

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: February 9, 2021 ☐ Consent ☒ Regular
☐ Ordinance ☐ Public Hearing

Department: Housing and Economic Sustainability

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve:

- A)** a \$3,590 HOME Investment Partnerships Program (HOME) funding increase to New Urban Community Development Corporation, Inc. (NUCDC), and other revised terms, for Henrietta Townhomes (the Project); and
- B)** a Memorandum of Agreement with the U.S. Department of Housing and Urban Development (HUD) related to Henrietta Townhomes; and
- C)** delegation of authority to the County Administrator, or designee, to execute the agreement, amendments thereto, modifications to current loan documents, subordination agreements, and all other related documents necessary for implementation of the project.

Summary: On October 19, 2019, the Board of County Commissioners (BCC) approved a HOME award of up to \$500,000 to NUCDC for the refinancing of the Project, a troubled 11-unit rental property, located at 1301 Henrietta Avenue in West Palm Beach. NUCDC developed the Project in 2009 with assistance including a \$687,096 conditional grant from the County, consisting of \$337,096 in HOME funds and \$350,000 in State Housing Initiatives Partnership (SHIP) Program funds, and a \$978,759 HOME loan from the City of West Palm Beach. The property is at risk of foreclosure and loss from the County's affordable housing stock. The new HOME award was to pay off the first mortgage held by the Florida Community Loan Fund, thereby preventing foreclosure and preserving affordable rental housing stock. The BCC approved that the HOME funds be provided as a combination \$250,000 loan (at 1.0% interest for 20 years) and a \$250,000 no-interest conditional loan (forgiven after a 20 year affordability period).

The new HOME investment in the Project was subject to HUD approval. HUD's underwriting resulted in requirements for revised terms which are codified in the Memorandum of Agreement. It requires a County HOME investment of \$503,590, including \$460,000 for the mortgage payoff and \$43,590 for physical repairs. The entire \$503,590 is to be provided as a no-interest conditional loan that will be forgiven in its entirety at the conclusion of a new 30 year period of affordability. Project revenues that would have paid HOME debt service under the original terms will instead be required to fund replacement reserves necessary to meet the anticipated physical needs of the Project throughout the period of affordability. **Continued on Page 3**

Background and Policy Issues: Continued on Page 3

Attachment(s):

1. Location Map
2. Memorandum of Agreement with HUD

Recommended By:  1-1-21
Department Director Date

Approved By: Dorinda M. Smith / 12/27/2021
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures					
Operating Costs	3,590				
External Revenues	(3,590)				
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	-0-				

# ADDITIONAL FTE POSITIONS (Cumulative)	-0-				
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Is Item Included In Current Budget? Yes X No


Does this Item include the use of Federal funds? Yes X No

Budget Account No.:

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

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

Approval of this agenda item will allocate an additional \$3,590 HOME funds to NUCDC for the Henrietta Townhomes project.

C. Departmental Fiscal Review: 
Shairrette Major, Fiscal Manager II

III. REVIEW COMMENTS

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

Lisa Monte 1/12/21
OFMB *1/1/12* *(initials)* 1/1/12

An. J. Inoué 1/20/21
Contract Development and Control
1-25-21

B. Legal Sufficiency:

 1/27/21
Assistant County Attorney

C. Other Department Review:

Department Director

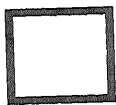
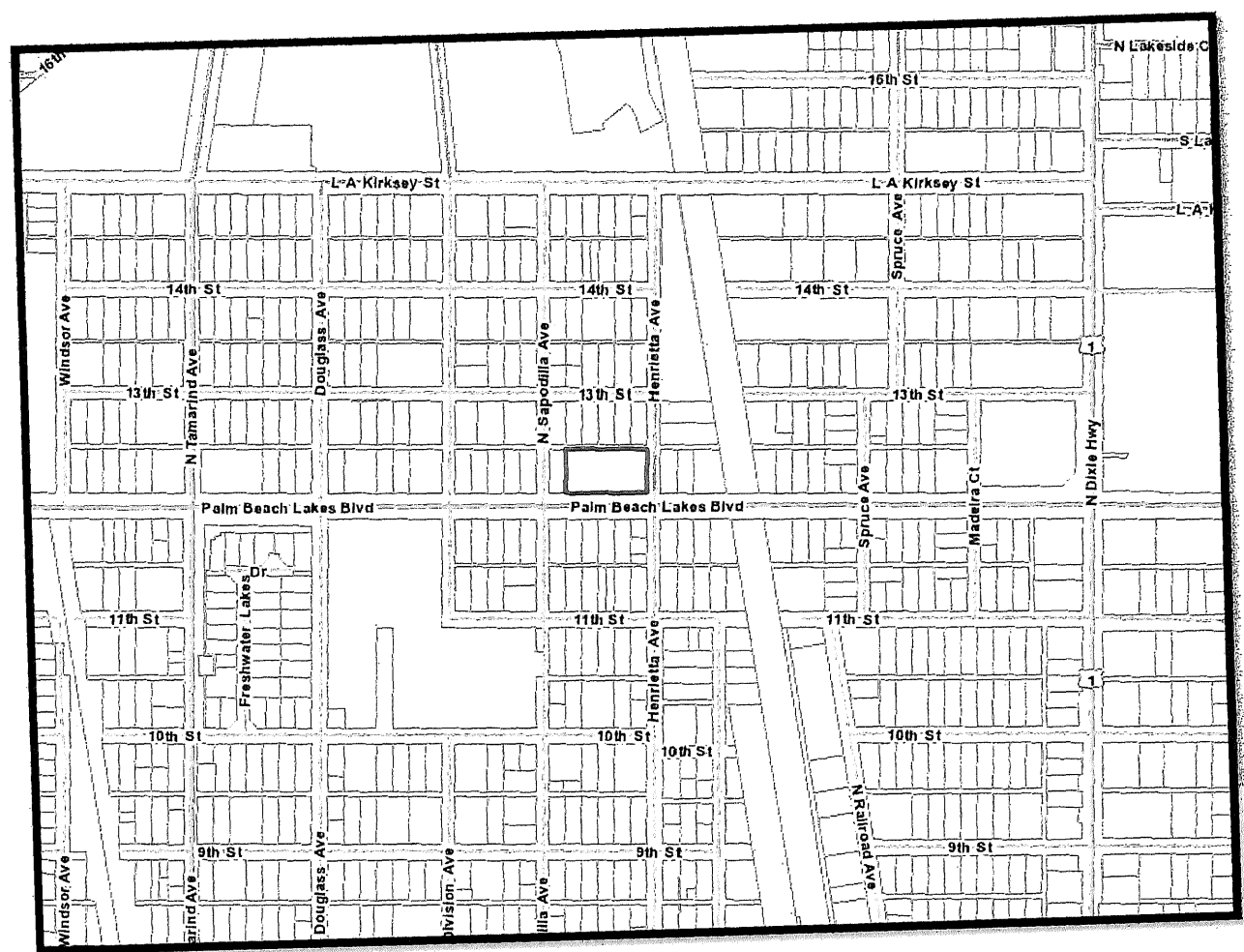
Summary: (continued from Page 1)

The County's existing HOME/SHIP conditional grant will be modified to conform to the HUD requirements. Staff is working with the City of West Palm Beach to extend the term of its existing loan and to subordinate to the County's new HOME loan. **These are federal HOME Program grant funds that require a local match provided by the State Housing Initiatives Partnership Program.** District 7 (HJF)

Background and Policy Issues: (continued from Page 1)

On April 21, 2009, the BCC approved a conditional grant agreement (R2009-0657) providing \$687,096 in HOME and SHIP funds to NUCDC for the construction of Henrietta Townhomes. NUCDC completed the Project in 2010 and has since operated it to provide affordable housing for low and very-low income renters.

Location Map



Henrietta Townhomes Project

MEMORANDUM OF AGREEMENT

BETWEEN

PALM BEACH COUNTY

AND

U.S. DEPARTMENT HOUSING AND URBAN DEVELOPMENT

I. GENERAL.

Henrietta Townhomes (IDIS Activity ID 1835) is an eleven (11) unit multi-family rental project, located at 1301 Henrietta Avenue in West Palm Beach, Florida (the "Project"). In 2010, the Project received \$337,096 in HOME Investment Partnerships Program (HOME) funds from Palm Beach County, the participating jurisdiction, for its development of rental housing in accordance with the requirements at 24 CFR 92.252, *Qualification as affordable housing: Rental housing*. The Project is currently in its HOME period of affordability which commenced on April 14, 2010 and expires on April 13, 2030. All units in the Project are restricted as HOME units (7 Low- and 4 High-HOME rent units).

On August 5, 2019, Palm Beach County requested the U.S. Department of Housing and Urban Development (HUD) permit an additional investment of HOME funds into the Project pursuant to 24 CFR 92.210, *Troubled HOME-assisted rental housing projects*. The requirements at 24 CFR 92.210 provide an exception to 24 CFR 92.214(a)(6) which prohibits a participating jurisdiction from providing additional assistance to a HOME project within its period of affordability. The exception provided by 24 CFR 92.210 only applies to an existing HOME-assisted rental project that, within its period of affordability, is no longer financially viable. Pursuant to 24 CFR 92.210, a HOME-assisted rental project is no longer financially viable if its operating costs significantly exceed its operating revenue.

Pursuant to 24 CFR 92.210, HUD may approve an additional investment of HOME funds to strategically preserve a HOME-assisted rental project after consideration of market needs, available resources, and the likelihood of long-term viability of the project. HUD may permit the additional investment of HOME funds pursuant to a written memorandum of agreement with the participating jurisdiction and in accordance with the requirements of 24 CFR 92.210. In addition, the total HOME investment in the project (original investment plus additional investment) must not exceed the per-unit subsidy limit in 24 CFR 92.250(a). The use of the additional investment of HOME funds may include, but is not limited to, rehabilitation of the HOME units and recapitalization of project reserves for the HOME units (to fund capital costs). If additional HOME funds are invested under 24 CFR 92.210, HUD may extend the project's period of affordability, based on such considerations as the amount of additional HOME funds.

HUD has reviewed the information provided by Palm Beach County and determined that the Project meets the criteria for a troubled property under 24 CFR 92.210 after considering the Project's market needs, available resources, and likelihood of long-term viability. Therefore,

HUD will enter into a memorandum of agreement in accordance with the requirements of 24 CFR 92.210.

II. PARTIES.

The parties to this Memorandum of Agreement (MOA) are the U.S. Department of Housing and Urban Development (HUD), acting by and through the Secretary, his or her successors, assigns or designates and the participating jurisdiction, Palm Beach County (PJ).

III. AUTHORITIES.

The federal legal authorities governing this MOA include, but are not limited to, the following:

1. Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA), as amended (42 U.S.C. 12701 et seq.);
2. HOME Final Rule, 24 CFR part 92, as amended; and
3. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards - 2 CFR part 200.

IV. AGREEMENT.

This MOA is made pursuant to the terms and conditions of the “Funding Approval and HOME Investment Partnerships Agreement” between HUD and the PJ, Grant No. M-07-UC12-0215 and M-08-UC12-0215, dated December 4, 2007 and November 14, 2008, respectively. (the “**HOME Grant Agreement**”).

V. PURPOSE.

The purpose of this MOA is to establish the terms and conditions for the PJ’s additional investment of HOME funds into the Project as required by 24 CFR 92.210.

VI. TERMS AND CONDITIONS.

- A. HUD agrees to permit an additional investment of up to \$503,590 in HOME funds by the PJ in the Project subject to the HOME Grant Agreement, 24 CFR part 92, and this MOA.
- B. PJ agrees to:
 1. Comply with the terms and conditions of the HOME Grant Agreement.

2. Provide an additional HOME investment of \$503,590 (the “**Senior HOME Loan**”) to the Project through an amended written agreement with the Project owner, in accordance with 24 CFR 92.504, for a total HOME investment of \$1,819,455.
3. Provide the Senior HOME Loan as a zero-interest deferred payment loan, secured by a first position mortgage lien or equivalent security interest on the property.
4. Include the requirements described below in the written agreement with the Project owner for the Senior HOME Loan in order to comply with the requirements in 24 CFR part 92, including but not limited to 24 CFR 92.210, 24 CFR 92.252, and 24 CFR 92.504.
 - i. The Project owner must payoff or restructure all existing Project sources, including:
 - (1) A loan for \$650,000 to New Urban Community Development Corporation, Inc. and Urban League of Palm Beach County, Inc. by the Florida Community Loan Fund (FCLF) secured as a mortgage lien on the Project, Loan #102143 (the “FCLF Loan”) (Attachment A);
 - (2) A conditional loan from the PJ in the amount of \$687,096. (Attachment B) (the “**Conditional Loan**”) secured as a mortgage lien on the Project. The Conditional Loan is comprised of \$337,096 in HOME funds and \$350,000 in State Housing Initiative Partnership (SHIP) funds;
 - (3) A loan for \$978,759 in HOME funds from the City of West Palm Beach (the “**City Loan**”) (Attachment C);
 - ii. The Project owner must restructure the existing Project loans as follows:
 - (1) The Project owner shall pay the remaining balance (the “**Payoff Amount**”) on the promissory note for the FCLF Loan as set forth in a payoff letter issued within 3 days of disbursement by the PJ of the Senior HOME Loan.
 - (2) The PJ and Project owner shall subordinate the Conditional Loan’s mortgage lien to the Senior HOME Loan.
 - (3) The Project owner and the City of West Palm Beach (City) shall subordinate the City Loan’s mortgage lien to the Senior HOME Loan.
 - (4) The Project owner and the City must extend the term of the City Loan until no earlier than the end of the Senior HOME Loan’s period of affordability (POA).

- (5) The Project owner and the City shall amend the City Loan documents so that the City Loan shall defer all repayment of principal and interest until after the end of the Senior HOME Loan's POA.
- iii. The Project owner must perform at least the minimum amount of rehabilitation work necessary to comply with the PJ's rehabilitation standards in accordance with 24 CFR 92.251(b), which is a minimum of \$43,590 in rehabilitation on the Project.
- iv. The Project owner must recapitalize the Project's reserve for replacement as follows:
 - (1) In the first year, the Project owner shall deposit a minimum of \$193.18 per unit per month (\$25,500 per year) for all units into the Project's reserve for replacement account.
 - (2) The Project owner's deposit amount must be increased at an annual rate of inflation of 2 percent each year beginning one year after the issuance of the Senior HOME Loan, unless otherwise approved in writing by the PJ and HUD.
 - (3) Withdrawals from the reserve for replacement account shall require the prior, written approval of the PJ.
 - (4) Failure by the Project owner to make timely payments to the reserve for replacement account, or any withdrawal from the reserve for replacement account without the prior, written approval of the PJ constitutes an event of default and permits the PJ to foreclose on the Project.
 - (5) Project owner guarantees that the required deposit into the Project's replacement reserve account will occur, even if doing so could not be accomplished with Project operating income.
- v. The Project owner must comply with the period of affordability requirements in 24 CFR 92.252 and agree to restrict all 11 HOME units in the Project for an additional 30-year period of affordability (the "**Extended POA**"). The Extended POA will commence upon the closing date of the Senior HOME Loan.
- vi. The Senior HOME Loan written agreement must require that the Project owner maintain the following occupancy provision for the Project for the Extended POA.

Occupancy Requirements: Three (3) townhomes must be occupied only by households that qualify as very-low income families in that their annual income does not exceed fifty (50%) percent of Palm Beach County median income adjusted for family size. Eight (8)

townhomes must be occupied only by households that qualify as low-income families in that their annual income does not exceed eighty (80%) percent of Palm Beach County's median income adjusted for family size.

- vii. The Project owner shall provide the PJ and HUD evidence of payment in full of the FCLF Loan, including all interest and fees (e.g., a payoff letter evidencing repayment in full of the FCLF Loan and termination of all agreements relating thereto) and all other evidence necessary to demonstrate compliance with Section V.B. of this MOA.

4. Monitoring and Compliance.

- i. Comply with all statutory and regulatory requirements for the use of the HOME funds.
- ii. Provide HUD with the current e-mail, physical address, name, and telephone number of the PJ's authorized representative for any notifications, questions or problems that may arise in connection with this MOA.
- iii. Notify HUD immediately whenever there is reason to believe a violation of this MOA has occurred.
- iv. Take corrective measures in a timely manner to address all requirements and recommendations for every written finding that occurs in connection with any investment of HOME funds pursuant to this MOA or any other agreements, including but not limited to those findings regarding waste, fraud, abuse, any misuse of HOME funds, non-compliance with the terms and conditions of this MOA, or non-compliance with other applicable laws or regulations.

VII. POINTS OF CONTACT (POC).

Written notices shall be sent to the addresses of the POCs listed herein and shall be effective upon receipt. Either party may change its POC by written notice to the other party.

Participating Jurisdiction:

Jonathan B. Brown, Director

Palm Beach County Department of Housing & Economic Sustainability

100 Australian Avenue, Suite 500

West Palm Beach, FL 33406

Jbrown2@pbcgov.org

[insert contact information]

Nothing in this agreement shall restrict HUD's right to inspect the Project or bring enforcement action against the PJ or Project owner for any violations of the HOME requirements or applicable federal requirements.

A. *MOA Responsibilities.* In carrying out these responsibilities, authorized employees, agents, or designees of the PJ will operate within the scope of the authorities in Section III., specifically delegated authorities, and funding limitations and terms and conditions of this MOA;

1. The terms of this MOA are not intended to alter, amend, or rescind the HOME Grant Agreement, any other current agreement or provision of federal law now in effect.
2. Nothing in this MOA is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees.
3. This MOA contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this MOA shall be deemed to exist or be binding upon the parties.

4. Nothing in this MOA will be interpreted as limiting, superseding, or otherwise affecting HUD's normal operations or decisions in carrying out its statutory and regulatory duties, or other current or future agreements between the PJ and HUD.

C. *Modifications and Conflicts.* No modification or addition of the MOA and its attachments will be valid unless entered into by mutual consent of both parties evidenced in writing and signed by both parties and appended to this MOA. This MOA is subject to periodic review by HUD, its authorized agents or designees, and, if necessary, HUD may require modification of this MOA to assure compliance with current law and policy.

Any inconsistency or conflict between or among the provisions of this MOA, will be resolved in the following order of precedence: (1) Federal statutory and regulatory requirements, (2) HOME Grant Agreement, (3) requirements in this MOA, (4) requirements in other documents incorporated by reference in this MOA;

- D. *Severability.* Nothing in this MOA is intended to conflict with federal law or regulation or the policies of HUD. If a term of this MOA is inconsistent with such authority, then that term shall be invalid but, to the extent allowable, the remaining terms and conditions of this MOA shall remain in full force and effect;
- E. *No Assignment.* The PJ may not assign this MOA, nor may it assign any of its rights or obligations under this MOA;
- F. *No Waiver.* No waiver by either party of any breach of any provision of this MOA shall constitute a waiver of any other breach. Failure of either party to enforce at any time, or from time to time, any provision of this MOA shall not be construed to be a waiver or novation thereof.

IX. EFFECTIVE DATE.

The effective date of the MOA shall be the date of HUD's signature of the MOA.

X. EXECUTION AND PERIOD OF AGREEMENT.

HUD will execute the MOA following execution of the MOA by the PJ. This MOA becomes effective upon signing by HUD and shall remain in effect until the end date of the Extended POA.

XI. DEFAULT.

Any failure to comply with the provisions of this MOA by the PJ is considered a default. HUD and the PJ agree that if HUD determines the PJ is in default with respect to any of the provisions of this MOA, HUD shall provide notice to the PJ's POC in Section VII., describe such default, and within 7 calendar days after its receipt of such notice, the PJ shall remedy the default. If the

PJ does not remedy the default within the 7 calendar days, HUD may declare that the PJ is in substantial default of the MOA and may (1) require that the PJ repay the full amount of Senior HOME Loan to the PJ’s HOME Investment Trust Account, (2) terminate this MOA, and/or (3) pursue any and all remedies available under 24 CFR 92.551(c) and 2 CFR part 200.

XII. TERMINATION.

This MOA may be terminated by HUD for any reason by providing a 30-day written notice of intent. HUD, when feasible, will consult with the PJ and attempt to reconcile issues before terminating this MOA. Notwithstanding any other provision in the MOA, HUD may suspend or terminate this MOA, without prior notice if deemed necessary because of a requirement of law or policy or upon a determination by HUD for failure by the PJ to comply with HOME and other federal requirements, including but not limited to noncompliance with the MOA.

XIII. COMPLETE AGREEMENT.

The foregoing, in conjunction with the referenced and incorporated attachments, constitutes the full agreement on this subject between HUD and the PJ.

(SIGNATURES ON FOLLOWING PAGE.)

THE UNDERSIGNED, as authorized officials on behalf of the PJ and the Secretary of the U.S. Department of Housing and Urban Development, have executed this **MEMORANDUM OF AGREEMENT**, which shall be effective as of the date of execution by HUD. The PJ hereby certifies that the statements and representations contained in this instrument and all attachments thereto are true, accurate, and complete and that the PJ has read and understands the terms of this MOA. This MOA has been made, presented, and delivered for the purpose of influencing an official action of HUD, and may be relied upon by HUD as a true statement of the facts contained therein.

(COUNTY SEAL BELOW)

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

BOARD OF COUNTY COMMISSIONERS

ATTEST: Joseph Abruzzo,
Clerk of the Circuit Court & Comptroller

By: _____
Dave Kerner, Mayor

By: _____
Deputy Clerk

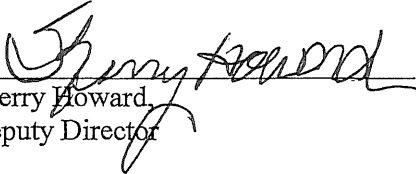
Date: _____

Document No.: _____

Approved as to Form
and Legal Sufficiency

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

By: _____
Howard J. Falcon,
Chief Assistant County Attorney

By: 
Sherry Howard,
Deputy Director

**U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT**, acting
by and through the **Secretary**:

(Signature)

(Name)

(Title)

(Date)

ATTACHMENTS

- A. Existing Loan Agreement for FCLF Loan
- B. Loan Agreement for Conditional Loan
- C. Loan Agreement and draft amendments for City Loan
- D. Memo for Proposed Restructuring in Accordance with 24 CFR 92.210
- E. Draft of Loan Agreement between PJ and Project Owner for Senior HOME Loan

CHECKLIST FOR DISBURSEMENT OF SENIOR HOME LOAN

- a. Payoff Letter for Florida Community Loan Fund Loan
- b. Senior HOME Loan and Conditional Loan
 - i. Amended Conditional Loan Agreement adding Senior HOME Loan
 - ii. Amended Promissory Note
 - iii. Amended Mortgage and Security Agreement
- c. City Loan
 - i. Amended Townhouses at Henrietta CHDO Project Agreement between the City of West Palm Beach and New Urban Community Development, Inc.
 - ii. Amended Note or Amended Promissory Note and Mortgage Modification Agreement
 - iii. Amended Mortgage and Security Agreement
 - iv. Subordination Agreement
- d. Any Revised Restrictive Covenants/Use Agreements provided in accordance with the MOA, the Amended Conditional Loan Agreement, and/or 24 CFR 92.252(e)(1)(ii)

Legal Opinion: opinion of PJ's counsel that the loan documents described in (a)-(c) of this checklist and restrictive covenants/use agreement described in (d) of this checklist, are valid and enforceable obligations that meet program and MOA requirements, and that the PJ and City are each authorized to enter into this transaction and all agreements described in (a)-(d) of this Checklist.

CHECKLIST FOR POST-DISBURSEMENT OF SENIOR HOME LOAN

- 1. Evidence of Payoff of FCLF Loan (i.e. Settlement Statement, updated title report)
- 2. Evidence of FCLF Lien release
- 3. Executed Amended Conditional Loan Agreement



CFN 20170160260

DR BK 29065 PG 0580

RECORDED 05/05/2017 08:38:14

Palm Beach County, Florida

Sharon R. Bock, CLERK & COMPTROLLER

Pgs 0580 - 587; (2pgs)

PREPARED BY AND RETURN TO:
Nanci Gardner
Florida Community Loan Fund, Inc.
501 N. Magnolia Avenue, Suite 100
Orlando, FL 32801

**SECOND NOTE AND MORTGAGE MODIFICATION AND EXTENSION
AGREEMENT**

THIS SECOND NOTE AND MORTGAGE MODIFICATION AND EXTENSION AGREEMENT (the "Agreement") is entered into effective as of December 3, 2016, by and between FLORIDA COMMUNITY LOAN FUND, INC., a Florida not-for-profit corporation (the "Lender") and NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida not-for-profit corporation, and URBAN LEAGUE OF PALM BEACH COUNTY, INC., a Florida not-for-profit corporation, (collectively, the "Borrower"), and is made in reference to the following facts:

(A) At all times material hereto, the Borrower was and is the owner in fee-simple title to the real properties and all improvements thereon located, more particularly described in any Mortgage described herein and made a part hereof (the "Property").

(B) On or about September 3, 2009, Lender made a secured loan to Borrower in the original principal amount of SIX HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$650,000.00) (the "Initial Loan"). The Initial Loan is evidenced and secured, among other things, by the following documents and instruments, all of which were dated as of September 3, 2009:

(i) \$650,000.00 Revolving Line of Credit Promissory Note executed by Borrower in favor of Lender in the original principal amount of the Loan (the "Note");

(ii) Mortgage and Security Agreement executed by Borrower in favor of Lender, the original of which is recorded in Official Records Book 23431, beginning at Page 1760, of the Public Records of Palm Beach County, Florida, and which encumbers the Property as a first mortgage lien thereon (the "Mortgage");

(iii) Assignment of Rents and Leases executed by Borrower in favor of Lender, the original of which is recorded in Official Records Book 23431, beginning at Page 1771, of the Public Records of Palm Beach County, Florida (the "Assignment");

(iv) UCC-1 Financing Statement, the original of which is recorded in Official Records Book 23431, at Page 1801, of the Public Records of Palm Beach County, Florida (the "UCC-1");

(v) Loan Agreement executed by Lender and Borrower and Construction Loan Agreement executed by Lender and Borrower (collectively, the "Loan Agreement"); and

(vi) Other miscellaneous documents (collectively the "Other Documents").

(C) On or about September 3, 2011, Lender modified and extended the Initial Loan as evidenced by that Note and Mortgage Modification and Extension Agreement, the original of which is recorded in Official Records Book 25005, beginning at page 0661, of the Public Records of Palm Beach County, Florida (the "Modification Agreement").

(D) On or about September 3, 2016, Lender extended the Modification Agreement as evidenced by a Change in Terms Agreement executed by Borrower and unrecorded (the "Extension Agreement")

The Mortgage, Assignment, UCC-1, Loan Agreement, Modification Agreement, Extension Agreement, and Other Documents, will be sometimes collectively referred to below as the "Instruments of Security". The Note and the Instruments of Security will be sometimes collectively referred to below as the "Loan Documents". The Instruments of Security encumber the Property and all tangible and intangible personal property as described therein (collectively the "Collateral"), as a first lien thereon, as security for the Loan.

(C) The current outstanding principal balance of the Loan as of November 22, 2016 is FIVE HUNDRED FIFTY SEVEN THOUSAND NINE HUNDRED FORTY-ONE AND 22/100 DOLLARS (\$557,941.22). The Loan matures on December 3, 2016 (the "Maturity Date"). Borrower has requested that Lender extend the Maturity Date of the Loan, and the Lender is agreeable to the same, subject to the terms and provisions of this Agreement.

NOW THEREFORE, in consideration of the mutual promises contained herein, and for other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The statements contained in the recitals of fact set forth above (the "Recitals") are true and correct and the Recitals are by this reference made a part of this Agreement.

2. Exhibits. Any exhibits that are attached to or referred to in this Agreement are by this reference made a part hereof.

3. Abbreviations and Definitions. The abbreviations and definitions set forth below will be used for purposes of this Agreement.

(a) The abbreviations of the parties contained in the Preamble will be used for purposes of this Agreement.

(b) The abbreviations and definitions contained in the Recitals will be used for purposes of this Agreement.

4. Warranties and Representations. Borrower warrants and represents to the Lender as follows:

(a) The Loan Documents are fully current with no defaults existing thereunder.

(b) Borrower has received good and valuable consideration for its execution of this Agreement, and all of the documents and instruments described herein.

(c) Borrower is the fee simple owner of the Property, free and clear of all liens, encumbrances and security interests, except for: (i) the Loan Documents; (ii) those items disclosed to Lender in Old Republic National Title Insurance Company Policy No. MPF-8002438; and (iii) ad valorem and personal property taxes for the year **2016, due and payable**, and for all subsequent years.

5. Modification of Note. The Note is hereby modified, amended, and supplemented, as of the date of this Agreement, as follows:

(a) The Maturity Date of the Loan shall be extended from December 3, 2016 until **December 3, 2021**, at which time all indebtedness evidenced by the Note, this Agreement and the Loan Documents (whether principal, accrued interest or otherwise) that remains unpaid shall be due and payable and shall be paid in full. The last day of the Term will be sometimes referred to below as the **"Extended Maturity Date"**.

(b) Payments shall be due and payable and shall be paid at CL #60019 Post Office Box 24620, West Palm Beach, Florida 33416-4620, or such other address as Lender shall designate from time to time, as follows:

(i) Interest Rate. Interest shall be calculated based on a rate of five and one-half percent (5.50%) simple interest per year.

(ii) Monthly Payments. Commencing **December 31, 2016**, principal and interest payments of **Four Thousand Five Hundred Fifty-Nine and 00/100 Dollars (\$4,559.00)**, based on a fifteen (15) year amortization, shall be due and shall be payable on the last day of each month.

(ii) Extended Maturity Date. On the Extended Maturity Date, all indebtedness evidenced by the Note (whether unpaid principal, accrued interest or otherwise) that remains unpaid shall be due and payable and shall be paid.

6. Modification of Instruments of Security. The Instruments of Security are hereby modified, amended and supplemented, as of the date of this Agreement, to hereafter secure the Note as fully and completely as if the Instruments of Security had initially referred to this Agreement. Except as modified herein, all other terms and provisions of the Instruments of Security shall be fully and completely complied with by Borrower.

7. Other Provisions. Except as modified, amended and supplemented by this Agreement, all of the terms and provisions of the Loan Documents shall remain in full force and effect and shall be fully and strictly complied with by the Borrower.

8. Consent. Borrower consents to the execution of this Agreement and agrees that it shall be fully responsible and obligated for the Loan Documents, as modified by this Agreement.

9. Valid Existing Obligation. This Agreement modifies certain terms and conditions of a valid, existing obligation evidenced by the Loan Documents. The parties hereto agree that this Agreement is not intended to substitute or extinguish such valid, existing obligation, nor is this Agreement intended to effect a novation of such valid, existing obligation.

10. Waiver of Defenses. Borrower hereby waives in favor of Lender and its successors and assigns any claims or defenses which the Borrower has or may have with respect to the Loan Documents, or this Agreement, as of the date of this Agreement, and further agrees not to raise any such claims or defenses, if any, against Lender or its successors or assigns in any civil proceedings or otherwise.

11. Release. The parties hereto, except the Lender, hereby, for themselves, and their legal representatives, successors, predecessors, heirs and assigns, and their officers, directors, stockholders, agents, and employees release, acquit and forever discharge the Lender and its officers, directors, stockholders, agents, employees, legal representatives, successors and assigns of and from any and all claims, demands, debts, actions and causes of action, which they now have against the Lender and its officers, directors, stockholders, agents, employees, legal representatives, successors and assigns, by reason of any act, matter, contract, agreement or thing whatsoever up to the date hereof.

12. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision hereof shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity only, without invalidating the remainder of such provision or of the remaining provisions of this Agreement.

13. Default. Any default under the terms and provisions of the Loan Documents or this Agreement or any instrument set forth herein or contemplated hereby shall be and is a default under every other instrument set forth herein or contemplated hereby.

14. Florida Contract. This Agreement shall be deemed a Florida contract and construed according to the laws of such state, regardless whether this Agreement is being executed by any of the parties hereto in other states or otherwise. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing the Agreement to be drafted. If any words or phrases in this Agreement shall have been stricken out or otherwise eliminated, whether or not any of the words or phrases have been added, this Agreement shall be construed as if the words or phrases so stricken out or otherwise eliminated. All terms and words used in this Agreement regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require.

15. Waiver. No failure of the Lender to exercise any power given to Lender hereunder or to insist upon strict compliance by the Borrower in its obligations hereunder, and no

custom or practice of the parties in variance with the terms hereof, shall constitute a waiver of the Lender's right to demand exact compliance with the terms hereof.

16. Cumulative Rights. All rights, powers and privileges conferred hereunder upon the Lender, unless otherwise provided herein, shall be cumulative and not restricted by those given in law.

17. Binding Effect. This Agreement shall bind the successors and assigns of the parties hereto; it constitutes the entire understanding of the parties, and it may not be modified except in writing.

18. Indemnification. Borrower hereby agrees to indemnify and hold Lender harmless from and against any and all loss, damage, cost and expense, including attorney's fees, that the Lender may incur or sustain by reason of the assertion of a claim or ruling by a governmental entity that documentary stamp tax, intangible tax or any penalties or interest associated therewith must be paid by reason of the execution and delivery of any of the Loan Documents, or this Agreement, or any subsequent renewals, modifications or amendments of the Loan Documents or this Agreement.

19. Execution. This Agreement shall not be effective nor shall it have any force and effect whatsoever until all of the parties hereto have duly executed this Agreement.

20. Headings. The headings of the paragraphs contained in this Agreement are for convenience of reference only and do not form a part hereof and in no way modify, interpret or construe the meaning of the parties hereto.

Signature pages to follow

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, and shall be deemed to have executed such, on the day and year first above written.

Signed, sealed and delivered
In the presence of:

[Signature]
SIGNATURE
Janet Fitzgerald
NAME LEGIBLY PRINTED

[Signature]
SIGNATURE
Janet de Guehery
NAME LEGIBLY PRINTED

FLORIDA COMMUNITY LOAN FUND, INC., a
Florida not-for-profit corporation

By: [Signature]
Ignacio Esteban, Chief Executive Officer

As to Lender

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 14 day of December, 2016, by Ignacio Esteban, Executive Director of FLORIDA COMMUNITY LOAN FUND, INC., a Florida not-for-profit corporation, on behalf of the corporation. He is personally known to me or produced N/A as identification.



JANET H. DE GUEHERY
MY COMMISSION # FF 130342
EXPIRES: August 11, 2018
Bonded Thru Budget Notary Services

[Signature]
SIGNATURE
Janet H. de Guehery
NAME LEGIBLY PRINTED

My Commission Expires:

NOTARY PUBLIC

[Signature]
SIGNATURE
Antonia McCreath
NAME LEGIBLY PRINTED
[Signature]
SIGNATURE
Jean Belzer Louis
NAME LEGIBLY PRINTED

NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida not-for-profit corporation

By: [Signature]
Name: Lon Gopie
Title: Board Chair

As to Borrower

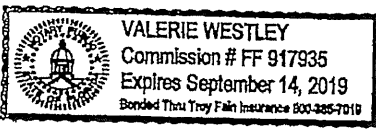
STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 9th day of December, 2016, by Lon Gopie, as Board Chair of NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida not-for-profit corporation, on behalf of the corporation. He/She is personally known to me or provided FL Driver's License as identification.

Valerie Westley
SIGNATURE
Valerie Westley
NAME LEGIBLY PRINTED

My Commission Expires: Sept. 14th 2019 NOTARY PUBLIC

And



[Signature]
SIGNATURE
Hammy McDaniel Anderson
NAME LEGIBLY PRINTED
[Signature]
SIGNATURE
Joan Belzer Louis
NAME LEGIBLY PRINTED

URBAN LEAGUE OF PALM BEACH COUNTY,
INC., a Florida not-for-profit corporation

By: [Signature]
Name: Patrick Franklin
Title: PRESIDENT & CEO

As to Borrower

STATE OF FLORIDA
COUNTY OF PALM BEACH

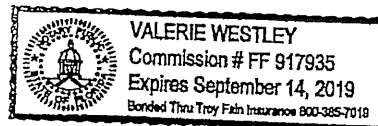
The foregoing instrument was acknowledged before me this 9th day of December, 2016, by Patrick Franklin, as President & CEO of URBAN LEAGUE OF PALM BEACH COUNTY, INC., a Florida not-for-profit corporation, on behalf of the corporation. He/She is personally known to me or provided FL Driver's License as identification.

Valerie Westley
SIGNATURE
Valerie Westley
NAME LEGIBLY PRINTED

NOTARY PUBLIC

My Commission Expires:

Sept. 14th, 2019



PREPARED BY AND RETURN TO:
Susan Holtrey
Florida Community Loan Fund, Inc.
501 N. Magnolia Avenue, Suite 100
Orlando, FL 32801

NOTE AND MORTGAGE MODIFICATION AND EXTENSION AGREEMENT

THIS NOTE AND MORTGAGE MODIFICATION AND EXTENSION AGREEMENT (the "Agreement") is entered into effective as of September 3, 2011, by and between FLORIDA COMMUNITY LOAN FUND, INC., a Florida not-for-profit corporation (the "Lender") and NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida not-for-profit corporation, and URBAN LEAGUE OF PALM BEACH COUNTY, INC., a Florida not-for-profit corporation, (collectively, the "Borrower"), and is made in reference to the following facts:

(A) At all times material hereto, the Borrower was and is the owner in fee simple title to the real properties and all improvements thereon located, more particularly described in any Mortgage described herein and made a part hereof (the "Property").

(B) On or about September 3, 2009, Lender made a secured loan to Borrower in the original principal amount of SIX HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$650,000.00) (the "Initial Loan"). The Initial Loan is evidenced and secured, among other things, by the following documents and instruments, all of which were dated as of September 3, 2009:

(i) \$650,000.00 Revolving Line of Credit Promissory Note executed by Borrower in favor of Lender in the original principal amount of the Loan (the "Note");

(ii) Mortgage and Security Agreement executed by Borrower in favor of Lender, the original of which is recorded in Official Records Book 23431, beginning at Page 1760, of the Public Records of Palm Beach County, Florida, and which encumbers the Property as a first mortgage lien thereon (the "Mortgage");

(iii) Assignment of Rents and Leases executed by Borrower in favor of Lender, the original of which is recorded in Official Records Book 23431, beginning at Page 1771, of the Public Records of Palm Beach County, Florida (the "Assignment");

(iv) UCC-1 Financing Statement, the original of which is recorded in Official Records Book 23431, at Page 1801, of the Public Records of Palm Beach County, Florida (the "UCC-1");

(v) Loan Agreement executed by Lender and Borrower and Construction Loan Agreement executed by Lender and Borrower (collectively, the "Loan Agreement"); and

- (vi) Other miscellaneous documents (collectively the "Other Documents").

The Mortgage, Assignment, UCC-1, Loan Agreement and Other Documents, will be sometimes collectively referred to below as the "Instruments of Security". The Note and the Instruments of Security will be sometimes collectively referred to below as the "Loan Documents". The Instruments of Security encumber the Property and all tangible and intangible personal property as described therein (collectively the "Collateral"), as a first lien thereon, as security for the Loan.

(C) The current outstanding principal balance of the Loan is SIX HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$650,000.00). The Loan matured on September 3, 2011 (the "Maturity Date"). Borrower has requested that Lender extend the Maturity Date of the Loan, and the Lender is agreeable to the same, subject to the terms and provisions of this Agreement.

NOW THEREFORE, in consideration of the mutual promises contained herein, and for other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The statements contained in the recitals of fact set forth above (the "Recitals") are true and correct and the Recitals are by this reference made a part of this Agreement.

2. Exhibits. Any exhibits that are attached to or referred to in this Agreement are by this reference made a part hereof.

3. Abbreviations and Definitions. The abbreviations and definitions set forth below will be used for purposes of this Agreement.

(a) The abbreviations of the parties contained in the Preamble will be used for purposes of this Agreement.

(b) The abbreviations and definitions contained in the Recitals will be used for purposes of this Agreement.

4. Warranties and Representations. Borrower warrants and represents to the Lender as follows:

(a) The Loan Documents are fully current with no defaults existing thereunder.

(b) Borrower has received good and valuable consideration for its execution of this Agreement, and all of the documents and instruments described herein.

(c) Borrower is the fee simple owner of the Property, free and clear of all liens, encumbrances and security interests, except for: (i) the Loan Documents; (ii) those items disclosed to Lender in Old Republic National Title Insurance Company Policy No. MPF-

8002458; and (iii) ad valorem and personal property taxes for the year 2011, currently due and payable, and for all subsequent years.

5. Modification of Note. The Note is hereby modified, amended, and supplemented, as of the date of this Agreement, as follows:

(a) The Maturity Date of the Loan shall be extended from September 3, 2011 until September 3, 2016, at which time all indebtedness evidenced by the Note, this Agreement and the Loan Documents (whether principal, accrued interest or otherwise) that remains unpaid shall be due and payable and shall be paid in full. The last day of the Term will be sometimes referred to below as the "Extended Maturity Date".

(b) Payments shall be due and payable and shall be paid at Post Office Box 3147, Orlando, Florida 32802-3147, or such other address as Lender shall designate from time to time, as follows:

(c) Monthly Payments. Accrued interest shall be due and payable and shall continue to be paid monthly on the last day of each month. Commencing March 31, 2012, principal and interest payments of Four Thousand Five Hundred Sixty-Five and 28/100 Dollars (\$4,565.28) shall be due and shall be payable on the last day of each month.

(ii) Extended Maturity Date. On the Extended Maturity Date, all indebtedness evidenced by the Note (whether unpaid principal, accrued interest or otherwise) that remains unpaid shall be due and payable and shall be paid.

6. Modification of Instruments of Security. The Instruments of Security are hereby modified, amended and supplemented, as of the date of this Agreement, to hereafter secure the Note as fully and completely as if the Instruments of Security had initially referred to this Agreement. Except as modified herein, all other terms and provisions of the Instruments of Security shall be fully and completely complied with by Borrower.

7. Other Provisions. Except as modified, amended and supplemented by this Agreement, all of the terms and provisions of the Loan Documents shall remain in full force and effect and shall be fully and strictly complied with by the Borrower.

8. Consent. Borrower consents to the execution of this Agreement and agrees that it shall be fully responsible and obligated for the Loan Documents, as modified by this Agreement.

9. Valid Existing Obligation. This Agreement modifies certain terms and conditions of a valid, existing obligation evidenced by the Loan Documents. The parties hereto agree that this Agreement is not intended to substitute or extinguish such valid, existing obligation, nor is this Agreement intended to effect a novation of such valid, existing obligation.

10. Waiver of Defenses. Borrower hereby waives in favor of Lender and its successors and assigns any claims or defenses which the Borrower has or may have with respect to the Loan Documents, or this Agreement, as of the date of this Agreement, and further agrees

not to raise any such claims or defenses, if any, against Lender or its successors or assigns in any civil proceedings or otherwise.

11. Release. The parties hereto, except the Lender, hereby, for themselves, and their legal representatives, successors, predecessors, heirs and assigns, and their officers, directors, stockholders, agents, and employees release, acquit and forever discharge the Lender and its officers, directors, stockholders, agents, employees, legal representatives, successors and assigns of and from any and all claims, demands, debts, actions and causes of action, which they now have against the Lender and its officers, directors, stockholders, agents, employees, legal representatives, successors and assigns, by reason of any act, matter, contract, agreement or thing whatsoever up to the date hereof.

12. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision hereof shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity only, without invalidating the remainder of such provision or of the remaining provisions of this Agreement.

13. Default. Any default under the terms and provisions of the Loan Documents or this Agreement or any instrument set forth herein or contemplated hereby shall be and is a default under every other instrument set forth herein or contemplated hereby.

14. Florida Contract. This Agreement shall be deemed a Florida contract and construed according to the laws of such state, regardless whether this Agreement is being executed by any of the parties hereto in other states or otherwise. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing the Agreement to be drafted. If any words or phrases in this Agreement shall have been stricken out or otherwise eliminated, whether or not any of the words or phrases have been added, this Agreement shall be construed as if the words or phrases so stricken out or otherwise eliminated. All terms and words used in this Agreement regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require.

15. Waiver. No failure of the Lender to exercise any power given to Lender hereunder or to insist upon strict compliance by the Borrower in its obligations hereunder, and no custom or practice of the parties in variance with the terms hereof, shall constitute a waiver of the Lender's right to demand exact compliance with the terms hereof.

16. Cumulative Rights. All rights, powers and privileges conferred hereunder upon the Lender, unless otherwise provided herein, shall be cumulative and not restricted by those given in law.

17. Binding Effect. This Agreement shall bind the successors and assigns of the parties hereto; it constitutes the entire understanding of the parties, and it may not be modified except in writing.

18. Indemnification. Borrower hereby agrees to indemnify and hold Lender harmless from and against any and all loss, damage, cost and expense, including attorney's fees, that the Lender may incur or sustain by reason of the assertion of a claim or ruling by a governmental entity that documentary stamp tax, intangible tax or any penalties or interest associated therewith must be paid by reason of the execution and delivery of any of the Loan Documents, or this Agreement, or any subsequent renewals, modifications or amendments of the Loan Documents or this Agreement.

19. Execution. This Agreement shall not be effective nor shall it have any force and effect whatsoever until all of the parties hereto have duly executed this Agreement.

20. Headings. The headings of the paragraphs contained in this Agreement are for convenience of reference only and do not form a part hereof and in no way modify, interpret or construe the meaning of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, and shall be deemed to have executed such, on the day and year first above written.

Signed, sealed and delivered
in the presence of:

Janet H. de Guehery
SIGNATURE

Janet H. de Guehery
NAME LEGIBLY PRINTED

Susan B. Holtrey
SIGNATURE

Susan B. Holtrey
NAME LEGIBLY PRINTED

FLORIDA COMMUNITY LOAN FUND, INC., a
Florida not-for-profit corporation

By: [Signature]
Ignacio Esteban, Executive Director

(CORPORATE SEAL)

As to Lender

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 13 day of Jan, 2012, by Ignacio Esteban, Executive Director of FLORIDA COMMUNITY LOAN, INC., a Florida not-for-profit corporation, on behalf of the corporation. He is personally known to me or produced N/A as identification.

