

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: December 10, 2024 Consent Ordinance Regular Public Hearing

Department: Housing and Economic Development

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: Amendment 005 to Loan Agreement R2021-1078 (Loan Agreement) with Habitat Housing Solutions, Inc. (HHSI) for the construction of five (5), for-sale, single family affordable housing units, four (4) in the Glades area and one (1) in Lake Worth Beach, to extend the date by which the units are to be sold to an eligible buyer and placed into service from May 31, 2024 to May 31, 2025.

Summary: R2021-1078 with HHSI provided \$625,000 in HOME Investment Partnership Program (HOME)/Community Housing Development Organization (CHDO) construction funding and \$65,000 CHDO operating funds towards the construction of five (5) single family affordable housing units located at 641 SW Ave D, Belle Glade, 135 SW 10th Ave, South Bay, 275 Begonia Drive, Pahokee, 109 NW 6th Ave, Belle Glade, and 322 N E Street, Lake Worth Beach. Amendment 005 modified the Loan Agreement to extend the date by which the units are to be sold by and placed into service to May 31, 2025. HHSI is the CHDO working in coordination with Habitat for Humanity of Greater Palm Beach County.

Amendment 005 has been executed on behalf of the Board of County Commissioners (BCC) by the Director of the Department of Housing and Economic Development (DHED) in accordance with R2020-0926 as approved by the BCC on July 14, 2020, which delegated authority to the County Administrator or designee to execute standard forms, certifications, funding agreements, amendments thereto, and all other documents necessary for implementation of the Consolidated Plan, Action Plan, Community Development Block Grant, HOME and Emergency Solutions Grant activities. County PPM CW-O-051 provides that all contracts, agreements and grants signed with delegated authority must be submitted by the initiating department as a receive and file agenda item. **HOME Program grant funds are Federal funds which require a 25% local match provided by State Housing Initiatives Partnership funds. Districts 3 and 6 (HJF)**

Background and Justification: The U.S. Department of Housing and Urban Development provides an annual allocation of CDBG and HOME grant funding to Palm Beach County. HOME works to provide affordable rental housing and homeownership opportunities for persons with incomes no greater than 80% of Area Median Income.

Attachments:

1. Amendment 005 to a Loan Agreement with Habitat Housing Solutions, Inc.
2. Original Loan Agreement R2021-1078

Recommended By: Jonathan B. Brown 11/18/2024
 Department Director Date

Approved By: [Signature] 12-3-24
 Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2025	2026	2027	2028	2029
Grant Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT					
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included In Current Budget? Yes _____ No _____
 Does this Item include the use of Federal funds? Yes _____ No _____
 Does this Item include the use of State funds? Yes _____ No _____

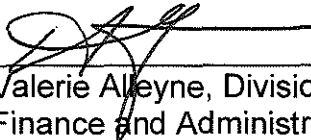
Budget Account No.:

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

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

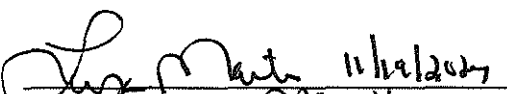
No additional fiscal impact


C. Departmental Fiscal Review:


 Valerie Alleyne, Division Director II
 Finance and Administrative Services, DHED

III. REVIEW COMMENTS

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


 OFMB 11/14/2024
 KK 11/18 JPA 11/15


 Contract Development and Control 11/19/24
 EG 11.19.24

B. Legal Sufficiency:


 Assistant County Attorney 11/21/24

C. Other Department Review:

 Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

AMENDMENT 005 TO THE LOAN AGREEMENT
WITH
HABITAT HOUSING SOLUTIONS, INC.

Amendment 005 to the Loan Agreement is made and entered into on October 24, 2024 by and between **Palm Beach County** ("County") and **Habitat Housing Solutions, Inc.** ("Borrower").

WITNESSETH:

WHEREAS, the County entered into a Loan Agreement (R2021-1078) with Borrower on June 9, 2021, as amended by Amendment 001 (R2022-0704) on June 6, 2022, Amendment 002 (R2022-1280) on August 31, 2022, by Amendment 003 (R2023-0503) on February 15, 2023, and Amendment 004 (R2024-0456) on February 29, 2024 to provide \$625,000 of HOME Investment Partnerships Program (HOME) funds and a grant of \$65,000 of HOME/CHDO operating funds for the purpose of constructing five (5) affordable housing units, four (4) of them in the Glades Area, one (1) in Lake Worth Beach; and

WHEREAS, the Borrower experienced construction delays due to material shortages and impediments related to the COVID-19 virus; and

WHEREAS, the Borrower has requested that the Loan Agreement be revised to amend the Performance Requirements date to extend the date of sale of each HOME assisted unit; and

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

SECTION 3: THE LOAN AND LOAN EXPENDITURE REQUIREMENTS

The following Performance Requirements and dates are revised as follows:

- Units to be sold and placed into service by May 31, 2024, is extended to May 31, 2025.

