would be materially impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage with the excess, if any, paid to Mortgagor. The provisions of this Section 1.3 are expressly subject to the rights under the First Mortgage, to which the rights of the Mortgagee are subordinate.

1.4 Care of Premises:

- (a) The Mortgagor will keep the improvements now or hereafter erected on the Premises in good condition and repair, will not commit or suffer any waste and will not do or suffer to be done anything which will increase the risk of fire or other hazard to the Premises or any part thereof.
- (b) If the Premises or any part thereof is damaged by fire or any other cause, which damage exceeds Two Hundred Thousand Dollars (\$200,000.00), the Mortgagor will give immediate written notice of the same to the Mortgagee.
- (c) The Mortgagee or its representative is hereby authorized to enter upon and inspect the Premises at any time during normal business hours upon reasonable advance notice to Mortgagor.
- (d) The Mortgagor will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Premises or any part thereof.
- (e) If all or any part of the Premises shall be damaged by fire or other casualty, the Mortgagor will, upon request of the Mortgagee, promptly restore the Premises to the substantial equivalent of its condition immediately prior to such damage, and if a part of the Premises shall be damaged through condemnation, the Mortgagor will, upon request of Mortgagee, promptly restore, repair or alter the remaining part of the Premises in a manner reasonably satisfactory to the Mortgagee.

The Mortgagee recognizes that this mortgage will be subordinate to the First Mortgage, and to the extent this provision conflicts with the similar terms and conditions of the First Mortgage, the First Mortgage shall supersede and shall be controlling. Nothing contained herein shall, however, relieve the Mortgagor from its obligation to make payments under the Promissory Note in accordance with its terms.

1.5 Further Assurances; Modifications:

At any time, and from time to time, upon request by the Mortgagee, the Mortgagor will make, exercise and deliver or cause to be made, executed and delivered, to the Mortgagee, any and all other further instruments, certificates and other documents as may, in the reasonable opinion of the Mortgagee, be necessary or desirable in order to effectuate, complete, or perfect or to continue and preserve (i) the obligations of the Mortgagor under the Note, (ii) the security interest of this Mortgage, and (iii) the mortgage lien hereunder. Upon any failure by the Mortgagor so to do the Mortgagee may make, execute and record any and all such instruments, certificates and documents for and in the name of the Mortgagor and the Mortgagor hereby irrevocably appoints the Mortgagee the agent and the attorney in fact of the Mortgagor so to do.

1.6 Expenses.

In addition to the expenses described in Section 2.6(b) hereof, the Mortgagor will pay or reimburse the Mortgagee for all reasonable attorney's fees, costs and expenses, including those in connection with appellate proceedings, incurred by the Mortgagee in any proceedings or in any action, legal proceeding or dispute of any kind which relate to or arise from the Mortgage of the interest created herein, or the Premises, including but not limited to foreclosure of this Mortgage, any condemnation action involving the Premises or any action to protect the security hereof; and any such amounts paid by the Mortgagee shall be secured by this Mortgage.

1.7 Estoppels Affidavits:

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

1.8 Subrogation:

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

1.9 Performance by Mortgagee of Defaults by Mortgagor:

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

1.10 Condemnation:

In the event of a condemnation (which term when used in the Mortgage shall include any damage or taking by any governmental authority and any transfer by private sale in lieu thereof), unless Mortgagor and Mortgagee otherwise agree in writing, condemnation awards shall be applied to restoration or repair of the Premises, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby materially impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be materially impaired, the condemnation award shall be applied to the sums secured by this Mortgage with the excess, if any, paid to Mortgagor. In the event of a condemnation, if an Event of Default shall exist hereunder, the Mortgagee shall be entitled to all compensation, awards, and other payments or relief thereof, and is hereby authorized at its option, to commence, appear in, and prosecute, in its own, or the Mortgagor's name, any action or proceeding relating to any condemnation, either to settle or compromise any claim in connection therewith; and all such compensation, awards, damages, claims, rights of action and proceeds, and the right thereto from any condemnation are hereby assigned by the Mortgagor to the Mortgagee. The Mortgagor agrees to execute such further assignment of any compensation, awards, damages, claims, rights of action and proceeds from a condemnation as the Mortgagee may require. The provisions of this Section 1.10 are subject to the rights under the First Mortgage, to which the rights of the Mortgagee are subordinate. Notwithstanding the foregoing, any condemnation for less than twenty percent (20%) of value of the Premises or any condemnation that will not render the Premises unusable shall not be affected by this section.