Janet H. de Guehery
SIGNATURE

Janet H. de Guehery
NAME LEGIBLY PRINTED



My Commission Expires:

JANET H. DE GUEHERY
MY COMMISSION # EE 006750
EXPIRES: August 11, 2014
Bonded Thru Budget Notary Services

NOTARY PUBLIC

SIGNATURE _____
NAME LEGIBLY PRINTED Jose Alvarado
SIGNATURE _____
NAME LEGIBLY PRINTED _____

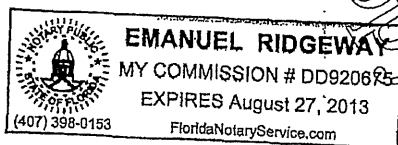
NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida not-for-profit corporation

By: _____
Name: Lion Gopie
Title: Board Chair

As to Borrower

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 19 day of January, 2012, by Lion Gopie, as Board Chair of NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida not-for-profit corporation, on behalf of the corporation. He/She is personally known to me or provided _____ as identification.



SIGNATURE
NAME LEGIBLY PRINTED _____

NOTARY PUBLIC

My Commission Expires:

And

SIGNATURE _____
NAME LEGIBLY PRINTED _____
SIGNATURE _____
NAME LEGIBLY PRINTED _____

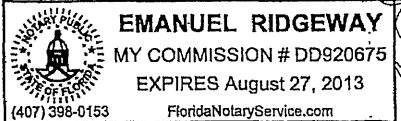
URBAN LEAGUE OF PALM BEACH COUNTY,
INC., a Florida not-for-profit corporation

By: [Signature]
Name: Lon Goble
Title: Board Chair

As to Borrower

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 19 day of January,
2012, by Lon Goble, as Board Chair of URBAN LEAGUE OF PALM
BEACH COUNTY, INC., a Florida not-for-profit corporation, on behalf of the corporation.
He/She is personally known to me or provided _____ as identification.



[Signature]
SIGNATURE _____
NAME LEGIBLY PRINTED _____

NOTARY PUBLIC

My Commission Expires:

CFN 20090309836
OR BK 23431 PG 1760
RECORDED 09/04/2009 16:55:00
Palm Beach County, Florida
AMT 650,000.00
Deed Doc 2,275.00
Intang 1,300.00
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1760 - 1770; (11pgs)

RETURN TO:
J. Michael Haygood
Haygood and Harris
1531 Forum Place, Suite 400B
West Palm Beach, FL 33401

PREPARED BY:
Susan Holtrey
Florida Community Loan Fund, Inc.
501 N. Magnolia Avenue, Suite 100
Orlando, Florida 32801

MORTGAGE AND SECURITY AGREEMENT

Date: September 3rd, 2009

Borrower: NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC.
1700 Australian Avenue North
West Palm Beach, FL 33407

And

URBAN LEAGUE OF PALM BEACH COUNTY, INC.
1700 Australian Avenue North
West Palm Beach, FL 33407

Lender: FLORIDA COMMUNITY LOAN FUND, INC.
501 N. Magnolia Avenue, Suite 100
Orlando, Florida 32801

1. MORTGAGE. For good and valuable consideration received by Borrower, the receipt and sufficiency of which are hereby acknowledged, Borrower hereby grants, bargains, sells, assigns, transfers, and conveys to Lender, its successors and assigns, the real estate (the "Land") legally described as:

See attached Exhibit A

together with the following: (a) Improvements. All buildings, structures, and other improvements of any nature now or hereafter situated in whole or in part upon the Land, regardless of whether physically affixed thereto or severed or capable of severance therefrom; (b) Appurtenances. The benefit of all easements and other rights appurtenant to the Land or the Improvements, or both, the benefit of all rights-of-way, streets, alleys, drainage rights, sanitary sewer and potable water rights, stormwater drainage rights, and rights of ingress and egress to the Land and all adjoining property; (c) Tangible Property. All of Borrower's right, title and interest, if any, in and to all fixtures, equipment and tangible personal property that is now

or hereafter attached, affixed, situated upon or about the Land, Appurtenances, or Improvements, including: heating, air conditioning, lighting, pipes, pumps, conduits, wiring, plumbing, ventilating, stoves, ovens, ranges, disposal units, dishwashers, water heaters, exhaust systems, refrigerators, cabinets, partitions, rugs, draperies, carpets, laundry equipment, and any additions, replacements, and substitutions of the foregoing.

The Land, Improvements, Appurtenances, and Tangible Property are collectively referred to as the "Mortgaged Property" or "Collateral" in this Mortgage.

2. **SECURITY AGREEMENT.** To the extent any of the Collateral encumbered by this Mortgage from time to time constitutes personal property subject to the provisions of the Uniform Commercial Code, this Mortgage constitutes a "Security Agreement" for all purposes under the Uniform Commercial Code. Upon the occurrence of a Default under this Mortgage, Lender will have all rights, powers, privileges and remedies available to a secured party under the provisions of the Uniform Commercial Code with respect to the Collateral, at Lender's election.

3. **AFTER-ACQUIRED PROPERTY.** Without the necessity of any further act of Borrower or Lender, the lien of any security interest created by this Mortgage automatically will extend to and include any and all renewals, replacements, substitutions, proceeds, products or after-acquired property for or to the Collateral, and any and all monies, proceeds and other property that from time to time, either by delivery to Borrower or by any instrument (including this Mortgage) may be subjected to such lien and security interest by Borrower or by anyone on behalf of Borrower, or with the consent of Borrower, or which otherwise may come into the possession or otherwise be subjected to the control of Lender or Borrower pursuant to this Mortgage or the other Loan Documents.

4. **DEBT.** Borrower is indebted to Lender in the principal amount of up to \$650,000.00 or so much as may be advanced to Borrower by Lender from time to time, as evidenced by the Promissory Note of even date herewith made by Borrower, payable to the order of Lender and maturing on September __, 2011 (which Note, together with any and all renewals, replacements, extensions, modifications, substitutions, future advances and any other evidence of indebtedness evidenced by said Note is herein called the "Note". The Note, those certain Loan Agreements of even date between Borrower and Lender (the "Agreements"), UCC-1 Financing Statements ("UCC's") and this Mortgage are referred to collectively as the "Loan Documents".

5. **TITLE WARRANTIES.** Borrower covenants with Lender that: (a) Borrower is indefeasibly seized of the Land in fee simple, has good and marketable title to the Collateral and has full power, lawful right and authority to convey the same in fee simple and to grant Lender a perfected first lien mortgage and security interest in the Collateral, and (b) the Collateral is free and clear of all liens, encumbrances, restrictions, and security interests of any nature, except for those permitted encumbrances which Lender has previously approved.

6. **LIENS.** Borrower will not create or permit to be created, or to remain, and will promptly discharge at Borrower's expense any and all liens or encumbrances upon, or security interests in, the Collateral.

7. **TAXES AND OTHER IMPOSITIONS.** Borrower will pay or cause to be paid when due

all taxes, including real and personal property taxes, all general and special assessments, levies, permits, inspection and license fees, water and sewer rents and charges, and all other public charges (collectively called "Impositions") imposed upon or assessed against it or the Collateral. The Borrower will deliver to the Lender, upon Lender's request, receipts evidencing the payment of such Impositions.

8. **INSURANCE.** Borrower shall maintain, at Borrower's cost and expense, the following insurance coverages in full force and effect at all times: (a) Builder's Risk insurance. Borrower shall keep the Collateral insured at all times against loss or damage by fire and other hazards included within the term "all risk" or "extended coverage" and against such other hazards as Lender may require in the full insurable value thereof, with an insurer satisfactory to Lender; (b) Flood insurance. If applicable, Borrower shall maintain flood insurance in the maximum amount available if at any time the Collateral is located in a "Flood Hazard Area" pursuant to the Flood Disaster Protection Act of 1973 or any successor or supplemental act thereto; (c) Other insurance. General liability, excess/umbrella liability, automobile liability, worker's compensation and employers' liability, wind damage insurance, and other insurance coverage as Lender may reasonably require. The policy or policies of insurance shall: (a) be from companies and in coverage amounts acceptable to Lender, (b) contain a standard mortgagee clause in favor of Lender naming Lender as loss payee and certificate holder on such policy, as applicable, (c) not be terminable or modified without thirty (30) days' prior written notice to Lender, and (d) be evidenced by original policies, certified copies or original certificates, as Lender elects. Borrower shall furnish Lender satisfactory evidence of payment of all premiums required and similar evidence of renewal or replacement coverage not later than thirty (30) days prior to the date any coverage will expire. All policies shall indicate that notices related to such insurance shall be sent to Lender at Lender's address stated in this Mortgage. If any loss occurs with respect to the Collateral, Lender is hereby appointed attorney-in-fact for Borrower to make proof of loss if Borrower fails to make the same punctually, and to give a receipt for any proceeds collected under such policies. Borrower will promptly give written notice to Lender of any loss or damage to the Collateral, and will not adjust or settle any such loss without Lender's prior written consent. The foregoing appointment of Lender as attorney-in-fact for Borrower is coupled with an interest, and is irrevocable.

9. **CONDEMNATION.** If all or any part of the Collateral is taken as a result of, or in lieu or in anticipation of, the exercise of the right of condemnation or eminent domain, or by reason of the temporary requisition of the use or occupancy of the Collateral, in any event by any government or quasi-governmental authority, civil or military, or any other party entitled to exercise such powers by law, or is devalued or otherwise adversely affected by any of the foregoing actions, all proceeds payable with respect to any such action, up to and including the total sums secured by this Mortgage and the Loan Documents, are assigned to Lender and shall be paid to Lender.

10. **PROCEEDS.** All proceeds payable with respect to any casualty, loss, liability, damages or condemnation involving the Collateral as provided in the preceding two paragraphs are hereby assigned to Lender and shall be payable to Lender. Lender shall have the option to apply said proceeds or awards in reduction of the Debt, whether due or not, or to release them to Borrower.

11. **MAINTENANCE, REPAIRS AND RECONSTRUCTION.** Borrower shall make all repairs, renewals, replacements, servicing and reconstruction that are necessary to maintain the

Mortgaged Property in good order, condition and repair. Borrower will promptly notify Lender of any damage to the Mortgaged Property resulting from fire or other casualty or of any pending or threatened condemnation proceedings; Borrower shall undertake all restoration required or desirable and will pursue it diligently to completion. Lender and any persons authorized by Lender may enter the Mortgaged Property at all reasonable times without prior reasonable notice for inspections or for any other lawful purpose. If Borrower fails to comply with the requirements of this paragraph, then Lender, without waiving the option to foreclose, may take some or all measures Lender deems necessary or desirable for the maintenance, repair, preservation or protection of the Mortgaged Property, and any expenses reasonably incurred by Lender in so doing shall become part of the Debt secured hereby, and shall, at the option of Lender, become immediately due and payable, and shall bear interest at the Default Rate specified in the Note. Lender shall have no obligation to care for or maintain the Mortgaged Property, or, having taken some measures therefor, to continue same or take other measures.

12. **ADVANCES.** If Borrower defaults in the observance or performance of any of the provisions of the Loan Documents, then Lender, without waiving or otherwise impairing any other of its rights or remedies, at its sole option and without obligation to do so, and without demand upon Borrower, may make any such payment or take such action as Lender deems necessary or appropriate to correct such Default to protect the security of the Collateral encumbered by the Mortgage. All payments so made, together with all costs and expenses so incurred, will be added to the principal amount due under the Note and thereafter will bear interest at the rate then payable as provided for in the Note and will be secured by the lien and security interest granted by the Security Documents. Borrower will immediately, upon demand, pay all sums so expended by Lender with interest as stated above.

13. **BOOKS AND RECORDS.** Borrower will keep proper books or record and account in which full, true and correct entries will be made of its transactions with respect to the Collateral in accordance with generally accepted accounting principles, consistently applied and which will properly and correctly reflect all times of income and expense in connection with the operation of the Collateral. Lender will have the right to examine all such books, records and accounts at Borrower's office during normal business hours, and to make such copies or extracts as Lender may desire, at Borrower's expense.

14. **NOTICES.** Any notice or demand that must or may be given or made in connection with this Mortgage must be in writing and, unless receipt is expressly required, will be deemed given, delivered or made, as the case may be, when delivered by personal delivery or when mailed by overnight delivery service or by certified or registered mail, return receipt requested, addressed to the parties at the addresses written on the first page of this Mortgage. Such addresses may be changed by notice pursuant to this paragraph. Notice of change of address is effective only upon receipt.

15. **FINANCIAL STATEMENTS.** Borrower shall submit quarterly, if requested, and annual financial statements which shall include a Statement of Financial Position (balance sheet), a Statement of Activities (revenue and expenses), a statement showing contingent liabilities, detailed cash flow statements for each project in which Borrower has an interest, and any supporting schedules or documentation Lender may require. If unaudited, quarterly financial statements must contain a certification to Lender of the statement's accuracy and completeness signed by an authorized officer of Borrower. Said quarterly financial statements shall be provided within 45 days of each quarter-end, and shall include a year-to-date vs actual

operating budget, and current rent roll, if applicable. Audited annual statements shall bear the unqualified opinion of an acceptable certified public accountant, and be submitted within one hundred twenty (120) days of Borrower's fiscal year-end.

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DEFAULT. The occurrence of any of the following (time being of the essence as to this Mortgage and all of its provisions) constitutes a "Default" by Borrower under this Mortgage and, at the option of Lender, under the other Loan Documents: (a) Scheduled Payment. Borrower's failure to make any payment required by the Note without notice or demand. (b) Monetary Default. Borrower's failure to make any other payment required by this Mortgage or the other Loan Documents after any required notice thereof by Lender. (c) Other Obligations. Borrower's failure to perform any other obligation imposed upon Borrower by this Mortgage or the other Loan Documents within the time period therein specified, or as may be specified by Lender, if in the sole opinion of Lender such Default is curable. This provision shall not be construed to provide Borrower with any grace period in complying with any obligations imposed on Borrower by the terms of the Loan Documents. (d) Representation. Any representation or warranty of Borrower contained in this Mortgage or in any other instrument or statement furnished in connection herewith, proves to be false, incorrect, incomplete or misleading in any material adverse respect as of the time when the same shall have been made, including without limitation, the loan application, financial statements and operating statements furnished by Borrower to Lender or pursuant to any provision of this Mortgage. (e) Bankruptcy. Borrower files a voluntary petition in bankruptcy or a petition or answer seeking or acquiescing in any reorganization or for an arrangement, composition, readjustment, liquidation, dissolution, or similar relief for itself pursuant to the United States Bankruptcy Code or any similar law or regulation, federal or state relating to any relief for debtors, now or hereafter in effect; or makes an assignment for the benefit of creditors or admits in writing its inability to pay or fails to pay its debts as they become due; or suspends payment of its obligations or takes any action in furtherance of the foregoing; or consents to or acquiesces in the appointment of a receiver, trustee, custodian, conservator, liquidator or other similar official of Borrower, of the Collateral or other assets of either; or has filed against it an involuntary petition, arrangement, composition, readjustment, liquidation, dissolution, or an answer proposing an adjudication of it as a bankrupt of insolvent, or is subject to a reorganization pursuant to the United States Bankruptcy Code, an action seeking to appoint a trustee, receiver, custodian, or conservator or liquidator, or any similar law, federal or state, now or hereafter in effect, and such action is approved by any court of competent jurisdiction and the order approving the same shall not be vacated or stayed within thirty (30) days from entry; or consents to the filing of any such petition or answer, or shall fail to deny the material allegations of the same in a timely manner. (f) Judgments. A final judgment is entered against Borrower that adversely affects the value, use or operation of the Collateral, or adversely affects the validity, enforceability or priority of the lien or security interest created by this Mortgage or the other Loan Documents; or execution or other final process issues thereon with respect to the Collateral; and Borrower does not discharge the same or provide for its discharge in accordance with its terms, or procure a stay of execution thereon, in any event within thirty (30) days from entry, or Borrower shall not, within such period or such longer period during which execution on such judgment shall have been stayed, appeal therefrom or from the order, decree or process upon or pursuant to which such judgment shall have been entered, and cause its execution to be stayed during such appeal, or if on appeal such order, decree or process shall be affirmed and Borrower shall not discharge such judgment or provide for its discharge in accordance with its terms within sixty (60) days after the entry of such order or decree or affirmation, or if any stay of execution on appeal is released or otherwise discharged. (g) Liens. Any federal, state or local tax lien or any claim of lien for labor or materials or any

other lien or encumbrance of any nature whatsoever is recorded against Borrower or the Collateral and is not removed by payment or transferred to substitute security in the manner provided by law, within fifteen (15) days after it is recorded in accordance with applicable law. (h) Default Under Loan Documents. Borrower's default in the payment or performance of any of Borrower's obligations under any of the Loan Documents, including this Mortgage. (i) Borrower's Continued Existence. Borrower shall cease to exist or to be qualified to do or transact business in the State of Florida or be dissolved or shall be a party to a merger or consolidation, or shall sell all or substantially all of its assets. (j) Transfer Of Collateral. Any sale, conveyance, transfer, assignment or other disposition of the Collateral or any ownership interest in Borrower in violation of paragraph 20 below. (k) Other Foreclosure Proceedings. Foreclosure proceedings are instituted against the Collateral covered by this Mortgage upon any other lien or claim whether alleged to be superior or junior to the lien of this Mortgage.

17. CROSS COLLATERAL AND CROSS-DEFAULT. This Mortgage shall secure Borrower's prompt payment and performance of (a) the Note; (b) Borrower's obligations to Lender under all documents executed in connection with the Note and this Mortgage; and (c) all other obligations of Borrower to Lender, however and whenever created. A default in any obligation of Borrower shall constitute a default under this Mortgage.

18. REMEDIES. Upon the occurrence and continuance, if applicable, of any Default, Lender may exercise any one or more of the following rights and remedies, in addition to all other rights and remedies otherwise available at law or in equity: (a) Loan Documents. To pursue any right or remedy provided by the Loan Documents. (b) Acceleration. To declare the entire unpaid amount of the Debt together with all accrued and unpaid interest thereon immediately due and payable with interest to be due thereon at the Default Rate set forth in the Note. (c) Foreclosure. To foreclose the lien of this Mortgage and obtain possession of the Collateral, by any lawful procedure. (d) Code Rights. To exercise any right or remedy available to Lender as a secured party under the Uniform Commercial Code as adopted by the State of Florida, as it from time to time is in force and effect, with respect to any portion of the Collateral then constituting property subject to the provisions of such Code; or Lender may elect to treat the Collateral as real property, or an interest therein, for remedial purposes. (e) Receiver. To apply, on ex parte motion, to any court of competent jurisdiction for the appointment of a receiver to take charge of, manage, preserve, protect, complete construction of, rent, and operate the Mortgaged Property; to make all necessary and needed repairs, to pay all taxes, assessments, insurance premiums and other costs incurred in connection with the Collateral; and after payment of the expenses of the receivership and compensation to the receiver for any of the services described herein, to apply all net proceeds derived therefrom in reduction of the Debt or in such other manner as the court shall direct. The receiver may exclude Borrower wholly from the Mortgaged Property and have, hold, use, operate, manage and control the Mortgaged Property and may, in the name of Borrower, exercise all of Borrower's rights and powers to maintain, construct, operate, restore, and insure the Mortgaged Property in such manner as such receiver deems appropriate. (f) Advances. To advance such monies and take such other action as is authorized by paragraph 12 herein.

19. WAIVER OF CERTAIN RIGHTS. Borrower waives, to the extent that it lawfully may, all rights to have the Collateral and any other security for the Debt marshalled upon any foreclosure or otherwise. Borrower hereby waives and renounces all homestead and exemption rights provided for by the Laws of the United States of America and the State of Florida, in and to the Collateral as against the collection of the Debt.

20. TRANSFER. Borrower may not contract, sell, convey, assign, transfer or otherwise dispose of any interest in the Collateral without Lender's consent. Whether such transfer is voluntary or involuntary, or by operation of law, any such transfer will be void as to Lender, and constitute an immediate Default under this Mortgage, without notice in the sole discretion of Lender.

21. FUTURE ADVANCES. This Mortgage is given to secure not only the existing Debt, but also such future advances, whether such advances are obligatory or are to be made at the option of Lender, which are made within twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of Debt that may be so secured may decrease or increase from time to time, but the maximum possible principal debt so secured at one time shall not exceed three times the original sum of the Note as set forth above plus interest thereon, and any disbursements made for the payment of taxes, levies or insurance on the Collateral, with interest on such disbursements at the rate then in effect pursuant to the terms of the Note.

22. SATISFACTION. The lien and security interest provided by the Loan Documents will continue unimpaired and in full force and effect unless and until the Debt is paid in full, whereupon such lien and security interest will be satisfied without further force or effect.

23. HAZARDOUS MATERIALS. Borrower represents and warrants to Lender that the Collateral has not in the past been used nor is presently being used and will not in the future be used for the handling, storage, transportation or disposal of hazardous or toxic materials, including asbestos insulation. Borrower agrees to indemnify, defend and hold harmless the lender from and against any loss, cost or expense incurred by Lender, including without limitation, attorneys' fees at both trial and appellate levels, incurred by the Lender as a result of such past, present or future use, handling, storage, transportation or disposal of hazardous or toxic materials, including asbestos insulation. Borrower's indemnification obligation hereunder shall be one of strict liability and shall be enforceable without regard to any fault or knowledge of Lender with respect to any act or omission or condition or event which is the basis of the claim under such indemnification obligation. Borrower's obligation under this section shall not be limited to any extent to the term of the Note or other obligations secured hereby, and such obligation shall continue, survive and remain in full force and effect notwithstanding payment in full or other satisfaction or release of said Note, and this Mortgage or any foreclosure under this Mortgage or any delivery of a deed in lieu of foreclosure. The provisions of this section shall be deemed to survive and continue in full force and effect after any foreclosure or other proceeding by which Lender, its successors and assigns, succeed to ownership of the Property.

24. APPRAISALS. If at any time and for any reason Lender determines that the value of the Collateral may have declined or be less than Lender previously anticipated, within sixty (60) days from Lender's written request to Borrower, Borrower shall provide to Lender, at Borrower's sole cost and expense, a current appraisal of the Collateral in form and content as required by Lender.

25. TAXATION OF MORTGAGE. In the event of the passage, after the date of this Mortgage, of any federal, state or local law changing in any way the laws for the taxation of mortgages or debts secured by mortgages, or the manner of the collection of any such taxes, and imposing a tax on any or all of the Loan Documents, excluding income taxes to the Lender

based on the Mortgage, Lender shall have the right to declare the Debt due on a date to be specified by not less than sixty (60) days written notice given to Borrower by Lender; provided, however, that such election shall be ineffective if Borrower is permitted by law to pay the tax in addition to all other payments required hereunder, and if Borrower, prior to such specified date, does pay such tax and agrees to pay any such tax when thereafter levied or assessed, and such agreement shall not constitute a modification of this Mortgage.

26. DEPOSITS. If required by Lender, Borrower will pay to Lender on the last day of each and every consecutive month, a sum equal to one-twelfth (1/12th) of the annual amount necessary to pay taxes assessed with respect to the Collateral and insurance required to be maintained by the Mortgage. All such sums paid to Lender shall be applied by Lender to the payment of such taxes and insurance.

27. JUDGMENT. Lender may seek and recover a judgment for all amounts due and payable in accordance with the Note or under this Mortgage either before, after or during the pendency of any other proceedings or action to obtain relief under or with respect to any of the Loan Documents. Lender's right to seek and recover any such judgment will not be affected by obtaining any other such relief. Lender will continue to be entitled to enforce payment of, and to seek and recover a judgment for, any portion of the Debt remaining due and payable after the application of any proceeds of any sale of the Collateral pursuant to law. Neither the lien nor security interest of this Mortgage, nor any rights or remedies of Lender hereunder or under any of the Loan Documents, will be impaired in any way by the recovery of any judgment by Lender against Borrower, or by the levy of an execution under such judgment upon any portion of the Collateral, until the Debt is paid in full. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided under this provision and other provisions of the Loan Documents, including, but not limited to, reasonable attorney fees.

28. ESTOPPEL LETTERS. If requested, from time to time, by either Borrower or Lender, and within ten (10) days after any such request, Borrower or Lender, as the case may be, will execute and deliver to or at the direction of Lender or Borrower, as the case may be, such estoppel letters certifying such matters relating to this Mortgage or the Loan Documents, or both, as may reasonably be required.

29. TIME OF THE ESSENCE. Time is of the essence with respect to each and every covenant, agreement, and obligation of Borrower under this Mortgage and the other Loan Documents, and any and all other instruments now or hereafter evidencing, securing or otherwise relating to the Debt.

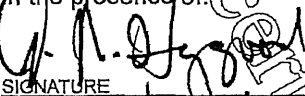
30. ORAL MODIFICATION INEFFECTIVE. No term of this Mortgage or any other of the Loan Documents may be waived, changed, modified, discharged or terminated except by an instrument in writing signed by the party against which enforcement of the waiver, change, modification, discharge or termination is sought.


31. WAIVER OF TRIAL BY JURY. BY ACCEPTANCE HEREOF, BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY AND ALL RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION (INCLUDING, BUT NOT LIMITED TO) ANY CLAIMS, CROSS CLAIMS OR THIRD PARTY CLAIMS ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE, THE NOTE, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREIN. BORROWER HEREBY


CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF THE LENDER NOR THE LENDER'S COUNSEL HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE LENDER WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. BORROWER ACKNOWLEDGES THAT THE LENDER HAS BEEN INDUCED TO ENTER INTO THIS LOAN, INCLUDING THIS MORTGAGE, BY, INTER-ALIA, THE PROVISIONS OF THIS PARAGRAPH.

IN WITNESS WHEREOF, Borrower has executed and delivered this Mortgage the date stated above

Signed, sealed and delivered in the presence of:

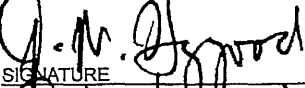

SIGNATURE



NAME LEGIBLY PRINTED

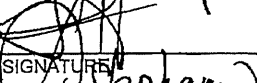

SIGNATURE


NAME LEGIBLY PRINTED

Signed, sealed and delivered in the presence of:



SIGNATURE


NAME LEGIBLY PRINTED


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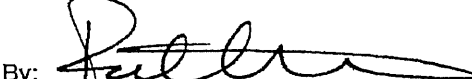

NAME LEGIBLY PRINTED

NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida non-profit corporation

By: 
Name: PATRICK FRANKLIN
Title: PRESIDENT / CEO

and

URBAN LEAGUE OF PALM BEACH COUNTY, INC., a Florida non-profit corporation

By: 
Name: PATRICK FRANKLIN
Title: PRESIDENT / CEO

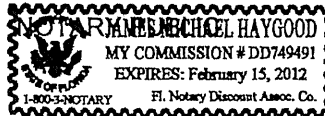
STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 2nd day of September, 2009 by Patricia Franklin as President of New Urban Community Development Corporation, Inc., a Florida non-profit corporation, on behalf of the corporation.

Personally Known OR Produced Identification
Type of Identification Provided _____

J. M. Haygood
SIGNATURE
J. M. Haygood
NAME LEGIBLY PRINTED

(SEAL)
My Commission Expires:



STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 2nd day of September, 2009 by Patricia Franklin as President of Urban League of Palm Beach County, Inc., a Florida non-profit corporation, on behalf of the corporation.

Personally Known OR Produced Identification
Type of Identification Provided _____

J. M. Haygood
SIGNATURE
J. M. Haygood
NAME LEGIBLY PRINTED

(SEAL)
My Commission Expires:

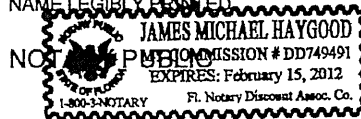


Exhibit A

Lots 8, 9, 10, 11 and 12, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH
AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof,
recorded in Plat Book 8, Page 22, of the Public Records of Palm Beach County, Florida

CONDITIONAL LOAN AGREEMENT

THIS AGREEMENT, dated as of this ____ day of APR 21 2009, 2009, by and between Palm Beach County, a political subdivision of the State of Florida, (hereinafter referred to as the "County") and NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida not-for-profit corporation, whose Federal I.D. number is 020620273 (the "Borrower").

RECITALS:

(a) Borrower is the owner of real property located in West Palm Beach, Palm Beach County, Florida, as more particularly described in Exhibit "A", attached hereto and made a part hereof, (the "Premises").

(b) Borrower had previously been awarded a loan utilizing Palm Beach County HOME funds in the amount of \$337,096.00 on April 5, 2005 (R-2005-0652), as amended for this project. Due to unforeseen delays, the later was not able to close in the time frame allowed by the HOME loan documents.

(b) Borrower has applied to the County for a Conditional Loan in the principal amount of \$687,096.00 (the "Conditional Loan") to be used by Borrower. The \$687,096.00 will be comprised of \$350,000.00 SHIP funds and \$337,096.00 HOME funds. Borrower intends to construct a townhome project, which will include eleven (11) affordable rental townhomes for very-low and low-income families. This project shall be known as HENRIETTA TOWNHOUSES.

(c) Borrower and the County have negotiated the terms and conditions of, and wish to enter into, this Agreement in order to set forth the terms and conditions for the disbursement of the Conditional Loan.

(d) Florida Community Loan Fund has agreed to finance \$650,000.00 for the construction of the improvements on the Premises pursuant to a separate loan to Borrower, secured by a mortgage encumbering the Premises (the "Construction First Mortgage").

(e) The Comerica Bank has agreed to finance up to \$700,000.00 pursuant to a loan to Borrower, secured by a mortgage encumbering the Premises (the "Permanent First Mortgage") which will replace the Construction First Mortgage. References to "First Mortgage" throughout this Agreement shall refer to either the Construction First Mortgage or the Permanent First Mortgage, whichever is in place at the applicable time.

(f) The City of West Palm Beach has agreed to finance Nine Hundred Sixty-Seven Thousand Eight Hundred Thirty-Three Dollars (\$967,833.00) pursuant to a separate loan agreement, secured by a mortgage encumbering the Premises (the "Co-Second Mortgage").

(g) The National Urban League has agreed to grant Fifty Thousand Dollars (\$50,000) for pre-development costs.

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, Borrower and the County agree as follows:

1. RESCISSION OF PRIOR AGREEMENT. The parties agree that the Agreement entered into between Palm Beach County and Borrower on April 5, 2005 (R-2005-0652), as amended, is rescinded and replaced in its entirety by this Agreement.

2. THE CONDITIONAL LOAN. The County shall make the Conditional Loan to Borrower in an amount not to exceed Six Hundred Eighty-Seven Thousand Ninety-Six Dollars (\$687,096.00) upon the terms and conditions set forth herein, the

Promissory Note attached hereto as Exhibit "B" and the Mortgage and Security Agreement attached hereto as Exhibit "C", and Borrower shall take the Conditional Loan and expressly agrees to comply with and to perform all of the terms and conditions of the Conditional Loan Agreement, the Promissory Note, the Mortgage and Security Agreement and any other documents evidencing and securing the Conditional Loan (collectively hereinafter referred to as the "Conditional Loan Documents"). The closing of the Conditional Loan shall occur at the office of the County Attorney or such other mutually agreed upon site no later than December 18, 2009.

3. RIGHT TO AUDIT. The Borrower shall maintain adequate records to justify all charges, expenses and costs incurred for the acquisition of the Premises and the completion of the Improvements for at least three (3) years after completion. The County shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Borrower's place of business.

4. ANNUAL REPORT. The Borrower shall provide an Annual Report to the COUNTY (i.e., to the Palm Beach County Commission on Affordable Housing) no later than thirty (30) days following the end of each State Housing Initiative Partnership (SHIP) Program fiscal year (by July 30th). The Annual Report format and spreadsheet is listed as Exhibit "D". In addition to the Annual Report, the Borrower shall provide the Commission on Affordable Housing with a detailed progress report for the nine townhome rental project that are not fully completed and occupied by income eligible applicants. This progress report will include an updated timeline for the completion of construction and occupancy of the SHIP assisted units. An Annual Report must be submitted each year for the entire affordability period.

5. CONDITIONS PRECEDENT TO CLOSING. The conditions listed below are a condition precedent to the County's acceptance of the Mortgage document and disbursement of funds and shall be complied with in form and substance satisfactory to the County prior to the closing:

(a) Title Insurance:

(i) Within thirty (30) days of the effective date hereof, Borrower shall deliver to County a title commitment issued by a title insurance company qualified to do business in the State of Florida and acceptable to County, agreeing to issue to County upon recordation of the Mortgage a Lender's Title Insurance Policy in the amount of the Loan, subject only to the Permitted Exceptions listed on Exhibit "E" attached hereto and made a part hereof. Said commitment shall have attached to it copies of all exceptions referred to in the title commitment. The cost of said title commitment and policy and any premium therefore shall be borne by Borrower.

(ii) County shall have fifteen (15) days after receipt of the title insurance commitment in which to review the same. In the event the title insurance commitment shall show as an exception any matter other than the Permitted Exceptions, County shall notify Borrower of its objections thereto and Borrower shall act to remove such exceptions, which exception shall be deemed to constitute title defects. The Borrower shall be entitled to thirty (30) days from the day of notification (with the extension of the Closing Date if necessary) within which to cure such defects or make arrangements with the title insurer for the removal of any such objections from the commitment. If the defect shall not have been so cured or removed from the commitment by endorsement thereto with the termination of said thirty (30) day period, the County shall have the option of accepting title as it then exists or terminating the Conditional Loan Agreement, by giving written notice thereof to Borrower, in which event the parties shall be relieved of all further obligations hereunder.

(iii) The title insurance commitment shall be endorsed at closing to remove any and all requirements or pre-conditions to the issuance of a Lender's Title Insurance Policy, and to delete any exceptions for: (a) any rights or claims of parties in

possession not shown by the public records; (b) encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the Premises; (c) unrecorded easements and claims of liens; (d) taxes for the year of closing and all prior years; (e) matters arising or attaching subsequent to the effective date of the commitment but before the Declaration of Restrictive Covenants becomes recorded in the Public Records.

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

(i) the location of the perimeter of the Premises by courses and distances and perimeter footings in place, and by reference to Township, Range, Section:

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

(iii) the location of all building setback lines;

(iv) the lines of the streets abutting the Premises and the width thereof;

(v) all encroachments, and the extent thereof in feet and inches upon the Premises;

(vi) if the Premises are described as being on a filed map, a legend relating the plat of survey to such map;

(vii) flood zone certification; and

(viii) any other notations required for the deletion of the survey exception from the Title Insurance Policy to be issued in accordance with paragraph 4(a) above and any other requirements requested by the County.

(ix) within thirty (30) days of replatting of the subject property, Borrower shall deliver an updated survey to the County.

(c) Note: The Note, in a form acceptable to the County Attorney, shall be duly authorized, executed and delivered to the County;

(d) Mortgage: The Mortgage, in a form acceptable to the County Attorney, shall be duly authorized, executed, acknowledged, delivered to the County, and when recorded, shall be a valid mortgage lien on the Premises subject to the Permitted Exceptions and on all fixtures and personal property owned by Borrower to be used in connection with the improvements.

(e) Mortgagor's Affidavit: An affidavit of Borrower shall be executed and delivered to the County as required by the Title Insurer as noted above, certifying to all such facts as are required to delete the Standard Exceptions from the Lender's Title Insurance Policy and certifying that no liens exist on the Premises for taxes not yet due and payable and that no other parties are entitled to possession except as otherwise provided herein.

(f) Public Requirements: Borrower shall deliver to the County:

(i) letters from local utility companies or municipal authorities stating that electricity, telephone, sewer and water facilities will be available to the Premises upon the completion of the intended improvements,

(ii) a letter from the appropriate Zoning Department certifying as to

compliance with all zoning and land use regulations including but not limited to compliance with parking requirements, a copy of the applicable zoning ordinances certified by an appropriate official to be a complete and accurate statement thereof, and an up-to-date zoning map similarly certified,

(iii) evidence satisfactory to the County that all roads necessary for the full utilization of the intended Improvements for their intended purposes have either been acquired by the appropriate governmental authorities or have been dedicated to public use and accepted by such governmental authorities and that all necessary steps have been taken by Borrower and such governmental authorities to assure the complete construction and installation thereof,

(iv) copies of subdivision plats, restrictive covenants, plans of developments, and all other documents required by the local zoning and subdivision ordinances, and such other documents required by and satisfactory to the County; and evidence satisfactory to the County and its counsel that the Final Plans conform to all federal, state, and local laws, ordinances, rules and regulations, including, but not limited to, laws of the State of Florida regulating air and water pollution and land use,

(v) copies of all necessary approvals from appropriate environmental protection agencies, and

(vi) satisfactory soil test report;

(g) Corporate Documents: Borrower shall deliver to the County the following documents:

(i) the Articles of Incorporation of the Borrower and all amendments thereof, together with certificates to the effect that Borrower is in good standing in the State of Florida.

(ii) certified resolutions of the Borrower authorizing the execution and delivery of the Conditional Loan, and all other documents necessary or desirable, for the consummation of the transactions contemplated by this Agreement;

(h) Flood Insurance: Borrower shall deliver to the County evidence satisfactory to the County either that the Premises are not within a hazardous flood area as designated by the Department of Housing and Urban Development and any other governmental authority, or if the Premises are within such a hazardous area, that the Premises are covered by flood insurance supplied by the federal Insurance Administration to the maximum amount available, all as provided in the Flood Disaster Protection Act of 1973, as amended, together with appropriate endorsements thereto providing for the County's interests in the same manner as the Builder's Risk Insurance, including without limitation that such insurance will not be canceled without 30 days notice to the County.

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

(i) This Conditional Loan Agreement, the Promissory Note, the Mortgage and Security Agreement and any other documents required to be delivered hereunder have been duly authorized, executed and delivered and are valid, binding and enforceable in accordance with their terms.

(ii) That Borrower is a Florida Not-for-Profit Corporation in good standing under the laws of the State of Florida and has all the necessary power and authority to undertake its obligations hereunder,

(iii) That Borrower is in compliance with all laws, regulations, ordinances

and orders of all governmental authorities, including, but not limited to, if applicable, the Interstate Land Sales Full Disclosure Act, all applicable federal and state securities laws, and all laws of the State of Florida, applicable to the type of development contemplated hereunder,

(iv) That based on the certification of the Project Engineer the proposed construction of the Improvements and proposed use of the Premises comply with all applicable zoning and building laws and regulations, and all other applicable federal, state and local laws, ordinance and regulations, and that all permits and approvals required by all governmental agencies regulating air and water pollution have been obtained, and Florida Statute Chapter 380 pertaining to Development of Regional Impact (including the Aggregation Rule) as it relates to the Premises is not applicable,

(v) That there is no charter or bylaw of Borrower and no provision of any existing mortgage, indenture, contract or agreement known to such counsel binding on Borrower or affecting its property which could conflict with or in any way prevent the execution, delivery and carrying out of the terms of this Agreement,

(vi) That to counsel's knowledge there are no proceedings pending or threatened before any court or administrative agency which will materially adversely affect the financial condition or operation of Borrower or the Premises, including but not limited to bankruptcy, reorganization or insolvency proceeding or any other debtor-creditor proceedings under the Bankruptcy Code or any similar statute, nor to counsel's knowledge are there any finance circumstances within counsel's knowledge which could lead to such proceedings,

(vii) That the lien of the Mortgage subject to the permitted exceptions, is a valid lien on the Premises and the Security interests described in the Mortgage are good and valid security interests.

(viii) Such other matters as the County may reasonably require.

(h) Expenses: Borrower shall have paid all those fees and charges due and payable or ordered paid by the County as provided herein under Paragraph 6 of this Conditional Loan Agreement entitled Expenses;

(i) Other Documents: Borrower shall deliver to the County such other documents and information as the County may reasonably require; and

(j) Representations and Warranties: The representations and warranties of Borrower as set forth in this Agreement and the other documents required hereunder are true and correct.

6. DISBURSEMENT OF LOAN FUNDS: The Loan funds will be used solely for the purposes of constructing eleven (11) affordable townhomes. The County shall disburse the Loan funds to Borrower in an amount not to exceed a total of \$687,096.00 upon receipt of documentation evidencing payment of construction costs. Payment will not be made hereunder for any other purpose or purposes except with prior written approval of the Board of County Commissioners of Palm Beach County. The County shall disburse SHIP funds to Borrower in an amount not to exceed Three Hundred Fifty Thousand Dollars (\$350,000.00). The County shall disburse HOME funds to Borrower in an amount not to exceed Three Hundred Thirty-Seven Thousand Ninety-Six Dollars (\$337,096.00).

7. EXPENSES: Borrower shall pay fees and charges incurred in the procuring and making of this Loan if applicable, and other expenses incurred by the County during the term of the Loan including the Title Insurance Company's fees and premiums, charges for examination of title to the Premises, expenses of surveys, Florida Documentary Stamp Taxes, recording expenses, any and all insurance premiums, taxes, assessments, water rates, sewer rates and other charges, liens and

encumbrances upon the Premises, and any other amounts necessary for the payment of the costs of Improvements.

8. SPECIAL PROVISIONS: Borrower expressly agrees to the following terms and conditions:

(a) Borrower agrees that the Improvements will consist of Eleven (11) affordable townhomes. Seven (7) of the units, shall be reserved for rental to households who have very-low income pursuant to U.S. Government HUD guidelines for a period of thirty (30) years, and Four (4) of the units, shall be reserved for rental to households who have low income pursuant to U.S. Government HUD guidelines for a period of thirty (30) years. Of the eleven (11) units, three (3) units shall be two (2) bedrooms, 1.5 baths, six (6) units shall be three (3) bedrooms, 2.5 baths, and two (2) units shall be four (4) bedrooms, 3 baths.

(b) The Borrower shall not discriminate on the basis of race, creed, religion, color, sex, marital status, gender identity and expression, sexual orientation, national origin, age, familial status or disability in the use, or occupancy of any housing constructed on the Premises.

(c) Borrower agrees that the affordable rental units in the project will:

- (i) provide energy efficient heating and cooling;
- (ii) provide awnings, blinds, sun screening or similar window treatment;
- (iii) provide high efficiency appliances over 8 SEER;
- (iv) provide high efficiency water heater;
- (v) provide wall insulation R-13 or better (wood) or R-7 or better (CBS);
- (vi) provide water-conserving irrigation system for common areas;
- (vii) provide xeriscape vegetation for all common areas;
- (viii) provide safe pedestrian and bicycle paths;
- (ix) provide outdoor living attached to each unit;

Conditions (a-c) above shall, upon closing become covenants running with the land and shall survive the closing. These conditions and covenants will be recorded in the land records of Palm Beach County, Florida by inclusion in the Declaration of Restrictive Covenants and/or any separate document satisfactory to the County's Attorney citing the funding of this grant as consideration.

9. HOME PROVISIONS: County and Borrower agree to comply with the following HOME regulations as set forth in 24 CFR Part 92 Subpart F townhomes.

(a) Maximum Per Unit Subsidy Amount: The amount of HOME funds invested on a per-unit basis in affordable housing may not exceed the per-unit dollar limits established by the Palm Beach County Department of Housing and Community Development.

(b) Property Standards: Housing that is constructed with HOME funds must meet all applicable local codes and zoning ordinances at the time of project completion, which ensure that the housing is decent, safe, and sanitary. In the absence of a local code for new construction, HOME-assisted new construction must meet, as applicable: one of three model codes (Uniform Building Code (ICBO), National Building

Code, (BOCA) Standard Building Code (SBCCI); or the Council of American Building Officials (CABO) one or two family code; or the Minimum Property Standards (MPS) in 24 CFR 200.925 or 200.926. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

(c) Occupancy Requirements: Seven (7) townhomes must be occupied only by households that qualify as very-low income families in that their annual income does not exceed sixty (60%) percent of Palm Beach County median income adjusted for family size. Four (4) townhomes must be occupied only by households that qualify as low-income families in that their annual income does not exceed eighty (80%) percent of Palm Beach County's median income adjusted for family size.

(d) Affirmative Marketing: In furtherance of Palm Beach County's commitment to non-discrimination and equal opportunity in housing, the County's Department of Housing and Community Development (HCD) has established policies and procedures to affirmatively market housing units produced under the HOME, Community Development Block Grant (CDBG), and the State Housing Initiatives Partnership (SHIP) Programs. The objectives of these affirmative marketing policies and procedures are in accordance with 24 CFR 92.351 of the HOME regulations and Section 3 of the Housing Development Act of 1968, as amended (12 U. S. C. 1701 U), and is applicable to other Federal, State and local regulations.

These affirmative marketing procedures are implemented comprehensively for all the above housing programs through the County's Department of HCD and aim to effect greater participation of eligible persons from all racial, ethnic and gender-based minorities.

Palm Beach County will take the necessary steps to affirmatively market its housing programs through organized neighborhood meetings, distribution of literature, provision of information, press releases and other "good faith" efforts.

Palm Beach County Department of HCD, therefore, ensures that housing programs (geared toward existing homeowners and first-time home buyers) are advertised periodically through general circulation and minority newspapers, as well as through community information meetings at various locations, County-wide.

Borrower, in order to carry out the requirements and procedures of HCD's Affirmative Marketing Program, must comply with the following procedures:

(i) The Equal Opportunity logo or slogan will be used in advertisements;

(ii) Borrower will be requested to solicit applications from persons in the housing market area who are not likely to apply for housing without special outreach. Borrower satisfies 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

(iii) Palm Beach County HCD will keep records of their efforts to affirmatively market units and will require Borrower to provide copies of its records, including advertisements, minutes of meetings, income documentation, and census tract information as applicable.

(iv) Affirmative marketing records of the participants in the program will be monitored on-site annually, and a report will be compiled to assess their efforts

in adhering to the requirements. These records will include, but not be limited to: copies of brochures, news clippings, press releases, sign-in logs from community meetings, and any letters of inquiry written to or from prospective clients. Borrower will be informed of their responsibility to adhere to the said requirements. Borrower will be required to submit monthly or quarterly reports using measures such as number of housing units provided, and number of families assisted. These measures will be used to determine the success of the program.