The Parties acknowledge that all Sections of the Loan Agreement impacted by these changes are deemed to be revised to reflect the revisions noted above.

(REMAINDER OF PAGE INTENTIONALLY BLANK)

IN WITNESS WHEREOF, Borrower and the County have caused this Amendment 005 to be executed on the date first above written.

Signed, sealed and delivered in the presence of:

Witnesses:

[Signature]
Witness Signature

Berto Gonzalez
Print Witness Name

2931 Hope Valley St #407
Address WPB, FL 33411

[Signature]
Witness Signature

Michelle Clark
Print Witness Name

3410 Seacoast St
Address Lantana FL 33462

BORROWER:

HABITAT HOUSING SOLUTIONS, INC.,
a Florida not-for-profit corporation

By: [Signature]
Donald Gill, Chief Operating Officer

(SEAL)
Corporation not-for-profit

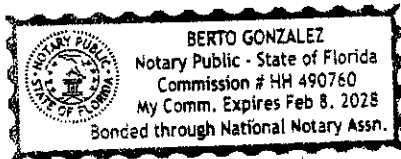
STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of physical presence or [] online notarization on this 21st day of, October, 2024, by Donald Gill, as Chief Operating Officer of Habitat Housing Solutions, Inc. who is personally known to me, or who has produced _____ as identification and who did/did not take an oath.

Signature: [Signature]

Notary Name: Berto Gonzalez
Notary Public - State of Florida

(NOTARY SEAL ABOVE)



**Amendment 005 to Loan Agreement with Habitat
Housing Solutions Inc. (5 single family homes)**

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

Signed by:
JONATHAN BROWN
44638994BEE54AA
By _____
Jonathan B. Brown, Director
Dept. of Housing & Economic Development

Date: 10/24/2024

Approved as to Form and
Legal Sufficiency

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

By: **Howard
Falcon III**
Howard J. Falcon III
Chief Assistant County Attorney

Digitally signed by Howard J. Falcon III
DN: c=US, o=PB, ou=Enterprise
ou=PB, ou=Users, cn=Howard J.
Falcon III, email=E+HFalcon@pbcc.gov
I am approving this document
Date: 2024.10.24 13:14:44-04'00'
PDF Editor Version: 12.1.0

By: Sherry Howard
Sherry Howard
Deputy Director

LOAN AGREEMENT

R2021 1078 AUG 17 2021

THIS LOAN AGREEMENT, entered into on June 9, 2021, 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 **HABITAT HOUSING SOLUTIONS, INC.**, a Florida not for profit corporation (the "Borrower"), whose principal office is at 4639 Lake Worth Road, Greenacres, FL 33463, and whose Federal Tax Identification number is 46-3352865.

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 \$1,311,286 in HOME funds available for affordable housing under Request for Proposals HES.2020.1 (RFP); and

WHEREAS, the Borrower applied to Palm Beach County for HOME funding in connection with the RFP; and

WHEREAS, on November 17, 2020, Palm Beach County approved the award of a loan in the principal amount of up to \$650,000 and a grant in the amount of up to \$65,000 in HOME funds to be made available to the Borrower subject to the execution of this Agreement; and

WHEREAS, the Borrower has requested the use of \$625,000 (the "Loan") out of the aforesaid \$650,000 in addition to the receipt of the aforesaid \$65,000 (the "Grant"); and

WHEREAS, the Borrower owns certain land which is more particularly described in Exhibit A, attached hereto and made a part hereof (the "Premises"); and

WHEREAS, the Borrower proposes to construct five (5) housing unit on the Premises as described in the Borrower's proposal in response to the RFP; and

WHEREAS, the Borrower wishes to use the Loan to fund certain costs associated with constructing the afore mentioned five (5) housing units (hereinafter referred to as the "Improvements" and the "HOME Assisted Units"); and

WHEREAS, the Borrower proposes to sell the HOME Assisted Units, upon completion of their construction, to First-Time Homebuyers (as defined herein); and

WHEREAS, the Borrower has the remainder of the financing required for the construction of the HOME Assisted Units in place from donations, its own funds and through an unsecured line of credit; and

WHEREAS, Borrower proposes to use the Grant for certain operating costs as more fully 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 for 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. OVERVIEW OF THE PROJECT:

The Borrower owns the Premises as evidenced by the following:

PCN 04-37-43-31-01-030-0810: a Quit Claim Deed recorded in Official Records Book 29758, Page 616, of the Public Records of Palm Beach County, Florida.