1.11 Environmental Representations:

- (a) Subject to any matters described in the Phase 1 environmental report, the Mortgagor covenants with the Mortgagee that to the best of Mortgagor's knowledge the Premises have not been used and will not be used in whole or in part for the storage of hazardous waste other than typical cleaning and maintenance supplies kept in accordance with all laws and regulations.
- (b) To the best of Mortgagor's knowledge, no violation of any Federal, State or local environmental regulations now exists regarding the Mortgage Property.
- (c) Mortgagor shall comply with all Federal, State and local environmental regulations during the construction of the improvements on the Premises.
- (d) Mortgagor shall give written notice to Mortgagee immediately upon Mortgagor's acquiring knowledge of the presence of any hazardous substances on the Mortgaged Property or of any hazardous substances contamination thereon, or of any notices received by Mortgagor that are violations or potential violations of any environmental regulation laws, ordinances, rules or regulations exists on the Mortgage Property.

ARTICLE 2

2.1 Due on Sale or Further Encumbrance Clause:

In determining whether or not to make the loan secured hereby, Mortgagee examined the credit-worthiness of Mortgagor, found it acceptable and continues to rely upon the same as the means of repayment of the loan. Mortgagee also evaluated the background and experience of Mortgagor in owning and operating property such as the Premises, found it acceptable and continues to rely upon same as the means of maintaining the value of the Premises, was ably represented by a licensed attorney at law in the negotiation and documentation of the loan secured hereby and bargained at arm's length and without duress or any kind for all of the terms and conditions of the loan, including this provision. Mortgagor further recognizes that any secondary or junior financing placed upon the Premises (a) may divert funds which would otherwise be used to pay the Note secured hereby; (b) could result in acceleration and foreclosure by any such junior encumbrance which would force Mortgagee to take measures and incur expenses to protect its security; (c) could detract from the value of the Premises should Mortgagee's right to accept a deed in lieu of foreclosure, as a foreclosure by Mortgagee would be necessary to clear the title to the Premises.

In accordance with the foregoing and for the purposes of (i) protecting Mortgagee's security both of repayment by Mortgagor and of value of the Premises; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; (iii) allowing Mortgagee to charge default rate interest in the case of an uncured Event of Default; and (iv) keeping the Premises free of subordinate financing liens, Mortgagor agrees that if this Section be deemed a restraint on alienation, that it is a reasonable one and that any sale, conveyance, assignment, further encumbrance or other transfer of title to the Premises or any interest therein except as permitted under the Loan Agreement (whether voluntarily or by operation of law) without the Mortgagee's prior written consent, which consent shall not be unreasonably withheld, or delayed, shall be an Event of Default hereunder, except for any refinancing of the First Mortgage with an independent institutional lender permitted under the Loan Agreement, which shall be permitted without the prior written consent of the Mortgagee. For the purpose of and without limiting the generality of, the preceding sentence, the occurrence at any time of any of the following events shall be deemed to be an unpermitted transfer of title to the Premises and therefore an Event of Default hereunder:

(a) any sale, conveyance, assignment or other transfer of or the grant of a security interest in, all or any part of the title to the Premises, other than easements or licenses necessary for the development and use of the Improvements on the Premises, excluding the First Mortgage or any refinancing of the First Mortgage with an independent institutional lender, which shall include tenant services or benefits; or

(b) any new or additional liabilities secured by the Premises without the prior written consent of Mortgagee.