(v) The requirements of 24 CFR Part 92.351 concerning affirmative marketing are hereby incorporated into this Agreement. Borrower must take steps to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market, to the available house. Failure to comply will result in a contract violation, possibly requiring repayment of any Federal funds.

(vi) The County will also assess the affirmative marketing program annually to determine the success of affirmative marketing actions (such as advertisements, etc.), and address the potential necessity for corrective actions, making distinctions between failures based upon marketing/targeting problems, those based on systemic (program eligibility) factors or lack of interest. Affirmative marketing success will be specifically tracked through the various program applications by notations of racial/ethnic/gender distinctions on program documents. The Department recognizes that the volume of response from racial/ethnic/gender groups may not be an indication of affirmative marketing efforts, and, therefore, it will make periodic adjustments in its affirmative marketing techniques with consultation from specialized Equal Housing Opportunity, fair housing and racial- and gender-based minority groups.

(e) Other HOME Program Requirements:

(i) The Federal requirements set forth in 24 CFR 5.105(a), Nondiscrimination and equal opportunity, are applicable to Borrower.

(ii) Environmental review - Section 92.352 of HOME rules applies.

(iii) Displacement, relocation, and acquisition- Section 92.353 of HOME rules applies.

(iv) Labor - Section 92.354 of HOME rules applies.

(v) Lead paint - new construction - Section 92.355 of HOME rules apply.

(vi) Conflict of Interest - Section 92.356 of HOME rules applies.

10. REPRESENTATIONS AND WARRANTIES OF BORROWER. Borrower represents and warrants (which representations and warranties shall be deemed continuing) as follows:

(a) Organization Status. Borrower is a Florida non-profit corporation duly organized and validly existing in good standing under the laws of the State of Florida with full power and authority to consummate the transactions contemplated herein. Borrower is duly authorized to receive from County the principal sum of \$687,096.00 and execute all Conditional Loan documents pertaining thereto.

(b) Financial Statements. The Financial statements of Borrower heretofore reviewed with the County are true and correct in all respects, have been prepared in accordance with generally accepted accounting principles, and fairly present the respective financial conditions of the subjects thereof as of the respective dates thereof, and no material adverse change has occurred in the financial conditions reflected therein since the respective dates thereof and no additional borrowings have

been made by Borrower since the date thereof;

(c) Authority to Enter into the Conditional Loan Documents. The Borrower has full power and authority to enter into the Conditional Loan Documents and consummate the transactions contemplated hereby, and the facts and matters expressed or implied in the opinions of its legal counsel are true and correct;

(d) Validity of the Conditional Loan Documents. The Conditional Loan Documents have been approved by those persons having proper authority, and to the best of Borrower's knowledge are in all respects legal, valid and binding according to their terms;

(e) Conflicting Transactions of Borrower. The consummation of the transaction hereby contemplated and the performance of the obligations of Borrower under and by virtue of the Conditional Loan Documents will not result in any breach of, or constitute a default under, any other Agreement to which Borrower is a party or by which it may be bound or affected;

(f) Pending Litigation. There are no actions, suits or proceedings pending before any court or law equity, or any Administrative Board, or, to the knowledge of the Borrower, threaten against or affecting it or the Premises, or, involving the validity or enforceability of the Conditional Loan Agreement.

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

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

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

(j) No Default. There is no default on the part of the Borrower under this Grant Agreement or the Declaration of Restrictions, and no event has occurred and is continuing which with notice, or the passage of time, or either, would constitute a default under any provision thereof; and

(k) Advertising. During the period of the construction of the Improvements, the County shall have the right to install and maintain on the Premises one or more signs identifying the County, or to be identified on such signs installed by others, as one of the institutions financing the Premises. Sign or signs will be provided by the County and erected at Borrower's expense.

(l) Hazardous Waste. Borrower is in compliance with all provisions of the federal Water Pollution Control Act, Comprehensive Environmental Response, Compensation and Liability ("Superfund") Act of 1980 and Solid Waste Disposal Act, Florida Statutes, Chapter 376, and other similar federal, state and local statutory schemes imposing liability on Borrower relating to the generation, storage, impoundment, disposal, discharge, treatment, release, seepage, emission,

transportation or destruction of any sewage, garbage, effluent, asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs), toxic, hazardous or radioactive materials, petroleum products, pesticides, smoke, dust, or any other form of pollution as such laws are in effect as of the date of this Agreement and with any rules, regulations and order issued by any federal, state or local governmental body, agency or authority thereunder and with any orders or judgments of any courts of competent jurisdiction with respect thereto, and no assessment, notice of (primary or secondary) liability or notice of financial responsibility, or the amount thereof, or to impose civil penalties has been received by the Borrower. Borrower has paid any environmental excise taxes imposed pursuant to Sections 4611, 4661 or 4681 of the Internal Revenue Code of 1986, as from time to time amended.

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

11. ADDITIONAL COVENANTS OF BORROWER. Borrower covenants and agrees with the County as follows:

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

In addition, Borrower agrees, at its sole cost and expense, to have any mechanics' lien or equitable lien which may be filed against the Premises or undisbursed funds of this Conditional Loan released, bonded or insured over within sixty (60) days of the date of filing same, time being of the essence. The County shall be under no obligation to make further disbursements while any such lien remains outstanding against the Premises.

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

(b) No Transfer of Premises. Except as specifically set forth in the Declaration of Restrictions or herein, the Premises or any part thereof shall not be sold, leased, conveyed, mortgaged or encumbered in any way without the prior written consent of the County and other mortgage lien holder except as provided elsewhere herein in the Declaration of Restrictive Covenants or other mortgage documents, it being understood and agreed that part of the consideration for the Conditional Loan is the obligation of Borrower.

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

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

(e) Financial Statements to be Furnished. Borrower shall furnish to the County:

(i) 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 Borrower and, at the request of the County, certified (in form satisfactory to the County) by an independent certified public accountant acceptable to the County;

(ii) promptly, from time to time, such other information regarding the operations, business, affairs and financial condition of Borrower as the County may reasonably request.

(f) Borrower to Maintain Bookkeeping System. Borrower shall, if required by the County, maintain a bookkeeping system to the construction project in form and content sufficient for the County and Inspector to conduct reviews, inspections, certifications and reports required by this Agreement. The County shall have full access, as allowed under the Public Records Law, at any reasonable time to the books, records and contracts pertaining to the Premises and Borrower.

(g) Insurance Proceeds. The Borrower shall keep the Premises continually insured in an amount not less than full insurable value of the Premises, which coverage shall insure the Premises against loss or damage by fire and by the perils covered by extended coverage and against such other hazards as the County in its sole discretion, shall from time to time require, for the benefit of the County. All such insurance at all times will be in an insurance company or companies in such amounts and with terms acceptable to the County, with loss, if any, payable to the County as their interests may appear, which shall be satisfactory to the County; and forthwith upon the issuance of such policies they will deliver to the County copies of receipts for the premiums paid thereon and certificates of insurance and certified copies of such policies. Any policies furnished the County shall become its property in the event the County becomes the owner of the Premises by foreclosure or otherwise. Subject to the provisions of the Mortgages, should a loss be incurred, equal to or in excess of fifty percent (50%) of the full insurable value of the Premises, then in such event, County and Borrower, may jointly elect to use the proceeds for the reconstruction and repair of the Premises or, in the alternative, to apply the net proceeds to the payment of the indebtedness hereby secured, whether then due or not.

(h) Indebtedness. With respect to the Premises encumbered by the Borrower of even date herewith, Borrower will not incur, create, assume or permit to exist any indebtedness constituting the deferred purchase price of any property or assets, or any indebtedness or liability evidenced by notes, bonds, debentures or similar obligations without the written approval of the County, except indebtedness owed the County and the aforementioned Mortgages; provided however, that the Mortgages shall not exceed the amounts contained in the recitals incorporated in this Conditional Loan Agreement.

(i) Further Assurances and Preservation of Premises. Borrower will do all acts and execute all documents for the better and more effective carrying out of the intent and purposes of this Conditional Loan Agreement, as the County shall reasonably require from time to time, and will do such other acts necessary or desirable to preserve and protect the Premises to secure the Note, as the County may reasonably require.

(j) No Assignment. Borrower shall not assign this Grant Agreement or any interest therein and any such assignment is void and of no effect.

12. INSPECTIONS. Borrower will permit County, or its representatives to enter upon the Premises, inspecting Improvements and all materials to be used in the construction thereof, and to examine all details, plans and shop drawings which are kept at the construction site, and will cooperate, and cause Grantee's general contractor and subcontractors to cooperate with the County's representative.

13. DEFAULT. The following events shall be deemed Events of Default:

(a) Bankruptcy. If there is filed by or against Borrower a petition in bankruptcy or a petition for the appointment of a receiver or trustee of the property of Borrower and any such petition not filed by Borrower is not dismissed within sixty (60) days of the date of filing, or if Borrower files a petition for reorganization under any of the provisions of the Bankruptcy Code or of any assignment for the benefit of creditors or makes any insolvency assignment or is adjusted insolvent by any court of competent jurisdiction; or

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

(c) Material Adverse Change of Borrower. If any material adverse change shall occur in the financial condition of Borrower at any time during the term of the Mortgage from the financial condition revealed in statements already presented to and accepted by the County; or

(d) Borrower shall fail to use all funds under this Conditional Loan Agreement for costs associated with the construction of Improvements on the Premises by December 31, 2010. In the event Borrower fails to use all funds by December 31, 2010, all remaining funds shall revert to the County and the County may reallocate for other projects or needs.

(e) Borrower shall fail to complete construction of the Improvements and secure a Certificate of Occupancy for the Improvements by December 31, 2010.

(f) Borrower shall default under the Mortgages which default is not cured within applicable cure periods.

14. REMEDIES OF LENDER. Upon the happening of an Event of Default, then the County may, at its option, upon written notice to Borrower:

a) Cancel this Conditional Loan Agreement;

b) Commence an appropriate legal or equitable action to enforce performance of this Conditional Loan Agreement;

c) Exercise any other rights or remedies the County may have under the Conditional Loan Agreement executed in connection with the Loan or which may be available under applicable law.

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

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

(b) Borrower is not the County's Agent. Nothing in this Agreement, or any other Conditional Loan Documents shall be construed to make the Borrower the County's agent for any purpose whatsoever, or the Borrower and the County partners, or joint or co-venturers, and the relationship of the parties shall, at all times, be that of debtor and creditor.

(c) The County Not Liable for Damage or Loss. All inspections and other services rendered by or on behalf of the County pursuant to this Conditional Loan Agreement shall be rendered solely for the protection and benefit of the County. Neither Borrower nor other third persons shall be entitled to claim any loss or damage against the County or against its agents or employees for failure to properly conduct inspections and other such services contemplated by this Conditional Loan Agreement.

(d) The County Not Obligated to Ensure Proper Disbursement of Funds to Third Parties. Nothing contained in this Agreement, or any Loan documents, shall impose upon the County any obligation to oversee the proper use or application of any disbursements and disbursements of funds made hereunder.

(e) Indemnification from Third Party Claims. Borrower shall indemnify and hold County harmless from any liability, claims or losses resulting from the disbursement of the Loan proceeds to Borrower or from the condition of the Premises, whether related to the quality of construction or otherwise, and whether arising during or after the term of the Loan. This provision shall survive the repayment of the Loan and shall continue in a full force and effect so long as the possibility of such liability, claims, or losses exists.

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

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

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

(i) Invalid Provisions to Affect No Others. If performance of any provision hereof or any transaction related hereto is limited by law, then the obligation to be performed shall be reduced accordingly; and if any clause or provision herein contained operates or would prospectively operate to invalidate this Agreement in part, then the invalid part of said clause or provision only shall be held for naught, as though not contained herein, and the remainder of this Agreement shall remain operative and in full force and effect.

(j) Application of Interest to Reduce Principal Sums Due. In the event that any charge, interest or late charge is above the maximum rate provided by law, then any excess amount over the lawful rate shall be applied by the County to reduce the principal sum of the Loan or any other amounts due the County hereunder.

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

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

(m) Agreement. This Conditional Loan Agreement constitutes the entire understanding and agreement between the parties with respect the subject matter hereof and may not be modified or amended, except in writing and signed by all parties hereto.

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

(o) Notices. All notice from the Borrower to the County and the County to Borrower required or permitted by any provision of this agreement shall be in writing and sent by registered or certified mail and addressed as follows:

TO LENDER: Board of County Commissioners
c/o Palm Beach County Attorney's Office
301 N. Olive Avenue, Suite 601
West Palm Beach, FL 33401
Att: Tammy K. Fields, Sr. Assistant County Attorney

TO BORROWER: New Urban Community Development Corporation, Inc.
1700 Australian Avenue
West Palm Beach, FL 33407
Attn: Patrick Franklin, President and CEO

Such addresses may be changed by written notice to the other party.

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

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

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

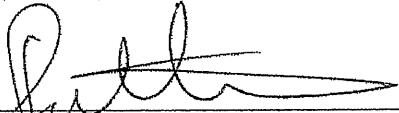
16. EFFECTIVE DATE OF AGREEMENT. This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners. The Effective Date shall be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

(The remainder of this page was left blank intentionally)

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

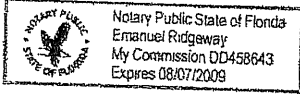
Signed, sealed and delivered
in the presence of:

NEW URBAN DEVELOPMENT
CORPORATION, INC. a Florida
not-for-profit corporation

By: 
Patrick Franklin, President and CEO

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 13th day of MARCH, 2009 by Patrick Franklin as President and CEO of NEW URBAN DEVELOPMENT CORPORATION, INC., a Florida not-for-profit corporation, who is personally known to me or who has produced _____ as identification and who did/did not take an oath.



Emanuel Ridgeway
(Signature of Notary)

Emanuel P. Ridgeway
(Typed, Printed, or Stamped
Name of Notary)

My Commission Expires:

R2009, 0657 APR 21 2009

ATTEST:

SHARON R. BOCK, CLERK &
COMPTROLLER

BY: [Signature]
Clerk
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: [Signature]
County Attorney

PALM BEACH COUNTY, FLORIDA, a
political subdivision of the
state of Florida

BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: [Signature]
JOHN F. KOONS, Chairperson
CHAIRMAN

APPROVED AS TO TERMS AND
CONDITIONS

BY: [Signature]
Department Head

G:\WPDATA\ENG\TKFH\TF.AG\THENRIETTA-TWNHMS-NEW-URBAN-COMMUNITY-DEV-CORP-Cond Loan Ag-03-02-09.rtf

EXHIBIT "A"

LEGAL DESCRIPTION

Lots 8-12, FRESHWATER LAKES ADDITION TO WEST PALM BEACH
AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat
thereof as recorded in Plat Book 8, Page 20 of the Official Records of Palm Beach
County, Florida.

PROMISSORY NOTE

\$687,096.00

West Palm Beach, Florida
September 3, 2009

FOR VALUE RECEIVED the undersigned, NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC. a Florida not-for-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, the principal sum of Six Hundred Eighty-Seven Thousand Ninety-Six Dollars (\$687,096.00) plus accrued interest, to be paid in lawful money of the United States of America, as follows:

Upon Satisfactory meeting the requirements of this Note, the Mortgage and the Conditional Loan Agreement including, but not limited to, the maintenance of all units as housing for very low and low income households for a period of twenty (20) years commencing with the issuance of a Certificate of Occupancy, (the "Restrictive Period"), in the reasonable opinion of the County, the entire principal sum and all interest occurring thereon of this Note shall be forgiven and the Lien created by the Mortgage shall be removed by the recording of a Satisfaction of Mortgage to be executed by Holder upon the demand of Maker. However, if at any time during the Restrictive Period, the Maker elects to sell, transfer or convey the property, the Maker shall repay the entire Six Hundred Eighty Seven Thousand Ninety-Six Dollars (\$687,096.00), plus interest at the rate of three (3%) percent per annum.

PALM BEACH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA IS EXEMPT FROM PAYMENT OF EXCISE TAX ON DOCUMENTS.

This Note is executed pursuant to the terms and conditions of that certain Grant Agreement dated April 21st, 2009 between Maker, as Borrower, and Holder, as Lender, is secured by a Mortgage and Security Agreement (the "Mortgage") encumbering certain real property located in Palm Beach County, Florida (the "Premises"), all of even date herewith. The foregoing and all other agreements, instruments and documents delivered in connection therewith and herewith are collectively referred to as the Grant Documents including but not limited to the Declaration of Restrictive Covenants, Conditional Grant Agreement and Mortgage and Security Agreement.

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 operated 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 Grant 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 occurrence of

an Event of Default and the expiration of all notice and cure periods pursuant to any other Grant Documents now or hereafter evidencing, securing or guarantying payment of this Note. Exercise of this right shall be without notice to Maker or to any other person liable for payment hereof, notice of such exercise being hereby expressly waived.

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 fifteen (15) days following the date when said payment is due pursuant to the Mortgage. 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 Grant 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 Grant 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 grant document.

Whenever the context so requires, the neuter 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, demand for payment, notice of dishonor, protest, notice of nonpayment or protest, all other forms of notice whatsoever, 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 BY THE BORROWER UNDER THE GRANT REFERENCED HEREIN, THE SOLE REMEDY OF THE HOLDER SHALL BE TO FORECLOSE AGAINST THE PROPERTY GIVEN AS SECURITY FOR THIS GRANT, AND IN NO EVENT SHALL THE BORROWER HAVE ANY LIABILITY FOR THE PAYMENT OF THE GRANT OR ANY OTHER OBLIGATIONS REFERENCED HEREIN, OR FOR THE PAYMENT OF ANY DEFICIENCY FOLLOWING THE FORECLOSURE AGAINST THE PROPERTY GIVEN AS SECURITY FOR THE GRANT.

MAKER WAIVES ITS RIGHT 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.

NEW URBAN DEVELOPMENT CORPORATION,
INC., a Florida not-for-profit corporation

By: 
Patrick Franklin, President and CEO

G:\WPDATA\ENGITK\H\TF.AGT\HENRIETTA-TWNHMS-NEW-URBAN-COMMUNITY-DEV-CORP-PROM-NOTE-03-02-09.rtf

This instrument prepared by
and to be returned to:
Tammy K. Fields, Esq.
Palm Beach County Attorney's Office
P.O. Box 1989
West Palm Beach, FL 33402

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE INDENTURE, executed this 3rd day of September, 2009, by NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida not-for-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 Six Hundred Eighty-Seven Thousand Ninety-Six Dollars (\$687,096.00) 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" and forms a part hereof.

This Mortgage is given in accordance with that certain Conditional Loan Agreement executed on the 21st day of April, 2009 between Mortgagor and Mortgagee. This Mortgage and Security Agreement, the Note, and the Conditional Loan Agreement shall hereinafter collectively be referred to as the "Loan Documents".

The Florida Community Loan Fund has agreed to lend Mortgagor Six Hundred Fifty Thousand Dollars (\$650,000.00) for the construction of the Premises and The Comerica Bank has agreed to replace this Mortgage with permanent financing in the amount of Seven Hundred Thousand Dollars (\$700,000.00) ("First Mortgage")

The City of West Palm has agreed to lend Mortgagor Nine Hundred and Sixty-Seven Thousand Eight Hundred and Thirty-Three Dollars (\$967,833.00) for the construction of the Premises and the Mortgage securing said Loan will be in pari pursu to the County Mortgage provided for herein.

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 grant documents, 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

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

CFN 20090309839
OR BK 23431 PG 1786
RECORDED 09/04/2009 16:55:00
Palm Beach County, Florida
AMT 687,096.00
Deed Doc 2, 404.85
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1786 - 1800; (15pgs)

This instrument prepared by
and to be returned to:
Tammy K. Fields, Esq.
Palm Beach County Attorney's Office
P.O. Box 1989
West Palm Beach, FL 33402

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE INDENTURE, executed this 3rd day of September, 2009, by NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida not-for-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 Six Hundred Eighty-Seven Thousand Ninety-Six Dollars (\$687,096.00) 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" and forms a part hereof.

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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 grant documents, 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

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

2188.1

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 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 2008 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.

PROVIDED ALWAYS that if the Mortgagor shall pay unto the Mortgagee all sums required under the terms of the Note or complied with all conditions of the Note, which Note is in the original principal amount of \$687,096.00 and has a maturity date of December 31, 2029, 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 Conditional 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:

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 and/or comply with all conditions of 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 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. 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. Nothing stated herein shall preclude the Mortgagor from contesting its taxes pursuant to a lawful process.

(b) The Mortgagor shall pay, 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 there from 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 acceptable to the Mortgagee, with loss, if any, payable to the Mortgagee as its interest may appear, pursuant to a noncontributory 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 certified copies of such policies. Any policies furnished the Mortgagee shall become its property in the event the Mortgagee becomes the owner of the Premises by foreclosure or otherwise. Subject 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. Each insurance company is hereby authorized and directed to make payment for all such losses to the Mortgagor and the Mortgagee jointly. Mortgagee and Mortgagor shall jointly elect to use the proceeds for the reconstruction and repair of the Mortgaged Property unless an uncured event of Default then exists, in which case Mortgagee may elect to apply the net proceeds to the payment of the indebtedness hereby secured.

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, the Mortgage 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.

(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) Subject to the First Mortgage, 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 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 satisfactory to the Mortgagee. 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 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 subparagraph 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 the exercise of the power of sale 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 Estoppel Affidavits. The Mortgagor, upon ten days' prior written notice, shall furnish the Mortgagee 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 notice and expiration of any applicable cure periods, 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, without demand, immediately repaid by the Mortgagor to the Mortgagee with interest thereon at the maximum rate provided by law. The Mortgagee shall be the sole judge of the legality, validity and priority of any such tax, lien, assessment, charge, claim, premium and obligation, of the necessity for any such actions and of the amount necessary to be paid in satisfaction thereof. 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. Subject to the First Mortgage, 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) either temporarily or permanently, of any part of the Premises constituting twenty percent (20%) or more of the full value of the Premises, or in the event such condemnation makes the Premises unusable for the purposes contemplated herein and in the Loan Agreement, then in such event, the entire indebtedness secured hereby shall at the option of the Mortgagee, become immediately due and payable. Such events shall be a Condemnation Event ("Condemnation Event"); however, any condemnation for less than twenty percent (20%) of value or not rendering the Premises unusable, shall not be affected by this section. In the event of a Condemnation Event: 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, any 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 Event are hereby assigned by the Mortgagor to the Mortgagee, who, after deducting there from, all its expenses, including attorneys fees, may release any monies received by it without further affecting this Mortgage and may apply the same in such manner as the Mortgagee shall determine, to the reduction of the sum secured hereby, and any balance of such monies then remaining shall be paid to the Mortgagor. The Mortgagor agrees to execute such further assignment of

any compensation, awards, damages, claims, rights of action and proceeds from a Condemnation Event as the Mortgagee may require.

1.11 Environmental Representations.

(a) The Mortgagor covenants with the Mortgagee that the Premises have not been used by Mortgagor and will not be used in whole or in part for the storage of hazardous waste.

(b) To the best of Mortgagor's knowledge, no violations 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 Mortgage 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 II.

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.

Subject to the provisions of Section 6.2 below, in the event of a sale, transfer, conveyance or assignment of the Premises or a grant of a security interest in the Premises, then the Loan, together with accrued interest and any other expenses shall become due and payable. Notwithstanding, the income restrictions set forth in the Grant Agreement shall remain in full force and effect for thirty (30) years from the date of completion of the units. The County may consent to a transfer of the whole Premises provided the transferee demonstrates to the County that it is creditworthy and has appropriate financial management skills and experience with affordable housing. The County may consent to an encumbrance and subordination of such encumbrance if the Mortgagee obtains construction financing from an independent lender, provided that sufficient documentation is presented to the County that the improved value of the property will adequately secure the County's interest in the property.

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.

2.2 Default. A 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 Grant 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

(c) Any warranties or representations made or agreed to be made in any of the Grant Documents shall be breached 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 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) The Mortgagor shall do, or shall omit to do, any act, or any event shall occur, as a result of which any obligation of the Mortgagor, not arising hereunder, may be declared immediately due and payable by the holder thereof; or

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

(l) If the Mortgagee shall reasonably believe that any one or more of the defaults enumerated in paragraphs (a) through (k) 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) Upon sale, transfer, or refinancing of the Premises other than the sale of units to Eligible Households in the ordinary course, all available proceeds of the sale shall be applied to pay the following items in order of priority:

(1) Expenses of the sale;

(2) All accrued, but unpaid interest on the Note:

(3) Mortgage debt in full, including fees;

(b) Subject to the provisions of Article IV, below, all of the principal and interest of the indebtedness secured hereby shall be due and payable upon sale, transfer, or refinancing.

(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, 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 there from. In the event Mortgagee exercises its rights pursuant to this subparagraph (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 paragraph 2.6, 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 subparagraph 2.6(a) shall exist if any subsequent default shall occur and be continuing.

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 paragraph 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) 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.

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 paragraph will survive the repayment of indebtedness under the Note.

ARTICLE III.

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 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 IV.

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:

Mortgagor: NEW URBAN DEVELOPMENT
CORPORATION, INC.
1700 Australian Avenue
West Palm Beach, FL 33407
Attn: Patrick Franklin, President and CEO

Mortgagee: Palm Beach County
c/o County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401
Attn: Tammy K. Fields, Sr. Assistant County Attorney

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 V.

5.1 Future Advances. It is agreed that this Mortgage shall also secure such future or additional advances as may be made by the Mortgage 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 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 increase the interest rate charged pursuant to the Note or 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.

5.3 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.

5.4 Subordination. Mortgagee has approved a First Mortgage provided it does not exceed Seven Hundred Thousand Dollars (\$700,000.00), and further has agreed to subordinate to such First Mortgage. The Chairperson of the Board of County Commissioners of Palm Beach County and the Clerk and Comptroller of 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 Borrower from its obligation to make payments under the Promissory Note in accordance with its terms.

5.5 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.

5.6 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.

Witnesses:

J. N. Haygood
Tammy K Fields

NEW URBAN DEVELOPMENT
CORPORATION, a Florida
not-for-profit corporation

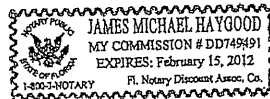
BY: Patrick Franklin
Patrick Franklin, President and CEO

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 24 day of September 2009 by Patrick Franklin, as President and CEO of NEW URBAN DEVELOPMENT CORPORATION, a Florida not-for-profit corporation, who is personally known to me or who has produced _____ as identification and who did not take an oath.

J. N. Haygood
(Signature of Notary)

J. M. Haygood
(Typed, Printed, or Stamped)



Name of Notary)

My Commission Expires:

EXHIBIT "A"

LEGAL DESCRIPTION

Lots 8-12, FRESHWATER LAKES ADDITION TO WEST PALM BEACH
AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat
thereof as recorded in Plat Book 8, Page 20 of the Official Records of Palm Beach
County, Florida.

EXHIBIT "E"

PERMITTED EXCEPTIONS

1. Lien of all taxes for the year 2008 and thereafter, which are not yet due and payable.
2. First Construction Mortgage in favor of Florida Community Loan Fund in the amount of \$617,833.
3. Co-Second Mortgage in favor of the City of West Palm Beach.
4. All matters contained in the Plat of Freshwater Lakes Addition to West Palm Beach Amended Plat of 11th and 12th Avenue. Addition, as recorded in Plat Book 8, Page 22 of the, Public Records of Palm Beach County, Florida.
5. Unity of Title Recorded on 2/13/07 at Official Records Book 21410, Page 515, of the Public Records of Palm Beach County, Florida.

**THE TOWNHOUSES AT HENRIETTA
CHDO PROJECT AGREEMENT**

THIS AGREEMENT ("Agreement"), is made and entered into this ____ day of _____ 2004, by and between the CITY OF WEST PALM BEACH, a Florida municipal corporation ("City") and NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida 501(c)(3) not for profit corporation ("NUCDC").

WITNESSETH

WHEREAS, the City of West Palm Beach (City) has been designated by the United States Department of Housing and Urban Development (HUD) as a participating jurisdiction for the receipt and use of federal funds as provided by the HOME Investment Partnerships (HOME) Program, pursuant to the HOME Final Rule 24 CFR Part 92; and

WHEREAS, the City is required to set-aside a minimum of 15% of its annual HOME entitlement allocation for investment in housing to be developed, sponsored or owned by Community Housing Development Organizations (CHDOs) as defined in the HOME Final Rule; and

WHEREAS, NUCDC has been designated as a CHDO under the City's HOME Program in accordance with the HOME Final Rule; and

WHEREAS, the City has agreed to make available HOME Program funds to NUCDC for predevelopment and development costs related to the development of affordable housing in the Greater Northwest Neighborhood (the "Project"); and

WHEREAS, the Project Agreement provides the terms and conditions of the City's and NUCDC's obligations with respect to the Project;

NOW THEREFORE, in consideration of the mutual covenants and conditions of the parties herein contained, City and NUCDC for themselves, their successors and assigns, hereby covenant and agree as follows:

ARTICLE I: THIS AGREEMENT

SECTION 1.01 Definitions.

For all purposes of this Agreement, the following terms shall have the following meanings:

- A. *"Property"* means real property legally described in **Exhibit "A"**, attached hereto, to be utilized by NUCDC for the construction of the Units.
- B. *"Agreement"* means collectively, this Project Agreement, the loan documents and all exhibits and attachments hereto, as any of the same may hereafter be supplemented, amended or otherwise modified from time to time, either in accordance with the terms of this Agreement or by mutual agreement of the Parties.

Attachment C

- C. "*CHDO*" shall mean a duly created and organized Community Housing Development Organization.
- D. "*City*" means the City of West Palm Beach, Florida.
- E. "*Construction*" means building the units in accordance with the schedule prepared pursuant to Section 2.02.2 below.
- F. "*Commencement Date*" shall have the same meaning as provided in Section 2.02.1 of this Agreement.
- G. "*Construction Completion Date*" shall have the same meaning as provided in Section 2.02.1 of this Agreement.
- H. "*CRA*" means the West Palm Beach Community Redevelopment Agency.
- I. "*Default*" means any condition or event, or failure of any condition or event to occur, which constitutes, or would after the giving of notice, lapse of time or both, constitute in accordance with the terms of this Agreement, an Event of Default.
- J. "*Effective Date*" shall have the same meaning as provided in Section 1.02 of this Agreement.
- K. "*ECD*" shall mean the City of West Palm Beach Department of Economic and Community Development.
- L. "*Loan Documents*" shall mean the documents including, but not be limited to the Loan Agreement, promissory note, a Mortgage and Security Agreement, and any other security instrument to be agreed upon between the parties, and any other related documents.
- M. "*Notice of Default*" means a written notice specifying the occurrence of an event of default.
- N. "*HOME Funds*" mean the financial assistance provided to NUCDC by the City through its Housing Opportunity Made Easy Program.
- O. "*Low-Income Purchaser*" means a purchaser of a Unit: (i) whose individual or family, whose total annual household income does not exceed 80% of the West Palm Beach Metropolitan Statistical Area's median income, as certified by the United States Department of Housing and Urban Development and the City's Economic and Community Development Department; (ii) who intends to make the Unit his or her permanent residence; and (iii) who has completed a homebuyer's program recognized and approved the City's Department of Economic and Community Development.
- P. "*Program income*" means gross income received by the participating jurisdiction, State recipient, or a subrecipient directly generated from the use of HOME funds or matching contributions. When program income is generated by housing that is

only partially assisted with HOME funds or matching funds, the income shall be prorated to reflect the percentage of HOME funds used. Program income includes, but is not limited to, the following:

1. Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or matching contributions;
2. Gross income from the use or rental of real property, owned by the participating jurisdiction, State recipient, or a subrecipient, that was acquired, rehabilitated, or constructed, with HOME funds or matching contributions, less costs incidental to generation of the income;
3. Payments of principal and interest on loans made using HOME funds or matching contributions;
4. Proceeds from the sale of loans made with HOME funds or matching contributions;
5. Proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions;
6. Interest earned on program income pending its disposition; and
7. Any other interest or return on the investment permitted under the HOME Final Rule 24 CFR Part 92 §92.205(b)¹ of HOME funds or matching contributions.

- Q. “*NUCDC*” shall mean the New Urban Community Development Corporation.
- R. “*Substantial Completion*” means (i) the completion of the construction of the project in substantial accordance with the applicable plans and specifications therefore and applicable requirements, as evidenced by the issuance of a Final Certificate of Occupancy (CO), together with any certification by City’s representative; (ii) delivery to the City, a final “as-built” survey for each completed Unit; (iii) delivery to the City a full and complete set of “as-built” plans and specifications, or their equivalent; (iv) copies of lien waivers in the form and substance reasonably satisfactory for each contractor, subcontractor, supplier and materialman retained by or on behalf evidencing such persons have been paid in full for all work performed or materials supplied in connection with the Project.
- S. “*Termination Notice*” has the meaning provided in Section 7.02 of this Agreement.
- T. “*Unavoidable Delays*” means delays due to any of the following (provided that such delay is beyond a Party’s reasonable control): strikes, slowdowns, lockouts,

¹ Forms of assistance. (1) A participating jurisdiction may invest HOME funds as equity investments, interest-bearing loans or advances, non-interest-bearing loans or advances, interest subsidies consistent with the purposes of this part, deferred payment loans, grants, or other forms of assistance that HUD determines to be consistent with the purposes of this part. Each participating jurisdiction has the right to establish the terms of assistance, subject to the requirements of this part.

acts of God, inability to obtain labor or materials, war, enemy action, civil commons, fire, casualty, abnormal weather conditions, a court order which causes a delay (unless resulting from disputes between or among the party alleging an Unavoidable Delay, present or former employees, officers, members or partners), or other such cause beyond such Party's reasonable control. Such Party shall use reasonable good faith efforts to notify the other Party not later than two (2) days after such Party knows of the occurrence of an Unavoidable Delay.

- U. "Unit" means each one of the ten townhouses constructed or renovated on a Property.

SECTION 1.02 Term. The Term of this Agreement shall be twenty-four months from the effective date of this Project Agreement, which shall be the date executed by the last of the City and NUCDC ("Effective Date").

SECTION 1.03 Interpretation. This Agreement shall be administered on behalf of the City by the Economic and Community Development Department ("ECD"). As used herein, the word "City" shall refer to the Director of Economic and Community Development unless otherwise noted or unless the context renders such construction illogical.

SECTION 1.04 The Loan/Use of HOME Funds. The City agrees to provide NUCDC with a deferred payment, zero-interest loan fund in the amount of \$250,000 in HOME funds for eligible pre-development and development expenses. Eligible pre-development expenses include, but is not limited to, architectural fees, engineering fees, survey fees, legal fees, surety bond insurance premiums, inspection fees, marketing and sales expenses and similar and related fees as determined to be eligible pre-development expenses by the City's Director of Economic and Community Development ("ECD"). Eligible development fees include construction costs related to the development of the houses. It is understood and agreed that these expenses shall not include administrative costs, operating costs or overhead of NUCDC not directly and immediately identified to the Project. The Term and conditions for the use of HOME funds including the tasks to be performed, a schedule for completion and budget shall be provided in Loan Documents to be executed by the parties. Disbursements for eligible predevelopment and development costs shall be as provided in the Loan Agreement between the parties.

SECTION 1.05 CHDO Operating Costs Grant. The City hereby awards to NUCDC a one-time grant in the amount of Fifteen Thousand Three Hundred Eighty Three Dollars (\$15,383.00) to be used on a reimbursement basis for administrative and operating expenses. The budget must be approved by the ECD Director prior to reimbursement for any cost.

The grant shall be paid on a reimbursement basis no more frequently than once a month during the Term of this Agreement. Requests for reimbursements must be accompanied by proper documentation of expenditures, such as time sheets, descriptions of tasks completed, copies of checks, and invoices or vouchers. Provided that (i) NUCDC has submitted timely and complete requests for reimbursements, (ii) NUCDC is not in default under terms of this Agreement, and (iii) NUCDC has submitted the required monthly reports, City shall reimburse NUCDC within thirty (30) days for such costs. City reserves the right to withhold payments in the event of failure by NUCDC to comply with any of the terms of this Agreement. All costs exceeding the amount allocated for Operating Costs, regardless of their eligibility, shall be the sole

failure by NUCDC to comply with any of the terms of this Agreement. All costs exceeding the amount allocated for Operating Costs, regardless of their eligibility, shall be the sole responsibility of NUCDC and City shall have no obligation whatsoever to fund such additional costs. The City's obligation to fund this grant is subject to the availability of CHDO funds appropriated for this purpose.

The City's obligation is limited to the making of the Grant Award. The City does not assume any liability for NUCDC'S personnel decisions, business decisions or policies, including but not limited to, the hiring of staff, paying of staff salaries and the expenditure of overhead costs.

ARTICLE II: THE PROJECT

SECTION 2.01 The Project. The Project consists of the development of ten (10) townhouses located on Henrietta Avenue in the Greater Northwest Neighborhoods area of the City of West Palm Beach (the "Property"). The Property is described on **Exhibit "A"** attached and incorporated herein. The City's interest in certain property, described as Freshwater Lakes 11 and 12th Avenue Addition, Lot 8, Block 30, Palm Beach County, Florida, (the "City Parcel") will be transferred to NUCDC for the Project. The Project is designed to provide affordable rental housing for lower-income households, and provide a "homebuyer incubator for families with credit, income and/or savings problems to overcome who desire homeownership. In furtherance thereof, the City shall provide HOME funds to NUCDC for eligible predevelopment and development expenses provided always that HOME-assisted units are rented to approved tenants, whose individual or household income do not exceed eighty percent (80%) of the West Palm Beach metropolitan statistical area median income as determined by the U.S. Department of Housing and Urban Development (hereinafter, "Low Income Individuals/Families"). A minimum of ninety percent (90%) of the total tenant households assisted through the Project must have incomes that do not exceed sixty percent (60%) of the median income. Moreover, a minimum of twenty percent (20%) of the rental units must be occupied by tenants whose annual household incomes are fifty percent (50%) or less of area median income (hereinafter, "Very-Low Income Individuals/Families").

SECTION 2.02 Project Requirements. Rental housing units constructed with the assistance of HOME funds must meet the applicable project requirements of 24 CFR Part 92, Subpart F.

2.02.1 Commencement Date and Completion Date. The Commencement Date for construction of the Project shall be two hundred seventy (270) days from the Effective Date. The substantial Completion Date shall be Four Hundred (400) days from the Commencement Date.

2.02.2 Construction Schedule. A schedule for the construction of units on the property shall be prepared by NUCDC and submitted to the City's ECD Director for approval prior to the release of any funds. The schedule shall include, but not be limited to (i) a commencement date and a substantial completion date pursuant to Section 2.02.1 above and (ii) a Sources and Use budget breaking out the construction costs, overhead, profits, soft costs and Developer fees. The schedule shall be submitted for approval no later than sixty days (60) from the Effective Date of this Agreement.

the duration of the affordability period and the lead-base paint requirements as provided in 24 CFR 92.355 upon Project completion.

SECTION 2.04 Affordability. The parties understand and agree that the Project is designed to increase the number of affordable rental housing units within the community redevelopment areas. In order to ensure affordability, housing units provided for in this Agreement must meet the affordability requirements as provided in Chapter 24, Section 92.252 of the Code of Federal Regulations (CFR). Accordingly, the period of time for which the housing units must remain affordable shall be twenty years.

- A. Rent Limitations. Each HOME-assisted unit in the Project must be occupied only by households that are low-income and very-low families and must meet affordability requirements referenced in paragraph 4.01 above. Rent limitations established by the U.S. Department of Housing and Urban Development ("HUD") to make rents affordable to low-income and very low-income individuals/families (hereinafter, referred to as "HOME Rents") are applicable to said units. The maximum HOME rents are the lesser of the fair market rents for comparable units in the area as established by HUD under 24 CFR 888.111 or a rent that does not exceed thirty percent (30%) of the adjusted income of a family whose income equals sixty-five percent (65%) for the area as determined by HUD, with adjustments for the number of bedrooms in the unit (hereinafter, "High HOME Rents"). In addition, twenty percent (20%) of the units must be occupied by very-low income individuals/families and meet one of the following rent requirements: (i) the rent does not exceed thirty percent (30%) of the annual income of a family whose income equals fifty percent (50%) of the median income for the area, as determined by HUD, with adjustments for smaller and larger families; or (ii) the rent does not exceed thirty percent of the family's adjusted income (hereinafter, "Low HOME Rents"). If the unit receives Federal or State project-based rental assistance and the very-low income individual/family pays up to thirty percent (30%) of the adjusted household income as a contribution toward rent, then the maximum rent (tenant contribution plus project-based subsidy) is the rent allowable under the Federal or State project-based rental subsidy program.
- B. Initial Rent Schedule and Utility Allowances. NUCDC may either submit a proposed utilities and services (excluding telephone) allowances to the City for review and approval or agree to provide utility allowances prepared by the West Palm Beach Housing Authority. In the event the tenant is paying utilities and services (excluding telephone), the rents for each unit in the Project cannot exceed the maximum limits for High HOME Rents and Low HOME Rents minus the utilities and services allowances.
- C. Nondiscrimination Against Rental Subsidy Holders. NUCDC cannot refuse to lease units in the Project to a certificate or voucher holder 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.

- D. Income Eligibility. NUCDC shall interview and certify applicants for initial income eligibility (in accordance with the Section 8 Program definition of annual gross income) as provided in paragraph 4.02 above. The certification must be completed by NUCDC before the tenant enters into an agreement to occupy a unit. Such certifications shall be valid for six (6) months from the date of certification and, in the event occupancy has not occurred, the applicant must be re-certified.
- E. Annual Recertification of Income. NUCDC must recertify tenant income on an annual basis during the period of affordability. Each tenant's income will be examined either on the anniversary of the original income evaluation or, with City approval, in accordance with an annual schedule developed by NUCDC. As determined by mutual agreement of the City and NUCDC, the method of recertification is based on the collection of source documentation, a written statement from the tenant indicating family size and annual income, or a written statement from the administrator of another government program under which the tenant receives benefits and examines annual household income every year.
- F. Increases in Tenant Income. In the event the household income of a tenant occupying a Low HOME Rent unit increases to an amount greater than fifty percent (50%) but less than 80% of area median income, that unit becomes a High HOME Rent unit. The next available unit in the Project must be rented to a very-low income tenant. Subject to the terms of the lease, the rent of the initial tenant whose income has increased may be raised to the High HOME Rent for the unit. Should a tenant's annual household income increase to a level that exceeds eight percent (80%) of area median income, said tenant must pay thirty percent (30%) of adjusted income for rent and utilities. The unit occupied by said tenant is still considered to be a HOME unit.
- G. Rent Adjustments. Any adjustments to subsequent rents to the Project during the affordability period shall be in accordance with provisions set forth at 24 CFR 92.252(f).
- H. Tenant and Participant Protections. NUCDC must adhere to provisions contained in 24 CFR 92.253 with respect to leases, prohibited lease terms, termination of tenancy and tenant selection.

SECTION 2.05 Restrictive Covenants. In order to ensure that the affordability requirements as set forth in Section 2.04 above are met, the City shall require deed restrictions, restrictive covenants, covenants, running with the land or other similar legal mechanisms. NUCDC covenants and agrees to assure that any such required restrictive covenant is made binding upon all buyers.

SECTION 2.06 Affirmative Marketing. The NUCDC shall develop and submit within thirty days of the execution of this Agreement to the City for review and approval an affirmative marketing program. The Affirmative Marketing Program shall have as its objective to provide information and otherwise attract eligible persons in the housing market area to the available

housing without regard to race, color, national origin, sex, religion, familial status or disability. The Affirmative Marketing Program must include, but not be limited to the following:

- A. Methods for informing renters of fair housing laws and the affirmative marketing requirements hereof, which may include use of the Equal Housing Opportunity logo or slogan in advertisement, press releases and solicitations of potential eligible buyers and in written communications to Fair Housing, community and other groups.
- B. Develop marketing programs specifically designed to reach eligible renters who are not likely to be reached without special outreach efforts.
- C. Maintain records documenting affirmative marketing actions taken including copies of advertisements, brochures and records to access the results of these actions.

SECTION 2.07 Homebuyer Incubator Program. Tenants participating in the homebuyer incubator program will be offered the opportunity to achieve homeownership through a comprehensive set of services designed to close the financial gap and provide counseling related to homeownership. The incubator program will enable the participant to save money through a matching arrangement in which a percentage of the rent paid by the tenant will be held in an escrow account. Funds from this account will be used as a down payment towards the purchase of a house under NUCDC's homeownership program. In addition, participants will be required to go through comprehensive credit counseling and homebuyer education programs. NUCDC will partner with other existing agencies such as Community Financing Consortium, Inc. and Consumer Credit Counseling Services, Inc. for these purposes.

SECTION 2.08 Return of or Reversion of the Property to City. If NUCDC fails to commence construction, and once commences to substantially complete construction as provided in Section 2.02.1 hereof NUCDC shall reconvey to the City title to the City Parcel within five (5) days after said failure unless the failure shall first have been approved in writing by the City.

ARTICLE III: RECORDS, REPORTS AND INSPECTIONS

SECTION 3.01 Reports. NUCDC shall maintain separate and accurate records of expenditures of all HOME funds and shall submit the following required reports to City, with a copy to the City Administrator, on or before the fifth (5th) of each month:

- A. a project status report for each property until issuance of a certificate of occupancy which shall include a narrative summary of activities completed during the reporting period for each property, total expenses incurred to date, a projection of activities for the next reporting period, and any other information reasonably requested by City;
- B. a marketing activities report including the number of potential renters screened and certified, number of rental/ease agreements executed, number of tenants participating in the homebuyer incubator program, a summary of efforts to identify Approved Home Buyers from the incubator program, and copies of advertisements and brochures for the reporting period;

- C. identification of Program Income, as defined in Section 1.01 above, received during the reporting period;
- D. summary of expenditures with comparisons to the applicable Budget by individual line item;
- E. NUCDC shall make progress presentations to the City Commission during the term hereof or as requested by the City; and
- F. any other information reasonably requested by City.