PCN 48-37-42-18-03-000-0070: a Quit Claim Deed recorded in Official Records Book 31350, Page 1879, of the Public Records of Palm Beach County, Florida.

PCN 58-36-44-14-05-001-0060: a Corrective General Warranty Deed recorded in Official Records Book 31488, Page 1629 of the Public Records of Palm Beach County, Florida.

PCN 58-36-44-14-16-002-0130: a Corrective General Warranty Deed recorded in Official Records Book 31488, Page 1629 of the Public Records of Palm Beach County, Florida.

PCN 58-36-44-14-16-002-0110: a Corrective General Warranty Deed recorded in Official Records Book 31488, Page 1629 of the Public Records of Palm Beach County, Florida.

On each of PCN 04-37-43-31-01-030-0810, PCN 48-37-42-18-03-000-0070 and PCN 58-36-44-14-05-001-0060, which are vacant lots, the Borrower shall construct a single-family home.

The Borrower shall combine PCN 58-36-44-14-16-002-0130 and PCN 58-36-44-14-16-002-0110, which are vacant lots, into one property, then construct a duplex (comprising two housing units) on the combined property.

The foregoing five (5) housing units to be constructed by the Borrower are the HOME Assisted Units. Each HOME Assisted Unit shall contain a minimum of three (3) bedrooms.

The Borrower shall use donations, its own funds, its line of credit and this Loan to construct the HOME Assisted Units all of which shall be affected by the requirements of this Agreement.

Upon completion of construction, each HOME Assisted Unit shall be sold to a County-approved homebuyer to be occupied as a principal place of residence for the duration of the affordability period set forth herein, and if not sold within the time frame specified herein, shall, as required herein, be rented to an income eligible household.

3. THE FUNDING AND RELATED EXPENDITURE REQUIREMENTS:

The following is provided in connection with the Borrower's receipt of Grant funds:

The County shall make the Grant to the Borrower in an amount not to exceed **\$65,000** upon the terms and conditions set forth herein.

The Borrower shall take the Grant 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.

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 construction and sale of the HOME Assisted Units (also referred to herein as "Project").

In recognition of the above, the Borrower shall implement the Project as follows:

- The Borrower shall have drawn **\$65,000 comprising the entire Grant by September 30, 2022.**

The following is provided in connection with the Borrower's receipt of Loan funds:

The County shall make the Loan to the Borrower in an amount not to exceed the principal amount of \$625,000 upon the terms and conditions set forth herein, and at the rates and terms set forth in its Promissory 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 June 30, 2021, 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 construction and sale of the five (5) HOME Assisted Units and the continued occupancy of said housing units as more fully specified herein.

In recognition of the above, the Borrower shall implement the Project as follows:

- The Borrower shall have drawn **50% of the Loan by January 31, 2022.**
- The Borrower shall have drawn **100% of the Loan by July 31, 2022.**
- The Borrower shall have completed construction of, and secured final certificates of occupancy for, the five (5) HOME Assisted Units **by September 30, 2022.**
- The Borrower shall have sold all HOME Assisted Units to First-Time Homebuyers and placed such units into service **by December 31, 2022.**

4. 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; (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 2020 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 4(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, shall be duly authorized, executed and delivered to the County;

(iv) Mortgage: The Mortgage, in a form acceptable to the County, 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.

NOTE: The parties hereto acknowledge and understand that the Maturity Date shown in the Mortgage and Promissory Note anticipates the Borrower's sale of all HOME Assisted Units by such date in accordance with this Agreement. Should the Borrower be required to rent any of the HOME Assisted Units as described in Section 11 and Section 12 herein, then the parties shall modify the Mortgage and Promissory Note to provide for a new Maturity Date reflective of the affordability period associated with the rental of HOME Assisted Units.

(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 4(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 such other items as may be noted on the title commitment that the County does not object to pursuant to Section 4(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, the 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, 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) 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 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 (except as set forth in the Loan Documents), 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 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 5 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.

5. 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.

6. MAXIMUM AMOUNT PER HOME ASSISTED UNIT:

The parties agree that the amount of HOME funds to be provided through this Agreement for eligible project costs on each of the HOME Assisted Units identified herein shall not exceed \$125,000.