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

2.2 Events of Default:

An Event of Default ("Default") shall have occurred hereunder if:

(a) The Mortgagor shall fail to pay in full within fifteen (15) days from the date due and payable any installment of principal, interest, late charges or escrow deposits as required by the Note, this Mortgage and otherwise; or

(b) The Mortgagor shall fail to duly observe on time any other covenant, condition or agreement of this Mortgage the Loan Documents or of any other instrument evidencing, security or executed in connection with the indebtedness secured hereby, and such failure continues for a period of thirty (30) days following written notice by the Mortgagee or such additional time as may be required, provided a cure is timely commenced and diligently prosecuted; or

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

(d) Any lien for labor or material or otherwise shall be filed against the Premises, and such lien is not canceled, removed, bonded over, insured against or transferred within sixty (60) days after notice of such lien; or

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

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

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

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

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

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

(k) The Mortgagor shall default on the First Mortgage and such default remains uncured after expiration of any applicable cure or grace period; or

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

2.3 Special Conditions:

(a) The Note can be assumed upon sale, transfer, or refinancing of the Premises, provided the Mortgagor has obtained the consent of Mortgagee to such sale, transfer or refinancing, or the sale, transfer or refinancing is otherwise permitted under the terms of the Loan Agreement.

In the event the Note will not be assumed upon sale, transfer or refinancing of the Premises, all available proceeds of the sale or refinancing shall be applied to pay the following items in order of priority:

- (1) Expenses of the sale;
- (2) First Mortgage debt in full, including fees;
- (3) All accrued but unpaid interest on the Note;
- (4) This Mortgage debt in full, including fees.

(b) Except as set forth in Section 2.3(a) above, all of the principal and interest of the indebtedness secured hereby shall be due and payable upon sale, transfer, or refinancing, other than a refinancing of the First Mortgage with an independent institutional lender permitted under the Loan Agreement.

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

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

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

2.4 Acceleration of Maturity:

If a default shall have occurred hereunder and not cured within applicable cure periods, then the whole unpaid principal sum of the indebtedness secured hereby with interest accrued thereon shall, at the option of the Mortgagee, become due and payable without notice or demand, time being of the essence of this Mortgage and of the Note secured hereby; and no omission on the part of the Mortgagee to exercise such option when entitled so to do shall be considered as a waiver of such right.

2.5 Right of Lender to Enter and Take Possession:

(a) If any Default shall have occurred and be continuing beyond expiration of any applicable cure or grace period, the Mortgagor, upon demand of the Mortgagee, shall forthwith surrender to the Mortgagee the actual possession of the Premises and if, and to the extent permitted by law, the Mortgagee may enter and take possession of the Premises and may exclude the Mortgagor and the Mortgagor's agents and employees wholly therefrom. In the event Mortgagee exercises its rights pursuant to this Section 2.5(a), the Mortgagee shall be deemed to be acting as agent of Mortgagor and not as owner of the Premises.

(b) For the purpose of carrying out the provisions of this Section 2.5, the Mortgagor hereby constitutes and appoints the Mortgagee the true and lawful attorney in fact of the Mortgagor to do and perform, from time to time, any and all actions necessary and incidental to such purpose and does, by these presents, ratify and confirm any and all actions of said attorney in fact in the Premises.

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

(d) The provisions of this Section 2.5 are subject to the rights under the First Mortgage, to which the rights of the Mortgagee are subordinate.

2.6 Appointment of a Receiver and Foreclosure:

(a) If a Default shall have occurred hereunder and not cured within applicable cure periods, then the whole debt secured by this Mortgage, with all interest thereon, and all other amounts hereby secured shall, at the option of Mortgagee, become immediately due and payable, and may forthwith or at any time thereafter be collected by suit at law, foreclosure or other proceeding upon this Mortgage or by any other proper, real or equitable procedure without declaration of such option and without notice.