SECTION 3.02 Records. NUCDC shall maintain information on file regarding gross income, race, household size, female head of households and zip codes for each applicant. NUCDC shall maintain accurate accounting records of all expenses funded from the HOME funds, based on generally accepted accounting principles, for a minimum of five (5) years after the completion of the Project and make such records available for examination by representatives of City, the State and HUD. No later than sixty (60) days following the end of its fiscal year NUCDC, at its sole cost and expense, shall cause an audit of its records to be performed by an independent accounting firm acceptable to City and NUCDC shall make the results of such audit available to City within thirty (30) days after receipt of the report.

SECTION 3.03 Inspection. NUCDC shall make available for examination all of its records and data with respect to all matters covered by this Agreement and shall permit City and/or its designated authorized representative(s) to audit and inspect all books, documents, papers and records directly related to this Agreement at any time during normal business hours and as often as City may reasonably deem necessary. This right of inspection shall include access to the properties to ensure compliance with this Agreement.

SECTION 3.04 Progress Reports. NUCDC shall make progress presentations to the City Commission during the term hereof or as requested by the City.

ARTICLE IV: INDEMNIFICATION AND INSURANCE

SECTION 4.01 Indemnification. NUCDC (the "Indemnifying Party") shall jointly and severally indemnify, defend and hold harmless City, its officers and employees, from and against any and all liability, injury, loss, claims, damages, costs, attorney's fees and expenses of whatever kind or nature which City may sustain, suffer, incur or be required to pay by reason of any act or failure to act of the Indemnifying Party in the execution or performance of this Agreement or any activity contemplated by this Agreement or the Project. The foregoing indemnity obligation of the Indemnifying Party shall include reasonable attorneys' fees, investigation costs and all other reasonable costs and expenses incurred by City. The provisions of this Section shall survive the termination or expiration of this Agreement with respect to any liability, injury, loss, claim or damage occurring prior to such termination or expiration.

SECTION 4.02 Insurance Requirements

- A. While this Agreement is in force and effect NUCDC shall obtain and maintain insurance coverage of the types, in the amounts and containing such provisions and naming such insured, as specified herein. NUCDC, at its sole cost and expense, shall purchase from and maintain, in a company or companies lawfully

authorized to do business in Florida with a current AM Best Company rating of "A+" or better, such insurance as will protect NUCDC from claims set forth below which may arise out of NUCDC's services, or by a contractor, subcontractor, or sub-contractor or material supplier of NUCDC, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The insurance required shall be written for not less than the following limits of liability:

Comprehensive General Liability: (Completed Operations) \$1,000,000.00 Aggregate

Property Damages: \$1,000,000.00 Each Occurrence,
\$3,000,000.00 Aggregate

Comprehensive Automobile Liability:

Bodily Injury: \$500,000.00 Each Person,
\$1,000,000.00 Each Occurrence

Property Damage: \$500,000.00 or combined single limit of
\$1,000,000 for bodily injury and property damage.

Certificates of Insurance and copies of policies acceptable to the City shall be delivered to the City upon execution of this Agreement and prior to the use of "HOME" funds as provided in Article II hereof. A failure of NUCDC to provide the Certificates of Insurance as provided herein shall subject this Agreement to termination as provided in Article X. These Certificates and the insurance policies shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until at least 30 days prior written notice has been given to the City. All certificates and insurance policies required by this paragraph shall name the City, or any other entity designated by the City, as additional named insured's. If any of the foregoing insurance coverage policies are required to remain in force after final payment, an additional certificate evidencing continuation of such coverage shall be submitted along with the application for final payment. NUCDC shall furnish Certificates of Insurance which shall specifically set forth evidence of all insurance coverage required by this Agreement. The Certificates of Insurance shall be dated and show the name of the insured parties, the specific job by name and job location.

1. **Worker's Compensation:** Worker's Compensation Insurance as required by Chapter 440, Florida Statutes.
2. **Builder's Risk Insurance:** NUCDC shall purchase and maintain, in a company or companies lawfully authorized to do business in Florida, property insurance, written on a Builder's Risk completed value form, upon the Work at the site to the full insurable value thereof, (i.e. Builder's Risk coverage). Builder's Risk policy shall name NUCDC as specified "Additional Named Insured's" by way of endorsement to the policy. Such property insurance shall be maintained, until no person or entity other than the City has an insurable

interest in the property. Such property insurance shall include interests of City, NUCDC, Architect and their respective contractors and subcontractors, sub-subcontractors or material suppliers in the Work.

3. **Property Insurance:** Property insurance shall be on a Special Causes of Loss form as published by the Insurance Services Office, Inc., or its equivalent, and shall include coverage on a replacement value basis, including reasonable compensation for NUCDC's services and expenses required as a result of such insured loss. Property covered by this insurance shall include property of the City, NUCDC, Contractor, Subcontractors, Sub-subcontractors, consisting of materials, supplies, machinery, equipment and fixtures which will become a permanent part of the Work at the Project site. Property covered by this insurance will also include temporary building(s) or structure(s) at the site other than office trailer(s). Such insurance shall insure against perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, false work, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the services and expenses of NUCDC's Architect and other professionals required as a result of such insured loss.

A loss or losses insured under such insurance shall be adjusted by NUCDC and its insurance company. NUCDC shall repair or replace the damaged property with the proceeds from the builder's risk policy. NUCDC shall be responsible for all damages and necessary repairs whether or not the loss is covered by the Builder's Risk policy.

4. **Errors and Omissions Insurance:** NUCDC shall purchase and maintain such insurance that will protect it from any and all claims that may arise out of or result from operations under the project. The insurance shall be occurrence based and the limit shall not be less than Five Hundred Thousand Dollars (\$500,000).

- B. Certificates of insurance evidencing the issuance of all insurance required by this Article, describing the coverage shall have been delivered to the City prior to the use of "HOME" funds as provided in Article II hereof, and in the case of any policies replacing or renewing any policies expiring during the Term, not later than five (5) days before the expiration of any expiring policies. The certificates of insurance shall be issued by or behalf of the insurance company and shall contain the original signature of an officer or duly authorized agent having the authority to issue the certificate. The insurance company issuing the insurance shall also deliver to the City, together with the certificates, proof reasonably satisfactory to the City that the premium for the at least one (1) year of the term of each policy have been paid. NUCDC shall notify the City of any material changes in the coverage provided under any policy promptly after requesting an insurance company to make such change or receiving any notice from an insurance company advising NUCDC of any change, provided, however, that no

such change may substantially reduce or otherwise modify the insurance coverage required under this Agreement.

- C. NUCDC shall not violate or permit to be violated any of the conditions, provisions or requirements of any insurance policy required by this Article, and NUCDC shall perform, satisfy and comply, with or cause to be performed, satisfied and complied with, all conditions, provisions and requirements of all insurance policies.

ARTICLE V: REPRESENTATIONS AND WARRANTIES

SECTION 5.01 NUCDC represents and warrants to City that as of the date of this Agreement it:

- A. is duly organized, validly existing and in good standing under the laws of the State of Florida;
- B. is and will remain, if applicable, qualified to manage real estate in the State of Florida;
- C. has a tax exemption ruling from the Internal Revenue Service under Section 501(c) (3) or (4) of the Internal Revenue Code of 1986;
- D. has the full power and authority to execute, deliver and perform NUCDC's obligations under this Agreement;
- E. has in its employ a sufficient number of capable employees to enable it to properly, safely and economically manage, coordinate and administer the Project;
- F. is experienced and skilled in the work of the type required of it herein; and

SECTION 5.02 NUCDC certifies to the best of its knowledge and belief that: (i) No federally appropriated funds have been paid or will be paid, by or on behalf of NUCDC, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; and (ii) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, NUCDC shall complete and submit Standard Form-LL, "Disclosure Form to Report Lobbying".

ARTICLE VI: SMALL BUSINESS PARTICIPATION

SECTION 6.01 If NUCDC uses non-volunteer contractors or subcontractors, NUCDC shall require them to take affirmative action to assure that women and minority businesses have equal access to participation in all phases of the Project. NUCDC agrees where possible to submit requests for bids or other contractual opportunities to City's Small Business Enterprise ("SBE") Coordinator and take such action as is necessary to ensure that small businesses are aware of

contracting and employment opportunities associated with the Project to the extent legally permissible. NUCDC hereby represents that it has selection procedures designed to ensure that SBE's have equal access to participation in all phases (pre-construction and construction) of the Project if not done by volunteers to the extent legally permissible.

ARTICLE VII: ENFORCEMENT

SECTION 7.01 Default. Each of the following shall constitute an "Event of Default" for purposes of this Agreement.

- A. Failure of NUCDC to commence construction or to substantially complete construction on the respective Commencement of Completion Date for each unit.
- B. If the units are not substantially completed by the Construction Completion Date, as such date may be extended by Unavoidable Delays or as a result of acts or omissions of the City.
- C. If NUCDC shall default in performing or complying with any other term, covenant or condition of this Agreement to be performed or complied with by NUCDC, or any representation or warranty shall prove to be incorrect.
- D. Any representation or warranty made by the NUCDC in this Agreement or any statement or representation made in any certificate or report delivered hereto or thereto proves to have been false, misleading or incorrect in any material respect when made or furnished or when reaffirmed.
- E. Dissolution or termination of the corporate or partnership existence of NUCDC by merger, consolidation or otherwise, or termination or suspension of NUCDC's authorization to do business; or cessation of NUCDC to continue to do business.
- F. NUCDC shall challenge or contest in any action, suit or proceeding the validity or enforceability of this Agreement.

SECTION 7.02 Enforcement. Upon the happening of any one or more of the Events of Default, the City, at its option and without notice, may (i) terminate this Agreement and may institute an action or suit or other proceeding in law, in equity or otherwise, which it shall deem necessary or proper for the protection of its interest; (ii) enforce performance or observance by NUCDC of the applicable provisions of this Agreement.

- A. The foregoing, notwithstanding, City shall not terminate this Agreement due to default without first giving NUCDC written notice thereof and (i) ten (10) days to cure such default in the case of the failure or refusal of NUCDC to make a monetary payment on or before its due date or failure to substantially complete construction by the Construction Completion Date; and (ii) twenty (20) days to cure such default in the case of any default other than a failure or refusal to make a monetary payment or to substantially complete construction before the Construction Completion Date.

During any cure period, NUCDC shall make progress reports to the City on a daily basis unless City agrees upon some other period of time.

- B. Upon receipt of Notice of Termination of this Agreement, NUCDC shall not obligate additional funds. Further, in that event, City shall honor invoices for services rendered up to the date of receipt by NUCDC of the Notice of Default.
- C. If a Default shall occur and be continuing beyond any applicable notice and cure period, the City may, but shall be under no obligation to, perform the obligations of NUCDC the breach of which gave rise to such Default, including availing itself of and procuring performance of existing contracts, amending the same and entering into new contracts with the same contractors or others and employment of watchmen to protect the Project Site from injury, without waiving or releasing NUCDC from any of its obligations contained herein, provided that the City shall exercise such right only in the event of a bona fide emergency or after five (5) business days' notice. Any amount paid by City in performing NUCDC's obligations as provided in this Section, including all costs and expenses incurred by the City in connection therewith, shall be reimbursed to the City within thirty (30) days following the City's demand therefore, together with a late charge on amounts actually paid by the City, calculated at the Late Charge Rate from the date of notice of any such payment by the City to the date on which payment of such amounts is received by the City.
- D. The City's payment or performance pursuant to the provisions of this Agreement shall not be, nor be deemed to constitute the City's assumption of NUCDC's obligations to perform any of the NUCDC's past, present or future obligations hereunder.
- E. No failure of the City to insist upon strict performance of any covenant, term or condition of this Agreement or to exercise any right or remedy available to such party by reason of an Event of Default, and no payment of amount due under this Agreement during the continuance (or with the City's knowledge of the occurrence) of any Event of Default, shall constitute a waiver of any such Default or Event of Default or of such covenant, term or condition of this Agreement to be performed or complied with by either party, and no default by either party, shall be waived, altered or modified except by a written instrument executed by the other party. No waiver of any Default or Event of Default shall affect or alter this Agreement, but each and every covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent Default.

ARTICLE VIII: MISCELLANEOUS

SECTION 8.01 Notice. Whenever this Agreement requires that notice be given or served by either party to the other, such notice shall be given or served in writing to the other party and shall be deemed given as provided in Section 7.02 of this Agreement. Any notice provided for in this Agreement shall be deemed to have been given to NUCDC or City when given in the manner designated therein. Any party may change its address for notices in the manner provided for herein for giving notice.

Notice to City shall be mailed to:

City of West Palm Beach
200 2nd Street
Post Office Box 3366
West Palm Beach, FL 33401
Attention: City Administrator

Copy to:

City of West Palm Beach
200 2nd Street
Post Office Box 3366
West Palm Beach, FL 33401
Attention: City Attorney

City of West Palm Beach
200 2nd Street
Post Office Box 3366
West Palm Beach, FL 33401
Attention: ECD Director

Notice to NUCDC shall be mailed to:

New Urban Community Development Corporation
1700 North Australian Avenue
West Palm Beach, FL 33407
Attention: Patrick Franklin, President/CEO

or to such other address as may be designated in writing by NUCDC.

SECTION 8.02 Attorneys' Fees. In the event either party commences litigation to enforce any terms of this Agreement, the prevailing party in such action shall be entitled to recover costs and reasonable attorneys' fees incurred in connection with such action.

SECTION 8.03 No Waiver. The failure of City to insist upon the strict and/or prompt enforcement of the terms, covenants and conditions of this Agreement and acceptance of such performance thereafter shall not constitute a waiver of City's right to thereafter enforce the same according to the terms hereof.

SECTION 8.04 Severability. The invalidity, illegality or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity, legality or enforceability of the remaining provisions of the Agreement.

SECTION 8.05 Compliance With Laws. NUCDC shall comply with all federal, state and local laws, ordinances and regulations relative to the Project including but not limited to all federal laws governing the use of the HOME Funds and the City's Housing Code.

SECTION 8.06 Conflict Of Interest. In accordance with 24 CFR Part 92.356, no officer, employee, agent or board member of NUCDC or City, who exercises any functions or responsibilities with respect to the Project to be developed pursuant to this Agreement, during his or her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project to be developed pursuant to this Agreement. Nothing herein shall prevent any party described above from purchasing a personal residence in the Project provided that no special benefits, discounts or waivers are made available to that party.

SECTION 8.07 Force Majeure. Any deadline provided for in this Agreement shall be extended, as provided herein, if the deadline is not met because of one of the following conditions occurring with respect to the Project: fire, strike, explosion, power blackout, earthquake, volcanic action, flood, war, civil disturbances, hurricanes and acts of God. When one of the foregoing listed conditions interferes with performance, then the party affected shall be excused from performance on a day-to-day basis to the extent such party's obligations relate to the performance so interfered with; provided, the party so affected shall use reasonable efforts to remedy or remove such causes of non-performance.

SECTION 8.08 Entire Agreement. This instrument embodies the entire agreement between the parties and supersedes all prior verbal and written agreements by, between and among the parties. This Agreement may not be modified or changed, except by supplemental written agreement executed and approved by the authorized representatives of the parties hereto.

SECTION 8.09 Headings. The section headings are inserted herein for convenience and reference only, and in no way define, limit or otherwise describe the scope or intent of any provisions hereof.

SECTION 8.10 Interpretation. Wherever herein the context so requires, the use of the masculine shall include the feminine or the neuter and the use of representative shall include trustee, receiver and executor.

SECTION 8.11 Governing Law/Venue. The provisions of this Agreement are to be construed according to and are to be governed by the laws of the State of Florida, and any action brought to enforce any of the terms hereof shall be brought in Palm Beach County, Florida.

SECTION 8.12 Survival. The provisions of this Agreement shall survive the termination of the Agreement and shall be enforceable by any appropriate legal means available to either party.

SECTION 8.13 Assignment. This Agreement may not be assigned, in whole or in part, without the prior written consent of City.

SECTION 8.14 Independent Contractor. NUCDC shall at all times be an independent contractor and nothing in this Agreement will at any time be construed so as to create the relationship of employer and employee, principal and agent, partnership or joint venture as between NUCDC and City. NUCDC acknowledges that it has no authority to bind City to any contractual or other obligation.

SECTION 8.15 No Third-Party Beneficiary. No contractor, subcontractor, mechanic, materialman, laborer, vendor, or other person dealing with NUCDC shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement.

SECTION 8.16 Non Discrimination. No person in the United States shall be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity funded in whole or in part with federal funds on the grounds of race, color, national origin, religion, or sex.


SECTION 8.17 No Representation. Notwithstanding anything contained herein to the contrary, NCDP acknowledges and agrees that City's review and approval of any specifications shall not constitute, and City shall not be deemed to have made, any representation or warranty as to the compliance of the work with applicable law or as to the suitability of the properties for the Project. Accordingly, notwithstanding the fact that any plans or specifications are reviewed

and/or approved by City or its consultants, and notwithstanding any advice or assistance which may be rendered by City or its consultants, City shall have no liability whatsoever in connection therewith and shall not be responsible for any omissions or errors contained in such specifications.

IN WITNESS WHEREOF, this instrument has been executed by the parties hereto in manner and form sufficient to bind them, as of the Effective Date.

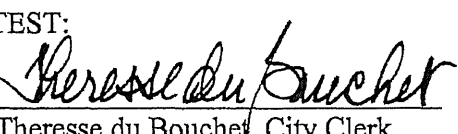
(CORPORATE SEAL)

THE CITY OF WEST PALM BEACH
BY ITS CITY COMMISSION


By: 
Lois J. Frankel, Mayor

Date: 12/6/2004

ATTEST:

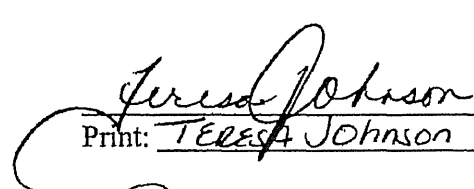
By: 
Therese du Bouchet, City Clerk

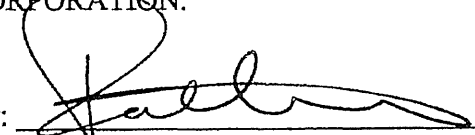
City Attorney's Office
Approved as to form and legal sufficiency

By: 
Date: 12-2-04

EXECUTED IN THE PRESENCE OF:

NEW URBAN COMMUNITY DEVELOPMENT
CORPORATION.


Print: TERESA JOHNSON

By: 
Chair
Date: 3/29/03

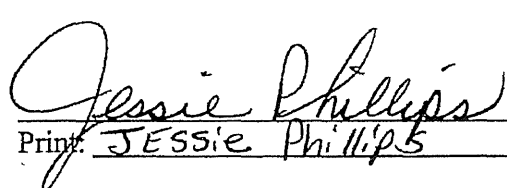

Print: JESSIE PHILLIPS

EXHIBIT "A"

DESCRIPTION OF PROPERTY

1. Lot 8, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, Page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0080
2. Lot 9, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, Page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0090
3. Lot 10, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, Page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0100
4. Lots 11 and 12, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, Page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0110

This Instrument Prepared By
ECD
City of West Palm Beach
P.O. Box 3366
West Palm Beach, FL 33402
(RS) 423.05-01262(sat)

CFN 20060361170
OR BK 20494 PG 0474
RECORDED 06/19/2006 15:19:21
Palm Beach County, Florida
AMT 350,000.00
Deed Doc 1,260.00
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0474 - 485; (12pgs)

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT ("Mortgage") executed this 3rd day of April, 2005, by **NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC.**, a Florida 501 (c)(3) not-for-profit community housing development organization, whose address is 1700 North Australian Avenue, West Palm Beach, Florida 33407 ("Mortgagor"), in favor of the **CITY OF WEST PALM BEACH**, a municipal corporation organized under the laws of the State of Florida, whose address is 200 2nd Street, West Palm Beach, Florida 33401 ("Mortgagee").

That for good and valuable consideration and to secure the payment of an indebtedness in the principal amount of Three Hundred Sixty Thousand Dollars and no/100 (\$360,000.00), to be paid in accordance with a promissory note of even date herewith (hereinafter referred to as the "Note"), together with any and all sums due or which may become due from the Mortgagor to Mortgagee in accordance with the Note, this Mortgage, or otherwise, Mortgagor does grant, bargain, sell, alien, remise, convey, mortgage and confirm unto Mortgagee, its successors and assigns, in fee simple, and grant a security interest in all the certain real property, of which Mortgagor is now seized and possessed, and in actual possession, situate in Palm Beach County, State of Florida, which is legally described in **Exhibit "A"** attached hereto and made a part hereof ("Land"); together with all improvements, buildings, fixtures, structures now or hereafter existing thereon ("Improvements"); all appurtenances thereto including all easements, rights of way, and all tenements, hereditaments and appurtenances whatsoever in any way belonging, relating or appertaining to the Land (whether now owned or hereafter acquired by Mortgagor); all rents, issues, incomes and profits relating to the possession, use or occupancy of all or any portion of the Land; all contract rights of Mortgagor in and to any and all contracts now existing or hereafter entered into or arising in any manner related to the use or operation of the Land into cash or other liquidated claims, or that are otherwise payable for injury or loss to, or the taking conversion, destruction of any or all of such property, including without limitation all insurance and condemnation proceeds (collectively herein referred to as the "Property").

To the extent any of the property described encumbered by this Mortgage from time to time constitutes personal property subject to the provisions of the Florida Uniform Commercial Code (the "Code"), this Mortgage constitutes a "Security Agreement" for all purposes under the Code. Without limitation, Mortgagee, at its election, upon Mortgagor's default under this Mortgage continuing beyond any applicable curative period, will have all rights, powers, privileges, and remedies from time to time available to a secured party under the provisions of

the Code with respect to such property. Notwithstanding any provision of this Mortgage to the contrary, Mortgagor and Mortgagee agree that, unless and until Mortgagee affirmatively elects otherwise, all property in any manner used, useful, or intended to be used for the improvement of or production of income from, the Land is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such items are physically attached to the Property; (ii) serial numbers are used for the better identification of certain equipment; or (iii) any such item is referred to or reflected in any financing statement filed or recorded at any time.

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

The Mortgagor for itself, its successors and assigns, does covenant with said Mortgagee, its successors and assigns, that the Mortgagor is indefeasibly seized of the Property in fee simple; that the Mortgagor has full power and lawful right to convey the Property in fee simple as aforesaid; that the Mortgagor, its successors and assigns, will make such further assurances to perfect the fee simple title to the Property in the Mortgagee, its successors and assigns, as may reasonably be required; and that the Mortgagor does hereby fully warrant the title to the Property, and will defend the same against the lawful claims of all persons whomsoever, and that the Property is free and clear all encumbrances.

PROVIDED ALWAYS that if the Mortgagor, its successors and assigns, shall pay to the Mortgagee, its successors or assigns, any and all indebtedness due by Mortgagor to Mortgagee, including, but not limited to, the indebtedness evidenced by the Note and any and all renewals of the same and shall perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants of this Mortgage, the Note, that certain Townhouses at Henrietta CHDO Project Agreement dated March 29, 2005, and Townhouses at Henrietta CHDO Project Loan Agreement dated March 29, 2005, between Mortgagor and Mortgagee (the "Loan Documents"), then this Mortgage and the estate hereby created shall cease and be null and void.

To protect the security of this Mortgage, the Mortgagor further agrees with Mortgagee as follows:

1. Payment of Secured Obligations. Mortgagor shall pay when due the principal of, and the interest and other charges on, the indebtedness evidenced by the Note, and shall otherwise comply with all the terms of the Note, this Mortgage and the Loan Documents.
2. Taxes and Other Impositions. Mortgagor will pay or cause to be paid and discharged, on or before the last day on which they may be paid without penalty or interest, all taxes, charges for water, sewer and all other utilities on the Property and any assessments and payments, extraordinary or ordinary, which shall become due and payable by virtue of any present or future law, ordinance, regulation or covenant applicable to the Property (all of the foregoing shall be collectively referred to as the "Impositions"). In default of payment of any Imposition, Mortgagee may, but shall not be required to, pay the same and the amount so paid by Mortgagee shall, at the

Mortgagee's option, become immediately due and payable with interest at the maximum rate permitted under Florida law and shall be deemed part of the principal indebtedness secured by this Mortgage. Mortgagor shall, upon written request, provide to Mortgagee the receipts or other reasonably satisfactory proof of the payment of any Impositions which may affect the Property.

3. Maintenance/Repairs/Alterations. Mortgagor will keep the Improvements, if any, in good condition and repair and in compliance with all applicable codes, ordinances and regulations. Mortgagor shall commit or permit no waste upon the Property and will do or permit no act by which the Property shall become less valuable. Mortgagor will not remove, demolish or structurally alter any of the Improvements (except such alterations as are contemplated by the Loan Documents and such alterations as may be required by laws, ordinances or regulations) without the prior written permission of the Mortgagee. Mortgagor will promptly restore any Improvement which may be damaged or destroyed thereon and will pay when due all claims for labor performed and materials furnished therefor. Mortgagor will use and operate the Property in compliance with all applicable laws, ordinances, regulations, covenants, conditions and restrictions. Mortgagee and its representatives shall have access to the Property at all reasonable times to determine whether Mortgagor is complying with its obligations under this Mortgage.

4. Payments of Fees and Costs. To pay all costs, charges and expenses, including lawyer's fees reasonably incurred or paid at any time by the Mortgagee, its successors or assigns, because of the failure on the part of the Mortgagor, its successors or assigns to perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants of the Note, this Mortgage or the Loan Document.

5. Compliance with Documents. To perform, comply with, and abide by each and every stipulation, agreement, condition and covenant contained in the Note, this Mortgage and the Loan Documents.

6. Default. If (i) a default occurs under the Note, this Mortgage or any of the Loan Documents; (ii) each and every of the non-monetary stipulations, agreements, conditions and covenants of the Loan Documents are not fully performed, complied with and abided by within the time provided in the Loan Documents; (iii) the jurisdiction of the United States District or Bankruptcy Court shall be invoked by or against the Mortgagor, under any of the provisions of the Federal Bankruptcy Act, or (iv) any warranty or representation made by Mortgagor under this Mortgage, the Loan Documents or any other written document to Mortgagee shall be untrue or materially misleading, then said sum shall be due and payable upon demand forthwith or thereafter at the option of the Mortgagee, its successors or assigns, as fully and completely as if the said sum were originally stipulated to be paid on such day.

7. Remedies. In the event one or more defaults shall occur, the remedies available to the Mortgagee shall as provided in the Loan Documents including, but not limited to the following:

- a. Article 7 of the Project Agreement.
- b. Article 9 of the Loan Agreement.
- c. Mortgagee may exercise any and all other remedies provided in the Note in law or in equity, which remedies shall be cumulative and may be pursued concurrently or successively.

No delay by Mortgagee in exercising any such remedy shall operate as a waiver thereof or preclude the exercise thereof during the continuance of that or any subsequent default. Mortgagee shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Mortgage or any laws now or hereafter in force, notwithstanding some or all of the indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, pledge, lien, assignment or otherwise.

8. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to or offset by Mortgagee in reduction of the Note secured by this Mortgage; provided, however, that such awards will be first paid to Mortgagor to the extent repair and restoration of the Property is economically feasible and the security of this Mortgage is not, in Mortgagee's reasonable judgment, thereby impaired. In the event of a total taking of the Property, the proceeds shall be applied in reduction of the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. In the event of a partial taking of the Property, unless repair and restoration of the Property by Mortgagor is economically feasible and the security of this Mortgage is not, in Mortgagee's reasonable judgment, thereby impaired, or Mortgagor and Mortgagee otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the Note secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Mortgagor.

9. Notices. Except for any notice required under applicable law to be given in another manner, any notice to Mortgagor and Mortgagee provided for in this Mortgage shall be deemed given as provided in Section 16.01 of the NEW URBAN COMMUNITY DEVELOPMENT Corporation CHDO Project Agreement for Coleman Park dated April 9, 2003. Any notice provided for in this Mortgage shall be deemed to have been given to Mortgagor or Mortgagee when given in the manner designated therein. Any party may change its address for notices in the manner provided for herein for giving notice.

10. Restriction on Transfer. This Mortgage shall not be assigned or otherwise transferred by Mortgagor without the express written consent of Mortgagee, which consent may be withheld in Mortgagee's sole discretion. Any such assignment documentation shall be of no force or effect unless and until consented to in writing

by Mortgagee. In the event Mortgagor shall suffer or permit any prohibited assignment or transfer to take place, then Mortgagee may, at its option, declare the entire amount due and payable at once.

11. Hazardous Waste. No hazardous materials shall be placed upon or disposed of on the Property by Mortgagor. Mortgagor hereby indemnifies, defends, and holds Mortgagee free and harmless of, from and against any and all claims, costs, expenses, liabilities, losses, liens, encumbrances, fees, damages, judgments, penalties, causes of action and other charges of whatsoever kind or nature (including, without limitation, attorney's fees and disbursements and the fees and expenses of any environmental and analytical laboratories, consultants and engineers) suffered or incurred by Mortgagee as a result of the future existence of any hazardous materials in, on, under, about or emanating from the Property or any part thereof as a result of Mortgagor's use or operation of the Property.

12. Governing Law. This Mortgage shall be governed by the laws of the State of Florida.

13. Compliance with Laws. Mortgagor shall not use the Property or allow the same to be used for any unlawful purpose or in violation of any governmental code, ordinance or regulation or commit or permit to suffer thereon any condition that may in any way increase any ordinary fire or other hazard, or that may constitute a nuisance, public or private.

14. Modifications. This Mortgage may not be changed, terminated or modified orally or in any other manner than by an instrument in writing signed by the party against whom enforcement is sought.

15. Invalidity of Certain Provisions. If the lien of this Mortgage is invalid or unenforceable as to any part of the indebtedness, or if the lien is invalid or unenforceable as to any part of the Property, the unsecured portion of the indebtedness, and all payments made on the indebtedness, whether voluntary or otherwise, shall be considered to have been first paid on and applied to the full payment of that portion of the indebtedness which is not secured or fully secured by the lien of this Mortgage.

16. Collection Expenses. All parties liable for the payment of the Note agree to pay the Mortgagee all costs incurred by the Mortgagee, whether or not an action is brought, in collecting the sums due under the Note, enforcing the performance and/or protecting its rights under the Loan Documents and in realizing on any of the security for the Note. Such costs and expenses shall include, but are not limited to, reasonable attorneys' fees, filing fees, costs of publication, deposition fees, stenographer fees, witness fees, title search or abstract costs and other court and related costs incurred or paid by Mortgagee in any action, proceeding or dispute in which Mortgagee is made a part or appears as a party plaintiff or party defendant because of the failure of the Mortgagor promptly and fully to perform and comply with all conditions and covenants of this Mortgage, the Note secured hereby, or the Loan Documents,

including but not limited to, the foreclosure of this Mortgage, condemnation of all or part of the Property, or any action to protect the security thereof.

17. Attorneys' Fees. All parties liable for the payment of the Note agree to pay the Mortgagee reasonable attorneys' fees incurred by the Mortgagee, whether or not an action be brought, in collecting the sums due under the Note, enforcing the performance and/or protecting its rights under the Loan Documents and in realizing on any of the security for the Note. Such reasonable attorneys' fees shall include, but not be limited to, fees for attorneys, paralegals, legal assistants, and expenses incurred in any and all judicial, bankruptcy, reorganization, administrative receivership, or other proceedings affecting creditor's rights and involving a claim under the Note or the Loan Documents, which such proceedings may arise before or after entry of a final judgment. Such fees shall be paid regardless whether suit is brought and shall include all fees incurred by Mortgagee at all trial and appellate levels including bankruptcy court.

IF ALL OR ANY PART OF THE PROPERTY, OR ANY INTEREST THEREIN, IS SOLD OR TRANSFERRED, VOLUNTARILY OR INVOLUNTARILY, INCLUDING FORECLOSURE, WITHOUT THE PRIOR WRITTEN CONSENT OF THE MORTGAGEE, WHICH CONSENT MAY BE WITHHELD, THE MORTGAGEE, AT ITS OPTION, MAY DECLARE THE ENTIRE UNPAID BALANCE SECURED HEREBY, DUE AND PAYABLE, NOTWITHSTANDING ANYTHING HEREIN OR IN THE NOTE SECURED HEREBY TO THE CONTRARY. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE AND ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

IN WITNESS WHEREOF, the Mortgagor has set its hand and seal as of the day and year first above written.

Witnesses:

Teresa Johnson
Print: TERESA JOHNSON

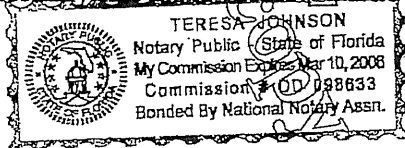
Patricia Franklin
Print: PATRICIA FRANKLIN

MORTGAGOR:
NEW URBAN COMMUNITY
DEVELOPMENT CORPORATION, INC.

By: *Edward W. Lowery*
Its: Chair
Print Name: Edward W. Lowery

STATE OF FLORIDA }
COUNTY OF PALM BEACH } ss.

The foregoing instrument was acknowledged before me this 3rd day of October, 2006, by Edward W. Lowery, as Chairman of NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., on behalf of the corporation, ☒ who is personally known to me ☐ who has produced _____ as identification.



Teresa Johnson
Print: TERESA JOHNSON
Notary Public

My commission number is: DD 098633
My commission expires: 3/10/06

EXHIBIT "A"

LEGAL DESCRIPTION

- Lot 8, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0080
2. Lot 9, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0090
3. Lot 10, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0100
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THE TAX HAS BEEN PAID AND THE PROPER DOCUMENTARY STAMPS HAVE BEEN AFFIXED TO THE MORTGAGE SECURING THIS PROMISSORY NOTE.

PROMISSORY NOTE

\$360,000.00

West Palm Beach, Florida

Executed: October 31, 2005

Effective: October 31, 2005

GRANTEE'S PROMISE TO PAY

FOR VALUE RECEIVED, the undersigned, **NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC.**, a Florida 501(c)(3) not-for-profit Community Housing Development Corporation (NUCDC), whose address is 1700 North Australian Avenue, West Palm Beach, FL 33407 (hereinafter the "Grantee"), promises to pay to the order of **City of West Palm Beach, Florida**, a Florida municipal corporation, (hereinafter called "City"), at its address 200 2nd Street, West Palm Beach, Florida 33401, or at such other place or places as it may from time to time be designed in writing by City, in lawful money of the United States, the principal sum of Three Hundred Sixty Thousand Dollars and no/100 (**\$360,000.00**) or so much thereof as may be advanced with and outstanding from time to time, with interest on the unpaid principal from the date of each such advance at the rate and in the manner hereinafter set forth.

This Note is executed pursuant to the terms of the Townhouses at Henrietta CHDO Project Agreement dated March 29, 2005 (the "Project Agreement") as amended, the Townhouses at Henrietta CHDO Project Loan Agreement dated March 29, 2005 (the "Loan Agreement"), as amended, and the Mortgage and Security Agreement of even date herewith, by and between the Grantee and the City (collectively the "Loan Documents").

Payments under this Note shall be due and payable as follows:

The interest rate shall be zero (0)% per annum. The entire outstanding balance plus all accrued and unpaid interest if any, on the entire outstanding principal balance shall be due and payable on December 31, 2024 (the "Maturity Date") provided the Borrower has a "Positive Cash Flow" on December 31, 2024. Positive Cash Flow is defined for these purposes as "Total project revenues less a vacancy allowance of gross rents less operating expenses of (i) property management (ii) property maintenance and repair, (iii) property insurance, (iv) property taxes, (v) down payment escrow not to exceed three percent (3.0%) of gross rents, (vi) other administrative expenses not to exceed four percent (4.0%) of gross rents and debt service (principal plus interest) payments on the project first mortgage loan not to exceed \$622,800". The existence of a Positive Cash Flow shall be established by a Certified Public Accountant selected by the City. In the event Borrower does not have a Positive Cash Flow on December 31, 2024, the City and the Borrower shall negotiate payment terms.

Interest hereunder, if any, shall be computed on the basis of a 360-day year for the actual number of days in the interest period. All payments of principal and interest shall be

made in lawful money of the United States which shall be legal tender in payment of all debts, public and private, at the time of payment. This Note may be prepaid in whole or in part without penalty or premium.

This Note is secured by a Mortgage of even date herewith (the "Mortgage") executed by the Grantee in favor of City, which Mortgage constitutes a lien on certain real and personal property in Palm Beach County, Florida ("Property") of which the Grantee is the fee simple owner. Reference is hereby made to the Mortgage and to the Loan Documents for a description of events of default and rights in the event of default. It is expressly agreed that all of the covenants, conditions and agreements contained in the Mortgage and the Loan Documents are made a part of this Note. Upon default on any note secured by said Mortgage, including, but not limited to this Note, all notes so secured and remaining unpaid shall become due and payable, notwithstanding the terms and provisions of these notes.

Upon a default under any of the Loan Documents, the City subject to the provisions of Article 9 of the Loan Agreement shall have the right to pursue all appropriate remedies to collect on or enforce the terms of this Note and related Mortgage, including the right to declare the entire amount of the total unpaid balance hereof to be due and payable.

Upon an Event of Default, the principal sum remaining unpaid shall become immediately due and payable with interest at the maximum rate permissible under Florida law (the "Default Rate") computed from the date the cure period has expired until such Event of Default is fully rectified. In no event shall any Default Rate of interest apply until after the cure period or grace period has expired and Maker has failed to cure said default. Lender shall have the right to pursue all appropriate remedies to collect on or enforce the terms of this Note including the right to declare the entire amount of the total unpaid balance hereof to be due and forthwith payable in advance of the Maturity Date, as fixed herein.

Maker agrees to pay all costs of collection incurred in enforcing this Note, including attorneys' fees and costs. In the event any legal proceedings are instituted in connection with, or for the enforcement of this Note, the Lender shall be entitled to recover its costs of suit, including attorneys' fees and costs, at both trial and appellate levels and in any bankruptcy action.

Each maker, endorser and guarantor or any person, firm or corporation becoming liable under this Note hereby consents to any extension or renewal of this Note or any part hereof, without notice, and agrees that they will remain liable under this Note during extension or renewal hereof, until the debts represented hereby are paid in full.

Nothing herein contained, nor in any instrument or transaction related hereto, shall be construed or so operate as to require Maker, or any person liable for the payment of the Loan made pursuant to this Note, to pay interest in an amount or at a rate greater than the highest rate permissible under applicable law as amended from time to time. Should any interest or other charges paid by Maker, or any party liable for payment of the Loan made pursuant to this Note, result in the computation or earning of interest in excess of the highest rate permissible under applicable law, then any and all such excess shall be and the same is hereby waived by Lender, and all such excess shall be paid by Lender to Maker or to any party liable for the payment of the Loan made pursuant to this Note, it being the intent of the parties hereto that under no

circumstances shall Maker or any party liable for the payment of the Loan hereunder, be required to pay interest in excess of the highest rate permissible under applicable law as amended from time to time.

All persons or corporations now or at any time liable, whether primarily or secondarily, for the payment of the indebtedness hereby evidenced, for themselves, their heirs, legal representatives, successors and assigns respectively, hereby:

- (a) Expressly waive valuation and appraisal, presentment, protest, notice of protest and dishonor;
- (b) Expressly consent to any extension or renewal, in whole or in part, and all delays in time of payment or other performance which Lender may grant at any time and from time to time without limitation and without any notice or future consent of the undersigned; and
- (c) Agree that the Lender, in order to enforce payment of this Note, shall not be required to first institute any suit or to exhaust any of its remedies against the Maker or any other person or party to become liable hereunder.

The remedies of Lender as provided herein, in the Mortgage, or in the Loan Documents shall be cumulative and concurrent and may be pursued singularly, successively or together, at the sole discretion of Lender, and may be exercised as often as occasion therefore shall arise. No act of omission or commission of the Lender, including specifically any failure to exercise any right, remedy or recourse, 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 the Lender 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, as a bar to, or as a waiver or release of, any subsequent event.

This Note is to be construed according to the applicable laws of the State of Florida.

This Note may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

All communications required under or in connection with this Note shall be in writing, and shall be sent registered or certified mail, postage prepaid addressed to the Maker or Lender at the address as either party may designate from time to time by notice pursuant to the Loan Agreement.

MAKER AND LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE AND ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

IN WITNESS WHEREOF, Grantee has caused this Note to be executed on the date first above written.

Witnesses:

"GRANTEE"

NEW URBAN COMMUNITY
DEVELOPMENT CORPORATION,
INC.

Teresa Johnson
Print Name: TERESA Johnson

Patrell Franklin
Print Name: Patrell Franklin

By: Edward W. Lavery
Print: Edward W. Lavery

STATE OF FLORIDA
COUNTY OF PALM BEACH

This instrument was acknowledged before me this 31st day of October, 2005, by Edward W. Lavery, as Chairman of NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida 501(c)(3) not-for-profit Community Housing Development Corporation on behalf of the company. He she is personally known to me or has produced _____ as identification.

Teresa Johnson
Print Name: TERESA Johnson
Notary Public State of Florida

My Commission Expires:

F:\SThomas\ECD\Contracts\Northwest Community Development Prog\CHDO Agreement\Henrietta Townhouses Project\Henrietta Townhouses Promissory Note.doc



CFN 20060669666
OR BK 21149 PG 1262
RECORDED 12/04/2006 11:50:50
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1262 - 1273; (12pgs)

This Instrument Prepared By
ECD
City of West Palm Beach
P.O. Box 3366
West Palm Beach, FL 33402
(RE) 475-06-01262sat

AMENDED MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT ("Mortgage") executed this 20th day of November, 2006, by **NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC.**, a Florida 501 (c)(3) not-for-profit community housing development organization, whose address is 1700 North Australian Avenue, West Palm Beach, Florida 33407 ("Mortgagor"), in favor of the **CITY OF WEST PALM BEACH**, a municipal corporation organized under the laws of the State of Florida, whose address is 200 2nd Street, West Palm Beach, Florida 33401 ("Mortgagee").

That for good and valuable consideration and to secure the payment of an indebtedness in the principal amount of Six Hundred Seventeen Thousand Eight Hundred Fifty-three Dollars and no/100 (\$617,853.00), to be paid in accordance with a promissory note of even date herewith (hereinafter referred to as the "Note"), together with any and all sums due or which may become due from the Mortgagor to Mortgagee in accordance with the Note, this Mortgage, or otherwise, Mortgagor does grant, bargain, sell, alien, remise, convey, mortgage and confirm unto Mortgagee, its successors and assigns, in fee simple, and grant a security interest in all the certain real property, of which Mortgagor is now seized and possessed, and in actual possession, situate in Palm Beach County, State of Florida, which is legally described in **Exhibit "A"** attached hereto and made a part hereof ("Land"); together with all improvements, buildings, fixtures, structures now or hereafter existing thereon ("Improvements"); all appurtenances thereto including all easements, rights of way, and all tenements, hereditaments and appurtenances whatsoever in any way belonging, relating or appertaining to the Land (whether now owned or hereafter acquired by Mortgagor); all rents, issues, incomes and profits relating to the possession, use or occupancy of all or any portion of the Land; all contract rights of Mortgagor in and to any and all contracts now existing or hereafter entered into or arising in any manner related to the use or operation of the Land into cash or other liquidated claims, or that are otherwise payable for injury or loss to, or the taking conversion, destruction of any or all of such property, including without limitation all insurance and condemnation proceeds (collectively herein referred to as the "Property").

To the extent any of the property described encumbered by this Mortgage from time to time constitutes personal property subject to the provisions of the Florida Uniform Commercial Code (the "Code"), this Mortgage constitutes a "Security Agreement" for all purposes under the Code. Without limitation, Mortgagee, at its election, upon Mortgagor's default under this Mortgage continuing beyond any applicable curative period, will have all rights, powers,

privileges, and remedies from time to time available to a secured party under the provisions of the Code with respect to such property. Notwithstanding any provision of this Mortgage to the contrary, Mortgagor and Mortgagee agree that, unless and until Mortgagee affirmatively elects otherwise, all property in any manner used, useful, or intended to be used for the improvement of, or production of income from, the Land is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such items are physically attached to the Property; (ii) serial numbers are used for the better identification of certain equipment; or (iii) any such item is referred to or reflected in any financing statement filed or recorded at any time.

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

The Mortgagor for itself, its successors and assigns, does covenant with said Mortgagee, its successors and assigns, that the Mortgagor is indefeasibly seized of the Property in fee simple; that the Mortgagor has full power and lawful right to convey the Property in fee simple as aforesaid; that the Mortgagor, its successors and assigns, will make such further assurances to perfect the fee simple title to the Property in the Mortgagee, its successors and assigns, as may reasonably be required; and that the Mortgagor does hereby fully warrant the title to the Property, and will defend the same against the lawful claims of all persons whomsoever, and that the Property is free and clear of all encumbrances.

PROVIDED ALWAYS, that if the Mortgagor, its successors and assigns, shall pay to the Mortgagee, its successors or assigns, any and all indebtedness due by Mortgagor to Mortgagee, including, but not limited to, the indebtedness evidenced by the Note and any and all renewals of the same and shall perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants of this Mortgage, the Note, that certain Townhouses at Henrietta CHDO Project Agreement dated March 29, 2005, as amended, and Townhouses at Henrietta CHDO Project Loan Agreement dated March 29, 2005, as amended, between Mortgagor and Mortgagee (the "Loan Documents"), then this Mortgage and the estate hereby created shall cease and be null and void.

To protect the security of this Mortgage, the Mortgagor further agrees with Mortgagee as follows:

1. Payment of Secured Obligations. Mortgagor shall pay when due the principal of, and the interest and other charges on, the indebtedness evidenced by the Note, and shall otherwise comply with all the terms of the Note, this Mortgage and the Loan Documents.
2. Taxes and Other Impositions. Mortgagor will pay or cause to be paid and discharged, on or before the last day on which they may be paid without penalty or interest, all taxes, charges for water, sewer and all other utilities on the Property and any assessments and payments, extraordinary or ordinary, which shall become due and payable by virtue of any present or future law, ordinance, regulation or covenant applicable to the Property (all of the foregoing shall be collectively referred to as the

"Impositions"). In default of payment of any Imposition, Mortgagee may, but shall not be required to, pay the same and the amount so paid by Mortgagee shall, at the Mortgagee's option, become immediately due and payable with interest at the maximum rate permitted under Florida law and shall be deemed part of the principal indebtedness secured by this Mortgage. Mortgagor shall, upon written request, provide to Mortgagee the receipts or other reasonably satisfactory proof of the payment of any Impositions which may affect the Property.