7. DISBURSEMENT OF LOAN FUNDS FOR ELIGIBLE PROJECT COSTS:

After the closing, the Borrower may receive reimbursement or payment 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.**

The following is provided in connection with the Borrower's receipt of Loan fund

The Borrower shall track the amount of HOME funds it receives for each HOME Assisted Unit individually in order to clearly establish the level of HOME funding for each such unit. The Borrower shall accordingly maintain records clearly evidencing its expenditures for each HOME Assisted Unit individually including, but not limited to, contracts, invoices, receipts and bank statements, and where expenditures affect more than one HOME Assisted Unit, or a mixture of HOME Assisted Units and non-HOME Assisted Units (if any), a record of how the Borrower allocated its expenditures for each HOME Assisted Unit. When requesting reimbursement for its expenditures on the eligible costs outlined herein, the Borrower shall demonstrate to the County how it allocated its expenditures for each HOME Assisted Unit taking into account any expenditures made in connection with non-HOME Assisted Units (if any). No duplications shall be permitted and the County shall only allow documentation presented by the Borrower to establish its expenditures for each HOME Assisted Unit that the County deems acceptable in its sole opinion. **No more than \$125,000 shall be released by the County for each HOME Assisted Unit.**

(A) Building Permits, Utility Connection Fees and Impact Fees:

The Borrower may submit a request to the County for reimbursement of payments made by the Borrower after November 17, 2020, for building permits, impact fees, and utility connection fees associated with the Project provided that:

(i) A letter from the Borrower, on the Borrower's letterhead, shall be provided for each reimbursement request pertaining to the aforesaid fees. 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 said fees, as well as the name and signature of a person authorized by the Borrower to make such a request.

(ii) Evidence of payment made by the Borrower for said fees shall accompany each reimbursement request letter provided that such evidence of payment demonstrate that payment was made after November 17, 2020.

(iii) A copy of the permit application (or similar document) issued by the entity levying the fee and showing the amount of the fee owed shall accompany each reimbursement request letter.

(iv) A cost allocation spreadsheet identifying the HOME Assisted Units for which the Borrower wishes to receive reimbursement, the amount attributable to each such unit and an explanation of how the cost distribution was determined. The Borrower shall take into account any expenditures made in connection with non-HOME Assisted Units.

(B) Construction Costs:

The Borrower shall enter into one construction contract with a prime contractor covering all construction work associated with the Project (including site preparation, construction of on-site infrastructure, site improvements and amenities, the five (5) HOME Assisted Units described herein. The construction contract may include the cost of general conditions, builder's profit and overhead, builder's risk insurance and bonding costs. The construction contract shall contain a schedule of values (G 703) which shall include a detailed cost breakdown for each HOME Assisted Unit in the Project. The Borrower shall provide a copy of said schedule of values to DHES upon closing of the Loan.

The construction contract shall include the construction contract requirements associated with the use of HOME funds for the HOME Assisted Units as more fully delineated herein.

The Borrower may request reimbursement from the County for payments made by the Borrower after November 17, 2020, under the construction contract and provided that:

(i) Reimbursements made hereunder shall be limited to on-site construction improvements of the Home Assisted Units and shall **exclude** the cost of off-site improvements and work associated with Non-HOME Assisted Units.

(ii) The County shall have received a copy of the executed construction contract (including all attachments such as plans and specifications) including the schedule of values described above. Subsequently, the Borrower shall provide the County a copy of all executed change orders to the construction contract bearing the approval of the Consultant (as defined in this Agreement).

(iii) The County shall have received a copy of the Borrower's consultant's plan and cost review either addressed to or certified to the County, or accompanied by a reliance letter in favor of the County, stating that the costs contained in the prime contractor's construction contract are reasonable. The Borrower's consultant preparing the plan and cost review shall be an adequately credentialed consultant independently retained by the Borrower and not a subcontractor of the prime contractor.

(iv) Borrower shall, upon closing of the Loan, submit to County a schedule of values (G 703) which shall include a detailed cost breakdown for each HOME Assisted Unit in the Project.

(v) A letter from the Borrower, on the Borrower's letterhead, shall be provided for each reimbursement request pertaining to construction costs. 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 construction costs, as well as the name and signature of a person authorized by the Borrower to make such a request.

(vi) Evidence of payment made by the Borrower for construction costs shall accompany each reimbursement request letter provided that such evidence of payment demonstrate that payment was made after November 17, 2020.

(vii) A copy of the prime contractor's request for payment prompting the Borrower's payment shall accompany each reimbursement request letter. The contractor shall be required to use American Institute of Architects (AIA) form G702/703, or an equivalent form, to request payment, and the Consultant shall approve the contractor's payment request on each such form.