(b) In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of the Mortgagee for attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication cost and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstract of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature in this Section mentioned shall become so much additional debt secured hereby and shall be immediately due and payable with interest thereon at the maximum rate provided by law, when paid or incurred by Mortgagee in connection with (i) any proceeding, including foreclosure, probate and bankruptcy proceedings, to which it shall be a party, either as plaintiff, claimant, or defendant, by reason of this Mortgage, or any indebtedness hereby secured,

(ii) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced, or (iii) preparations for the defense of any threatened suit or proceeding which might affect the Premises or the security hereof, whether or not actually commenced.

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

(d) If a Default shall have occurred hereunder and is not cured within applicable cure periods, Mortgagor shall deliver to Mortgagee at any time on its request, all agreements for deed, contracts, leases, abstracts, title insurance policies, muniments of title, surveys and other papers relating to the Premises, and in case of foreclosure thereof and failure to redeem, the same shall be delivered to and become the property of the person obtaining a deed to the Premises by reason of such foreclosure.

(e) The provisions of this Section 2.6 are subject to the rights under the First Mortgage, to which the rights of the Mortgagee are subordinate.

2.7 Discontinuance of Proceedings and Restoration of the Parties:

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

2.8 Remedies Cumulative:

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

2.9 Stamp and Excise Tax:

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

ARTICLE 3

3.1 Successors and Assigns Included in Parties:

Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such parties shall be included and all covenants and agreements contained in this indenture by or on behalf of the Mortgagor and by or on behalf of the Mortgagee shall bind and inure to the benefit of their respective heirs, legal representatives, successors and assigns, whether so expressed or not.

Provided, however, that the Mortgagor shall have no right to assign its obligations hereunder without the prior written consent of the Mortgagee, which consent shall not be unreasonably withheld.

3.2 Headings:

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

3.3 Invalid Provisions to Affect No Others:

If fulfillment of any provision hereof or any transaction related hereto or to the Note, at the time performance of such provisions shall be due, shall involve transcending the limit of validity prescribed by law, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity; and if any clause or provision herein contained operates or would prospectively operate to invalidate this Mortgage in whole or in part, then such clause or provision only shall be held for naught, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect. Notwithstanding any provision contained herein, the total liability of Mortgagor for payment of interest, including service charges, penalties or any other fees shall not exceed the maximum amount of such interest permitted by applicable law to be charged, and if any payments by Mortgagor include interest in excess to the reduction of the unpaid principal amount due and pursuant hereto.

3.4 Number and Gender:

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

ARTICLE 4

4.1 Notice:

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

TO MORTGAGOR: **Community Land Trust of Palm Beach County, Inc.**
4938 Davis Road
Lake Worth, FL 33461
Attn: Cindee LaCourse-Blum

TO MORTGAGEE: **Palm Beach County**
c/o County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401
Attn: James Brako, Esq.

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

ARTICLE 5

5.1 Future Advances:

It is agreed that this Mortgage shall also secure such future or additional advances as may be made by the Mortgagee at its option to the Mortgagor, or its successor in title, for any purpose, provided that all those advances are to be made within three (3) years from the date of this Mortgage, or within such lesser period of time as may be provided hereafter by law as a prerequisite for the sufficiency of actual notice or records notice of the optional future or additional advances as against the rights of creditors or subsequent purchasers for valuable

consideration. The total amount of indebtedness secured by this Mortgage may decrease or increase from time to time, but the total unpaid balance so secured at any one time shall not exceed twice the principal amount of the Note, plus interest, and any disbursements made for the payment of taxes, levies or insurance on the Premises with interest on those disbursements. If, pursuant to Florida Statutes Section 697.04, Mortgagor files a notice specifying the dollar limit beyond which future advances made pursuant to this Mortgage will not be secured by this Mortgage, then Mortgagor shall, within one (1) year of day of filing such notice, notify Mortgagee and its counsel by certified mail pursuant to Section 4.1 of this Mortgage. In addition, such a filing shall constitute a default hereunder.