3. Maintenance/Repairs/Alterations. Mortgagor will keep the Improvements, if any, in good condition and repair and in compliance with all applicable codes, ordinances and regulations. Mortgagor shall commit or permit no waste upon the Property and will do or permit no act by which the Property shall become less valuable. Mortgagor will not remove, demolish or structurally alter any of the Improvements (except such alterations as are contemplated by the Loan Documents and such alterations as may be required by laws, ordinances or regulations) without the prior written permission of the Mortgagee. Mortgagor will promptly restore any Improvement which may be damaged or destroyed thereon and will pay when due all claims for labor performed and materials furnished therefor. Mortgagor will use and operate the Property in compliance with all applicable laws, ordinances, regulations, covenants, conditions and restrictions. Mortgagee and its representatives shall have access to the Property at all reasonable times to determine whether Mortgagor is complying with its obligations under this Mortgage.

4. Payments of Fees and Costs. To pay all costs, charges and expenses, including lawyer's fees reasonably incurred or paid at any time by the Mortgagee, its successors or assigns, because of the failure on the part of the Mortgagor, its successors or assigns to perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants of the Note, this Mortgage or the Loan Document.

5. Compliance with Documents. To perform, comply with, and abide by each and every stipulation, agreement, condition and covenant contained in the Note, this Mortgage and the Loan Documents.

6. Default. If (i) a default occurs under the Note, this Mortgage or any of the Loan Documents; (ii) each and every of the non-monetary stipulations, agreements, conditions and covenants of the Loan Documents are not fully performed, complied with and abided by within the time provided in the Loan Documents; (iii) the jurisdiction of the United States District or Bankruptcy Court shall be invoked by or against the Mortgagor, under any of the provisions of the Federal Bankruptcy Act, or (iv) any warranty or representation made by Mortgagor under this Mortgage, the Loan Documents or any other written document to Mortgagee shall be untrue or materially misleading, then said sum shall be due and payable upon demand forthwith or thereafter at the option of the Mortgagee, its successors or assigns, as fully and completely as if the said sum were originally stipulated to be paid on such day.

7. Remedies. In the event one or more defaults shall occur, the remedies available to the Mortgagee shall as provided in the Loan Documents including, but not limited to the following:

- a. Article 7 of the Project Agreement.
- b. Article 9 of the Loan Agreement.
- c. Mortgagee may exercise any and all other remedies provided in the Note in law or in equity, which remedies shall be cumulative and may be pursued concurrently or successively.

No delay by Mortgagee in exercising any such remedy shall operate as a waiver thereof or preclude the exercise thereof during the continuance of that or any subsequent default. Mortgagee shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Mortgage or any laws now or hereafter in force, notwithstanding some or all of the indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, pledge, lien, assignment or otherwise.

8. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to or offset by Mortgagee in reduction of the Note secured by this Mortgage; provided, however, that such awards will be first paid to Mortgagor to the extent repair and restoration of the Property is economically feasible and the security of this Mortgage is not, in Mortgagee's reasonable judgment, thereby impaired. In the event of a total taking of the Property, the proceeds shall be applied in reduction of the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. In the event of a partial taking of the Property, unless repair and restoration of the Property by Mortgagor is economically feasible and the security of this Mortgage is not, in Mortgagee's reasonable judgment, thereby impaired, or Mortgagor and Mortgagee otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the Note secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Mortgagor.

9. Notices. Except for any notice required under applicable law to be given in another manner, any notice to Mortgagor and Mortgagee provided for in this Mortgage shall be deemed given as provided in Section 16.01 of the NEW URBAN COMMUNITY DEVELOPMENT Corporation CHDO Project Agreement for Coleman Park dated April 9, 2003. Any notice provided for in this Mortgage shall be deemed to have been given to Mortgagor or Mortgagee when given in the manner designated therein. Any party may change its address for notices in the manner provided for herein for giving notice.

10. Restriction on Transfer. This Mortgage shall not be assigned or otherwise transferred by Mortgagor without the express written consent of Mortgagee, which consent may be withheld in Mortgagee's sole discretion. Any such assignment documentation shall be of no force or effect unless and until consented to in writing by Mortgagee. In the event Mortgagor shall suffer or permit any prohibited assignment or transfer to take place, then Mortgagee may, at its option, declare the entire amount due and payable at once.

11. Hazardous Waste. No hazardous materials shall be placed upon or disposed of on the Property by Mortgagor. Mortgagor hereby indemnifies, defends, and holds Mortgagee free and harmless of, from and against any and all claims, costs, expenses, liabilities, losses, liens, encumbrances, fees, damages, judgments, penalties, causes of action and other charges of whatsoever kind or nature (including, without limitation, attorney's fees and disbursements and the fees and expenses of any environmental and analytical laboratories, consultants and engineers) suffered or incurred by Mortgagee as a result of the future existence of any hazardous materials in, on, under, about or emanating from the Property or any part thereof as a result of Mortgagor's use or operation of the Property.

12. Governing Law. This Mortgage shall be governed by the laws of the State of Florida.

13. Compliance with Laws. Mortgagor shall not use the Property or allow the same to be used for any unlawful purpose or in violation of any governmental code, ordinance or regulation or commit or permit to suffer thereon any condition that may in any way increase any ordinary fire or other hazard, or that may constitute a nuisance, public or private.

14. Modifications. This Mortgage may not be changed, terminated or modified orally or in any other manner than by an instrument in writing signed by the party against whom enforcement is sought.

15. Invalidity of Certain Provisions. If the lien of this Mortgage is invalid or unenforceable as to any part of the indebtedness, or if the lien is invalid or unenforceable as to any part of the Property, the unsecured portion of the indebtedness, and all payments made on the indebtedness, whether voluntary or otherwise, shall be considered to have been first paid on and applied to the full payment of that portion of the indebtedness which is not secured or fully secured by the lien of this Mortgage.

16. Collection Expenses. All parties liable for the payment of the Note agree to pay the Mortgagee all costs incurred by the Mortgagee, whether or not an action is brought, in collecting the sums due under the Note, enforcing the performance and/or protecting its rights under the Loan Documents and in realizing on any of the security for the Note. Such costs and expenses shall include, but are not limited to, reasonable attorneys' fees, filing fees, costs of publication, deposition fees, stenographer fees, witness fees, title search or abstract costs and other court and related costs incurred or

paid by Mortgagee in any action, proceeding or dispute in which Mortgagee is made a part or appears as a party plaintiff or party defendant because of the failure of the Mortgagor promptly and fully to perform and comply with all conditions and covenants of this Mortgage, the Note secured hereby, or the Loan Documents, including but not limited to, the foreclosure of this Mortgage, condemnation of all or part of the Property, or any action to protect the security thereof.

17. Attorneys' Fees. All parties liable for the payment of the Note agree to pay the Mortgagee reasonable attorneys' fees incurred by the Mortgagee, whether or not an action be brought, in collecting the sums due under the Note, enforcing the performance and/or protecting its rights under the Loan Documents and in realizing on any of the security for the Note. Such reasonable attorneys' fees shall include, but not be limited to, fees for attorneys, paralegals, legal assistants, and expenses incurred in any and all judicial, bankruptcy, reorganization, administrative receivership, or other proceedings affecting creditor's rights and involving a claim under the Note or the Loan Documents, which such proceedings may arise before or after entry of a final judgment. Such fees shall be paid regardless whether suit is brought and shall include all fees incurred by Mortgagee at all trial and appellate levels including bankruptcy court.

IF ALL OR ANY PART OF THE PROPERTY, OR ANY INTEREST THEREIN, IS SOLD OR TRANSFERRED, VOLUNTARILY OR INVOLUNTARILY, INCLUDING FORECLOSURE, WITHOUT THE PRIOR WRITTEN CONSENT OF THE MORTGAGEE, WHICH CONSENT MAY BE WITHHELD, THE MORTGAGEE, AT ITS OPTION, MAY DECLARE THE ENTIRE UNPAID BALANCE SECURED HEREBY, DUE AND PAYABLE, NOTWITHSTANDING ANYTHING HEREIN OR IN THE NOTE SECURED HEREBY TO THE CONTRARY. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE AND ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

This Instrument Prepared By
ECD
City of West Palm Beach
P.O. Box 3366
West Palm Beach, FL 33402
(RE 475-06-01262sat)

CFN 20090248887
OR BK 23352 PG 1980
RECORDED 07/23/2009 14:42:27
Palm Beach County, Florida
AMT 257,853.00
Deed Doc 902.65
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1980 - 1991; (12pgs)

THIS AMENDED MORTGAGE AND SECURITY AGREEMENT, ORIGINALLY RECORDED AT O. R. BOOK 21149, PAGE 1262, IS BEING RERECORDED TO REFLECT THE PAYMENT OF DOCUMENTARY STAMPS ON THE AMOUNT OF \$257,853.00 COVERED BY THIS AGREEMENT. DOCUMENTARY STAMPS WERE PAID ON THE COMBINED NOTE IN THE AMOUNT OF \$360,000.00 SIMULTANEOUSLY WITH THE MORTGAGE RECORDED IN O.R. BOOK 20494, PAGE 474 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

AMENDED MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT ("Mortgage") executed this 20TH day of November, 2006, by NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida 501 (c)(3) not-for-profit community housing development organization, whose address is 1400 North Australian Avenue, West Palm Beach, Florida 33407 ("Mortgagor"), in favor of the CITY OF WEST PALM BEACH, a municipal corporation organized under the laws of the State of Florida, whose address is 200 2nd Street, West Palm Beach, Florida 33401 ("Mortgagee").

That for good and valuable consideration and to secure the payment of an indebtedness in the principal amount of Six Hundred Seventeen Thousand Eight Hundred Fifty-three Dollars and no/100 (\$617,853.00), to be paid in accordance with a promissory note of even date herewith (hereinafter referred to as the "Note"), together with any and all sums due or which may become due from the Mortgagor to Mortgagee in accordance with the Note, this Mortgage, or otherwise, Mortgagor does grant, bargain, sell, alien, remise, convey, mortgage and confirm unto Mortgagee, its successors and assigns, in fee simple, and grant a security interest in all the certain real property, of which Mortgagor is now seized and possessed, and in actual possession, situate in Palm Beach County, State of Florida, which is legally described in Exhibit "A" attached hereto and made a part hereof ("Land"); together with all improvements, buildings, fixtures, structures now or hereafter existing thereon ("Improvements"); all appurtenances thereto including all easements, rights of way, and all tenements, hereditaments and appurtenances whatsoever in any way belonging, relating or appertaining to the Land (whether now owned or hereafter acquired by Mortgagor); all rents, issues, incomes and profits relating to the possession, use or occupancy of all or any portion of the Land; all contract rights of Mortgagor in and to any and all contracts now existing or hereafter entered into or arising in any

manner related to the use or operation of the Land into cash or other liquidated claims, or that are otherwise payable for injury or loss to, or the taking conversion, destruction of any or all of such property, including without limitation all insurance and condemnation proceeds (collectively herein referred to as the "Property").

To the extent any of the property described encumbered by this Mortgage from time to time constitutes personal property subject to the provisions of the Florida Uniform Commercial Code (the "Code"), this Mortgage constitutes a "Security Agreement" for all purposes under the Code. Without limitation, Mortgagee, at its election, upon Mortgagor's default under this Mortgage continuing beyond any applicable curative period, will have all rights, powers, privileges, and remedies from time to time available to a secured party under the provisions of the Code with respect to such property. Notwithstanding any provision of this Mortgage to the contrary, Mortgagor and Mortgagee agree that, unless and until Mortgagee affirmatively elects otherwise, all property in any manner used, useful, or intended to be used for the improvement of, or production of income from, the Land is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such items are physically attached to the Property; (ii) serial numbers are used for the better identification of certain equipment; or (iii) any such item is referred to or reflected in any financing statement filed or recorded at any time.

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

The Mortgagor for itself, its successors and assigns, does covenant with said Mortgagee, its successors and assigns, that the Mortgagor is indefeasibly seized of the Property in fee simple; that the Mortgagor has full power and lawful right to convey the Property in fee simple as aforesaid; that the Mortgagor, its successors and assigns, will make such further assurances to perfect the fee simple title to the Property in the Mortgagee, its successors and assigns, as may reasonably be required; and that the Mortgagor does hereby fully warrant the title to the Property, and will defend the same against the lawful claims of all persons whomsoever, and that the Property is free and clear all encumbrances.

PROVIDED ALWAYS, that if the Mortgagor, its successors and assigns, shall pay to the Mortgagee, its successors or assigns, any and all indebtedness due by Mortgagor to Mortgagee, including, but not limited to, the indebtedness evidenced by the Note and any and all renewals of the same and shall perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants of this Mortgage, the Note, that certain Townhouses at Henrietta CHDO Project Agreement dated March 29, 2005, as amended, and Townhouses at Henrietta CHDO Project Loan Agreement dated March 29, 2005, as amended, between Mortgagor and Mortgagee (the "Loan Documents"), then this Mortgage and the estate hereby created shall cease and be null and void.

To protect the security of this Mortgage, the Mortgagor further agrees with Mortgagee as follows:

1. Payment of Secured Obligations. Mortgagor shall pay when due the principal of, and the interest and other charges on, the indebtedness evidenced by the Note, and shall otherwise comply with all the terms of the Note, this Mortgage and the Loan Documents.

2. Taxes and Other Impositions. Mortgagor will pay or cause to be paid and discharged, on or before the last day on which they may be paid without penalty or interest, all taxes, charges for water, sewer and all other utilities on the Property and any assessments and payments, extraordinary or ordinary, which shall become due and payable by virtue of any present or future law, ordinance, regulation or covenant applicable to the Property (all of the foregoing shall be collectively referred to as the "Impositions"). In default of payment of any Imposition, Mortgagee may, but shall not be required to, pay the same and the amount so paid by Mortgagee shall, at the Mortgagee's option, become immediately due and payable with interest at the maximum rate permitted under Florida law and shall be deemed part of the principal indebtedness secured by this Mortgage. Mortgagor shall, upon written request, provide to Mortgagee the receipts or other reasonably satisfactory proof of the payment of any Impositions which may affect the Property.

3. Maintenance/Repairs/Alterations. Mortgagor will keep the Improvements, if any, in good condition and repair and in compliance with all applicable codes, ordinances and regulations. Mortgagor shall commit or permit no waste upon the Property and will do or permit no act by which the Property shall become less valuable. Mortgagor will not remove, demolish or structurally alter any of the Improvements (except such alterations as are contemplated by the Loan Documents and such alterations as may be required by laws, ordinances or regulations) without the prior written permission of the Mortgagee. Mortgagor will promptly restore any Improvement which may be damaged or destroyed thereon and will pay when due all claims for labor performed and materials furnished therefor. Mortgagor will use and operate the Property in compliance with all applicable laws, ordinances, regulations, covenants, conditions and restrictions. Mortgagee and its representatives shall have access to the Property at all reasonable times to determine whether Mortgagor is complying with its obligations under this Mortgage.

4. Payments of Fees and Costs. To pay all costs, charges and expenses, including lawyer's fees reasonably incurred or paid at any time by the Mortgagee, its successors or assigns, because of the failure on the part of the Mortgagor, its successors or assigns to perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants of the Note, this Mortgage or the Loan Document.

5. Compliance with Documents. To perform, comply with, and abide by each and every stipulation, agreement, condition and covenant contained in the Note, this Mortgage and the Loan Documents.

6. Default. If (i) a default occurs under the Note, this Mortgage or any of the Loan Documents; (ii) each and every of the non-monetary stipulations, agreements,

conditions and covenants of the Loan Documents are not fully performed, complied with and abided by within the time provided in the Loan Documents; (iii) the jurisdiction of the United States District or Bankruptcy Court shall be invoked by or against the Mortgagor, under any of the provisions of the Federal Bankruptcy Act, or (iv) any warranty or representation made by Mortgagor under this Mortgage, the Loan Documents or any other written document to Mortgagee shall be untrue or materially misleading, then said sum shall be due and payable upon demand forthwith or thereafter at the option of the Mortgagee, its successors or assigns, as fully and completely as if the said sum were originally stipulated to be paid on such day.

7. Remedies. In the event one or more defaults shall occur, the remedies available to the Mortgagee shall as provided in the Loan Documents including, but not limited to the following:

- a. Article 7 of the Project Agreement.
- b. Article 9 of the Loan Agreement.
- c. Mortgagee may exercise any and all other remedies provided in the Note in law or in equity, which remedies shall be cumulative and may be pursued concurrently or successively.

No delay by Mortgagee in exercising any such remedy shall operate as a waiver thereof or preclude the exercise thereof during the continuance of that or any subsequent default. Mortgagee shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Mortgage or any laws now or hereafter in force, notwithstanding some or all of the indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, pledge, lien, assignment or otherwise.

8. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to or offset by Mortgagee in reduction of the Note secured by this Mortgage; provided, however, that such awards will be first paid to Mortgagor to the extent repair and restoration of the Property is economically feasible and the security of this Mortgage is not, in Mortgagee's reasonable judgment, thereby impaired. In the event of a total taking of the Property, the proceeds shall be applied in reduction of the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. In the event of a partial taking of the Property, unless repair and restoration of the Property by Mortgagor is economically feasible and the security of this Mortgage is not, in Mortgagee's reasonable judgment, thereby impaired, or Mortgagor and Mortgagee otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the Note secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Mortgagor.

9. Notices. Except for any notice required under applicable law to be given in another manner, any notice to Mortgagor and Mortgagee provided for in this Mortgage shall be deemed given as provided in Section 16.01 of the NEW URBAN COMMUNITY DEVELOPMENT Corporation CHDO Project Agreement for Coleman Park dated April 9, 2003. Any notice provided for in this Mortgage shall be deemed to have been given to Mortgagor or Mortgagee when given in the manner designated therein. Any party may change its address for notices in the manner provided for herein for giving notice.

10. Restriction on Transfer. This Mortgage shall not be assigned or otherwise transferred by Mortgagor without the express written consent of Mortgagee, which consent may be withheld in Mortgagee's sole discretion. Any such assignment documentation shall be of no force or effect unless and until consented to in writing by Mortgagee. In the event Mortgagor shall suffer or permit any prohibited assignment or transfer to take place, then Mortgagee may, at its option, declare the entire amount due and payable at once.

11. Hazardous Waste. No hazardous materials shall be placed upon or disposed of on the Property by Mortgagor. Mortgagor hereby indemnifies, defends, and holds Mortgagee free and harmless of, from and against any and all claims, costs, expenses, liabilities, losses, fees, encumbrances, fees, damages, judgments, penalties, causes of action and other charges of whatsoever kind or nature (including, without limitation, attorney's fees and disbursements and the fees and expenses of any environmental and analytical laboratories, consultants and engineers) suffered or incurred by Mortgagee as a result of the future existence of any hazardous materials in, on, under, about or emanating from the Property or any part thereof as a result of Mortgagor's use or operation of the Property.

12. Governing Law. This Mortgage shall be governed by the laws of the State of Florida.

13. Compliance with Laws. Mortgagor shall not use the Property or allow the same to be used for any unlawful purpose or in violation of any governmental code, ordinance or regulation or commit or permit to suffer thereon any condition that may in any way increase any ordinary fire or other hazard, or that may constitute a nuisance, public or private.

14. Modifications. This Mortgage may not be changed, terminated or modified orally or in any other manner than by an instrument in writing signed by the party against whom enforcement is sought.

15. Invalidity of Certain Provisions. If the lien of this Mortgage is invalid or unenforceable as to any part of the indebtedness, or if the lien is invalid or unenforceable as to any part of the Property, the unsecured portion of the indebtedness, and all payments made on the indebtedness, whether voluntary or otherwise, shall be considered to have been first paid on and applied to the full

payment of that portion of the indebtedness which is not secured or fully secured by the lien of this Mortgage.

16. Collection Expenses. All parties liable for the payment of the Note agree to pay the Mortgagee all costs incurred by the Mortgagee, whether or not an action is brought, in collecting the sums due under the Note, enforcing the performance and/or protecting its rights under the Loan Documents and in realizing on any of the security for the Note. Such costs and expenses shall include, but are not limited to, reasonable attorneys' fees, filing fees, costs of publication, deposition fees, stenographer fees, witness fees, title search or abstract costs and other court and related costs incurred or paid by Mortgagee in any action, proceeding or dispute in which Mortgagee is made a party or appears as a party plaintiff or party defendant because of the failure of the Mortgagor promptly and fully to perform and comply with all conditions and covenants of this Mortgage, the Note secured hereby, or the Loan Documents, including but not limited to, the foreclosure of this Mortgage, condemnation of all or part of the Property, or any action to protect the security thereof.

17. Attorneys' Fees. All parties liable for the payment of the Note agree to pay the Mortgagee reasonable attorneys' fees incurred by the Mortgagee, whether or not an action be brought, in collecting the sums due under the Note, enforcing the performance and/or protecting its rights under the Loan Documents and in realizing on any of the security for the Note. Such reasonable attorneys' fees shall include, but not be limited to, fees for attorneys, paralegals, legal assistants, and expenses incurred in any and all judicial bankruptcy, reorganization, administrative receivership, or other proceedings affecting creditor's rights and involving a claim under the Note or the Loan Documents, which such proceedings may arise before or after entry of a final judgment. Such fees shall be paid regardless whether suit is brought and shall include all fees incurred by Mortgagee at all trial and appellate levels including bankruptcy court.

IF ALL OR ANY PART OF THE PROPERTY, OR ANY INTEREST THEREIN, IS SOLD OR TRANSFERRED, VOLUNTARILY OR INVOLUNTARILY, INCLUDING FORECLOSURE, WITHOUT THE PRIOR WRITTEN CONSENT OF THE MORTGAGEE, WHICH CONSENT MAY BE WITHHELD, THE MORTGAGEE, AT ITS OPTION, MAY DECLARE THE ENTIRE UNPAID BALANCE SECURED HEREBY, DUE AND PAYABLE, NOTWITHSTANDING ANYTHING HEREIN OR IN THE NOTE SECURED HEREBY TO THE CONTRARY. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE AND ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

IN WITNESS WHEREOF, the Mortgagor has set its hand and seal as of the day and year first above written.

Witnesses:

MARCEL ELLIS
Print: MARCEL ELLIS
Gigi Marshall
Print: Gigi Marshall

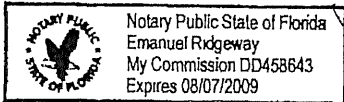
MORTGAGOR:

NEW URBAN COMMUNITY
DEVELOPMENT CORPORATION, INC.

By: [Signature]
Its: PRESIDENT & CEO - UUPAC
Print Name: PATRICK FRANKLIN

STATE OF FLORIDA }
}ss.
COUNTY OF PALM BEACH }

The foregoing instrument was acknowledged before me this 10 day of November, 2006, by Patrick Franklin, as PRESIDENT & CEO of NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., on behalf of the corporation, ☒ who is personally known to me or ☐ who has produced _____ as identification.



Emanuel Ridgeway
Print: Emanuel Ridgeway
Notary Public

My commission number is: DD458643
My commission expires: 08/07/2009

EXHIBIT "A"

LEGAL DESCRIPTION

1. Lot 8, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0080
2. Lot 9, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0090
3. Lot 10, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0100
4. Lots 11 and 12, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0110

THE TAX HAS BEEN PAID AND THE PROPER DOCUMENTARY STAMPS HAVE BEEN AFFIXED TO THE MORTGAGE SECURING THIS PROMISSORY NOTE.

PROMISSORY NOTE

\$617,853.00

West Palm Beach, Florida

Executed: _____, 2006

Effective: _____, 2006

GRANTEE'S PROMISE TO PAY

FOR VALUE RECEIVED, the undersigned, **NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC.**, a Florida 501(c)(3) not-for-profit Community Housing Development Corporation (NUCDC), whose address is 1700 North Australian Avenue, West Palm Beach, FL 33407 (hereinafter the "Grantee"), promises to pay to the order of **City of West Palm Beach, Florida**, a Florida municipal corporation, (hereinafter called "City"), at its address 200 2nd Street, West Palm Beach, Florida 33401, or at such other place or places as it may from time to time be designed in writing by City, in lawful money of the United States, the principal sum of Six Hundred Seventeen Thousand Eight Hundred Fifty-three Dollars and no/100 (\$617,853.00) or so much thereof as may be advanced with and outstanding from time to time, with interest on the unpaid principal from the date of each such advance at the rate and in the manner hereinafter set forth.

This Note is executed pursuant to the terms of the Townhouses at Henrietta CHDO Project Agreement dated March 29, 2005 (the "Project Agreement") as amended, the Townhouses at Henrietta CHDO Project Loan Agreement dated March 29, 2005 (the "Loan Agreement"), as amended, and the Mortgage and Security Agreement of even date herewith, by and between the Grantee and the City (collectively the "Loan Documents").

Payments under this Note shall be due and payable as follows:

The interest rate shall be zero (0)% per annum. The entire outstanding balance plus all accrued and unpaid interest if any, on the entire outstanding principal balance shall be due and payable on December 31, 2024 (the "Maturity Date") provided the Borrower has a "Positive Cash Flow" on December 31, 2024. Positive Cash Flow is defined for these purposes as "Total project revenues less a vacancy allowance of gross rents less operating expenses of (i) property management (ii) property maintenance and repair, (iii) property insurance, (iv) property taxes, (v) down payment escrow not to exceed three percent (3.0%) of gross rents, (vi) other administrative expenses not to exceed four percent (4.0%) of gross rents and debt service (principal plus interest) payments on the project first mortgage loan not to exceed \$622,800". The existence of a Positive Cash Flow shall be established by a Certified Public Accountant selected by the City. In the event Borrower does not have a Positive Cash Flow on December 31, 2024, the City and the Borrower shall negotiate payment terms.

Interest hereunder, if any, shall be computed on the basis of a 360-day year for the actual number of days in the interest period. All payments of principal and interest shall be made in lawful money of the United States which shall be legal tender in payment of all debts, public and private, at the time of payment. This Note may be prepaid in whole or in part without penalty or premium.

This Note is secured by a Mortgage of even date herewith (the "Mortgage") executed by the Grantee in favor of City, which Mortgage constitutes a lien on certain real and personal property in Palm Beach County, Florida ("Property") of which the Grantee is the fee simple owner. Reference is hereby made to the Mortgage and to the Loan Documents for a description of events of default and rights in the event of default. It is expressly agreed that all of the covenants, conditions and agreements contained in the Mortgage and the Loan Documents are made a part of this Note. Upon default on any note secured by said Mortgage, including, but not limited to this Note, all notes so secured and remaining unpaid shall become due and payable, notwithstanding the terms and provisions of these notes.

Upon a default under any of the Loan Documents, the City subject to the provisions of Article 9 of the Loan Agreement shall have the right to pursue all appropriate remedies to collect on or enforce the terms of this Note and related Mortgage, including the right to declare the entire amount of the total unpaid balance hereof to be due and payable.

Upon an Event of Default, the principal sum remaining unpaid shall become immediately due and payable with interest at the maximum rate permissible under Florida law (the "Default Rate") computed from the date the cure period has expired until such Event of Default is fully rectified. In no event shall any Default Rate of interest apply until after the cure period or grace period has expired and Maker has failed to cure said default. Lender shall have the right to pursue all appropriate remedies to collect on or enforce the terms of this Note including the right to declare the entire amount of the total unpaid balance hereof to be due and forthwith payable in advance of the Maturity Date, as fixed herein.

Maker agrees to pay all costs of collection incurred in enforcing this Note, including attorneys' fees and costs. In the event any legal proceedings are instituted in connection with, or for the enforcement of this Note, the Lender shall be entitled to recover its costs of suit, including attorneys' fees and costs, at both trial and appellate levels and in any bankruptcy action.

Each maker, endorser and guarantor or any person, firm or corporation becoming liable under this Note hereby consents to any extension or renewal of this Note or any part hereof, without notice, and agrees that they will remain liable under this Note during extension or renewal hereof, until the debts represented hereby are paid in full.

Nothing herein contained, nor in any instrument or transaction related hereto, shall be construed or so operate as to require Maker, or any person liable for the payment of the Loan made pursuant to this Note, to pay interest in an amount or at a rate greater than the highest rate permissible under applicable law as amended from time to time. Should any interest or other charges paid by Maker, or any party liable for payment of the Loan made pursuant to this Note, result in the computation or earning of interest in excess of the highest rate permissible under applicable law, then any and all such excess shall be and the same is hereby waived by Lender,

and all such excess shall be paid by Lender to Maker or to any party liable for the payment of the Loan made pursuant to this Note, it being the intent of the parties hereto that under no circumstances shall Maker or any party liable for the payment of the Loan hereunder, be required to pay interest in excess of the highest rate permissible under applicable law as amended from time to time.

All persons or corporations now or at any time liable, whether primarily or secondarily, for the payment of the indebtedness hereby evidenced, for themselves, their heirs, legal representatives, successors and assigns respectively, hereby:

- (a) Expressly waive valuation and appraisal, presentment, protest, notice of protest and dishonor;
- (b) Expressly consent to any extension or renewal, in whole or in part, and all delays in time of payment or other performance which Lender may grant at any time and from time to time without limitation and without any notice or future consent of the undersigned; and
- (c) Agree that the Lender, in order to enforce payment of this Note, shall not be required to first institute any suit or to exhaust any of its remedies against the Maker or any other person or party to become liable hereunder.

The remedies of Lender as provided herein, in the Mortgage, or in the Loan Documents shall be cumulative and concurrent and may be pursued singularly, successively or together, at the sole discretion of Lender, and may be exercised as often as occasion therefore shall arise. No act of omission or commission of the Lender, including specifically any failure to exercise any right, remedy or recourse, 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 the Lender 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, as a bar to, or as a waiver or release of, any subsequent event.

This Note is to be construed according to the applicable laws of the State of Florida.

This Note may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

All communications required under or in connection with this Note shall be in writing, and shall be sent registered or certified mail, postage prepaid addressed to the Maker or Lender at the address as either party may designate from time to time by notice pursuant to the Loan Agreement.

MAKER AND LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE AND ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

IN WITNESS WHEREOF, Grantee has caused this Note to be executed on the date first above written.

Witnesses:

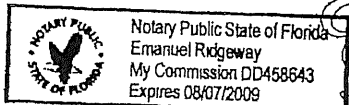
Marcus Ellis
Print Name: MARCUS ELLIS
Greg Marshall
Print Name: GREG MARSHALL

"GRANTEE"
NEW URBAN COMMUNITY
DEVELOPMENT CORPORATION,
INC.

By: *[Signature]*
Print: PATRICK J. FRANKLIN

STATE OF FLORIDA
COUNTY OF PALM BEACH

This instrument was acknowledged before me this 10 day of November, 2006, by Patrick Franklin, as Vice President of NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida 501(c)(3) not-for-profit Community Housing Development Corporation on behalf of the company. He/she is personally known to me or has produced _____ as identification.



My Commission Expires:

Emanuel Ridgway
Print Name: Emanuel Ridgway
Notary Public State of Florida



This Instrument Prepared By
And return to:
ECD
City of West Palm Beach
P.O. Box 3366
West Palm Beach, FL 33402
(RE 475-06-01262sat)

CFN 20090309838
OR BK 23431 PG 1777
RECORDED 09/04/2009 16:55:00
Palm Beach County, Florida
AMT 350,000.00
Deed Doc 1,225.00
Sharon R. Book, CLERK & COMPTROLLER
Pgs 1777 - 1785; (9pgs)

THIRD AMENDED MORTGAGE AND SECURITY AGREEMENT

NOTE TO THE CLERK: ON JUNE 19, 2006, MORTAGOR PAID THE APPROPRIATE STATUTORY AMOUNT OF STAMP TAXES IN THE AMOUNT OF \$1,260.00 ON THE PRINCIPAL AMOUNT OF THE \$360,000.00 COMBINED NOTE (AS DEFINED BELOW) IN CONJUNCTION WITH RECORDING OF THE MORTGAGE RECORDED ON JUNE 19, 2006, IN OFFICIAL RECORDS BOOK 20494, PAGE 474; ON JULY 23, 2009, MORTGAGOR PAID THE APPROPRIATE STATUTORY AMOUNT OF STAMP TAXES IN THE AMOUNT OF \$902.65 ON THE PRINCIPAL AMOUNT OF \$257,853.00 SECOND AMENDED AND RESTATED NOTE (AS DEFINED BELOW) IN CONJUNCTION WITH RECORDING OF THE AMENDED MORTGAGE RECORDED ON DECEMBER 4, 2006, IN OFFICIAL RECORDS BOOK 21149, PAGE 1262 AND RERECORDED ON JULY 23, 2009, IN OFFICIAL RECORDS BOOK 23352, PAGE 1980 (ALL REFERENCES TO OFFICIAL RECORDS BOOK ARE THE PUBLIC RECORDS OF PALM BEACH COUNTY). DOCUMENTARY STAMPS IN THE AMOUNT OF \$1825.00 ARE BEING PAID ON THE \$350,000.00 THIRD AMENDED AND RESTATED NOTE (AS DEFINED BELOW)

THIS THIRD AMENDED MORTGAGE AND SECURITY AGREEMENT ("Mortgage") executed this 3rd day of September, 2009, by NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida 501 (c)(3) not-for-profit community housing development organization, whose address is 1700 North Australian Avenue, West Palm Beach, Florida 33407 ("Mortgagor"), in favor of the CITY OF WEST PALM BEACH, a municipal corporation organized under the laws of the State of Florida, whose address is 401 Clematis Street, P.O. Box 3366, West Palm Beach, Florida 33402 ("Mortgagee").

WHEREAS, Mortgagor by a Promissory Note agreed to pay Mortgagee \$250,000.00 (the "Note"), and by an Amended Promissory Note dated October 31, 2005, agreed to pay the Mortgagee \$110,000.00 (the "Amended Note") (the Note and the Amended Note will be collectively referred to as the "Combined Note"). The Combined Note is secured by a Mortgage

recorded at Official Records Book 20494, Page 474, Public Records of Palm Beach County, Florida.

WHEREAS, Mortgagor by a Promissory Note dated November 20, 2006, agreed to pay Mortgagee an additional \$257,853.00 (the "Second Amended Note"). The Second Amended Note is secured by a Mortgage recorded at Official Records Book 21149, Page 1262, Public Records of Palm Beach County, Florida.

WHEREAS, Mortgagor has requested and the Mortgagee has agreed to increase the indebtedness by an additional \$350,000.00 ("Third Amended and Restated Note"), or so much thereof as may be advanced from time to time by Mortgagee pursuant to the terms of a Third Amended Loan Agreement dated the date of this Amended Mortgage, between the Mortgagor and Mortgagee.

WHEREAS, Palm Beach County has agreed to lend Mortgagor Six Hundred Eighty Seven Thousand and Ninety-Six Dollars (\$687,096.00) for the construction of the Premises and the Mortgage securing said Loan will be in pari pursu to the City Mortgage provided for herein.

That for good and valuable consideration and to secure the payment of an indebtedness in the principal amount of Nine Hundred Sixty Seven Thousand Eight Hundred Fifty-Three Dollars and no/100 (~~\$967,853.00~~), to be paid in accordance with a promissory note of even date herewith (hereinafter referred to as the "Note"), together with any and all sums due or which may become due from the Mortgagor to Mortgagee in accordance with the Note, this Mortgage, or otherwise, Mortgagor does grant, bargain, sell, alien, remise, convey, mortgage and confirm unto Mortgagee, its successors and assigns, in fee simple, and grant a security interest in all the certain real property, of which Mortgagor is now seized and possessed, and in actual possession, situate in Palm Beach County, State of Florida, which is legally described in **Exhibit "A"** attached hereto and made a part hereof ("Land"); together with all improvements, buildings, fixtures, structures now or hereafter existing thereon ("Improvements"); all appurtenances thereto including all easements, rights of way, and all tenements, hereditaments and appurtenances whatsoever in any way belonging, relating or appertaining to the Land (whether now owned or hereafter acquired by Mortgagor); all rents, issues, incomes and profits relating to the possession, use or occupancy of all or any portion of the Land; all contract rights of Mortgagor in and to any and all contracts now existing or hereafter entered into or arising in any manner related to the use or operation of the Land into cash or other liquidated claims, or that are otherwise payable for injury or loss to, or the taking conversion, destruction of any or all of such property, including without limitation all insurance and condemnation proceeds (collectively herein referred to as the "Property").

To the extent any of the property described encumbered by this Mortgage from time to time constitutes personal property subject to the provisions of the Florida Uniform Commercial Code (the "Code"), this Mortgage constitutes a "Security Agreement" for all purposes under the Code. Without limitation, Mortgagee, at its election, upon Mortgagor's default under this Mortgage continuing beyond any applicable curative period, will have all rights, powers, privileges, and remedies from time to time available to a secured party under the provisions of the Code with respect to such property. Notwithstanding any provision of this Mortgage to the

contrary, Mortgagor and Mortgagee agree that, unless and until Mortgagee affirmatively elects otherwise, all property in any manner used, useful, or intended to be used for the improvement of, or production of income from, the Land is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such items are physically attached to the Property; (ii) serial numbers are used for the better identification of certain equipment; or (iii) any such item is referred to or reflected in any financing statement filed or recorded at any time.

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

The Mortgagor for itself, its successors and assigns, does covenant with said Mortgagee, its successors and assigns, that the Mortgagor is indefeasibly seized of the Property in fee simple; that the Mortgagor has full power and lawful right to convey the Property in fee simple as aforesaid; that the Mortgagor, its successors and assigns, will make such further assurances to perfect the fee simple title to the Property in the Mortgagee, its successors and assigns, as may reasonably be required; and that the Mortgagor does hereby fully warrant the title to the Property, and will defend the same against the lawful claims of all persons whomsoever, and that the Property is free and clear of all encumbrances.

PROVIDED ALWAYS, that if the Mortgagor, its successors and assigns, shall pay to the Mortgagee, its successors or assigns, any and all indebtedness due by Mortgagor to Mortgagee, including, but not limited to, the indebtedness evidenced by the Note and any and all renewals of the same and shall perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants of this Mortgage, the Note, that certain Townhouses at Henrietta CHDO Project Agreement dated March 29, 2005, as amended, and Townhouses at Henrietta CHDO Project Loan Agreement dated March 29, 2005, as amended, between Mortgagor and Mortgagee (the "Loan Documents"), then this Mortgage and the estate hereby created shall cease and be null and void.

To protect the security of this Mortgage, the Mortgagor further agrees with Mortgagee as follows:

1. Payment of Secured Obligations. Mortgagor shall pay when due the principal of, and the interest and other charges on, the indebtedness evidenced by the Note, and shall otherwise comply with all the terms of the Note, this Mortgage and the Loan Documents.
2. Taxes and Other Impositions. Mortgagor will pay or cause to be paid and discharged, on or before the last day on which they may be paid without penalty or interest, all taxes, charges for water, sewer and all other utilities on the Property and any assessments and payments, extraordinary or ordinary, which shall become due and payable by virtue of any present or future law, ordinance, regulation or covenant applicable to the Property (all of the foregoing shall be collectively referred to as the "Impositions"). In default of payment of any Imposition, Mortgagee may, but shall not be required to, pay the same and the amount so paid by Mortgagee shall, at the

Mortgagee's option, become immediately due and payable with interest at the maximum rate permitted under Florida law and shall be deemed part of the principal indebtedness secured by this Mortgage. Mortgagor shall, upon written request, provide to Mortgagee the receipts or other reasonably satisfactory proof of the payment of any Impositions which may affect the Property.

3. Maintenance/Repairs/Alterations. Mortgagor will keep the Improvements, if any, in good condition and repair and in compliance with all applicable codes, ordinances and regulations. Mortgagor shall commit or permit no waste upon the Property and will do or permit no act by which the Property shall become less valuable. Mortgagor will not remove, demolish or structurally alter any of the Improvements (except such alterations as are contemplated by the Loan Documents and such alterations as may be required by laws, ordinances or regulations) without the prior written permission of the Mortgagee. Mortgagor will promptly restore any Improvement which may be damaged or destroyed thereon and will pay when due all claims for labor performed and materials furnished therefor. Mortgagor will use and operate the Property in compliance with all applicable laws, ordinances, regulations, covenants, conditions and restrictions. Mortgagee and its representatives shall have access to the Property at all reasonable times to determine whether Mortgagor is complying with its obligations under this Mortgage.

4. Payments of Fees and Costs. To pay all costs, charges and expenses, including lawyer's fees reasonably incurred or paid at any time by the Mortgagee, its successors or assigns, because of the failure on the part of the Mortgagor, its successors or assigns to perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants of the Note, this Mortgage or the Loan Document.

5. Compliance with Documents. To perform, comply with, and abide by each and every stipulation, agreement, condition and covenant contained in the Note, this Mortgage and the Loan Documents.

6. Default. If (i) a default occurs under the Note, this Mortgage or any of the Loan Documents; (ii) each and every of the non-monetary stipulations, agreements, conditions and covenants of the Loan Documents are not fully performed, complied with and abided by within the time provided in the Loan Documents; (iii) the jurisdiction of the United States District or Bankruptcy Court shall be invoked by or against the Mortgagor, under any of the provisions of the Federal Bankruptcy Act, or (iv) any warranty or representation made by Mortgagor under this Mortgage, the Loan Documents or any other written document to Mortgagee shall be untrue or materially misleading, then the Loan shall be due and payable upon demand forthwith or thereafter at the option of the Mortgagee, its successors or assigns, as fully and completely as if the said sum were originally stipulated to be paid on such day.

7. Remedies. In the event one or more defaults shall occur, the remedies available to the Mortgagee shall as provided in the Loan Documents including, but not limited to the following:

- 11/10/05
- a. Article 7 of the Project Agreement.
 - b. Article 9 of the Loan Agreement.
 - c. Mortgagee may exercise any and all other remedies provided in the Note in law or in equity, which remedies shall be cumulative and may be pursued concurrently or successively.

No delay by Mortgagee in exercising any such remedy shall operate as a waiver thereof or preclude the exercise thereof during the continuance of that or any subsequent default. Mortgagee shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Mortgage or any laws now or hereafter in force, notwithstanding some or all of the indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, pledge, lien, assignment or otherwise.

8. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to or offset by Mortgagee in reduction of the Note secured by this Mortgage; provided, however, that such awards will be first paid to Mortgagor to the extent repair and restoration of the Property is economically feasible and the security of this Mortgage is not, in Mortgagee's reasonable judgment, thereby impaired. In the event of a total taking of the Property, the proceeds shall be applied in reduction of the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. In the event of a partial taking of the Property, unless repair and restoration of the Property by Mortgagor is economically feasible and the security of this Mortgage is not, in Mortgagee's reasonable judgment, thereby impaired, or Mortgagor and Mortgagee otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the Note secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Mortgagor.

9. Notices. Except for any notice required under applicable law to be given in another manner, any notice to Mortgagor and Mortgagee provided for in this Mortgage shall be deemed given as provided in Section 16.01 of the NEW URBAN COMMUNITY DEVELOPMENT Corporation CHDO Project Agreement dated March 29, 2005. Any notice provided for in this Mortgage shall be deemed to have been given to Mortgagor or Mortgagee when given in the manner designated therein. Any party may change its address for notices in the manner provided for herein for giving notice.

10. Restriction on Transfer. This Mortgage shall not be assigned or otherwise transferred by Mortgagor without the express written consent of Mortgagee, which consent may be withheld in Mortgagee's sole discretion. Any such assignment documentation shall be of no force or effect unless and until consented to in writing

by Mortgagee. In the event Mortgagor shall suffer or permit any prohibited assignment or transfer to take place, then Mortgagee may, at its option, declare the entire amount due and payable at once.

11. Hazardous Waste. No hazardous materials shall be placed upon or disposed of on the Property by Mortgagor. Mortgagor hereby indemnifies, defends, and holds Mortgagee free and harmless of, from and against any and all claims, costs, expenses, liabilities, losses, liens, encumbrances, fees, damages, judgments, penalties, causes of action and other charges of whatsoever kind or nature (including, without limitation, attorney's fees and disbursements and the fees and expenses of any environmental and analytical laboratories, consultants and engineers) suffered or incurred by Mortgagee as a result of the future existence of any hazardous materials in, on, under, about or emanating from the Property or any part thereof as a result of Mortgagor's use or operation of the Property.

12. Governing Law. This Mortgage shall be governed by the laws of the State of Florida.

13. Compliance with Laws. Mortgagor shall not use the Property or allow the same to be used for any unlawful purpose or in violation of any governmental code, ordinance or regulation or commit or permit to suffer thereon any condition that may in any way increase any ordinary fire or other hazard, or that may constitute a nuisance, public or private.

14. Modifications. This Mortgage may not be changed, terminated or modified orally or in any other manner than by an instrument in writing signed by the party against whom enforcement is sought.

15. Invalidity of Certain Provisions. If the lien of this Mortgage is invalid or unenforceable as to any part of the indebtedness, or if the lien is invalid or unenforceable as to any part of the Property, the unsecured portion of the indebtedness, and all payments made on the indebtedness, whether voluntary or otherwise, shall be considered to have been first paid on and applied to the full payment of that portion of the indebtedness which is not secured or fully secured by the lien of this Mortgage.

16. Collection Expenses. All parties liable for the payment of the Note agree to pay the Mortgagee all costs incurred by the Mortgagee, whether or not an action is brought, in collecting the sums due under the Note, enforcing the performance and/or protecting its rights under the Loan Documents and in realizing on any of the security for the Note. Such costs and expenses shall include, but are not limited to, reasonable attorneys' fees, filing fees, costs of publication, deposition fees, stenographer fees, witness fees, title search or abstract costs and other court and related costs incurred or paid by Mortgagee in any action, proceeding or dispute in which Mortgagee is made a part or appears as a party plaintiff or party defendant because of the failure of the Mortgagor promptly and fully to perform and comply with all conditions and covenants of this Mortgage, the Note secured hereby, or the Loan Documents,

including but not limited to, the foreclosure of this Mortgage, condemnation of all or part of the Property, or any action to protect the security thereof.