5.2 Subordination:

Mortgagee has approved a First Mortgage provided that it does not exceed \$3,885,000 plus any protective advances made in accordance with applicable law, and further has agreed to subordinate to such First Mortgage or any refinancing of the First Mortgage with an independent institutional lender so long as the refinancing does not increase the amount of indebtedness then secured by the First Mortgage. The Mayor of the Board of County Commissioners of Palm Beach County and the Clerk of the Court for Palm Beach County, are hereby authorized to execute subordination agreements required herein without further approval of the Board of County Commissioners of Palm Beach County, Florida, provided such documents are in a form acceptable to the County Attorney. Nothing contained herein shall, however, relieve the Mortgagor from its obligation to make payments under the Promissory Note in accordance with its terms.

5.3 Lien Priority:

The lien priority of this Mortgage shall not be affected by any changes in the Note including, but not limited to, an increase in the interest rate charged pursuant to the Note. Any parties acquiring an interest in the Premises subsequent to the date of this Mortgage is recorded shall acquire such interest in the Premises with notice that Mortgagee may charge a default rate of interest in the event of an uncured Event of Default, or with the consent of the Mortgagor, otherwise modify the Note and the Note, as modified, and the Mortgage shall remain superior to the interest of any Party in the Premises acquired subsequent to the date of this Mortgage is recorded, other than the First Mortgage or any refinancing of the First Mortgage with an independent institutional lender.

5.4 Security Agreement:

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

5.5 Nonrecourse:

ANYTHING CONTAINED HEREIN TO THE CONTRARY NOTWITHSTANDING, IN THE EVENT OF ANY DEFAULT BY THE MORTGAGOR UNDER THE LOAN REFERENCED HEREIN, THE SOLE REMEDY OF THE MORTGAGEE SHALL BE TO FORECLOSE AGAINST THE MORTGAGED PROPERTY GIVEN AS SECURITY FOR THIS LOAN, AND IN NO EVENT SHALL THE MORTGAGOR HAVE ANY LIABILITY FOR THE PAYMENT OF THE LOAN OR FOR ANY OTHER OBLIGATIONS REFERENCED HEREIN, OR FOR THE PAYMENT OF ANY DEFICIENCY FOLLOWING THE FORECLOSURE AGAINST THE MORTGAGED PROPERTY GIVEN AS SECURITY FOR THE LOAN.

5.6 Choice of Law:

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

5.7 Binding Effect:

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

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

Signed, sealed and delivered
in the presence of:

Witnesses:

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

Name: _____

By: _____

Signature:

Name: Cynthia LaCourse-Blum
Title: Executive Director

Name: _____

Signature:

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 20____,
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
_____ as identification and who did/did not take an oath.

Signature: _____

(NOTARY SEAL ABOVE)

Notary Name: _____
Notary Public - State of Florida

EXHIBIT F-1

Return to:

Palm Beach County
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, Florida 33406
Attention: Carol Eaddy Langford
Prepared by: James Brako,
Assistant County Attorney

SECOND MORTGAGE
(HOME PROGRAM)

**THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL
PAYMENT OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS
\$ _____ AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE
UNDER THE TERM OF THIS MORTGAGE.**

THIS MORTGAGE ("Mortgage") executed on _____, by
_____ whose address is _____, hereinafter
the "Mortgagor", to Palm Beach County, whose address is 301 North Olive Avenue, West
Palm Beach, Florida 33401, hereinafter the "Mortgagee". (Wherever used herein the terms
"Mortgagor" and "Mortgagee" include all the parties to this instrument and the heirs, legal
representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH, that for good and valuable considerations, and also in consideration of the
aggregate sum named in the Promissory Note of even date herewith, a copy of which is
attached hereto as Attachment 1, the Mortgagor hereby grants, bargains, sells, aliens,
remises, conveys, mortgages and confirms unto the Mortgagee all the buildings and
improvements (hereinafter the "Property") acquired by the Mortgagor from the Community
Land Trust of Palm Beach County, Inc., and located upon that certain land now in possession
of the Mortgagor by virtue of a leasehold estate between the Mortgagor and the Community
Land Trust of Palm Beach County, Inc., situate in Palm Beach County, Florida, described as
follows:

Legal Description

Property Control Number:

Property Address:

TO HAVE AND TO HOLD the same, together with tenements, hereditaments and
appurtenances thereto belonging, and the rents, issues and profits thereof, unto the
Mortgagee, in fee simple.