17. Attorneys' Fees. All parties liable for the payment of the Note agree to pay the Mortgagee reasonable attorneys' fees incurred by the Mortgagee, whether or not an action be brought, in collecting the sums due under the Note, enforcing the performance and/or protecting its rights under the Loan Documents and in realizing on any of the security for the Note. Such reasonable attorneys' fees shall include, but not be limited to, fees for attorneys, paralegals, legal assistants, and expenses incurred in any and all judicial, bankruptcy, reorganization, administrative receivership, or other proceedings affecting creditor's rights and involving a claim under the Note or the Loan Documents, which such proceedings may arise before or after entry of a final judgment. Such fees shall be paid regardless whether suit is brought and shall include all fees incurred by Mortgagee at all trial and appellate levels including bankruptcy court.

IF ALL OR ANY PART OF THE PROPERTY, OR ANY INTEREST THEREIN, IS SOLD OR TRANSFERRED, VOLUNTARILY OR INVOLUNTARILY, INCLUDING FORECLOSURE, WITHOUT THE PRIOR WRITTEN CONSENT OF THE MORTGAGEE, WHICH CONSENT MAY BE WITHHELD, THE MORTGAGEE, AT ITS OPTION, MAY DECLARE THE ENTIRE UNPAID BALANCE SECURED HEREBY, DUE AND PAYABLE, NOTWITHSTANDING ANYTHING HEREIN OR IN THE NOTE SECURED HEREBY TO THE CONTRARY. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE AND ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

IN WITNESS WHEREOF, the Mortgagor has set its hand and seal as of the day and year first above written.

Witnesses:

Print: [Signature]

Print: Stephanie Harris

MORTGAGOR:

NEW URBAN COMMUNITY
DEVELOPMENT CORPORATION, INC.

By: [Signature]
Its: President & CEO
Print Name: PATRICK J. Frankel

STATE OF FLORIDA }
} ss.
COUNTY OF PALM BEACH }

The foregoing instrument was acknowledged before me this 3rd day of September, 2009, by Patrick J. Frankel, as President of NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., on behalf of the corporation, ☒ who is personally known to me or ☐ who has produced _____ as identification.

Print: [Signature]
Notary Public

My commission number is: [Stamp]
My commission expires: [Stamp]

EXHIBIT "A"

LEGAL DESCRIPTION

Lot 8, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0080

2. Lot 9, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0090
3. Lot 10, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0100
4. Lots 11 and 12, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof, as recorded in Plat Book 8, page 22 of the Public Records of Palm Beach County, Florida. PCN = 74-43-43-16-02-030-0110



CFN 20090309836
OR BK 23431 PG 1760
RECORDED 09/04/2009 16:55:00
Palm Beach County, Florida
AMT 650,000.00
Deed Doc 2, 275.00
Intang 1,300.00
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1760 - 1770; (11pgs)

RETURN TO:
J. Michael Haygood
Haygood and Harris
1531 Forum Place, Suite 400B
West Palm Beach, FL 33401

PREPARED BY:
Susan Holtrey
Florida Community Loan Fund, Inc.
501 N. Magnolia Avenue, Suite 100
Orlando, Florida 32801

MORTGAGE AND SECURITY AGREEMENT

Date: September 3rd, 2009

Borrower: NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC.
1700 Australian Avenue North
West Palm Beach, FL 33407

And

URBAN LEAGUE OF PALM BEACH COUNTY, INC.
1700 Australian Avenue North
West Palm Beach, FL 33407

Lender: FLORIDA COMMUNITY LOAN FUND, INC.
501 N. Magnolia Avenue, Suite 100
Orlando, Florida 32801

1. MORTGAGE. For good and valuable consideration received by Borrower, the receipt and sufficiency of which are hereby acknowledged, Borrower hereby grants, bargains, sells, assigns, transfers, and conveys to Lender, its successors and assigns, the real estate (the "Land") legally described as:

See attached Exhibit A

together with the following: (a) Improvements. All buildings, structures, and other improvements of any nature now or hereafter situated in whole or in part upon the Land, regardless of whether physically affixed thereto or severed or capable of severance therefrom; (b) Appurtenances. The benefit of all easements and other rights appurtenant to the Land or the Improvements, or both, the benefit of all rights-of-way, streets, alleys, drainage rights, sanitary sewer and potable water rights, stormwater drainage rights, and rights of ingress and egress to the Land and all adjoining property; (c) Tangible Property. All of Borrower's right, title and interest, if any, in and to all fixtures, equipment and tangible personal property that is now

or hereafter attached, affixed, situated upon or about the Land, Appurtenances, or Improvements, including: heating, air conditioning, lighting, pipes, pumps, conduits, wiring, plumbing, ventilating, stoves, ovens, ranges, disposal units, dishwashers, water heaters, exhaust systems, refrigerators, cabinets, partitions, rugs, draperies, carpets, laundry equipment, and any additions, replacements, and substitutions of the foregoing.

The Land, Improvements, Appurtenances, and Tangible Property are collectively referred to as the "Mortgaged Property" or "Collateral" in this Mortgage.

2. **SECURITY AGREEMENT.** To the extent any of the Collateral encumbered by this Mortgage from time to time constitutes personal property subject to the provisions of the Uniform Commercial Code, this Mortgage constitutes a "Security Agreement" for all purposes under the Uniform Commercial Code. Upon the occurrence of a Default under this Mortgage, Lender will have all rights, powers, privileges and remedies available to a secured party under the provisions of the Uniform Commercial Code with respect to the Collateral, at Lender's election.

3. **AFTER-ACQUIRED PROPERTY.** Without the necessity of any further act of Borrower or Lender, the lien of and security interest created by this Mortgage automatically will extend to and include any and all renewals, replacements, substitutions, proceeds, products or after-acquired property for or to the Collateral, and any and all monies, proceeds and other property that from time to time, either by delivery to Borrower or by any instrument (including this Mortgage) may be subjected to such lien and security interest by Borrower or by anyone on behalf of Borrower, or with the consent of Borrower, or which otherwise may come into the possession or otherwise be subjected to the control of Lender or Borrower pursuant to this Mortgage or the other Loan Documents.

4. **DEBT.** Borrower is indebted to Lender in the principal amount of up to **\$650,000.00** or so much as may be advanced to Borrower by Lender from time to time, as evidenced by the Promissory Note of even date herewith made by Borrower, payable to the order of Lender and maturing on September __, 2014, which Note, together with any and all renewals, replacements, extensions, modifications, substitutions, future advances and any other evidence of indebtedness evidenced by said Note is herein called the "Note". The Note, those certain Loan Agreements of even date between Borrower and Lender (the "Agreements"), UCC-1 Financing Statements ("UCC's") and this Mortgage are referred to collectively as the "Loan Documents".

5. **TITLE WARRANTIES.** Borrower covenants with Lender that: (a) Borrower is indefeasibly seized of the Land in fee simple, has good and marketable title to the Collateral and has full power, lawful right and authority to convey the same in fee simple and to grant Lender a perfected first lien mortgage and security interest in the Collateral, and (b) the Collateral is free and clear of all liens, encumbrances, restrictions, and security interests of any nature, except for those permitted encumbrances which Lender has previously approved.

6. **LIENS.** Borrower will not create or permit to be created, or to remain, and will promptly discharge at Borrower's expense any and all liens or encumbrances upon, or security interests in, the Collateral.

7. **TAXES AND OTHER IMPOSITIONS.** Borrower will pay or cause to be paid when due

all taxes, including real and personal property taxes, all general and special assessments, levies, permits, inspection and license fees, water and sewer rents and charges, and all other public charges (collectively called "Impositions") imposed upon or assessed against it or the Collateral. The Borrower will deliver to the Lender, upon Lender's request, receipts evidencing the payment of such Impositions.

8. **INSURANCE.** Borrower shall maintain, at Borrower's cost and expense, the following insurance coverages in full force and effect at all times: (a) Builder's Risk Insurance. Borrower shall keep the Collateral insured at all times against loss or damage by fire and other hazards included within the term "all risk" or "extended coverage" and against such other hazards as Lender may require in the full insurable value thereof, with an insurer satisfactory to Lender; (b) Flood Insurance. If applicable, Borrower shall maintain flood insurance in the maximum amount available if at any time the Collateral is located in a "Flood Hazard Area" pursuant to the Flood Disaster Protection Act of 1973 or any successor or supplemental act thereto; (c) Other Insurance. General liability, excess/umbrella liability, automobile liability, worker's compensation and employers' liability, wind damage insurance, and other insurance coverage as Lender may reasonably require. The policy or policies of insurance shall: (a) be from companies and in coverage amounts acceptable to Lender, (b) contain a standard mortgagee clause in favor of Lender naming Lender as loss payee and certificate holder on such policy, as applicable, (c) not be terminable or modified without thirty (30) days' prior written notice to Lender, and (d) be evidenced by original policies, certified copies or original certificates, as Lender elects. Borrower shall furnish Lender satisfactory evidence of payment of all premiums required and similar evidence of renewal or replacement coverage not later than thirty (30) days prior to the date any coverage will expire. All policies shall indicate that notices related to such insurance shall be sent to Lender at Lender's address stated in this Mortgage. If any loss occurs with respect to the Collateral, Lender is hereby appointed attorney-in-fact for Borrower to make proof of loss if Borrower fails to make the same punctually, and to give a receipt for any proceeds collected under such policies. Borrower will promptly give written notice to Lender of any loss or damage to the Collateral, and will not adjust or settle any such loss without Lender's prior written consent. The foregoing appointment of Lender as attorney-in-fact for Borrower is coupled with an interest, and is irrevocable.

9. **CONDEMNATION.** If all or any part of the Collateral is taken as a result of, or in lieu of or in anticipation of, the exercise of the right of condemnation or eminent domain, or by reason of the temporary requisition of the use or occupancy of the Collateral, in any event by any government or quasi-governmental authority, civil or military, or any other party entitled to exercise such powers by law, or is devalued or otherwise adversely affected by any of the foregoing actions, all proceeds payable with respect to any such action, up to and including the total sums secured by this Mortgage and the Loan Documents, are assigned to Lender and shall be paid to Lender.

10. **PROCEEDS.** All proceeds payable with respect to any casualty, loss, liability, damages or condemnation involving the Collateral as provided in the preceding two paragraphs are hereby assigned to Lender and shall be payable to Lender. Lender shall have the option to apply said proceeds or awards in reduction of the Debt, whether due or not, or to release them to Borrower.

11. **MAINTENANCE, REPAIRS AND RECONSTRUCTION.** Borrower shall make all repairs, renewals, replacements, servicing and reconstruction that are necessary to maintain the

Mortgaged Property in good order, condition and repair. Borrower will promptly notify Lender of any damage to the Mortgaged Property resulting from fire or other casualty or of any pending or threatened condemnation proceedings; Borrower shall undertake all restoration required or desirable and will pursue it diligently to completion. Lender and any persons authorized by Lender may enter the Mortgaged Property at all reasonable times without prior reasonable notice for inspections or for any other lawful purpose. If Borrower fails to comply with the requirements of this paragraph, then Lender, without waiving the option to foreclose, may take some or all measures Lender deems necessary or desirable for the maintenance, repair, preservation or protection of the Mortgaged Property, and any expenses reasonably incurred by Lender in so doing shall become part of the Debt secured hereby, and shall, at the option of Lender, become immediately due and payable, and shall bear interest at the Default Rate specified in the Note. Lender shall have no obligation to care for or maintain the Mortgaged Property, or, having taken some measures therefor, to continue same or take other measures.

12. **ADVANCES.** If Borrower defaults in the observance or performance of any of the provisions of the Loan Documents, then Lender, without waiving or otherwise impairing any other of its rights or remedies, at its sole option and without obligation to do so, and without demand upon Borrower, may make any such payment or take such action as Lender deems necessary or appropriate to correct such Default to protect the security of the Collateral encumbered by the Mortgage. All payments so made, together with all costs and expenses so incurred, will be added to the principal amount due under the Note and thereafter will bear interest at the rate then payable as provided for in the Note and will be secured by the lien and security interest granted by the Security Documents. Borrower will immediately, upon demand, pay all sums so expended by Lender with interest as stated above.

13. **BOOKS AND RECORDS.** Borrower will keep proper books or record and account in which full, true and correct entries will be made of its transactions with respect to the Collateral in accordance with generally accepted accounting principles, consistently applied and which will properly and correctly reflect all times of income and expense in connection with the operation of the Collateral. Lender will have the right to examine all such books, records and accounts at Borrower's office during normal business hours, and to make such copies or extracts as Lender may desire, at Borrower's expense.

14. **NOTICES.** Any notice or demand that must or may be given or made in connection with this Mortgage must be in writing and, unless receipt is expressly required, will be deemed given, delivered or made, as the case may be, when delivered by personal delivery or when mailed by overnight delivery service or by certified or registered mail, return receipt requested, addressed to the parties at the addresses written on the first page of this Mortgage. Such addresses may be changed by notice pursuant to this paragraph. Notice of change of address is effective only upon receipt.

15. **FINANCIAL STATEMENTS.** Borrower shall submit quarterly, if requested, and annual financial statements which shall include a Statement of Financial Position (balance sheet), a Statement of Activities (revenue and expenses), a statement showing contingent liabilities, detailed cash flow statements for each project in which Borrower has an interest, and any supporting schedules or documentation Lender may require. If unaudited, quarterly financial statements must contain a certification to Lender of the statement's accuracy and completeness signed by an authorized officer of Borrower. Said quarterly financial statements shall be provided within 45 days of each quarter-end, and shall include a year-to-date vs actual

operating budget, and current rent roll, if applicable. Audited annual statements shall bear the unqualified opinion of an acceptable certified public accountant, and be submitted within one hundred twenty (120) days of Borrower's fiscal year-end.

16 **17** **18** **19** **20** **21** **22** **23** **24** **25** **26** **27** **28** **29** **30** **31** **32** **33** **34** **35** **36** **37** **38** **39** **40** **41** **42** **43** **44** **45** **46** **47** **48** **49** **50** **51** **52** **53** **54** **55** **56** **57** **58** **59** **60** **61** **62** **63** **64** **65** **66** **67** **68** **69** **70** **71** **72** **73** **74** **75** **76** **77** **78** **79** **80** **81** **82** **83** **84** **85** **86** **87** **88** **89** **90** **91** **92** **93** **94** **95** **96** **97** **98** **99** **100** **101** **102** **103** **104** **105** **106** **107** **108** **109** **110** **111** **112** **113** **114** **115** **116** **117** **118** **119** **120** **121** **122** **123** **124** **125** **126** **127** **128** **129** **130** **131** **132** **133** **134** **135** **136** **137** **138** **139** **140** **141** **142** **143** **144** **145** **146** **147** **148** **149** **150** **151** 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other lien or encumbrance of any nature whatsoever is recorded against Borrower or the Collateral and is not removed by payment or transferred to substitute security in the manner provided by law, within fifteen (15) days after it is recorded in accordance with applicable law.

(h) Default Under Loan Documents. Borrower's default in the payment or performance of any of Borrower's obligations under any of the Loan Documents, including this Mortgage. (i) Borrower's Continued Existence. Borrower shall cease to exist or to be qualified to do or transact business in the State of Florida or be dissolved or shall be a party to a merger or consolidation, or shall sell all or substantially all of its assets. (j) Transfer Of Collateral. Any sale, conveyance, transfer, assignment or other disposition of the Collateral or any ownership interest in Borrower in violation of paragraph 20 below. (k) Other Foreclosure Proceedings. Foreclosure proceedings are instituted against the Collateral covered by this Mortgage upon any other lien or claim whether alleged to be superior or junior to the lien of this Mortgage.

17. CROSS-COLLATERAL AND CROSS-DEFAULT. This Mortgage shall secure Borrower's prompt payment and performance of (a) the Note; (b) Borrower's obligations to Lender under all documents executed in connection with the Note and this Mortgage; and (c) all other obligations of Borrower to Lender, however and whenever created. A default in any obligation of Borrower shall constitute a default under this Mortgage.

18. REMEDIES. Upon the occurrence and continuance, if applicable, of any Default, Lender may exercise any one or more of the following rights and remedies, in addition to all other rights and remedies otherwise available at law or in equity: (a) Loan Documents. To pursue any right or remedy provided by the Loan Documents. (b) Acceleration. To declare the entire unpaid amount of the Debt together with all accrued and unpaid interest thereon immediately due and payable with interest to be due thereon at the Default Rate set forth in the Note. (c) Foreclosure. To foreclose the lien of this Mortgage and obtain possession of the Collateral, by any lawful procedure. (d) Code Rights. To exercise any right or remedy available to Lender as a secured party under the Uniform Commercial Code as adopted by the State of Florida, as it from time to time is in force and effect, with respect to any portion of the Collateral then constituting property subject to the provisions of such Code, or Lender may elect to treat the Collateral as real property, or an interest therein, for remedial purposes. (e) Receiver. To apply, on *ex parte* motion, to any court of competent jurisdiction for the appointment of a receiver to take charge of, manage, preserve, protect, complete construction of, rent, and operate the Mortgaged Property; to make all necessary and needed repairs, to pay all taxes, assessments, insurance premiums and other costs incurred in connection with the Collateral; and after payment of the expenses of the receivership and compensation to the receiver for any of the services described herein, to apply all net proceeds derived therefrom in reduction of the Debt or in such other manner as the court shall direct. The receiver may exclude Borrower wholly from the Mortgaged Property and have, hold, use, operate, manage and control the Mortgaged Property and may, in the name of Borrower, exercise all of Borrower's rights and powers to maintain, construct, operate, restore, and insure the Mortgaged Property in such manner as such receiver deems appropriate. (f) Advances. To advance such monies and take such other action as is authorized by paragraph 12 herein.

19. WAIVER OF CERTAIN RIGHTS. Borrower waives, to the extent that it lawfully may, all rights to have the Collateral and any other security for the Debt marshalled upon any foreclosure or otherwise. Borrower hereby waives and renounces all homestead and exemption rights provided for by the Laws of the United States of America and the State of Florida, in and to the Collateral as against the collection of the Debt.

20. TRANSFER. Borrower may not contract, sell, convey, assign, transfer or otherwise dispose of any interest in the Collateral without Lender's consent. Whether such transfer is voluntary or involuntary, or by operation of law, any such transfer will be void as to Lender, and constitute an immediate Default under this Mortgage, without notice in the sole discretion of Lender.

21. FUTURE ADVANCES. This Mortgage is given to secure not only the existing Debt, but also such future advances, whether such advances are obligatory or are to be made at the option of Lender, which are made within twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of Debt that may be so secured may decrease or increase from time to time, but the maximum possible principal debt so secured at one time shall not exceed three times the original sum of the Note as set forth above plus interest thereon, and any disbursements made for the payment of taxes, levies or insurance on the Collateral, with interest on such disbursements at the rate then in effect pursuant to the terms of the Note.

22. SATISFACTION. The lien and security interest provided by the Loan Documents will continue unimpaired and in full force and effect unless and until the Debt is paid in full, whereupon such lien and security interest will be satisfied without further force or effect.

23. HAZARDOUS MATERIALS. Borrower represents and warrants to Lender that the Collateral has not in the past been used nor is presently being used and will not in the future be used for the handling, storage, transportation or disposal of hazardous or toxic materials, including asbestos insulation. Borrower agrees to indemnify, defend and hold harmless the lender from and against any loss, cost or expense incurred by Lender, including without limitation, attorneys' fees at both trial and appellate levels, incurred by the Lender as a result of such past, present or future use, handling, storage, transportation or disposal of hazardous or toxic materials, including asbestos insulation. Borrower's indemnification obligation hereunder shall be one of strict liability and shall be enforceable without regard to any fault or knowledge of Lender with respect to any act or omission or condition or event which is the basis of the claim under such indemnification obligation. Borrower's obligation under this section shall not be limited to any extent to the term of the Note or other obligations secured hereby, and such obligation shall continue, survive and remain in full force and effect notwithstanding payment in full or other satisfaction or release of said Note, and this Mortgage or any foreclosure under this Mortgage or any delivery of a deed in lieu of foreclosure. The provisions of this section shall be deemed to survive and continue in full force and effect after any foreclosure or other proceeding by which Lender, its successors and assigns, succeed to ownership of the Property.

24. APPRAISALS. If at any time and for any reason Lender determines that the value of the Collateral may have declined or be less than Lender previously anticipated, within sixty (60) days from Lender's written request to Borrower, Borrower shall provide to Lender, at Borrower's sole cost and expense, a current appraisal of the Collateral in form and content as required by Lender.

25. TAXATION OF MORTGAGE. In the event of the passage, after the date of this Mortgage, of any federal, state or local law changing in any way the laws for the taxation of mortgages or debts secured by mortgages, or the manner of the collection of any such taxes, and imposing a tax on any or all of the Loan Documents, excluding income taxes to the Lender

based on the Mortgage, Lender shall have the right to declare the Debt due on a date to be specified by not less than sixty (60) days written notice given to Borrower by Lender; provided, however, that such election shall be ineffective if Borrower is permitted by law to pay the tax in addition to all other payments required hereunder, and if Borrower, prior to such specified date, does pay such tax and agrees to pay any such tax when thereafter levied or assessed, and such agreement shall not constitute a modification of this Mortgage.

26. DEPOSITS. If required by Lender, Borrower will pay to Lender on the last day of each and every consecutive month, a sum equal to one-twelfth (1/12th) of the annual amount necessary to pay taxes assessed with respect to the Collateral and insurance required to be maintained by the Mortgage. All such sums paid to Lender shall be applied by Lender to the payment of such taxes and insurance.

27. JUDGMENT. Lender may seek and recover a judgment for all amounts due and payable in accordance with the Note or under this Mortgage either before, after or during the pendency of any other proceedings or action to obtain relief under or with respect to any of the Loan Documents. Lender's right to seek and recover any such judgment will not be affected by obtaining any other such relief. Lender will continue to be entitled to enforce payment of, and to seek and recover a judgment for, any portion of the Debt remaining due and payable after the application of any proceeds of any sale of the Collateral pursuant to law. Neither the lien nor security interest of this Mortgage, nor any rights or remedies of Lender hereunder or under any of the Loan Documents, will be impaired in any way by the recovery of any judgment by Lender against Borrower, or by the levy of an execution under such judgment upon any portion of the Collateral, until the Debt is paid in full. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided under this provision and other provisions of the Loan Documents, including, but not limited to, reasonable attorney fees.

28. ESTOPPEL LETTERS. If requested, from time to time, by either Borrower or Lender, and within ten (10) days after any such request, Borrower or Lender, as the case may be, will execute and deliver to or at the direction of Lender or Borrower, as the case may be, such estoppel letters certifying such matters relating to this Mortgage or the Loan Documents, or both, as may reasonably be required.

29. TIME OF THE ESSENCE. Time is of the essence with respect to each and every covenant, agreement, and obligation of Borrower under this Mortgage and the other Loan Documents, and any and all other instruments now or hereafter evidencing, securing or otherwise relating to the Debt.

30. ORAL MODIFICATION INEFFECTIVE. No term of this Mortgage or any other of the Loan Documents may be waived, changed, modified, discharged or terminated except by an instrument in writing signed by the party against which enforcement of the waiver, change, modification, discharge or termination is sought.

31. WAIVER OF TRIAL BY JURY. BY ACCEPTANCE HEREOF, BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY AND ALL RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION (INCLUDING, BUT NOT LIMITED TO) ANY CLAIMS, CROSS CLAIMS OR THIRD PARTY CLAIMS ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE, THE NOTE, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREIN. BORROWER HEREBY

CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF THE LENDER NOR THE LENDER'S COUNSEL HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE LENDER WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. BORROWER ACKNOWLEDGES THAT THE LENDER HAS BEEN INDUCED TO ENTER INTO THIS LOAN, INCLUDING THIS MORTGAGE, BY, INTER-ALIA, THE PROVISIONS OF THIS PARAGRAPH.

IN WITNESS WHEREOF, Borrower has executed and delivered this Mortgage the date stated above

Signed, sealed and delivered
in the presence of:

SIGNATURE

NAME LEGIBLY PRINTED

SIGNATURE

NAME LEGIBLY PRINTED

Signed, sealed and delivered
in the presence of:

SIGNATURE

NAME LEGIBLY PRINTED

SIGNATURE

NAME LEGIBLY PRINTED

NEW URBAN COMMUNITY DEVELOPMENT
CORPORATION, INC., a Florida non-profit
corporation

By:

Name: PATRICK FRANKLIN

Title: PRESIDENT / CEO

and

URBAN LEAGUE OF PALM BEACH
COUNTY, INC., a Florida non-profit
corporation

By:

Name: PATRICK FRANKLIN

Title: PRESIDENT / CEO

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 2nd day of September, 2009 by Palm Beach as President of New Urban Community Development Corporation, Inc., a Florida non-profit corporation, on behalf of the corporation.

Personally Known OR Produced Identification
Type of Identification Provided _____

J. M. Haygood
SIGNATURE
J. M. Haygood
NAME LEGIBLY PRINTED



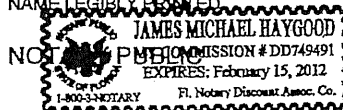
(SEAL)
My Commission Expires:

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 2nd day of September, 2009 by Palm Beach as President of Urban League of Palm Beach County, Inc., a Florida non-profit corporation, on behalf of the corporation.

Personally Known OR Produced Identification
Type of Identification Provided _____

J. M. Haygood
SIGNATURE
J. M. Haygood
NAME LEGIBLY PRINTED



(SEAL)
My Commission Expires:

Exhibit A

Lots 8, 9, 10, 11 and 12, Block 30, FRESHWATER LAKES ADDITION TO WEST PALM BEACH
AMENDED PLAT OF 11TH AND 12TH AVENUE ADDITION, according to the Plat thereof,
recorded in Plat Book 8, Page 22, of the Public Records of Palm Beach County, Florida



Document prepared by
City Attorney Office
City of West Palm Beach
401 Clematis Street
West Palm Beach, FL 33402
Please return to
Mail Call Box #189

CFN 20100140812
OR BK 23797 PG 1544
RECORDED 04/16/2010 10:30:19
Palm Beach County, Florida
AMT 10,906.67
Deed Doc 38.50
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1544 - 1546; (3pgs)

PROMISSORY NOTE AND
MORTGAGE MODIFICATION AGREEMENT

Res 129-10
Contract No. 01262 005

THIS Promissory Note and Mortgage Modification Agreement (the "Modification"), is made and entered into this 23rd day of March, 2010, by and between the CITY OF WEST PALM BEACH, 401 Clematis Street, P O BOX 3366, West Palm Beach, FL 33402 (the "City") and NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC, a Florida 501 (c)(3) not-for-profit community housing development organization ("NUCDC")

WITNESSETH

WHEREAS, the City is the owner and holder of that certain Promissory Note in the principal amount of \$250,000 00 given by NUCDC (the "Note") which Note was amended by an amended Promissory Note dated October 31, 2005 in the amount of \$110,000 00 (the "Amended Note") The Note and the Amended Note (the "Combined Note"), is secured by that certain Mortgage dated October 31, 2005, and recorded in Official Record Book 20494, Page 0474, in the Public Records of Palm Beach County, Florida (the "Mortgage"), and

WHEREAS, the Combined Note was amended that certain Promissory Note in the additional principal amount of \$257,853 00 given by NUCDC to City (the "Second Amended Note") which Note is secured by that certain Amended Mortgage dated November 20, 2006, and recorded in Official Record Book 21149, Page 1262, in the Public Records of Palm Beach County, Florida (the "Mortgage"), and

WHEREAS, the City is the owner and holder of that certain Third Amended and Restated Promissory Note which increased the indebtedness by an additional \$350,000 00 for a combined total of Nine Hundred Sixty-Seven Thousand Eight Hundred Fifty-Three and 00/100 Dollars (\$967,853 00) (the "Third Amended Note") which Note is secured by that certain Third Amended Mortgage and Security agreement dated September 3, 2009, and recorded in Official Record Book

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23431, Page 1777, in the Public Records of Palm Beach County, Florida (the Thrd Amended Mortgage "Mortgage"), and

WHEREAS, NUCDC has requested and City agrees to increase the principal balance due under the Note and Mortgage as amended and to extend the Term, and

WHEREAS, the parties mutually agreed to modify the terms of the Note and Mortgage as hereinafter set forth

NOT THEREFORE, in consideration of the mutual covenants contained herein and Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows

1 The facts set forth above are true and correct

2 The Mortgage referenced above encumbers certain real property in Palm Beach County Florida (the "Property") legally described as provided on Exhibit "A"

3 All terms used herein which are defined in the Mortgage shall have the same meanings as defined in the Mortgage

4 As of the date hereof, the total outstanding principal under the Thrd Amended Note is Nine Hundred Sixty-Seven Thousand Eight Hundred Fifty-Three and 00/100 Dollars (\$967,853.00) NUCDC has requested and City has agreed to increase the outstanding Principal balance of the Note to Nine Hundred Thousand Seven Hundred Fifty Nine Thousand and 67/100 Dollars (\$978,759.67) ("the Modified Sum"), which shall be secured by the Mortgage as amended by, among others, the Thrd Amended Mortgage as modified herein

5 NUCDC acknowledges that the amount of the increase in the Principal balance of the Note is \$10,906.67

6 The Term of the Note and Mortgage, as amended, is hereby extended to June 30, 2025

7 Except as specifically modified herein, all other provisions of the Mortgage and Note, as amended, continue in full force and effect in accordance with their respective terms, and are hereby ratified and confirmed by the parties

8 In the event of a conflict between the provisions of this Modification and the Note and Mortgage, as amended, the provision of this Modification shall control

[SIGNATURES NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed the day and year first above written

Signed, sealed and delivered
in the presence of

Print Name Gig Marshall

Print Name Samuel Saks

NUCDC

Print Name Patrick Franklin

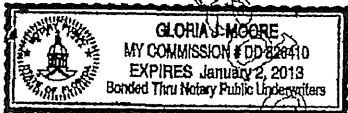
Title President/CEO

Date 3/26/10

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 26th day of March, 2010, by Patrick Franklin, ☒ who is personally known to me or ☐ who has produced Florida Driver's License # _____ as identification

(NOTARY SEAL)



Print Name Gloria J. Moore

Notary Public

My commission expires

CITY OF WEST PALM BEACH

By Lois J. Frankel, Mayor 3/22/10

ATTEST

[Signature]
City Clerk

City Attorney's Office
Approved as to form
and legal sufficiency
By Sax
Date 3-17-10

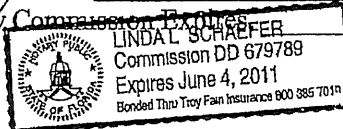
STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that on the 22 day of MARCH, 2010, before me, an officer authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Lois J. Frankel as Mayor of the City of West Palm Beach, a municipal corporation, who is personally known to me and who did/did not take an oath

Linda L. Schaefer
Notary Public, State of Florida

Print Name

My Commission Expires





**FIFTH AMENDMENT TO
TOWNHOUSES AT HENRIETTA
CHDO PROJECT, LOAN AGREEMENT**

THIS FIFTH AMENDMENT TO TOWNHOUSES AT HENRIETTA CHDO PROJECT, LOAN AGREEMENT (the "Fifth Amendment"), is made and entered into this _____ day of _____ 2011, by and between the CITY OF WEST PALM BEACH, a Florida municipal corporation ("City") and NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida 501 (c)(3) not-for-profit community housing development organization ("NUCDC").

RECITALS

WHEREAS, the City and NUCDC (the "Parties") entered into the Townhouses at Henrietta CHDO Project Loan Agreement dated March 29, 2005 as amended, (the "Loan Agreement"); and

WHEREAS, the Parties desire to amend the language contained in Section 2.04 A, Rent Limitations, which will increase the size of the pool of potential eligible applicants.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and in the Loan Agreement, the Parties agree to amend the Loan Agreement as follows:

1. Section 2.04 A, entitled "Rent Limitations" is amended to read as follows:
 - A. Rent Limitations. Each HOME-assisted unit in the Project must be occupied only by households that are low-income and very-low income families and must meet affordability requirements referenced in paragraph 4.01 above. Rent limitations established by the U.S. Department of Housing and Urban Development ("HUD") to make rents affordable to low-income and very-low income individuals/families (hereinafter, referred to as "HOME Rents") are applicable to said units. The maximum HOME rents cannot exceed the High HOME Rent limit, as established by HUD annually for the West Palm Beach-Boca Raton Metropolitan Statistical Area, minus the utility allowances.

All other provisions of Article 2, Section 2.04 remain unchanged.

2. In the event of a conflict between the terms of this Fourth Amendment and the Loan Agreement, the terms of this Fourth Amendment shall control. Other than as provided

in this Fourth Amendment, the terms and conditions of the Loan Agreement are unchanged, and remain binding upon the Parties.

IN WITNESS WHEREOF, this instrument has been executed by the Parties hereto in manner and form sufficient to bind them, as of the Effective Date of the Loan Agreement.

ATTEST:

**THE CITY OF WEST PALM BEACH
BY ITS CITY COMMISSION**

By: _____
City Clerk

By: _____
Geraldine Muoio, Mayor

Date: _____

City Attorney’s Office
Approved as to form
and legal sufficiency
By: _____
Date: _____

EXECUTED IN THE PRESENCE OF:

**NEW URBAN COMMUNITY
DEVELOPMENT CORPORATION, INC.**

Print: _____

By: _____
Chair

Print: _____

Date: _____



WEST PALM BEACH

FIFTH AMENDMENT TO
TOWNHOUSES AT HENRIETTA
CHDO PROJECT AGREEMENT

Contract No: 01262.007

THIS FIFTH AMENDMENT TO TOWNHOUSES AT HENRIETTA CHDO PROJECT AGREEMENT (the “Fifth Amendment ”), is made and entered into this _____ day of _____ 20____, by the **CITY OF WEST PALM BEACH**, a Florida municipal corporation, whose address is 401 Clematis Street, West Palm Beach, Florida 33401 (“City”) and **NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC.**, a Florida 501(c)(3) not-for-profit Community Housing Development Organization (“CHDO”), whose address is 1700 North Australian Avenue, West Palm Beach, Florida 33407 (“NUCDC”).

RECITALS

WHEREAS, the City and NUCDC (the “Parties”) entered into that certain Townhouses at Henrietta CHDO Project Agreement (the “Agreement”) dated March 29, 2005, as amended by the First, Second, Third and Fourth Amendments; and

WHEREAS, the Parties desire to extend the Term of the Agreement subject to the terms and conditions of this Fifth Amendment.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and in the Agreement, the Parties agree to amend the Agreement as follows:

1. Article 1, Section 1.02 entitled “Term” is amended to extend the Term of the Agreement to June 30, 2025.
2. In the event of a conflict between the terms of this Fifth Amendment and the Agreement, the terms of this Fifth Amendment shall control. Other than as provided in this Fifth Amendment, the terms and conditions of the Agreement, as previously amended, are unchanged, and remain binding upon the Parties.

(SIGNATURES ON FOLLOWING PAGE)

IN WITNESS WHEREOF, this Fifth Amendment has been executed by the Parties hereto in manner and form sufficient to bind them, as of the date set forth below.

**NEW URBAN COMMUNITY
DEVELOPMENT COPRPORATION,
INC.**

CITY OF WEST PALM BEACH

By: _____

By: _____

Keith A. James, Mayor

Name: _____

Date: _____, 20____.

Title: _____

Attest: _____

City Clerk

City Attorney's Office
Approved as to form and legality
By: _____

Document prepared by
City Attorney's Office
Attn: Stacey R. Weinger, Esq.
City of West Palm Beach
401 Clematis Street
West Palm Beach, FL 33401

MORTGAGE MODIFICATION AGREEMENT

Contract No. 01262.007

THIS Mortgage Modification Agreement (the "Modification"), is made and entered into **this _____ day of _____, 20____**, by and between the **CITY OF WEST PALM BEACH**, 401 Clematis Street, P.O. BOX 3366, West Palm Beach, FL 33402 (the "City") and **NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC.**, a Florida 501(c)(3) not-for-profit community housing development organization ("NUCDC").

W I T N E S S E T H:

WHEREAS, the City is the owner and holder of that certain Promissory Note in the principal amount of \$250,000.00 given by NUCDC (the "Note") which Note was amended by an amended Promissory Note dated October 31, 2005 in the amount of \$110,000.00 (the "Amended Note"). The Note and the Amended Note (the "Combined Note"), is secured by that certain Mortgage dated October 31, 2005, and recorded in Official Record Book 20494, Page 0474, in the Public Records of Palm Beach County, Florida; and

WHEREAS, the Combined Note was amended by that certain Promissory Note in the additional principal amount of \$257,853.00 given by NUCDC to City which Note is secured by that certain Amended Mortgage dated November 20, 2006, and recorded in Official Record Book 21149, Page 1262, in the Public Records of Palm Beach County, Florida; and

WHEREAS, the City is the owner and holder of that certain Third Amended and Restated Promissory Note which increased the indebtedness by an additional \$350,000.00 for a combined total of Nine Hundred Sixty-Seven Thousand Eight Hundred Fifty-Three and 00/100 Dollars (\$967,853.00) which Note is secured by that certain Third Amended Mortgage and Security agreement dated September 3, 2009, and recorded in Official Record Book 23431, Page 1777, in the Public Records of Palm Beach County, Florida; and

WHEREAS, the City is the owner and holder of that certain Fourth Amended and Restated Promissory Note which increased the indebtedness by an additional \$10,906.67 for a combined total of Nine Hundred Seventy-Eight Thousand Seven Hundred Fifty-Nine and 67/100 Dollars (\$978,759.67) which Note is secured by that certain Promissory Note and Mortgage Modification Agreement dated March 22, 2010, and recorded in Official Record Book 23797, Page 1544, in the Public Records of Palm Beach County, Florida; and

WHEREAS, the parties mutually agree to modify the terms of the Mortgage, as previously

amended, as hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants contained herein and Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The facts set forth above are true and correct.
2. The Mortgage referenced above encumbers certain real property in Palm Beach County Florida (the "Property") legally described as provided on Exhibit "A".
3. All terms used herein which are defined in the Mortgage shall have the same meanings as defined in the Mortgage.
4. As of the date hereof, the total outstanding principal under the Note is Nine Hundred Seventy-Eight Thousand Seven Hundred Fifty-Nine and 67/100 Dollars (\$978,759.67).
5. The Term of the Mortgage, as amended, is hereby extended to June 30, 2055.
6. Except as specifically modified herein, all other provisions of the Mortgage, as amended, continue in full force and effect in accordance with their respective terms, and are hereby ratified and confirmed by the parties.
7. In the event of a conflict between the provisions of this Modification and the Mortgage, as amended, the provision of this Modification shall control.

IN WITNESS WHEREOF, the parties hereto have caused this Mortgage Modification Agreement to be signed the day and year first above written.

Signed, sealed and delivered
in the presence of:

**NEW URBAN COMMUNITY
DEVELOPMENT CORPORATION, INC.**

Print Name: _____

Print Name _____
Title _____
Date _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of physical presence this
____ day of _____, 20____, by _____ as
_____ of the organization, ☐ who is personally known to me or ☐ who
has produced Florida Driver’s License # _____ as identification.

(NOTARY SEAL)

Print Name:
Notary Public
My commission expires:

CITY OF WEST PALM BEACH

ATTEST:

By: _____
Keith A. James, Mayor

City Clerk

City Attorney’s Office
Approved as to form and legality
By: _____

5TH AMENDED AND RESTATED PROMISSORY NOTE

Contract No. 04-01262.007

\$978,759.67

West Palm Beach, Florida

Effective Date: _____, 20

FOR VALUE RECEIVED, the undersigned, **NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC.**, a Florida 501(c)(3) not-for-profit Community Housing Development Organization (NUCDC), whose address is 1700 North Australian Avenue, West Palm Beach, FL 33407 (hereinafter the "MAKER"), promises to pay to the order of the **CITY OF WEST PALM BEACH, FLORIDA**, a Florida municipal corporation, (hereinafter called "City"), at its address of 401 Clematis Street, West Palm Beach, Florida 33401, or at such other place or places as it may from time to time be designed in writing by City, in lawful money of the United States, the principal sum of Nine Hundred Seventy-Eight Thousand Seven Hundred Fifty-Nine Dollars and 67/100 (\$978,759.67) or so much thereof as may be advanced with and outstanding from time to time, with interest on the unpaid principal from the date of each such advance at the rate and in the manner hereinafter set forth.

This Note is executed pursuant to the terms of the Townhouses at Henrietta CHDO Project Agreement dated March 29, 2005, (the "Project Agreement") as amended, the Townhouses at Henrietta CHDO Project Loan Agreement dated March 29, 2005, as amended, and the Amended Mortgage and Security Agreement of even date herewith, by and between the MAKER and the City. Collectively these documents, along with the Notes and amended Notes referenced below, constitute the "Loan Documents".

THIS FIFTH AMENDED AND RESTATED PROMISSORY NOTE (THE FIFTH AMENDED NOTE) AMENDS THAT CERTAIN PROMISSORY NOTE IN THE AMOUNT OF \$250,000.00 FROM BORROWER TO THE CITY (THE ORIGINAL NOTE) AS AMENDED BY THAT CERTAIN AMENDED AND RESTATED NOTE DATED OCTOBER 31, 2005 IN THE ADDITIONAL PRINCIPAL SUM OF \$110,000.00 FOR A TOTAL OF \$360,000.00 (THE FIRST AMENDED NOTE) (THE ORIGINAL NOTE AND THE FIRST AMENDED NOTE WILL BE COLLECTIVELY REFERRED TO AS THE "COMBINED NOTE"); AND

THE COMBINED NOTE WAS AMENDED BY THAT CERTAIN AMENDED AND RESTATED NOTE DATED NOVEMBER 20, 2006, IN THE ADDITIONAL PRINCIPAL SUM OF \$257,853.00 FOR A TOTAL OF \$617,853.00 (THE "SECOND AMENDED AND RESTATED NOTE"); AND

THE NOTE WAS FURTHER AMENDED BY THE THIRD AMENDED AND RESTATED PROMISSORY NOTE WHICH AMENDED AND RESTATED THE SECOND AMENDED

AND RESTATED NOTE TO INCREASE THE PRINCIPAL SUM BY AN ADDITIONAL \$350,000.00 FOR A TOTAL OF \$967,853.00; AND

THIS NOTE WAS FURTHER AMENDED BY THE FOURTH AMENDED AND RESTATED PROMISSORY NOTE WHICH INCREASED THE PRINCIPAL SUM BY AN ADDITIONAL \$10,906.67 FOR A TOTAL OF \$978,759.67.

DOCUMENTARY STAMPS IN THE PROPER AMOUNT WERE PAID ON THE COMBINED NOTE SIMULTANEOUSLY RECORDED WITH THE MORTGAGE RECORDED IN O.R. BOOK 20494, PAGE 474, ON THE SECOND AMENDED NOTE SIMULTANEOUSLY RECORDED WITH THE MORTGAGE RECORDED IN O.R. BOOK 21149, PAGE 1262 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THE AMENDED AND RESTATED NOTE SIMULTANEOUSLY RECORDED WITH THE THIRD MORTGAGE RECORDED IN O.R. BOOK 23431, PAGE 1777 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND THE PROMISSORY NOTE AND MORTGAGE MODIFICATION AGREEMENT RECORDED IN O.R. BOOK 23797, PAGE 1544 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

Payments under this Fifth Amended and Restated Note shall be due and payable as follows:

The interest rate shall be zero (0%) percent per annum. The entire outstanding balance plus all accrued and unpaid interest, if any, on the entire outstanding principal balance shall be due and payable on June 30, 2055 (the "Maturity Date") provided the Borrower has a "Positive Cash Flow" on December 31, 2054. Positive Cash Flow is defined for these purposes as "Total project revenues less a vacancy allowance of gross rents less operating expenses of (i) property management (ii) property maintenance and repair, (iii) property insurance, (iv) property taxes, (v) down payment escrow not to exceed three percent (3.0%) of gross rents, (vi) other administrative expenses not to exceed four percent (4.0%) of gross rents and debt service (principal plus interest) payments on the project first mortgage loan not to exceed \$700,000^[sw1]. The existence of a Positive Cash Flow shall be established by a Certified Public Accountant selected by the City. In the event Borrower does not have a Positive Cash Flow on December 31, 2054, the City and the Borrower shall negotiate payment terms.

Interest hereunder, if any, shall be computed on the basis of a 360-day year for the actual number of days in the interest period. All payments of principal and interest shall be made in lawful money of the United States which shall be legal tender in payment of all debts, public and private, at the time of payment. This Note may be prepaid in whole or in part without penalty or premium.

Notwithstanding the foregoing, if the Property complies with the affordability restrictions set forth in the Project Agreement dated December 6, 2004, as amended, and the Loan Agreement, as amended, then, on July 1, 2055, the City, in its sole discretion, may forgive the Note and the repayment of any applicable principal and interest then due and owing.

This Note is secured by a Mortgage of even date herewith (the "Mortgage") executed by the MAKER in favor of City, which Mortgage constitutes a lien on certain real and personal property in Palm Beach County, Florida ("Property") of which the MAKER is the fee simple owner. Reference is hereby made to the Mortgage and to the Loan Documents for a description of events of default and rights in the event of default. It is expressly agreed that all of the covenants, conditions and agreements contained in the Mortgage and the Loan Documents are made a part of this Note. Upon default on any note secured by said Mortgage, including, but not limited to this Note, all notes so secured and remaining unpaid shall become due and payable, notwithstanding the terms and provisions of these notes.

Upon a default under any of the Loan Documents, the City subject to the provisions of Article 9 of the Loan Agreement shall have the right to pursue all appropriate remedies to collect on or enforce the terms of this Note and related Mortgage, including the right to declare the entire amount of the total unpaid balance hereof to be due and payable.

Upon an Event of Default, the principal sum remaining unpaid shall become immediately due and payable with interest at the maximum rate permissible under Florida law (the "Default Rate") computed from the date the cure period has expired until such Event of Default is fully rectified. In no event shall any Default Rate of interest apply until after the cure period or grace period has expired and MAKER has failed to cure said default. City shall have the right to pursue all appropriate remedies to collect on or enforce the terms of this Note including the right to declare the entire amount of the total unpaid balance hereof to be due and forthwith payable in advance of the Maturity Date, as fixed herein.

MAKER agrees to pay all costs of collection incurred in enforcing this Note, including attorneys' fees and costs. In the event any legal proceedings are instituted in connection with, or for the enforcement of this Note, the City shall be entitled to recover its costs of suit, including attorneys' fees and costs, at both trial and appellate levels and in any bankruptcy action.

Each maker, endorser and guarantor or any person, firm or corporation becoming liable under this Note hereby consents to any extension or renewal of this Note or any part hereof, without notice, and agrees that they will remain liable under this Note during extension or renewal hereof, until the debts represented hereby are paid in full.

Nothing herein contained, nor in any instrument or transaction related hereto, shall be construed or so operate as to require MAKER, or any person liable for the payment of the Loan made pursuant to this Note, to pay interest in an amount or at a rate greater than the highest rate permissible under applicable law as amended from time to time. Should any interest or other charges paid by MAKER, or any party liable for payment of the Loan made pursuant to this Note, result in the computation or earning of interest in excess of the highest rate permissible under applicable law, then any and all such excess shall be and the same is hereby waived by City, and all such excess shall be paid by City to MAKER or to any party liable for the payment of the Loan made pursuant to this Note, it being the intent of the parties hereto that under no circumstances shall MAKER or any party liable for the payment of the Loan hereunder, be required to pay interest in excess of the highest rate permissible under applicable law as amended from time to time.

All persons or corporations now or at any time liable, whether primarily or secondarily, for the payment of the indebtedness hereby evidenced, for themselves, their heirs, legal representatives, successors and assigns respectively, hereby:

- (a) Expressly waive valuation and appraisal, presentment, protest, notice of protest and dishonor;
- (b) Expressly consent to any extension or renewal, in whole or in part, and all delays in time of payment or other performance which City may grant at any time and from time to time without limitation and without any notice or future consent of the undersigned; and
- (c) Agree that the City, in order to enforce payment of this Note, shall not be required to first institute any suit or to exhaust any of its remedies against the MAKER or any other person or party to become liable hereunder.

The remedies of City as provided herein, in the Mortgage, or in the Loan Documents shall be cumulative and concurrent and may be pursued singularly, successively or together, at the sole discretion of City, and may be exercised as often as occasion therefore shall arise. No act of omission or commission of the City, including specifically any failure to exercise any right, remedy or recourse, 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 the City 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, as a bar to, or as a waiver or release of, any subsequent event.

This Note is to be construed according to the applicable laws of the State of Florida.

This Note may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

All communications required under or in connection with this Note shall be in writing, and shall be sent registered or certified mail, postage prepaid addressed to the MAKER or City at the address as either party may designate from time to time by notice pursuant to the Loan Agreement.

MAKER AND CITY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE AND ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

[INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, MAKER has caused this Note to be executed on the Effective Date written above.

MAKER

Witnesses:

**NEW URBAN COMMUNITY
DEVELOPMENT CORPORATION,
INC.**

Print Name: _____

Print Name: _____

By: _____
Print: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of physical presence this ____ day of _____, 20____, by _____, of NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., on behalf of the corporation, ☐ who is personally known to me or ☐ who has produced _____ as identification.

Print Name: _____
Notary Public State of Florida

My Commission Expires:

Henrietta Townhomes (West Palm Beach, FL): Regulatory Flexibility Request

Identify the Property. Property name, property address, total units, HOME-assisted units, IDIS number.

Henrietta Townhomes is an eleven (11) unit HOME project located at 1301 Henrietta Avenue, West Palm Beach , FL33401. The property is located in the West Palm Beach-Boca Raton, FL HMFA. The IDIS Activity ID is 1835. The IDIS Activity Name is ‘Henrietta Townhouses’. The Grant Years are 2007 and 2008 and the Program Year is 2002. The Initial Funding Date is 3/26/10.

OAHP received a request forwarded by the Field Office which had been submitted by the County (PJ) and is dated 08/05/19. The County requested an additional investment of HOME funds during the period of affordability.

Henrietta began operations in April 2010 as a new construction multi-family rental property, with all units restricted as HOME units (7 Low- and 4 High-HOME units).¹ Permit records show certificates of occupancy issued April 2010.

Note that the original request submitted to HUD (and for review under this TA assignment) was to obtain a regulatory exception to permit additional investment of HOME funds during the existing period of affordability, as part of a planned restructuring, toward eliminating First Mortgage debt service to the existing First Mortgage Lender, and replacing it with a smaller First, at lower interest, to be directly held by the PJ. However, in researching the issues, the PJ and the TA provider have identified and are proposing an alternate strategy. This memo proposes the following for HUD’s consideration:

- a. Permit an additional investment sufficient to perform limited rehab, and fully pay-off the existing 1st mortgage. This additional investment would be \$503,590. Of this amount, \$460,000 would repay the 1st mortgage held by the Florida Community Loan Fund and \$43,590 would pay for certain rehab costs. (See the attached analysis, HENRIETTA HOME Analysis PCA.xls).
- b. All property debt would be deferred-payment (due on maturity only).
- c. The deposit to the property’s reserve for replacement account would be increased from \$0, to \$193.18 per unit per month (\$25,500 per year for all units) and would be required to be increased at an annual rate of inflation of 2%. Failure by the owner to make the required payments to the reserve account timely, or any withdrawal from the reserve account without the prior, written permission of Palm Beach County would constitute an event of default under the mortgage.

Identify the PJ. Include PJ contact information for this regulatory exception request.

Jonathan Brown, Director Department Housing and Economic Stability, Palm Beach County Phone: 561-233-3600	Carlos Serrano, SPO Director Department Housing and Economic Stability, Palm Beach County Phone: (561) 233-3608
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¹ Loan Agreement: “Occupancy Requirements: Seven (7) townhomes must be occupied only by households that qualify as very-low income families in that their annual income does not exceed sixty (60%) percent of Palm Beach County median income adjusted for family size. Four (4) townhomes must be occupied only by households that qualify as low-income families in that their annual income does not exceed eighty (80%) percent of Palm Beach County's median income adjusted for family size. ”

Regulatory Exceptions Being Requested. Invest additional HOME funds, reduce HOME-assisted units, or both.

The PJ requests to increase by \$503,590 the total investment of HOME funds from \$1,315,855 to \$1,819,455. This request is pursuant to 24CFR §92.210(b):

Notwithstanding § 92.214, a participating jurisdiction may request and HUD may permit, pursuant to a written memorandum of agreement, a participating jurisdiction to invest additional HOME funds in the existing HOME-assisted rental project. The total HOME funding for the project (original investment plus additional investment) must not exceed the per-unit subsidy limit in § 92.250(a). The use of HOME funds may include, but is not limited to, rehabilitation of the HOME units and recapitalization of project reserves for the HOME units (to fund capital costs). If additional HOME funds are invested, HUD may require the period of affordability to be extended, based on such considerations as the amount of additional HOME funds or additional units.

Request to Invest Additional HOME Funds. Indicate either Not Applicable or each of the following: the additional amount proposed to be invested (comparing the proposed total HOME investment to the current per-unit subsidy limits), the HOME allocation from which the additional investment is proposed to be made, the eligible purpose(s) for the proposed investment, the PJ's determination of the minimum HOME affordability period and minimum number of HOME-assisted units, the PJ's explanation for why the request meets the criteria outlined in Section IV.2 of this Notice (these are itemized in Attachment A), and the PJ's justification of the proposed amount to be invested.

The existing investment, proposed additional investment and proposed total investment are enumerated above..

- The proposed total investment of \$1,819,455 is below the 2009 limit (\$2,405,480) and the 2019 limit (2,841,667). See Appendix A.
- Because all funds are HOME funds, all units are required to be HOME units. This is the proposal, and is OK.
- The maximum investment is not limited by costs that are not HOME eligible (\$0). There are no HOME delivery costs included in the proposed loan amount.
- The eligible activity is new construction of rental housing.
- Per 92.205(d) when "a PJ designates fewer than 100% of a project's units as HOME-assisted, the PJ must calculate the eligible costs that are allocable to the assisted units. All of the units at Henrietta are and will remain HOME units, so no cost allocation is required.
- The minimum period of affordability for the original investment was 20 years (new construction). See below for further discussion on the period of affordability.

The proposed amount to be invested is necessary to return the units to service, and sufficient to provide for quality housing.

Facts Concerning the Period of Affordability:

- The HOME affordability period commenced 04/14/2010, and concludes 04/13/2030.² Technically (and pursuant to HUD's approval), the proposed additional investment could be made without

² Agreement calls for 20 years from date of C.O.; final C.O. issued 4/14/10.

requiring additional affordability. However, the property has already achieved 10 years from the original investment, and this proposal assumes a new affordability period of 20 years for the new investment, scheduled to occur 08/01/20, and conclude 07/31/2040. Consequently, the property would be restricted under the HOME Use Agreement for a total period of thirty (30) years.

Other Requests. Explain any other HUD approvals being sought. Indicate why the PJ believes the approval is needed and why the PJ believes that it would be appropriate for HUD to issue the approval.

None.

Other Benefits of the PJ's Proposal.

The proposal herein provides the necessary HOME regulatory framework for recapitalization (i.e., either (a) the existing HOME POA is achieved, or (b) it is not achieved, and the requests under 24CFR §92.210 are approvable.

Existing Funding. Identify all parties (lenders, tax credit investors, grantmakers, ...) who provided funding for the property. Summarize the PJ's discussions with the other funders.

Existing Loans:

- (1) First Mortgage – Florida Community Loan Fund. Original Balance at 03/12/12 was \$650,000. The Note was amortized over 20 years, at 5.75% interest, with monthly payments of \$4,565.28. A Second Modification extended the maturity date until 12/03/21, and the remaining balance (~\$420K) is due in full at that date. This proposal anticipates repayment of the outstanding principal balance of this loan.
- (2) A Conditional Grant from Palm Beach County in the amount of \$687,096, comprised of:
 - a. \$337,096 HOME funds from Palm Beach County, originally invested in 2009, with no payments or accrued interest. This proposal anticipates subordinating this investment to the new, proposed HOME Loan.
 - b. \$350,000 in State Housing Initiative Partnership (SHIP) funds from Palm Beach County, originally invested in 2009, with no payments or accrued interest. This proposal anticipates subordinating this investment to the new, proposed HOME Loan.
- (3) \$978,759 HOME funds from the City of West Palm Beach, originally invested in 2009, with no payments or accrued interest. This proposal anticipates subordinating this investment to the new, proposed HOME Loan, converting this deferred payment loan to a forgivable loan, and extending the term to the end of the proposed new period of affordability (2040)

Total Existing Debt (projected as of 08/01/20) is \$2,125,855, and after restructuring is proposed to be \$2,169,445. The increase in property indebtedness is \$43,590. However, the property will substitute \$460,000 in hard debt (see (1) above) for \$503,590 in additional HOME debt (the difference of \$43,590 represents HOME funds applied to Immediate Needs Rehab).

Existing HOME Investment. Discuss the amount of the existing HOME investment, when the existing investment was committed, and when the existing investment was expended.

See above.

Existing Affordability Period. IDIS completion date. Date when the affordability period is scheduled to expire. Discuss the minimum affordability period required by HOME regulations and the affordability period that is documented in the PJ's written agreement with the sponsor.

See above.

PJ's Financial Oversight Assessment. The PJ's assessment concluding that the project is troubled, including at least: (i) a brief discussion of cash flow in the most recent fiscal year; (ii) a brief discussion of cash flow trends; (iii) a brief discussion of likely future cash flow; (iv) a brief discussion of financial position at the most recent fiscal year end; (v) a brief discussion of recent trends in financial position; and (vi) the PJ's conclusions regarding other financial risks taking into consideration at least the factors discussed in Attachment C to Notice CPD-15-xxx.

The County's memo provides a synopsis of the financial challenges faced by Henrietta.

The County's proposal was to (a) pay-off the Florida Community Loan Fund 1st Mortgage and replace the property's obligation to pay debt service of \$54,708 on this loan, with an obligation to pay hard debt service on a portion of the proposed new HOME loan (\$250,000 at 1%), and to defer payments on the remainder of the new HOME loan. The County's proposal envisioned a \$764 per unit per year reserve deposit. In the submitted proposal, the County's analysis concluded that the combination of the reduced debt service and the increased reserve deposit would be sustainable, and would enable the property to operate without continued deficits.

This review concluded that the County's proposal was not adequate with respect to the likely long term costs of physically maintaining the property. The reviewer worked with the property owner and manager to construct a detailed projection of long-term (20-year) replacement costs.

These eleven units are larger (2BR, 3BR and 4BR) townhome units. There are no funds in the replacement reserve account currently. Property expenses are trending upwards as the owner begins to perform necessary replacements from the operating account. At ten years old, the property faces heavy replacement costs as appliances and mechanical systems begin to reach the end of their effective useful lives. Projected needs will average \$2,500 per unit per year between 2020 and 2040 (the end of the period of affordability). See the attached analysis, HENRIETTA HOME Analysis PCA.xls. ,

Rather than proposing that the property be restructured with lower debt service, and an inadequate reserve deposit (which the reviewer contends will fail as the capital replacement costs outstrip the reserve funding), this proposal instead is structured as follows:

- (1) The new HOME investment will require a reserve deposit of \$2,318 per unit per annum (\$25,500 per year) to be increased 2% per annum.
- (2) No debt service will be due on the new HOME loan (all debt will be deferred payment only).
- (3) Reserve deposits will be required under the new HOME loan; failure to make required deposits timely will constitute an act of default under the HOME Loan Agreement. Reserve deposits which cannot be made from available operating funds must be made by the owner.
- (4) Reserve withdrawals will require approval of the PJ; reserve withdrawals without prior approval will constitute an act of default under the HOME Loan Agreement.
- (5) Per the attached underwriting (see the Operating Proforma Worksheet of HOME MF UW v18 HENRIETTA.xlsm), operations should produce approximately \$4,000 of cash flow after servicing the required replacement reserve deposit. Any failure to perform to this projection is the responsibility of the project owner.

This proposed strategy will require on-going, regular asset management by the PJ. This review proposes that Henrietta can succeed over the next 20 years, without hard debt, and with significant deposits to the R4R.

The underwriting which serves as a framework for this determination considers the following:

- (1) GPR is \$149,028, p.a.—NUCDC’s 2020 proforma indicated \$135,331, but improperly discounted rents on one unit. GPR, which is the scheduled rent on all units, irrespective rent loss, should be \$149K. See the attached underwriting model.
- (2) Rent Loss—underwriting assumes 10% rent loss, which ownership should be able to achieve, or better, with reasonably competent management.
- (3) Operating Expenses—NUCDC’s 2020 proforma indicated \$130,007. This review takes issues with this for the following reasons:
 - a. Repairs and Maintenance are high—owning to the increasing practice of paying for capital replacements from operations. With adequate reserves, which this proposal addresses, R&M costs should decrease significantly.
 - b. Payroll is high—owning to the owner’s practice of cost-allocating payroll to the property in excess of the labor costs of running an 11-unit property. This analysis adjusts this downward.

In total, the Reviewer’s determination is that Henrietta should be operable for \$105,000 per year. See notes to the Operating Expenses Worksheet in the attached Underwriting Model.

- (4) In total, the Reviewer contends that net operating income (rents less expenses) before reserve deposits, should be \$29,565. The reserve is sized at \$25,500, pursuant to the reserve analysis (see attached). NOI / Cash Flow is estimated at approximately \$4,000, p.a.
- (5) Any shortfalls suggest operating inefficiencies, beyond the allowances of this underwriting and should be funded by ownership, sufficient to ensure that all scheduled R4R deposits are made, and all payables are current.
- (6) To be clear, ownership is trading a \$54K hard debt service for a \$25K reserve deposit, but otherwise remains obligated to fund deficits.
- (7) The Loan Documents corresponding to the investment of additional HOME funds should be structured to stipulate that it is an act of Default under the mortgage to fail to fund operating deficits annually, to fail to fund the reserve as required, and to withdraw from the reserve for purposes other than immediate reimbursement of expenses incurred for capital repairs and replacements. The R4R should be adequate to ensure the physical viability of the asset through the 20-year POA.

PJ's Compliance Assessment. The PJ's assessment of the property's HOME compliance status. The PJ's assessment of any other known compliance issues.

The reviewer is not aware of any HOME compliance issues.

PJ/s Troubled Property Assessment. The PJ's assessment of the nature and scope of the problems.

See above.

Appendix A – HOME SUBSIDY LIMITS

2019 (240% of §234 Condo Elevator Limits)			
Type	Units	§234 Base	Limit
0BR		\$62,445	\$149,868
1BR		\$71,584	\$171,802
2BR	3	\$87,047	\$208,913
3BR	6	\$112,611	\$270,266
4+BR	2	\$123,611	\$296,666
Total Limit		\$ 2,841,667	

2009 (240% of the 221(d)(3) Limits)			
Type	Units	§234 Base	Limit
0BR		\$52,862	\$126,869
1BR		\$60,597	\$145,433
2BR	3	\$73,686	\$176,846
3BR	6	\$95,325	\$228,780
4+BR	2	\$104,638	\$251,131
Total Limit		\$ 2,405,480	

LOAN AGREEMENT

THIS AGREEMENT, entered into on _____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, (hereinafter referred to as the "County") for the use and benefit of its HOME Investment Partnerships Program (hereinafter "HOME"), and **NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC.**, a Florida not for profit corporation (the "Borrower"), whose principal office is at 1700 North Australian Avenue, West Palm Beach, FL 33407, and whose Federal Tax Identification number is 02-0620273.

1. RECITALS:

WHEREAS, Palm Beach County has entered into an agreement(s) with the United States Department of Housing and Urban Development (HUD) for the use of HOME funds; and

WHEREAS, Palm Beach County made such HOME funds available for affordable housing under its Department of Housing and Economic Sustainability (DHES); and

WHEREAS, on June 13, 2019, the Borrower applied to Palm Beach County for HOME funding; and

WHEREAS, on November 5, 2019, Palm Beach County approved the award of a loan in the principal amount of up to \$500,000 in HOME funds to be made available to the Borrower subject to the execution of this Agreement; and

WHEREAS, on _____, 2020, Palm Beach County approved the award of an additional loan in the principal amount of up to \$3,590 in HOME funds to be made available to the Borrower subject to the execution of this Agreement; and

WHEREAS, the sum of HOME funds awarded by Palm Beach County and made available to the Borrower subject to the execution of this Agreement is \$503,590 (the "Loan"); and

WHEREAS, the Borrower owns certain land which land is more particularly described in Exhibit A, attached hereto and made a part hereof (the "Premises"); and

WHEREAS, the Premises presently has 11 dwelling units constructed on it which are known as Henrietta Townhomes (hereinafter referred to as the "Improvements" and the "HOME Assisted Units"); and

WHEREAS, on October 31, 2005, the Borrower encumbered the Premises with a Mortgage and Security Agreement in the principal amount of \$360,000 in favor of the City of West Palm Beach as recorded in Official Records Book 20494, Page 474, of the Public Records of Palm Beach County, Florida (the "City Mortgage"); and

WHEREAS, on November 20, 2006, the Borrower executed an Amended Mortgage and Security Agreement with the City of West Palm Beach as recorded in Official Records Book 21149, Page 1262, of the Public Records of Palm Beach County, Florida, which increased the amount of the City Mortgage encumbering the Premises to \$617,853; and which Amended Mortgage and Security Agreement was rerecorded in Official Records Book 23352, Page 1980, of the Public Records of Palm Beach County, Florida; and

WHEREAS, on September 3, 2009, the Borrower executed a Third Amended Mortgage and Security Agreement with the City of West Palm Beach as recorded in Official Records Book 23431, Page 1777, of the Public Records of Palm Beach County, Florida, which increased the amount of the City Mortgage encumbering the Premises to \$967,853; and

WHEREAS, on March 22, 2010, the Borrower executed a Promissory Note and Mortgage Modification Agreement with the City of West Palm Beach as recorded in Official Records Book 23797, Page 1544, of the Public Records of Palm Beach County, Florida, which increased the amount of the City Mortgage encumbering the Premises to \$978,759.67; and

WHEREAS, on September 3, 2009, the Borrower encumbered the Premises with a Mortgage and Security Agreement in the principal amount of \$650,000 in favor of Florida Community Loan Fund, Inc. (the "FCLF Mortgage") as recorded in Official Records Book 23431, Page 1760, of the Public Records of Palm Beach County, Florida; and

Attachment E

WHEREAS, the Borrower proposes to use a portion of the Loan up to \$43,590 to perform property maintenance work on the HOME Assisted Units; and

WHEREAS, the Borrower proposes to use a portion of the Loan up to \$460,000, in addition to its own funds to fully pay off the remaining balance on the FCLF Mortgage, as part of its effort to restructure the debt on the Premises; and

WHEREAS, the Borrower agrees that as part of its effort to restructure the debt on the Premises, and as a condition for receiving the Loan, it shall restructure the City Mortgage, as amended, from a cash flow dependent loan to a non-repayable loan; and

WHEREAS, the Borrower agrees that as a condition for receiving the Loan it shall obtain a Subordination Agreement from the City of West Palm Beach which would render the City Mortgage, as amended, subordinate to the County's Mortgage and Security Agreement that secures this Loan; and

WHEREAS, Borrower proposes to rent the eleven (11) HOME Assisted Units, to Eligible HOME Program Beneficiaries (as defined herein) having certain income levels as more particularly described herein; and

WHEREAS, the Borrower and the County have negotiated the terms and conditions of, and wish to enter into, this Agreement in order to set forth the terms and conditions for the disbursement of the Loan on the HOME Assisted Units.

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, the Borrower and the County agree as follows:

2. THE LOAN AND LOAN EXPENDITURE REQUIREMENTS:

The County shall make the Loan to the Borrower in an amount not to exceed the principal amount of **\$503,590** upon the terms and conditions set forth herein, and at the rates and terms set forth in its Promissory Note (the "Note") and Mortgage and Security Agreement (the "Mortgage") which are attached hereto and made a part hereof as Exhibit B and Exhibit C, respectively.

The Borrower shall take the Loan comprised of HOME funds and expressly agrees to comply with and to perform all of the terms and conditions of this Agreement, including all amendments thereto, the Promissory Note, the Mortgage and any other documents evidencing, securing or executed in connection with this Loan (collectively hereinafter referred to as the "Loan Documents"). The closing of the Loan, including the execution of the Promissory Note and Mortgage, shall occur at the offices of the County's Department of Housing and Economic Sustainability (DHES) or such other mutually agreed upon site no later than _____, 20____, unless extended by the County in its sole discretion.

Any HOME funds not drawn or expended by the date provided below shall remain with the County and not be eligible for payment to the Borrower and the County may reallocate such funds for other projects or needs, unless such date is extended by written amendment to this Agreement. Furthermore, the County shall not be obligated to replace unused or reallocated HOME funds 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.

The Borrower recognizes and understands that by entering into this Agreement, the County wishes to further its provision of affordable housing to income qualified households in a timely manner. The Borrower also recognizes and understands that the Borrower's performance as established under this Agreement is critical to the County's efforts in the provision of affordable housing, compliance with HOME requirements, and requirements for the use of HOME funds. The Borrower agrees that **time is of the essence** in regard to the Borrower's restructuring of the debt on the Premises containing the eleven (11) HOME Assisted Units (also referred to

herein as "Project") and the continued occupancy of said housing units as more fully specified in herein.

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

- The Borrower shall have drawn **100% of the Loan** by _____, 20__.

3. CONDITIONS PRECEDENT TO CLOSING:

(A) Conditions Precedent:

The conditions listed below are conditions precedent to the County's acceptance of the Mortgage and disbursement of funds and shall be complied with in form and substance satisfactory to the County prior to the closing:

(i) Title Insurance:

(a) Within thirty (30) days of the date hereof, Borrower shall deliver to the County a title commitment issued by a title insurance company qualified to do business in the State of Florida and acceptable to the County, agreeing to issue to the County upon recording of the Mortgage a Lender's Title Insurance Policy in the amount of said Mortgage. Said commitment shall have attached to it copies of all exceptions referred to in the title commitment. The cost of said title commitment and policy and any premium therefor shall be borne by Borrower.

(b) The County shall have fifteen (15) days after receipt of the title insurance commitment in which to review the same. In the event the title insurance commitment shall show as an exception any matter to which the County objects, the County shall notify Borrower of its objections thereto and Borrower shall exercise commercially reasonable efforts to remove such exceptions, which exception shall be deemed to constitute title defects. The Borrower shall be entitled to thirty (30) days from the day of notification within which to cure such defects or make arrangements with the title insurer for the removal of any such objections from the commitment. If the defect shall not have been so cured or removed from the commitment by endorsement thereto within said thirty (30) day period, the County shall have the option of accepting title as it then exists or terminating this Agreement, by giving written notice thereof to Borrower, in which event the parties shall be relieved of all further obligations hereunder. Notwithstanding the foregoing, the County shall not object to any exception necessary for the construction work on the Improvements as contemplated herein provided the same do not impair the Mortgage.

(c) The title insurance commitment shall be endorsed at closing to remove any and all requirements or pre-conditions to the issuance of a Lender's Title Insurance Policy, and to delete any exceptions for: (1) any rights or claims or parties in possession not shown by the public records, except tenants in possession under unrecorded residential leases; (2) encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the Premises; (3) unrecorded easements and claims of liens; (4) taxes for the year 20__20__ and all prior years; (5) matters arising or attaching subsequent to the effective date of the commitment but before the Mortgage becomes recorded in the Public Records.

(ii) Survey: Borrower shall, concurrent with the submission of the above mentioned title commitment, deliver to the County a current certified survey of the Premises, prepared by a surveyor acceptable to the County, showing the following:

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

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

- (c) The location of all building setback lines.
 - (d) The lines of the streets abutting the Premises and the width thereof.
 - (e) All encroachments, and the extent thereof, in feet and inches upon the Premises.
 - (f) Flood zone certification.
 - (g) Any other notations required for the deletion of the survey exception from the Title Insurance Policy to be issued in accordance with Section 3(A)(i) above and any other requirements requested by the County.
 - (h) The survey shall be certified to: Palm Beach County, a political subdivision of the State of Florida.
- (iii) Promissory Note: The Promissory Note, in a form acceptable to the County Attorney, shall be duly authorized, executed and delivered to the County;
- (iv) Mortgage: The Mortgage, in a form acceptable to the County Attorney, shall be duly authorized, executed, acknowledged, delivered to the County, and when recorded, shall be a valid first mortgage lien on the Premises and on all fixtures and personal property owned by Borrower to be used in connection with the Improvements.
- (v) Mortgagor's Affidavit: An affidavit of Borrower shall be executed and delivered to the County as required by the title insurer as noted in Section 3(A)(i) above, certifying to all such facts as are required to delete the Standard Exceptions from the Lender's Title Insurance Policies and certifying that no liens exist on the Premises except for taxes not yet due and payable and that no other parties are entitled to possession, except tenants in possession, and such other items as may be noted on the title commitment that the County does not object to pursuant to Section 3(A)(i) and that no other parties are entitled to possession
- (vi) Entity Documentation: The Borrower shall deliver to the County the following documents:
- (a) The Articles of Incorporation or Organization of the Borrower and all amendments thereof, certified by the appropriate official of the State of Florida, together with certificates of such official to the effect that Borrower is in good standing therein.
 - (b) Certified resolutions, or the equivalent, of the Borrower authorizing the execution and delivery of this Agreement, the Mortgage, Promissory Note and all other documents necessary or desirable, for the consummation of the transactions contemplated by this Agreement.
- (vii) Flood Insurance: The Borrower shall deliver to the County evidence satisfactory to the County either that the Premises are not within a hazardous flood area as designated by the Department of Housing and Urban Development and any other governmental authority, or if the Premises are within such a hazardous area, that the Premises are covered by flood insurance supplied by the federal Insurance Administration to the maximum amount available, all as provided in the Flood Disaster Protection Act of 1973, as amended, together with appropriate endorsements thereto providing for the County's interests in the same manner as the Builder's Risk Insurance, including without limitation that such insurance will not be canceled without 30 days notice to the County. Borrower agrees that the County shall have the right to take any action necessary to continue said insurance in full force and effect including, but not limited to, paying premiums. Any funds disbursed to continue said policies in full force and effect shall be considered as Disbursements hereunder and shall bear interest from the date of disbursement at the same rate as other Disbursements and payment of said funds and interest shall be secured by the Mortgage. Satisfactory evidence of flood area designation shall be a certification from the Surveyor appearing on the survey drawing.

(viii) Modification/Conversion of the City's Loan: The Borrower shall have further amended the City Mortgage by entering into a Mortgage Modification Agreement with the City of West Palm Beach to extend the term of the City Mortgage to June 30, 2055. The Borrower shall have also entered into a 5th Amended and Restated Promissory Note with the City of West Palm Beach in which the entire \$978,759.67 principal amount of Borrower's loan from the City of West Palm Beach shall have been converted from a repayable loan dependent on positive cash flow to a conditional non-repayable loan, and in which the maturity date shall have been extended to June 30, 2055. In addition, Borrower shall have entered into a Fifth Amendment to Townhouses at Henrietta CHDO Project Agreement in which the period of affordability shall have been extended to June 30, 2055. The form and content of the mortgage and note modification agreement shall be subject to County's approval.

(ix) Subordination Agreement: The Borrower shall deliver to the County the Subordination Agreement which is attached hereto and made a part hereof as Exhibit D in which the City of West Palm Beach subordinates the City Mortgage, as amended, to the County's Mortgage and Security Agreement.

(x) Funds to Pay Off the FCLF Mortgage: The Borrower shall provide the County with a payoff statement for the FCLF Mortgage that is issued by the lender no more than 30 days from the Loan closing date. The payoff statement shall show the payoff amount for the FCLF Mortgage on the date of closing and shall be provided to the County no less than ten (10) working days before the closing date. The Borrower shall, in conjunction with the closing, provide the County with evidence of its payment to the closing agent of amounts above \$460,000 to pay off the FCLF Mortgage.

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

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

(b) That Borrower is a Florida not for profit corporation in good standing under the laws of the State of Florida and has all the necessary power and authority to undertake its obligations hereunder.

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

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

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

(f) That the lien of the Mortgage is a valid first mortgage lien on the Premises and the security interest described in the Mortgage is a good and valid security interest.

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

(B) Expenses:

It shall be a condition to closing that the Borrower shall have paid, or shall pay, all those fees and charges due and payable or ordered paid by the County as provided herein under Section 4 of this Agreement entitled Expenses.

(C) Other Documents:

The Borrower shall deliver to the County such other documents and information as the County may reasonably require.

(D) Representations and Warranties:

The representations and warranties of Borrower as set forth in this Agreement and the Loan Documents are true and correct.

(E) Inability to Close Loan:

Either party may terminate this Agreement upon written notice to the other party if the contingencies to close the Loan or conditions precedent to closing will not be met by the date set herein for the closing of the Loan and the County does not agree, in its sole discretion, to extend the closing deadline.

4. EXPENSES:

The Borrower shall pay fees and charges incurred in the procuring and making of this Loan, if applicable, and other reasonable expenses incurred by the County related to the administration of the Loan, including but not limited to, Title Insurance Company's fees and premiums, charges for examination of title to the Premises, expenses of surveys, ESA report(s), recording expenses, any and all insurance premiums, taxes, assessments, water rates, sewer rates and other charges, liens and encumbrances upon the Premises, annual loan servicing, rental compliance monitoring fee, and administrative fee as applicable, and any other amounts necessary for the payment of the costs of Improvements, or as otherwise enumerated in any other Loan Document.

5. ADDRESSING IMMEDIATE NEEDS:

The Borrower shall use up to \$43,590 from the Loan to perform property maintenance work to address the immediate needs at the Project as outlined in Exhibit E to this Agreement. The Borrower agrees to perform all the work identified in Exhibit E even if the cost of the work exceeds \$43,590, in which case the Borrower shall use its own funds to pay for the excess costs and provide the County documentation evidencing the completion of all the work.

The Borrower shall attend a pre-construction conference with DHES at which the Borrower shall present its strategy to perform the afore stated work.

The Borrower shall establish its strategy such that all the work is completed within 180 calendar days from Loan closing (unless such period is extended by the County in its sole discretion).

The Borrower shall, in connection with the award of all purchase orders, work orders and contracts for the performance of the work to be funded, in part or in whole, through this Agreement, request the County for a document containing the HOME requirements applicable to such work, and shall incorporate such document into its purchase orders, work orders and contracts for the work.

The Borrower may accomplish the work using its own staff or through the use of outside contractors provided, however, that in all instances the performance of the work shall comply with all applicable laws, ordinances, rules and regulations of all governmental authorities having jurisdiction over the Project including, without limitation, applicable building codes, special use permits, environmental regulations, and requirements of insurance underwriters. In the instance where the Borrower uses its staff for the performance of the work, the County shall not reimburse the Borrower for such staff costs and shall limit its reimbursement for the

cost of materials and equipment used by the staff for the work.

6. DISBURSEMENT OF LOAN FUNDS FOR ELIGIBLE PROJECT COSTS:

The Borrower may receive reimbursement or payment (and where applicable a wire transfer) for the below enumerated eligible cost categories provided the Borrower has complied with the requirements of this Agreement in connection with such cost categories. **The Borrower agrees that the County shall, in its sole discretion, determine the acceptability of the Borrower's costs for reimbursement or payment under this Agreement.**

(A) Paying Off the Florida Community Loan Fund Mortgage:

The Borrower shall submit a request to the County for payment, by wire transfer, of funds to pay off the FCLF Mortgage provided that:

- (i) The amount requested by the Borrower does not exceed \$460,000.
- (ii) A letter from the Borrower, on the Borrower's letterhead, shall be provided requesting the payment of the aforesaid mortgage pay off. The letter shall reference the Project, this Agreement and its document reference number (if such number is available), shall include a certification that the Project and the Borrower are in compliance with all applicable Federal Requirements as they pertain to the Project, and shall contain a statement requesting the amount of the payment needed to pay off the FCLF Mortgage, as well as the name and signature of a person authorized by the Borrower to make such a request.
- (iii) A copy of the mortgagee pay off statement for the FCLF Mortgage and a copy of the closing statement for this transaction shall accompany the Borrower's letter.
- (vi) The Borrower shall, if necessary, supplement the afore stated \$460,000 with funds from its own sources in order to fully pay off the FCLF Mortgage.

(B) Construction Costs:

The Borrower shall request reimbursement from the County for payments made by the Borrower after November 5, 2019, for performance of the work identified in Exhibit E to this Agreement provided that:

- (i) The total amount requested by the Borrower does not exceed \$43,590.
- (ii) No more than one (1) reimbursement request may be submitted by the Borrower per calendar month.
- (iii) A letter from the Borrower, on the Borrower's letterhead, shall be provided for each reimbursement request. The letter shall reference the Project, this Agreement and its document reference number (if such number is available), shall include a certification that the Project and the Borrower are in compliance with all applicable Federal Requirements as they pertain to the entire Project, and shall contain a statement requesting the payment of the amount needed for reimbursement of the cost of the work, as well as the name and signature of a person authorized by the Borrower to make such a request.
- (iv) A copy of the purchase orders, work orders or contracts for the performance of the work shall accompany each reimbursement request letter.
- (v) Evidence of payment made by the Borrower for the afore stated purchase orders, work orders or contracts shall accompany each reimbursement request letter provided that such evidence of payment demonstrate that payment was made after November 5, 2019.

(C) Other Costs Not Listed Above:

The Borrower may submit a request to the County for reimbursement of payments made by the Borrower after November 5, 2019, in connection with restructuring the debt associated with the Project, and the County shall reimburse the Borrower for such payments from the Loan funds, provided that:

- (i) The County, in its sole discretion, shall have determined that the costs requested for reimbursement are eligible costs under HOME.
- (ii) The Borrower's payment for any such costs shall have occurred after November 5, 2019.
- (iii) The Borrower shall have provided the County with a written reimbursement request for costs deemed eligible by the County, along with evidence of payment, and other supporting documentation as established by the County and communicated to the Borrower upon the County's determination that the costs requested for reimbursement are eligible costs under HOME.

7. SPECIAL PROVISIONS:

The Borrower expressly agrees to the following terms and conditions:

(A) Replacement Reserve Account: The Borrower shall, for the period of thirty (30) years beginning with the date of the Mortgage, maintain a separate Replacement Reserve Account for the Project with a financial institution such as a bank or credit union as follows:

- (i) The Borrower shall, during the first year after the date of the Mortgage, deposit into the Replacement Reserve Account a minimum of \$193.18 per HOME Assisted Unit per month.
- (ii) At the beginning of each year thereafter, the Borrower shall increase the amount deposited into the Replacement Reserve Account by two percent (2%) per HOME Assisted Unit per month unless otherwise approved by the County and by HUD.
- (iii) The Borrower guarantees that the required deposits into the Replacement Reserve Account shall occur regardless of the availability of Project operating income.
- (iv) Withdrawals from the Replacement Reserve Account shall require the Borrower to obtain prior approval of the County.
- (v) Failure of the Borrower to make timely deposits into the Replacement Reserve Account, or any withdrawals from said account without the prior approval of the County, shall constitute an event of default hereunder.
- (vi) Only work required in order to keep the Project in good order and repair and in a good marketable condition and to keep the Project or any portion thereof from deteriorating may be paid for from the Replacement Reserve Account. The funds in the Replacement Reserve Account may not be used for routine maintenance or for any other purposes such as debt service or administrative costs. The funds in the Replacement Reserve Account shall only be used for costs of the items shown below:

Air Conditioning Equipment

Air handlers, motors and fans
Compressors
Chillers

Exterior

Doors
Windows
Roofing, Shingles, Tiles
Solar Panels
Gutters and Downspouts
Concrete walks and curbs
Painting
Irrigation system repairs
Siding repairs
Brick repairs

Plumbing

Toilets and valves
Bathtubs and sinks
Kitchen fixtures
Plumbing system

Appliances

Ranges
Refrigerators
Dishwashers
Laundry washers
Laundry dryers
Exhaust Fans
Disposals
Water heaters

Miscellaneous

Resurfacing asphalt
Smoke detectors
Carbon monoxide detectors
Electrical system
Code compliance repairs

Interior

Carpet
Doors and Door Frames
Floor Tile
Kitchen cabinets
Drapes, Shades, Blinds
Electrical Fixtures
Drywall Replacement

- (vii) All work paid for from the Replacement Reserve Account shall comply with all applicable laws, ordinances, rules and regulations of all governmental authorities having jurisdiction over the Project including, without limitation, applicable building codes,

special use permits, environmental regulations, and requirements of insurance underwriters.

(viii) The Borrower shall maintain records of its disbursements from the Replacement Reserve Account such as contracts or work orders (with materialmen, mechanics, suppliers, subcontractors, contractors or other parties providing labor or materials to the Project), invoices, evidence of payment and inspections. All such records shall be subject to the County's monitoring and the audit and records retention requirements herein.

(B) Civil Rights and Section 504 Compliance:

The Borrower shall ensure that no person shall on the ground of race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information, be excluded from the benefits of, or be subjected to discrimination under any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the County shall have the right to terminate this Agreement.

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

The Borrower 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.

(C) Opportunities for Small and Minority/Woman-owned Business Enterprises:

In connection with the procurement of all contracts for supplies, equipment, construction, or services funded, in part or in whole, with funds made available through this Agreement, the Borrower shall make a positive effort to utilize small business and minority/woman-owned business enterprises of supplies and services, and provide these sources to the maximum feasible opportunity in order to compete for contracts to be performed pursuant to this Agreement.

The provisions of this Subparagraph do not apply, however, to contracts for supplies, equipment, construction, or services not funded, in part or in whole, with funds made available through this Agreement, such as contracts entered into by the Borrower for the operation and maintenance of the Project.

8. OCCUPANCY, AFFORDABILITY, AND OTHER REQUIREMENTS AFFECTING HOME ASSISTED UNITS:

(A) Occupancy of HOME Assisted Units:

All HOME Assisted Units shall be rented by the Borrower to tenants who are Eligible HOME Program Beneficiaries defined as low income and moderate income households.

(i) More specifically, eight (8) HOME Assisted Units shall, for the Duration of Applicability (as defined below) beginning with the date of the Mortgage, be occupied by tenant households whose incomes, adjusted by family size, do not exceed eighty percent (80%) of Area Median Income (hereinafter "AMI"). AMI shall mean the most current area median income published by HUD for the West Palm Beach-Boca Raton Metropolitan Statistical Area.

(ii) Furthermore, three (3) HOME Assisted Units shall, for the Duration of Applicability beginning with the date of the Mortgage, be occupied by tenant households whose incomes, adjusted by family size, do not exceed fifty percent (50%) of AMI at the time these units are first occupied.

The above occupancy requirements shall supersede the occupancy requirements found in Section 8(a) and Section 9(c) of the Conditional Loan Agreement between the parties hereto as entered into on April 21, 2009, for the HOME Assisted Units at Henrietta Townhomes (hereinafter the "Conditional Loan Agreement").

The parties recognize that according to the Conditional Loan Agreement, four (4) of the HOME Assisted Units must be occupied by tenant households whose incomes, adjusted by family size, do not exceed eighty percent (80%) of AMI. For the purposes of this Agreement, the

occupancy of these four (4) HOME Assisted Units shall comply with Section 8(A)(i) above as of the beginning of the Duration of Applicability and shall thereafter comply with Section 8(A)(i) for the Duration of Applicability.

The parties recognize that according to the Conditional Loan Agreement, seven (7) of the HOME Assisted Units must be occupied by tenant households whose incomes, adjusted by family size, do not exceed fifty percent (50%) of AMI. For the purposes of this Agreement, the occupancy of three (3) of these seven (7) HOME Assisted Units shall comply with Section 8(A)(ii) above as of the beginning of the Duration of Applicability and shall thereafter comply with Section 8(A)(ii) for the Duration of Applicability.

The occupancy of the remaining four (4) of the above stated seven (7) HOME Assisted Units shall be as follows:

- Any HOME Assisted Unit that becomes vacant as of the beginning of the Duration of Applicability shall be rented to a tenant in compliance with Section 8(A)(i).
- At the time of lease renewal of a HOME Assisted Unit occupied by a tenant as of the beginning of the Duration of Applicability, if the tenant's household income is determined not to exceed fifty percent (50%) of AMI, then such tenant shall be permitted to renew the lease at a rental rate that is no more than the Low HOME Rent Limit according to Section 8(D)(i).
- At the time of lease renewal of a HOME Assisted Unit occupied by a tenant as of the beginning of the Duration of Applicability, if the tenant's household income is determined to have exceeded fifty percent (50%) of AMI but not to have exceeded eighty percent (80%) of AMI, then such tenant shall be permitted to renew the lease at a rental rate that is no more than the High HOME Rent Limit according to Section 8(D)(ii).

These four (4) HOME Assisted Units shall otherwise comply with Section 8(A)(i) for the Duration of Applicability.

(B) Duration of Applicability:

These requirements shall apply to each HOME Assisted Unit for the duration of thirty (30) years beginning with the date of the Mortgage.

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

(C) Permanent Housing:

All 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.

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

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

- (i) HOME Assisted Units to be rented by the Borrower to households whose incomes, adjusted by family size, do not exceed fifty percent (50%) of AMI shall be rented at a rate such that the tenant's payment is no more than the Low 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 provided by the County. The Low 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.
- (ii) HOME Assisted Units to be rented by the Borrower to households whose incomes, adjusted by family size, exceed fifty percent (50%) of AMI, but do not exceed eighty percent (80%) of AMI 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 provided by the County. 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.

(iii) The Borrower shall annually propose its rent schedule, including utility allowances, for HOME Assisted Units, and the County shall review and approve such rent schedule provided it is in compliance with the above limitations. The Borrower shall only use rent schedules approved by the County. Changes in rent levels shall be subject to the provisions of outstanding leases. The Borrower shall provide tenants not less than thirty (30) days written notice before implementing any increase in rent.

(E) Tenant Income:

The Borrower shall, for each vacant HOME Assisted Unit to be rented, verify the tenant's household income at any time a new tenant occupies the unit, to determine income eligibility according to the requirements herein. The income of each such tenant must be determined in accordance with 24 CFR 92.203(a)(1)(i).

In addition, the Borrower shall re-verify the tenant's household income **annually** thereafter to ensure continued income eligibility. The income of each such tenant must be determined in accordance with 24 CFR 92.203(a)(1)(i).

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

(F) Tenant Records to be Maintained:

The Borrower shall, for each household that is rented a HOME Assisted Unit, comply with the below requirements and maintain a file that, at minimum, contains the following:

(i) An application for lease, signed and dated by the applicant(s), identifying the household members that intend to occupy the HOME Assisted Unit, the household characteristics, and the household income they have disclosed.

(ii) At the time a vacant HOME Assisted Unit is first occupied: Source documentation evidencing the Borrower's verification of the applicant's household income and a computation sheet demonstrating the Borrower's determination of the applicant's income eligibility to occupy the HOME Assisted Unit. Household income computation shall follow the HUD Section 8 method (24 CFR 5.609).

(iii) At the time each lease is renewed: Source documentation evidencing the Borrower's annual re-certification of the tenant's household income and a computation sheet demonstrating the Borrower's determination of the tenant's income eligibility to continue occupancy of a HOME Assisted Unit. Household income computation shall follow the HUD Section 8 method (24 CFR 5.609).

(iv) A copy of the HUD income levels in effect at the time all leases are signed or renewed.

(v) A computation sheet and supporting documentation demonstrating that the rent charged by the Borrower is at the applicable rental rate specified herein.

(vi) A copy of each tenant's initial lease and all lease renewals and a computation sheet and supporting documentation for each demonstrating that the rent charged by the Borrower is an affordable rental rate as required herein.

(vii) A copy of the background checks as described below.

(viii) Any other documentation evidencing the Borrower's compliance with this Agreement.

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

The Borrower shall comply with the following:

(i) The Borrower shall conduct background checks on adult members of households prior to occupancy and maintain a copy of such background check. Should the Borrower elect to utilize criminal background information in the screening/selection of prospective tenants or the retention/termination of tenants, the Borrower must develop and implement tenant selection policies which comply with HUD guidance on the use of criminal background information.