AND the Mortgagor covenants to the Mortgagee that the Mortgagor is indefeasibly seized of
said Property; that the Mortgagor has good right and lawful authority to mortgage, convey
said Property as aforesaid; that the Mortgagor will make such further assurances to perfect
the title to said Property in the Mortgagee as may reasonably be required; that the Mortgagor
hereby fully warrants the title to said Property and will defend the same against the lawful
claims of all persons whomsoever; and that said Property is free and clear of all
encumbrances. In the event the subject Property or any interest therein shall be sold,
conveyed or in any other manner disposed of, including by Agreement for Deed, this
Mortgage shall become due and payable in full.

PROVIDED ALWAYS, that if said Mortgagor shall pay unto said Mortgagee the sum named
in the Promissory Note and shall perform, comply with and abide by each and every
agreement, stipulation, condition and covenant thereof, and of this Mortgage, then this
Mortgage and the estate hereby created, shall cease, terminate and be null and void.

AND, Mortgagor hereby further covenants and agrees to pay promptly when due the principal
and interest and other sums of money provided for in said Promissory Note and this
Mortgage, or either; to pay all and singular the taxes, assessments, levies, liabilities,
obligations, and encumbrances of every nature on said Property; to permit, commit or suffer

no waste, impairment or deterioration of said land or the improvements thereon at any time; to keep the buildings now or hereafter on said land fully insured in a sum of not less than full insurable value with a company acceptable to the Mortgagee. The policy or policies to be held by, and payable to, said Mortgagee. In the event any sum or money becomes payable by virtue of such insurance the Mortgagee shall have the right to receive and apply the same to the indebtedness hereby secured.

In the event the Mortgagor fails to pay when due any tax, assessment, insurance premium or other sum of money payable by virtue of said note and this Mortgage, or either, the Mortgagee may pay the same, without waiving or affecting the option to foreclose or any other right hereunder, and all such payments shall bear interest from date hereof at the highest lawful rate then allowed by the laws of the State of Florida.

In any event, as long as the Property is encumbered by the First Mortgage, all property insurance payments and property tax payments are to be secured through escrow and paid by the First Mortgagee.

AND, Mortgagor agrees further that Mortgagor shall reside in the Property as the Mortgagor's principal place of residence for the term of this Mortgage.

AND, Mortgagor further recognizes that any secondary or junior financing placed upon the Property, (a) may divert funds which would otherwise be used to pay the Promissory Note secured hereby; (b) could result in acceleration and foreclosure by any such junior encumbrance which would force Mortgagee to take measures and incur expenses to protect its security; (c) could detract from the value of the Property should Mortgagee's right to accept a deed in lieu of foreclosure, as a foreclosure by Mortgagee would be necessary to clear the title to the Property; and (d) require the Mortgagor to have housing expenses which exceed the guidelines for affordability under the Mortgagee's HOME Program requirements.

In accordance with the foregoing and for the purposes of (i) protecting Mortgagee's security; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; (iii) keeping the premises free of subordinate financing liens; and (iv) meeting HOME Program requirements for affordability, Mortgagor agrees that if this paragraph be deemed a restraint on alienation, that it is a reasonable one and that any sale, conveyance, assignment, further encumbrance or other transfer of title to the Property or any interest therein (whether voluntarily or by operation of law) without the Mortgagee's prior written consent, which may be withheld for any reason, shall be an Event of Default hereunder.

For the purpose of and without limiting the generality of the preceding sentence, the occurrence any time of any of the following events shall be deemed to be an unpermitted transfer of title to the Property and therefore an Event of Default hereunder.

(a) any sale, conveyance, assignment or other transfer of or the grant of security interest in, all or any part of the title to the Property within **fifteen (15) years** of the date of this Mortgage without the prior written consent of the Mortgagee. Nevertheless, title to the Property may be voluntarily transferred by the Mortgagor to another Mortgagor only if such other Mortgagor has been approved by the County, in its sole discretion and in writing, as being an income eligible household and only if no additional HOME assistance is provided to such other Mortgagor. Such other approved Mortgagor shall then abide by these covenants for the remainder of the fifteen (15) year term of this Mortgage.

(b) any new or additional liabilities without the prior written consent of Mortgagee. Any consent by the Mortgagee, or any waiver of an event of default, under this paragraph shall not constitute a consent to, or waiver of any right, remedy or power of the Mortgagee upon a subsequent event of default under this paragraph. If any sum of money herein referred to be not promptly paid within 15 days after the same becomes due, or if each and every agreement, stipulation, condition and covenant of said note and this Mortgage, or either, are not fully performed, complied with and abided by, then the entire sum mentioned in said Promissory Note, and this Mortgage, or the entire balance unpaid thereon, shall forthwith or thereafter, at the option of the Mortgagee, become and be due and payable, anything in said Promissory Note or herein to the contrary notwithstanding. Failure by the Mortgagee to exercise any of the rights or options herein provided shall not constitute a waiver of any rights or options under said note or this Mortgage accrued or thereafter accruing.

This Mortgage is expressly made subject and subordinate to the terms and conditions specified in that certain mortgage from Mortgagor to _____, hereinafter the "First Lender", dated _____, and recorded in Official Records Book _____, at Page _____, of the Public Records of Palm Beach County, Florida, hereinafter the "First Mortgage", securing that certain note having an original principal face amount of _____ and 00/100 Dollars (\$_____), dated _____, hereinafter the "First Note", made by Mortgagor and payable to the First Lender.

If any provision of the Promissory Note or this Mortgage conflicts with any provision of the First Note or the First Mortgage, the terms and provisions of the First Note, and First Mortgage, shall govern.

In the event of a foreclosure or a deed in lieu of foreclosure of the First Mortgage, any provision herein or in any collateral agreement restricting the use of the Property or restricting the Mortgagor's ability to sell the Property shall have no further force or effect on subsequent owners or purchasers of the Property. Any person, including his successors and assigns (other than the Mortgagor or a related entity or person to the Mortgagor), receiving title to the Property through a foreclosure or deed in lieu of foreclosure of the First Mortgage shall receive title to the Property free and clear of such restrictions.

Furthermore, if the First Lender acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of this Mortgage shall automatically terminate upon the First Lender's acquisition of title.

THIS IS A SECOND MORTGAGE AND THE FINAL PRINCIPAL PAYMENT OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$_____ TOGETHER WITH ACCRUED INTEREST, IF ANY AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS MORTGAGE.

IN WITNESS WHEREOF, the said Mortgagor has hereunto signed and sealed these presents the day and year first above written.

SIGNED, SEALED, AND DELIVERED IN THE PRESENCE OF:

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

By: _____ Signature: _____ X _____
By: _____ Signature: _____ X _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The forgoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, who is personally known to me or has produced _____ as identification and who did (did not) take an oath.

Signature: _____

NotaryName: _____
Notary Public - State of Florida

(NOTARY SEAL ABOVE)

CONSENT TO MORTGAGE

The undersigned, the owner and lessor of the underlying land upon which the Property described above is situated, hereby acknowledges and consents to the mortgage set forth in the Second Mortgage to which this Consent to Mortgage is attached, which Second Mortgage has been executed by the lessee of the Property, _____ who is referred to as the Mortgagor in the Second Mortgage. By execution of this Consent to Mortgage, the undersigned owner does not assume any responsibility, obligation, or liability under the terms of the Second Mortgage.

Community Land Trust of Palm Beach County, Inc.
a non-profit corporation duly organized and existing
by virtue of the laws of the State of Florida

By: _____
Cynthia LaCourse-Blum,
Executive Director

Date: _____

Community Land Trust of Palm Beach County, Inc.
4938 Davis Road
Lake Worth, Florida 33461

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of, _____, 20____,
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 _____
_____ as identification.