(ii) The Borrower shall adopt, and submit to the County for review, written tenant selection/retention/termination policies and criteria that:

- (a) Limit the housing to very low-income and low-income families;
- (b) Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease;
- (c) Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and
- (d) Give prompt written notification to any rejected applicant of the grounds for any rejection.

Tenant selection/retention/termination shall not:

- Exclude persons from housing based on records of arrests not resulting in conviction;
- Exclude persons from housing based solely on conviction of any type, with the exception of those identified by HUD (methamphetamine production and registered sex offender); and
- Be utilized to intentionally discriminate against protected classes of persons.

Tenant selection/retention/termination shall:

- Serve a substantial, legitimate, and non-discriminatory interest of the housing provider;
- Distinguish between criminal conduct which indicates a demonstrable risk to resident safety and/or property and that which does not;
- Consider the nature, severity, and recency of the criminal offense;
- Consider relevant individualized evidence such as: circumstances surrounding the criminal conduct; the age of the individual at the time of the conduct; tenant history before and/or after the criminal conduct; and rehabilitation efforts; and
- Be applied equally among all classes of protected persons.

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

(iv) The lease between a tenant and the Borrower must be in writing and must be for not less than one (1) year, unless by mutual agreement between the tenant and the Borrower, and as referenced at 24 CFR 92.253. The lease must incorporate the Violence Against Women Act (VAWA) lease term/addendum required under 24 CFR 92.359(e) except as otherwise provided by 24 CFR 92.359(b).

(v) The Borrower shall utilize leases which require parents to be held legally and financially liable for the acts of their children in the apartment complex, and which allow management to terminate the lease where a household member is engaged in illegal or

criminal activity or where a household member is engaged in anti-social behavior which denies the Project or area residents the right to quiet and peaceful enjoyment of their homes or businesses.

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

(vii) The Borrower is prohibited, pursuant to 24 CFR 92.253(b), from including any of the following lease terms in the Lease Agreement at the Project:

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

(b) Treatment of Property: Agreement by the tenant that the Borrower may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The Borrower may dispose of such abandoned personal property in accordance with State law;

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

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

(e) Waiver of Legal Proceedings: Agreement by the tenant that the Borrower may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;

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

(g) Waiver of Right to Appeal Court Decision: Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and

(h) Tenant Chargeable with Cost of Legal Actions Regardless of Outcome: Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding instituted by the Borrower against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses; and

(i) Mandatory Supportive Services: Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

(H) Nondiscrimination against rental assistance subsidy holders:

The Borrower is prohibited, pursuant to 24 CFR 92.253(d)(4), from excluding an applicant with a certificate or voucher under Section 8 Tenant-Based Assistance: Housing Choice Voucher Program (24 CFR Part 982) or an applicant participating 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.

THE REQUIREMENTS AND RESTRICTIONS SET FORTH IN THIS SECTION 8, OCCUPANCY, AFFORDABILITY, AND OTHER REQUIREMENTS AFFECTING HOME ASSISTED UNITS, SHALL BE RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND SHALL SURVIVE THE EXPIRATION OR EARLIER

TERMINATION OF THIS AGREEMENT AND SHALL BE COVENANTS RUNNING WITH THE LAND FOR THE THIRTY (30) YEAR AFFORDABILITY PERIOD SET FORTH HEREIN. NOTWITHSTANDING THE FOREGOING, THESE COVENANTS SHALL TERMINATE UPON DISPOSITION OF THE PREMISES AND IMPROVEMENTS BY FORECLOSURE OR INSTRUMENT IN LIEU OF FORECLOSURE.

9. AFFIRMATIVE MARKETING:

In furtherance of the County’s commitment to non-discrimination and equal opportunity in housing, DHES has established policies and procedures to affirmatively market housing units produced through the use of these funds. These affirmative marketing procedures are implemented comprehensively for all housing programs through DHES 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.

The Borrower, in order to carry out the requirements and procedures of DHES’s Affirmative Marketing Program, shall comply with the following procedures:

- (i) Use the Equal Opportunity logo or slogan in advertisements;
- (ii) Solicit applications from persons in the housing market area who are not likely to apply for housing without special outreach. The Borrower may satisfy this requirement by posting a notice of vacancies in any or all of the following:
 - Community Organizations
 - Fair Housing Groups
 - Housing Counseling Agencies
 - Commercial Media
 - Employment Centers
 - Local Public Housing Authorities (PHA’s) or Other Similar Agencies
 - Mobile Home Communities
 - Agencies for the disabled
 - Churches and other related organizations
- (iii) Borrower shall keep records of its efforts to affirmatively market units and the Borrower shall provide DHES copies of its records, including advertisements, minutes of meetings, income documentation, and census tract information, as applicable, as evidence of the Borrower’s efforts.

The requirements of this Section shall survive the expiration of this Agreement.

10. REPORTING REQUIREMENTS:

- (i) The Borrower shall submit to the County a **Tenant Information Report** in the form provided as Exhibit F to this Agreement for each HOME Assisted Unit that is rented in the Project. The Borrower shall first submit this Report on the last day of the month during which the closing on the Mortgage occurs, and thereafter, on the last day of each month. After the Borrower provides this Report for all HOME Assisted Units, the Borrower may cease submitting this Report.
- (ii) The Borrower shall submit to the County an **Annual Rent Roll** in the form provided as Exhibit G to this Agreement. The Borrower 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 Mortgage.
- (iii) The Borrower agrees to submit to DHES any other reports required by HUD and/or DHES in connection with activities undertaken through this Agreement.

11. REPRESENTATIONS AND WARRANTIES OF BORROWER:

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

- (A) Organization Status and Authority to Enter into Loan Documents:

The Borrower is a Florida not for profit corporation duly organized and validly existing in good standing under the laws of the State of Florida with full power and authority to consummate the transactions contemplated herein. The Borrower is duly authorized to borrow the Loan from County and to execute all the Loan Documents.

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

(B) Validity of Loan Documents:

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

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

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

To Borrower's knowledge there are no actions, suits or proceedings pending before any court of law or equity, or any administrative board, or, to the knowledge of the Borrower, threatened against or affecting it or the Premises, or, involving the validity or enforceability of the Mortgage, or of any of the Loan Documents.

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

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

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

All roads necessary for the full utilization of the Improvements for their intended purposes have either been completed or the necessary rights of way therefore have either been acquired by the appropriate local authorities or have been dedicated to public use and accepted by such local authorities.

(E) No Default:

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

(F) Advertising/Marketing:

Borrower shall include the County logo in all marketing materials for the Project. During the period of the construction work contemplated herein, the County shall have the right to install and maintain on the Premises one or more signs identifying the County, or to be identified on such signs installed by others, as one of the institutions financing the Premises. Sign or signs will be provided by the County and erected at Borrower's expense.

(G) Hazardous Waste:

To Borrower's knowledge, Borrower is in compliance with all provisions of the federal Water Pollution Control Act, Comprehensive Environmental Response, Compensation and Liability ("Superfund") Act of 1980 and Solid Waste Disposal Act, Florida Statutes, Chapter 376, and other similar federal, state and local statutory schemes imposing liability on Borrower relating to the generation, storage, impoundment, disposal, discharge, treatment, release, seepage, emission, transportation or destruction of any sewage, garbage, effluent, asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs), toxic, hazardous or radioactive materials, petroleum products, pesticides, smoke, dust, or any other form of pollution as such laws are in effect as of the date of this Agreement and with any rules, regulations and order issued by any federal, state or local governmental body, agency or authority thereunder and

with any orders or judgments of any courts of competent jurisdiction with respect thereto, and no assessment, notice of (primary or secondary) liability or notice of financial responsibility, or the amount thereof, or to impose civil penalties has been received by the Borrower. Borrower has paid any environmental excise taxes imposed pursuant to Sections 4611, 4661 or 4681 of the Internal Revenue Code of 1986, as from time to time amended.

(H) Filing and Payment of Taxes:

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

12. ADDITIONAL COVENANTS OF BORROWER:

The Borrower covenants and agrees with the County as follows:

(A) Mechanics' Liens:

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

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

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

(B) No Transfer of Premises:

Except as specifically set forth in the Mortgage, or herein, including in the permitted exceptions, the Premises or any part thereof shall not be sold, leased (except for tenant leases), conveyed, mortgaged or encumbered in any way without the prior written consent of the County which consent shall not be unreasonably withheld or delayed, except as provided elsewhere herein or in the Mortgage, it being understood and agreed that part of the consideration for the Loan is this obligation of Borrower. Notwithstanding the foregoing, Borrower may enter into utility easements or licenses or leases for tenant services, such as laundry or concessions, without the prior written consent of the County.

(C) Compliance with Laws:

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

(D) Brokerage Commissions:

The Borrower will not knowingly engage in any activity or enter into any relationship which will

give rise to any loan or brokerage commission with regard to the Loan, and Borrower will indemnify and hold County harmless from the claims of any broker(s) arising by reason of the execution hereof or the consummation of the transactions contemplated hereby.

(E) Financial Statements to be Furnished:

The Borrower shall furnish to the County:

(i) 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 Borrower and, at the request of the County, certified (in form satisfactory to the County) by an independent certified public accountant acceptable to the County.

(ii) Within ninety (90) days after the end of each fiscal year of Borrower, 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 Borrower at the close of each year and the results of operations of Borrower during each year.

(iii) With the statements submitted under (ii) above, a certificate signed by the principal financial officer of Borrower to the effect that no Event of Default specified herein or in the Loan Documents, nor any event which upon notice or lapse of time or both, would constitute such an Event of Default has occurred which has not been cured or otherwise waived in writing by the County.

(iv) Such other information regarding the operations, business, affairs, and financial condition of Borrower as the County may reasonably request.

(F) Borrower to Maintain Bookkeeping System:

The Borrower shall, if required by the County, maintain a bookkeeping system for the Project in form and content sufficient for the County to conduct reviews, inspections, certifications and reports required by this Agreement. The County shall have full access (but confidential to the extent allowed under the Public Records Law), at any reasonable times to the books, records and contracts pertaining to the Premises and Borrower.

(G) Insurance Proceeds:

The Borrower shall keep the Premises continually insured in an amount not less than full insurable value of the Premises, which coverage shall insure the Premises against loss or damage by fire and by the perils covered by extended coverage and against such other hazards as the County, in its sole discretion, shall from time to time reasonably require, for the benefit of the County. All such insurance at all times will be with an insurance company or companies in such amounts and with terms acceptable to the County, with loss in excess of \$200,000, if any, payable to the County, as its interest may appear, pursuant to a non-contributory mortgagee clause which shall be reasonably satisfactory to the County. Upon the issuance of such policies, Borrower will deliver to the County copies of receipts for the premiums paid thereon, 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 the County, transferee or purchaser, as the case may be. Should a loss be incurred, equal to or in excess of fifty percent (50%) of the full insurable value of the Premises, then in such event, County and Borrower may jointly elect to use the proceeds for the reconstruction and repair of the Premises or, in the alternative, to apply the net proceeds to the payment of the indebtedness hereby secured, whether then due or not. Notwithstanding anything to the contrary contained herein, if there is no Event of Default that is continuing, Borrower shall have the right to use the insurance proceeds for the reconstruction of the Premises provided the Borrower can provide evidence to the County of sufficient funds from other sources available to effectively rebuild the Project in compliance with the terms of this Agreement and the herein described HOME funding.

(H) Indebtedness:

With respect to the Premises to be encumbered by the Borrower, the Borrower will not incur, create, assume or permit to exist any indebtedness superior to the Mortgage, except in the ordinary course of business constituting the deferred purchase price of any property or assets, or any indebtedness or liability evidenced by notes, bonds, debentures or similar obligations

without the written approval of the County, which approval shall not be unreasonably withheld or delayed, except indebtedness owed the County.

(I) Further Assurances and Preservation of Security:

The Borrower will do all acts and execute all documents for the better and more effective carrying out of the intent and purposes of this Agreement, as the County shall reasonably require from time to time, and will do such other acts necessary or desirable to preserve and protect the collateral at any time securing or intending to secure the Promissory Note, as the County may reasonably require.

(J) No Assignment:

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

13. RIGHT TO AUDIT, ACCESS TO RECORDS, INSPECTOR GENERAL AND AUDITS:

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

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

In any event, the Borrower 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 the Borrower, documents imposing recapture/resale restrictions shall be retained by the Borrower for five (5) years after the affordability period terminates.

(2) In connection with homes rented/leased by the Borrower, records of individual tenant income verifications, project rents and project inspections shall be retained by the Borrower 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 the Borrower until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

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

The Borrower shall comply with the audit requirements at 2 CFR Part 200, Subpart F.

14. INSPECTIONS:

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

15. DEFAULT:

The following events, after expiration of any notice and cure period, shall be deemed Events of Default:

(A) Mortgage:

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

(B) Bankruptcy:

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

(C) Breach of Covenants, Warranties and Representations:

If any warranty or representation made by Borrower in this Agreement or in any other Loan Document shall at any time be false or misleading in any material respect when made, or if Borrower shall fail to keep, observe or perform any of the material terms, covenants, representations or warranties contained in this Agreement, the Promissory Note, the Mortgage, the Loan Documents, and any other document given in connection with the Loan or development of the Improvements provided, that with respect to non-monetary defaults, the County shall give written notice to Borrower with a copy to CREA Isles of Pahokee II, LLC ("Investor"), and Borrower and Investor shall have thirty (30) days to cure, with additional time as may be required if the cure is diligently commenced but cannot be completed within said thirty (30) days and the County concurs, and provided that, with respect to monetary defaults, the County shall give written notice to Borrower with a copy to its Investor, and Borrower and Investor shall have fifteen (15) days to cure, or is unwilling to meet its obligations.

(D) Failure to Close Loan:

If the Borrower fails to close on this Loan by the deadline set forth herein, the County may terminate this Agreement immediately upon written notice to Borrower. In such instance, all remaining HOME funds shall revert to the County and the County may reallocate such remaining funds for other projects or needs 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.

(E) Failure to Use Funds:

If the Borrower fails to use funds under this Agreement for eligible costs as set forth herein by _____, 20____. In the event Borrower fails to use all HOME funds by _____, 20____, all remaining HOME funds shall revert to the County and the County may reallocate such remaining funds for other projects or needs, unless revised by written agreement between the 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.

(F) Failure to Maintain a Replacement Reserve Account or Obtain Approval of Withdrawals:

If the Borrower shall fail to create the Replacement Reserve Account as specified herein or if the Borrower shall fail to make timely deposits into the Replacement Reserve Account or to obtain prior approval of the County to withdraw funds from said account.

(G) Default Under the Other Mortgages:

If the Borrower defaults under any of the mortgages encumbering the Premises and such default is not cured within applicable cure periods.

16. REMEDIES OF COUNTY:

Upon the happening of an Event of Default, which default is not cured within any applicable cure or grace period, then the County may, at its option, upon written notice to Borrower:

(A) Cancellation of Agreement:

Cancel this Agreement.

(B) Commencement of Legal or Equitable Action:

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

(C) Acceleration of Payment:

Accelerate the payment of the Promissory Note and any other sums secured by the Mortgage, and commence appropriate legal and equitable action to foreclose the Mortgage and collect all such amounts due the County.

(D) Rights and Remedies:

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

17. GENERAL TERMS:

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

(A) Rights of Third Parties:

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

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

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

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

(C) Public Entity Crimes:

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

(D) Conflict of Interest:

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

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 the Borrower, 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 the Borrower, owner, developer or sponsor or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official or consultant of the Borrower, 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.

(E) Nondiscrimination:

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

Furthermore, Borrower shall not discriminate on the basis of race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information, in the use, or occupancy of any housing unit constructed on the Premises, nor shall any person on the basis of race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information, be excluded from the benefits of, or be subjected to discrimination under any activity carried out by the performance of the terms contained herein.

(F) Public Records:

Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the Borrower: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the Borrower shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The Borrower is specifically required to:

- (i) Keep and maintain public records required by the County to perform services as provided under this Agreement.
- (ii) Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The Borrower further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.
- (iii) Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement, if the Borrower does not transfer the records to the public agency.

Failure of the Borrower to comply with the requirements of this article shall be a material breach of this Agreement. The County shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. The Borrower acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

IF THE BORROWER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE BORROWER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 NORTH OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL

AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT (561) 355-6680.

(G) County Not Liable for Damage or Loss:

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

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

Nothing contained in this Agreement, or any Loan Documents, shall impose upon the County any obligation to oversee the proper use or application of any disbursements and disbursements of funds made hereunder provided such disbursements are made to Borrower.

(I) Indemnification from Third Party Claims:

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

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

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

(K) Evidence of Satisfaction of Conditions:

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

(L) Headings:

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

(M) Invalid Provisions to Affect No Others:

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

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

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

(O) Governing Law and 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 state 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.

(P) Number and Gender:

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

(Q) Agreement:

The Borrower agrees to comply with all provisions of the Housing and Community Development Act of 1974, as amended, the HOME Investment Partnerships Program Regulations at 24 CFR Part 92 and the Uniform Administrative Requirements, Cost Principals and Audit Requirements for Federal Awards at 2 CFR Part 200 that are applicable to a recipient of funds through the HOME Program and that are required to be adhered to for this Loan, and such provisions are incorporated herein by reference and are made a part hereof. The Loan Documents constitute the entire understanding and agreement between the parties with respect the subject matter hereof, supersede all prior agreements, including commitment letters, and may not be modified or amended, except in writing and signed by all parties hereto.

(R) Waiver:

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

(S) Notices:

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

TO COUNTY: Department of Housing and Economic Sustainability
Palm Beach County
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

With copy to:
County Attorney's Office
Palm Beach County
301 N. Olive Avenue, Suite 601
West Palm Beach, FL 33401

TO BORROWER: New Urban Community Development Corporation, Inc.
1700 North Australian Avenue
West Palm Beach, FL 33407

(T) Submittals:

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

(U) Successors and Assigns:

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

(V) Counterparts:

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

(W) Incorporation by Reference:

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

(X) Waiver of Jury Trial:

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

(Y) 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, or from any other funding source, for any reason.

18. EFFECTIVE DATE OF AGREEMENT:

This Agreement shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners or its designee. The Effective Date shall be the date on which this Agreement is executed by Palm Beach County.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, Borrower and the County have caused this Agreement to be executed on the dates set forth herein.

Signed, sealed and delivered
in the presence of:

Witnesses:

BORROWER:

**NEW URBAN COMMUNITY
DEVELOPMENT CORPORATION, INC.,**
a Florida not for profit corporation

Witness Signature

By: _____
Patrick Franklin, CEO

Print Witness Name

Witness Signature

Print Witness Name

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, on _____, by Patrick Franklin, as Chief Executive Officer of New Urban Community Development Corporation, 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

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

FOR ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Verdenia C. Baker
County Administrator

Date: _____

Approved as to Form and
Legal Sufficiency

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

By: _____
Howard J. Falcon, III
Chief Assistant County Attorney

By: _____
Sherry Howard
Deputy Director

EXHIBIT A

LEGAL DESCRIPTION

EXHIBIT B

PROMISSORY NOTE

\$503,590

West Palm Beach, Florida

Date: _____

FOR VALUE RECEIVED the undersigned **New Urban Community Development Corporation, Inc.**, a Florida not for 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, the principal sum of **Five Hundred Three Thousand Five Hundred and Ninety and 00/100 Dollars (\$503,590.00)** (the "Loan"), plus accrued interest, to be paid in lawful money of the United States of America, as follows:

- 1) The entire Loan is non-amortizing and this Note shall bear interest at the stated rate of **Zero percent (0%) per annum** computed on the outstanding principal balance remaining unpaid from time to time except as otherwise provided herein.
- 2) From the date hereof through (30 years) (**Maturity Date**), no payments of interest nor principal will be required unless acceleration is made by Holder pursuant to the provisions hereof.
- 3) On the **Maturity Date**, the entire principal amount of this Note shall be forgiven by Holder with no payment of principal required, and this Note shall be marked "cancelled" and returned to Maker unless acceleration is made by Holder pursuant to the provisions hereof.
- 4) Upon acceleration, this Note shall bear interest at the maximum interest rate allowed by applicable law until paid in full.
- 5) 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, and the balance, if any, to the principal balance. The restrictive covenants contained in the Mortgage shall survive if this Note is wholly prepaid prior to the expiration of the term of such covenants. The restrictive covenants may, with the approval of Holder, be transferred to a separate Declaration of Restrictive Covenants which shall be recorded in the public records of Palm Beach County.
- 7) All terms hereunder shall be as construed and defined in Florida law.

This Note is executed pursuant to the terms and conditions of that certain Loan Agreement dated _____, between Maker, as Borrower, and Holder, as Lender, is secured by a Mortgage and Security Agreement (the "Mortgage"), 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".

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, or to make any payment, or to do any act contrary to 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 the 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 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 (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 when said payment is due pursuant to this 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 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. Any failure to exercise or forbearance in the exercise of any remedy, shall not 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 course 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.

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:

Witnesses:

MAKER:

**NEW URBAN COMMUNITY
DEVELOPMENT CORPORATION, INC.,**
a Florida not for profit corporation

Witness Signature

By: **DO NOT SIGN THIS EXHIBIT**
Patrick Franklin, CEO

Print Witness Name

Witness Signature

Print Witness Name

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, on _____, by Patrick Franklin , as Chief Executive Officer of New Urban Community Development Corporation, 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

Return to:

Prepared by:

Department of Housing and Economic Sustainability
Palm Beach County
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

NOTE TO CLERK OF CIRCUIT COURT: THIS MORTGAGE IS GIVEN TO SECURE THE FINANCING OF HOUSING UNDER PART V OF CHAPTER 420 OF THE FLORIDA STATUTES AND IS EXEMPT FROM TAXATION PURSUANT TO SECTION 420.513, FLORIDA STATUTES.

MORTGAGE AND SECURITY AGREEMENT

THIS IS A MORTGAGE AND SECURITY AGREEMENT (this "Mortgage"), granted and executed on _____, by **NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC.**, a Florida not for profit corporation (the "Mortgagor") in favor of **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);

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 **Five Hundred Three Thousand Five Hundred and Ninety and 00/100 Dollars (\$503,590.00)** to Mortgagor and in connection therewith Mortgagor has this date executed and delivered to Mortgagee a Promissory Note in the amount of \$503,590, (the "Note"). A true copy of this Note is annexed hereto as Exhibit B which forms a part hereof.

This Mortgage is given in accordance with that certain Loan Agreement between Mortgagor and Mortgagee executed on _____. This Mortgage and Security Agreement, the Note, and the Loan Agreement, including any amendments thereto, and any other documents evidencing and securing the Loan, 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, 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 hereinbelow described and located on the Premises, all of which are 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 excepting taxes accruing subsequent to 2020, 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.

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 **\$503,590** and has a maturity date of _____, 20____, 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 that become due pursuant 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 in 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, including flood if applicable, 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. 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 HOME 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.

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), 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. Mortgagee shall have the right to monitor the project and enforce the terms of 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.

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 Right to Enter Premises:

The Mortgagee, by any of its agents or representatives, shall have the right to inspect the Premises from time to time at any reasonable hour of the day. Should the Premises, or any part thereof, at any time require inspection, repair, care or attention of any kind or nature as determined by the Mortgagee in its sole discretion, the Mortgagee may, after notice to the Mortgagor, enter or cause entry to be made upon the Premises and inspect, repair, protect, care for or maintain such property, as the Mortgagee may in its sole discretion deem necessary, and may pay all amounts of money therefor, as the Mortgagee may in its sole discretion deem necessary, all of which amounts so paid by the Mortgagee, with interest thereon from the date

of each such payment, at the rate, if any, provided in the Note, shall be payable by the Mortgagor to the Mortgagee on demand and shall be secured by this Mortgage.

1.6 Covenants Running With the Land:

The Mortgagor expressly agrees to the following terms and conditions:

(a) Occupancy of HOME Assisted Units:

All HOME Assisted Units shall be rented by the Mortgagor to tenants who are Eligible HOME Program Beneficiaries defined as low income and moderate income households.

More specifically, eight (8) HOME Assisted Units shall be initially occupied by tenant households whose incomes, adjusted by family size, do not exceed eighty percent (80%) of Area Median Income (hereinafter "AMI") at the time these units are first occupied. AMI shall mean the most current area median income published by HUD for the West Palm Beach-Boca Raton Metropolitan Statistical Area. Subsequent tenant households that occupy these eight (8) units at any time thereafter, must also have household incomes, adjusted by family size, that do not exceed eighty percent (80%) of AMI at the time these tenant households occupy these units.

Furthermore, three (3) HOME Assisted Units shall be initially occupied by tenant households whose incomes, adjusted by family size, do not exceed fifty percent (50%) of AMI at the time these units are first occupied. Subsequent tenant households that occupy these three (3) units at any time thereafter, must also have household incomes, adjusted by family size, that do not exceed fifty percent (50%) of AMI at the time these tenant households occupy these units.

(b) Duration of Applicability:

These requirements shall apply to each HOME Assisted Unit for the duration of thirty (30) years beginning with the date of the Mortgage.

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

(c) Permanent Housing:

All 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.

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

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

- (1) HOME Assisted Units to be rented by the Mortgagor to households whose incomes, adjusted by family size, do not exceed fifty percent (50%) of AMI shall be rented at a rate such that the tenant's payment is no more than the Low 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 provided by the County. The Low 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.
- (2) HOME Assisted Units to be rented by the Mortgagor to households whose incomes, adjusted by family size, exceed fifty percent (50%) of AMI, but do not exceed eighty percent (80%) of AMI 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 provided by the County. 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.

- (3) The Mortgagor shall annually propose its rent schedule, including utility allowances, for HOME Assisted Units, and the County shall review and approve such rent schedule provided it is in compliance with the above limitations. The Mortgagor shall only use rent schedules approved by the County. Changes in rent levels shall be subject to the provisions of outstanding leases. The Mortgagor shall provide tenants not less than thirty (30) days written notice before implementing any increase in rent.

(e) Tenant Income:

The Mortgagor shall, for all HOME Assisted Units to be rented, verify the tenant's household income at the time a unit is first occupied, and thereafter, at any time new tenants occupy the unit, to determine income eligibility according to the requirements herein. The income of each such tenant must be determined initially in accordance with 92.203(a)(1)(i).

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

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

(f) Tenant Records to be Maintained:

The Mortgagor shall, for each household that is rented a HOME Assisted Unit, comply with the below requirements and maintain a file that, at minimum, contains the following:

- (1) An application for lease, signed and dated by the applicant(s), identifying the household members that intend to occupy the HOME Assisted Unit, the household characteristics, and the household income they have disclosed.
- (2) At the time a HOME Assisted Unit is first occupied, and thereafter, at any time new tenants occupy a HOME Assisted Unit: Source documentation evidencing the Mortgagor's verification of the applicant's household income and a computation sheet demonstrating the Mortgagor's determination of the applicant's income eligibility to occupy the HOME Assisted Unit. Household income computation shall follow the HUD Section 8 method (24 CFR 5.609).
- (3) At the time each lease is renewed: Source documentation evidencing the Mortgagor's annual re-certification of the tenant's household income and a computation sheet demonstrating the Mortgagor's determination of the tenant's income eligibility to continue occupancy of a HOME Assisted Unit. Household income computation shall follow the HUD Section 8 method (24 CFR 5.609).
- (4) A copy of the HUD income levels in effect at the time all leases are signed or renewed.
- (5) A computation sheet and supporting documentation demonstrating that the rent charged by the Mortgagor is at the applicable rental rate specified herein.
- (6) A copy of each tenant's initial lease and all lease renewals and a computation sheet and supporting documentation for each demonstrating that the rent charged by the Mortgagor is an affordable rental rate as required herein.
- (7) A copy of the background checks as described below.
- (8) Any other documentation evidencing the Mortgagor's compliance with this Agreement.

(g) Background Check, Tenant Selection/Retention/Termination, and Lease Requirements:

The Mortgagor shall comply with the following:

- (1) The Mortgagor shall conduct background checks on adult members of households prior to occupancy and maintain a copy of such background check. Should the Mortgagor elect to utilize criminal background information in the screening/selection of prospective tenants or the retention/termination of tenants, the Mortgagor must develop and implement tenant selection policies which comply with HUD guidance on the use of criminal background information.
- (2) The Mortgagor shall adopt, and submit to the County for review, written tenant selection/retention/termination policies and criteria that:
 - Limit the housing to very low-income and low-income families;
 - Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease;
 - Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and
 - Give prompt written notification to any rejected applicant of the grounds for any rejection.

Tenant selection/retention/termination shall not:

- Exclude persons from housing based on records of arrests not resulting in conviction;
- Exclude persons from housing based solely on conviction of any type, with the exception of those identified by HUD (methamphetamine production and registered sex offender); and
- Be utilized to intentionally discriminate against protected classes of persons.

Tenant selection/retention/termination shall:

- Serve a substantial, legitimate, and non-discriminatory interest of the housing provider;
 - Distinguish between criminal conduct which indicates a demonstrable risk to resident safety and/or property and that which does not;
 - Consider the nature, severity, and recency of the criminal offense;
 - Consider relevant individualized evidence such as: circumstances surrounding the criminal conduct; the age of the individual at the time of the conduct; tenant history before and/or after the criminal conduct; and rehabilitation efforts; and
 - Be applied equally among all classes of protected persons.
- (3) The Mortgagor shall submit a copy of its proposed Lease Agreement form for approval by DHES. In the event that future material revisions occur, Mortgagor shall submit an updated Lease Agreement form for approval (which shall not be unreasonably withheld or delayed) as revisions occur.
 - (4) The lease between a tenant and the Mortgagor must be in writing and must be for not less than one (1) year, unless by mutual agreement between the tenant and the Mortgagor, and as referenced at 24 CFR 92.253. The lease must incorporate the Violence Against Women Act (WAVA) lease term/addendum required under 24 CFR 92.359(e) except as otherwise provided by 24 CFR 92.359(b).

- (5) The Mortgagor shall utilize leases which require parents to be held legally and financially liable for the acts of their children in the apartment complex, 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.
- (6) The Mortgagor may not terminate the tenancy or refuse to renew the lease of a tenant at the Project, except for serious or repeated violation of the terms and conditions of the lease; violation of applicable Federal, State, or local law; or for other good cause. Good cause does not include an increase in the tenant's income. To terminate or refuse to renew tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least thirty (30) days before the termination of tenancy.
- (7) The Mortgagor is prohibited, pursuant to 24 CFR 92.253(b), from including any of the following lease terms in the Lease Agreement at the Project:
- Agreement to be Sued: Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the Mortgagor in a lawsuit brought in connection with the lease;
 - Treatment of Property: Agreement by the tenant that the Mortgagor may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The Mortgagor may dispose of such abandoned personal property in accordance with State law;
 - Excusing Owner from Responsibility: Agreement by the tenant not to hold the Mortgagor or the Mortgagor's agents legally responsible for any action or failure to act, whether intentional or negligent;
 - Waiver of Notice: Agreement of the tenant that the Mortgagor may institute a lawsuit without notice to the tenant;
 - Waiver of Legal Proceedings: Agreement by the tenant that the Mortgagor 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;
 - Waiver of a Jury Trial: Agreement by the tenant to waive any right to a trial by jury;
 - 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; and
 - 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 instituted by the Mortgagor against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses; and
 - Mandatory Supportive Services: Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

(h) Nondiscrimination against rental assistance subsidy holders:

The Mortgagor is prohibited, pursuant to 24 CFR 92.253(d)(4), from excluding an applicant with a certificate or voucher under Section 8 Tenant-Based Assistance: Housing Choice Voucher Program (24 CFR Part 982) or an applicant participating 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.

THE REQUIREMENTS AND RESTRICTIONS SET FORTH IN THIS SECTION 1.6 SHALL BE COVENANTS RUNNING WITH THE LAND FOR THE THIRTY (30) YEAR AFFORDABILITY PERIOD SET FORTH HEREIN AND SHALL SURVIVE THE SATISFACTION OR EARLIER TERMINATION OF THIS MORTGAGE AND SECURITY AGREEMENT. IN THE EVENT THE MORTGAGE IS SATISFIED PRIOR TO THE EXPIRATION OF THE AFFORDABILITY PERIOD SET FORTH HEREIN, THE RESTRICTIVE COVENANTS MAY, WITH THE APPROVAL OF THE MORTGAGEE, BE TRANSFERRED TO A SEPARATE DECLARATION OF RESTRICTIVE COVENANTS CONSISTENT WITH THE TERMS SET FORTH HEREIN, WHICH COVENANTS SHALL BE RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY.

1.7 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 Default, as defined below, by the Mortgagor pursuant to this Section or any other Section of this Mortgage, 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.

1.8 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 or 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.

1.9 Estoppel Affidavits:

The Mortgagee, upon ten (10) 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.

1.10 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.

1.11 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.

1.12 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. 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.

1.13 Environmental Representations:

(a) 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 there are violations or potential violations of any environmental regulation laws, ordinances, rules or regulations existing 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. Mortgagor 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 of 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; and (c) could detract from the value of the Premises should Mortgagee exercise 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 the 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 is 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. 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 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, loan servicing and administrative fee, compliance monitoring fee, 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 Note, the Loan Documents or of any other instrument evidencing, securing 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

(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 such legal proceeding is not dismissed within ninety (90) 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 and remains uncured after the expiration of any applicable cure or grace period; or

(k) The Mortgagor shall default under any mortgage encumbering the Premises which default remains uncured after expiration of any applicable cure or grace period.

If the Mortgagee shall reasonably believe that any one or more of the defaults enumerated in paragraphs (a) through (k) 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 (which Mortgagee agrees shall not be unreasonably withheld or delayed), 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) All accrued but unpaid interest on the Note;
- (3) 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.

(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:

(a) If a default shall have occurred hereunder and is 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 to do so shall be considered as a waiver of such right.

(b) If a Default shall have occurred hereunder and is 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 of or other proceeding upon this Mortgage or by any other proper, real or equitable procedure without declaration of such option and without notice.

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 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, if any Default shall have occurred and be continuing beyond expiration of any applicable cure or grace period, 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.

2.6 Foreclosure and Appointment of a Receiver:

(a) 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 reasonable 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 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, receivership, 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.

(b) 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, pursuant to applicable law, 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.

(c) 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 title to the Premises by reason of such foreclosure.

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 additional documentary stamp or excise tax shall become applicable with respect to this Mortgage, the Note, any loan or credit extended hereunder, 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 indemnify and 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 of the maximum amount permitted by applicable law to be charged, all excess amounts so paid shall be used to reduce the unpaid principal amount due 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 Notices to Mortgagor and Mortgagee:

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

TO MORTGAGOR: New Urban Community Development Corporation, Inc.
1700 North Australian Avenue
West Palm Beach, FL 33407

TO MORTGAGEE: Department of Housing and Economic Sustainability
Palm Beach County
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

With copy to:
County Attorney's Office
Palm Beach County
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401

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 or overnight mail service 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 fifteen (15) days 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 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 this Mortgage is recorded.

5.3 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 which 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.

5.4 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 a state court of competent jurisdiction in Palm Beach County, Florida.

5.5 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:

MORTGAGOR:

**NEW URBAN COMMUNITY
DEVELOPMENT CORPORATION, INC.,**
a Florida not for profit corporation

By: **DO NOT SIGN THIS EXHIBIT**
Patrick Franklin, CEO

Witness Signature

Print Witness Name

Witness Signature

Print Witness Name

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, on _____, by Patrick Franklin , as Chief Executive Officer of New Urban Community Development Corporation, Inc., who is personally known to me, or who has produced _____ as identification and who did/did not take an oath.

Signature: _____

Notary Name: _____
Notary Public - State of Florida

(NOTARY SEAL ABOVE)

EXHIBIT A
The Premises

LEGAL DESCRIPTION

EXHIBIT D

Record and Return to:

Prepared by:

Department of Housing and Economic Sustainability
Palm Beach County
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

SUBORDINATION AGREEMENT

This SUBORDINATION AGREEMENT (the "Agreement") is entered into on _____, by and between the **CITY OF WEST PALM BEACH**, a Florida Municipal Corporation, whose address is 401 Clematis St., 2nd Floor, West Palm Beach, FL 33401 (the "City") and **PALM BEACH COUNTY**, a political subdivision of the State of Florida whose address is 301 North Olive Avenue, West Palm Beach, FL 33401, (the "County") relating to the Henrietta Townhomes rental development owned by NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC., a Florida not for profit corporation whose address is 1700 North Australian Avenue, West Palm Beach, FL 33407 (the "Borrower").

RECITALS:

A. The Borrower is the owner of an 11-unit residential rental development known as Henrietta Townhomes (the "Project") located at 1301 Henrietta Avenue, in West Palm Beach, Florida, more particularly described in **Exhibit 1** attached hereto (the "Property") ;and

B. On _____, the County made a loan to the Borrower in the original principal amount of \$503,590, secured by a Mortgage and Security Agreement ("County Mortgage") which encumbered the Property and which was recorded on _____, in Official Records Book _____, at Page _____, of the Public Records of Palm Beach County, Florida; and

C. On October 31, 2005, the City made a loan to the Borrower in the original principal amount of \$360,000 ("City Loan"), as evidenced by a Mortgage and Security Agreement ("City Mortgage") secured by the Property. Said City Mortgage was recorded on June 19, 2006, in Official Records Book 20494, at Page 474, of the Public Records of Palm Beach County, Florida; and

D. On November 20, 2006, the City and the Borrower entered into an Amended Mortgage and Security Agreement which amended the City Mortgage and which, among other things, increased the City Loan from \$360,000 to \$617,853. Said Amended Mortgage and Security Agreement was recorded on December 4, 2006, in Official Records Book 21149, at Page 1262, of the Public Records of Palm Beach County, Florida; and

E. On July 23, 2009, the Amended Mortgage and Security Agreement, entered into between the City and the Borrower on November 20, 2006, was rerecorded in Official Records Book 23352, at Page 1980, of the Public Records of Palm Beach County, Florida, in order to clarify the payment of documentary stamps; and

F. On September 3, 2009, the City and the Borrower entered into a Third Amended Mortgage and Security Agreement which amended the City Mortgage and which, among other things, increased the City Loan from \$617,853 to \$967,853. Said Third Amended Mortgage and Security Agreement was recorded on September 4, 2009, in Official Records Book 23431, at Page 1777, of the Public Records of Palm Beach County, Florida; and

G. On March 22, 2010, the City and the Borrower entered into a Promissory Note and Mortgage Modification Agreement which amended the City Mortgage and which, among other things, increased the City Loan from \$967,853 to \$978,759.67. Said Promissory Note and Mortgage Modification Agreement was recorded on April 16, 2010, in Official Records Book 23797, at Page 1544, of the Public Records of Palm Beach County, Florida; and

H. On _____, the City and the Borrower entered into a Mortgage Modification Agreement which further amended the City Mortgage and which, among other things, extended the term of the City Mortgage to June 30, 2055. Said Mortgage Modification Agreement was recorded on _____, in Official Records Book _____, at Page _____, of the Public Records of Palm Beach County, Florida; and

I. The City and the County wish to enter into this Agreement to establish the priority of their loans with respect to each other.

NOW, THEREFORE, for the reasons set forth above, and in consideration of the mutual covenants and promises of the parties hereto, the parties agree as follows:

1. Recitals. The above recitals are true and correct, and are incorporated herein and made a part hereof.

2. Priority. By agreement among the City and the County, the County Loan shall have priority over the City Loan and the City Mortgage, as amended by the Amended Mortgage and Security Agreement, the Third Amended Mortgage and Security Agreement, the Promissory Note and Mortgage Modification Agreement and the Mortgage Modification Agreement, shall be subject and subordinate to the County Mortgage.

3. Condition of Execution. The execution and delivery of this Agreement is a condition of the closing on the County Mortgage.

4. Increases and Amendments. The parties hereby agree that neither party shall increase the amounts of their respective debt as owed by the Borrower on the date hereof.

5. Enforcement Actions and Notice. The parties agree that neither party will initiate enforcement action on their respective loans without prior notice to the other party.

6. Effect and Binding Effect. Except as provided herein, this Agreement does not impair, amend, modify, cancel or affect in any manner whatsoever the rights and obligations of the parties as provided by law or equity or the terms, provisions and conditions of the respective debt instruments. This Agreement shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors, and assigns of the parties hereto.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CITY OF WEST PALM BEACH

By: _____
Keith James, Mayor

ATTEST:

City Clerk

City Attorney's Office
Approved as to form and legality

By: _____

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, on _____, by Keith James, the Mayor of the CITY OF WEST PALM BEACH, on behalf of the municipal corporation. Such person is personally known to me and did not take an oath.

Signature: _____

(NOTARY SEAL ABOVE)

Notary Name: _____
Notary Public - State of Florida

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

By: _____
Jonathan B. Brown, Director
Dept. of Housing and Economic Sustainability

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, on _____, by Jonathan B. Brown, as Director of the Dept. Of Housing And Economic Sustainability of Palm Beach County, Florida, a political subdivision of the State of Florida, who is personally known to me, or who has produced _____ as identification.

Signature: _____

(NOTARY SEAL ABOVE)

Notary Name: _____
Notary Public - State of Florida

Approved as to Form and
Legal Sufficiency

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

By: _____
Howard J. Falcon III,
Chief Assistant County Attorney

By: _____
Sherry Howard,
Deputy Director

CONSENT OF BORROWER

Borrower acknowledges receipt of a copy of this Subordination Agreement, dated _____, by and between the City of West Palm Beach and Palm Beach County and consents to the agreement of the parties set forth in this Agreement.

**NEW URBAN COMMUNITY
DEVELOPMENT CORPORATION, INC.,**
a Florida not for profit corporation

By: _____
Patrick Franklin, CEO

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, on _____, by Patrick Franklin, as Chief Executive Officer of New Urban Community Development Corporation, Inc., who is personally known to me, or who has produced _____ as identification.

Signature: _____

(NOTARY SEAL ABOVE)

Notary Name: _____
Notary Public - State of Florida

EXHIBIT 1

LEGAL DESCRIPTION

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Henrietta Townhomes	Immediate Needs	11 Units											
2														
3														
4	COMPONENT OR SYSTEM	COMMENTS	EST	EST	1st	2nd	3rd	4th	QTY	UNIT	UNIT	CYCLE	IMMEDIATE	
5	(add rows as needed)		RUL	EUL	(Yr)	(Yr)	(Yr)	(Yr)			COST	REPLMNT	NEEDS	
6	Site													
7	Site Signage		0	20	20	40	60	80	1	EA	1000.00	1,000	1,000	
8	Fencing	Repair, replace and maintenance	0	12	12	24	36	48	1	EA	2000.00	2,000	2,000	
9	Landscaping	Clean-up and replacement	0	10	10	20	30	40	6	EA	600.00	3,600	3,600	
10	Parking lot security lighting	Maintenance and replacement with LED	0	15	15	30	45	60	8	EA	500.00	3,000	3,000	
11	Exterior Painting	Repairs, sealing, power wash (every 4 years)	0	12	12	24	36	48	80	LP	120.00	9,600	9,600	
12	Lawn and Garden Sprinkler System	comment re: type, condition	0	5	5	10	15	20	50	EA	75.00	3,750	3,750	
13	Railings and Handrails	Front porch - repair and painting	0	12	12	24	36	48	11	EA	250.00	2,750	2,750	
14	Unit Carpet	Replace staircase carpet	0	8	8	16	24	32	7	EA	400.00	2,800	2,800	
15	Refrigerator	Replace refrigerator	0	7	7	14	21	28	3	EA	600.00	1,800	1,800	
16	Stove	Replace stove	0	7	7	14	21	28	3	EA	500.00	1,500	1,500	
17	Interior painting		0	5	5	10	15	20	2	EA	2400.00	4,800	4,800	
18	Individual Unit HVAC	Replace in all units	0	2	2	4	6	8	2	EA	3000.00	6,000	6,000	
19	Smoke detector	Replace smoke detectors	0	5	5	10	15	20	22	EA	45.00	990	990	
20														0
21														43,590

EXHIBIT E
IMMEDIATE NEEDS

EXHIBIT F

PALM BEACH COUNTY
DEPARTMENT OF HOUSING AND ECONOMIC SUSTAINABILITY

TENANT INFORMATION REPORT

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

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

ADDRESS:	
Tenant Name:	
Head of Household No. 1 - Age:	
Head of Household No.2 – Age:	
Number of occupants:	
Annual Household Income:	\$
Monthly Rent:	\$
Lease start date:	/ /
No. of bedrooms:	
Household Income at or below 50% of AMI	[]
Household Income Above 50% of AMI up to and including 80% of AMI	[]
Female Head of Household	[]
Disabled Head of Household	[]
Farm worker	[]
Homeless	[]
White	[]
African American	[]
Hispanic Ethnicity	[]
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 HOUSING AND ECONOMIC SUSTAINABILITY
ANNUAL RENT ROLL

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

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

Building Address:				
	Apt. No. ____	Apt. No. ____	Apt. No. ____	Apt. No. ____
Tenant Name:				
Lease start date:	/ /	/ /	/ /	/ /
Contract Rent:	\$	\$	\$	\$
Tenant Rent:	\$	\$	\$	\$
No. of bedrooms:				
No. of occupants:				
Date last income certified:	/ /	/ /	/ /	/ /
Annual income:	\$	\$	\$	\$
Household Income at 50% of AMI or less	[]	[]	[]	[]
Household Income at or below 80% of AMI but greater than 50% of AMI	[]	[]	[]	[]
	[]	[]	[]	[]
	Apt. No. ____	Apt. No. ____	Apt. No. ____	Apt. No. ____
Tenant Name:				
Lease start date:	/ /	/ /	/ /	/ /
Contract Rent:	\$	\$	\$	\$
Tenant Rent:	\$	\$	\$	\$
No. of bedrooms:				
No. of occupants:				
Date last income certified:	/ /	/ /	/ /	/ /
Annual income:	\$	\$	\$	\$
Household Income at 50% of AMI or less	[]	[]	[]	[]
Household Income at or below 80% of AMI but greater than 50% of AMI	[]	[]	[]	[]
	[]	[]	[]	[]