Signature: _____

Notary Name: _____
Notary Public - State of Florida

(NOTARY SEAL ABOVE)

ATTACHMENT 1

PROMISSORY NOTE
(HOME PROGRAM)

Amount: \$ _____

Date: _____

Property Address: _____

Place: Palm Beach County, Florida

FOR VALUE RECEIVED, the undersigned jointly and severally promise(s) to pay to the order of Palm Beach County, Florida, (herein the "County"), acting by and through its Board of County Commissioners, the remaining balance on the principal sum of _____ and 00/100 Dollars (\$ _____), which remaining balance shall be payable in full upon the sale, lease, or transfer of the Property, identified and legally described in the Mortgage used to secure this Promissory Note, from the undersigned, (herein the "Maker"), signing this Promissory Note (being the owner(s) having title to the mortgaged Property) to any other person(s) without the prior written consent of the County.

Upon the sale, transfer, conveyance or alienation of any part or all of the mortgaged Property within fifteen (15) years of the date of this note, full repayment of the principal sum plus accrued interest, if any, plus any advancements made pursuant to the terms of the Mortgage, shall become immediately due and payable.

In the event of a refund of any governmental fees to the undersigned, the undersigned assigns such reimbursement directly to the County to be credited towards the total amount due under this Promissory Note.

The undersigned reserve(s) the right to prepay at any time all or any part of the principal amount of this Promissory Note without the payment of penalties or premiums.

This Promissory Note and the Second Mortgage securing payment of this Promissory Note is expressly made subject and subordinate to the terms and conditions specified in that certain promissory note having an original principal face amount of _____ and 00/100 Dollars (\$ _____), dated _____, hereinafter the "First Note", made by the Maker payable to _____, hereinafter the "First Lender", and secured by that certain mortgage from the Maker to the First Lender, dated _____, and recorded in Official Records Book _____, at Page _____, of the Public Records of Palm Beach County, Florida, hereinafter the "First Mortgage".

The County consents to any agreement or arrangement in which the First Lender waives, postpones, extends, reduces or modifies any provisions of the First Note or the First Mortgage, including any provision requiring the repayment of money.

If any provision of this Promissory Note or the Maker's Mortgage conflicts with any provision of the First Note or the First Mortgage, the terms and provisions of the First Note and the First Mortgage shall govern.

If default be made in the performance of any of the covenants, understandings and agreements obtained and entered into to secure financing used in connection with this Promissory Note or in said Mortgage, then the entire unpaid principal amount of this Promissory Note, together with accrued interest computed **at a rate of eight percent (8%) per annum from the date of default**, shall become at once due and payable, at the option of the County, without notice to the undersigned, time being of the essence.

Failure of the County to exercise such option shall not constitute a waiver of such default, nor a waiver of the right to exercise the same in the event of any subsequent default. If this Promissory Note be reduced to judgment, such judgment shall bear the statutory interest due on judgments, but not to exceed eight percent (8%) per annum.

Fifteen (15) years from the date of this Promissory Note, if the following two conditions have been met, the entire Promissory Note will be deemed satisfied and the Maker shall have no further obligation to the County under this Promissory Note:

- 1) There have been no defaults in the performance of any of the covenants, understandings and agreement obtained and entered into to secure financing used in connection with this Promissory Note or in said Mortgage; and
- 2) There has been no sale, transfer, conveyance or alienation of any part or all of the Property secured in said Mortgage.

If suit is instituted by the County to recover on this Promissory Note, the undersigned agree(s) to pay all costs of such collection including reasonable attorney's fees and court costs at the trial and appellate levels.

THIS PROMISSORY NOTE is secured by a Mortgage of even date herewith, duly filed for record in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida.

DEMAND, protest and notice of demand and protest are hereby waived, and the undersigned hereby waive(s), to the extent authorized by law, any and all homestead and other exemption rights, which otherwise would apply to the debt evidenced by this Promissory Note.

This Promissory Note has been duly executed by the undersigned on the date first above written.

Name: _____ Signature: _____

Name: _____ Signature: _____