(viii) A cost allocation spreadsheet identifying the HOME Assisted Units for which the Borrower wishes to receive reimbursement, the amount attributable to each such unit and an explanation of how the cost distribution was determined. The Borrower shall take into account any expenditures made in connection with Non-HOME Assisted Units and off-site improvements.

NOTE: Whenever, form G702/703, or its equivalent form, is submitted to the County, such form shall include a detailed cost breakdown for each HOME Assisted Unit. Failure of the Borrower to submit detailed cost information on such form may result in the County's rejection of the Borrower's reimbursement request until such form is revised with sufficient detail to the reasonable satisfaction of the County.

(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 17, 2020, in connection 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 17, 2020.

(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.

The following is provided in connection with the Borrower's receipt of Grant funds:

The Borrower may receive payment for the below costs as the disbursement of Grant funds in an amount not to exceed \$65,000 subject to DHES approval as follows:

(G) Developer Fees:

The Borrower may receive payment of a **developer fee not to exceed \$13,000 per HOME Assisted Unit** for each of five (5) HOME Assisted Units as follows:

- (i) **\$3,000:** upon presentation to the County of a building permit for the HOME Assisted Unit.
- (ii) **\$5,000:** upon completion of at least 50% of construction work on the HOME Assisted Unit as evidenced by the prime contractor's request for payment approved by the Consultant.
- (iii) **\$5,000:** upon presentation to the County of a Certificate of Occupancy for the HOME Assisted Unit.

The County shall, in its sole discretion, determine the sufficiency of the documentation submitted by the Borrower for the payment of developer fees.

8. SPECIAL PROVISIONS:

The Borrower expressly agrees to the following terms and conditions:

(A) Development:

Borrower shall endeavor to develop the Premises substantially in accordance with the proposal submitted by Borrower in response to County's RFP. In the event of a conflict between a HOME funding requirement, a specific term of this Agreement, and an element of Borrower's proposal, the more stringent requirement will prevail.

(B) Project Consultant:

The Borrower shall enter into a contract with an architectural consultant, who shall be a Florida Registered Architect, and designate the architectural consultant as the "Consultant" for this Project. The Consultant shall prepare construction specifications for the Project, review all construction costs and change orders, coordinate any asbestos abatement work with the construction work, supervise the construction of the Project, review and approve all construction contractor payments, and provide DHES with written certification that the work has been completed acceptably in accordance with the plans and specifications.

(C) Property Standards:

Borrower shall construct all HOME Assisted Units in compliance with all applicable State and local codes, ordinances and zoning requirements. All construction must meet State or local residential and building codes, as applicable, or in the absence of a State or local building code, the International Residential Code or International Building Code (as applicable to the type of housing) of the International Code Council.

All HOME Assisted Units shall be constructed to mitigate the impact of potential disasters, such as hurricanes or flooding, in accordance with such governmental regulations.

All HOME Assisted Units must meet the applicable requirements upon completion of construction and shall be maintained in compliance with all such State and local codes,

ordinances and zoning requirements for the duration of the affordability period required by the Loan Documents. **This requirement shall survive the expiration or earlier termination of this Agreement.**

(D) Certificate of Occupancy:

Upon the completion of construction of each HOME Assisted Unit and the Borrower's receipt of the final Certificate of Occupancy for each such unit from the building department with jurisdiction over this Project, the Borrower shall provide the County a copy of the Certificate of Occupancy for each such unit.

(E) Prohibition Against the Use of Materials Containing Asbestos:

The Borrower shall ensure that its bid and construction contract documents contain a prohibition against the use of any materials containing asbestos in connection with the construction of all HOME Assisted Units described herein. Said documents must clearly state that all materials to be used in connection with the construction of these units shall be asbestos-free.

(F) Energy Efficiency:

The Borrower is encouraged to construct all HOME Assisted Units such that they meet the current edition of the Model Energy Code published by the Council of American Building Officials, and, to the greatest extent possible, shall meet the standards established by the United States Environmental Protection Agency, in the publication titled *A Green Home Begins with ENERGY STAR Blue* or in the Standard of the Florida Green Building Coalition Version 11.0 (or higher) (www.floridagreenbuilding.org).

The Borrower is encouraged to incorporate the following elements into its development plan:

- (i) Energy-efficient Construction Techniques and Products
- (ii) Improved Indoor Environments
- (iii) Increased Water Efficiency

(G) HUD Section 3 Clause:

The Borrower agrees to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, as they apply to Section 3 Covered Contracts exceeding \$100,000 when funded, in part or in whole, through this Agreement and awarded for Section 3 Covered Projects. For the purposes of this Agreement, the requirements of Section 3 shall apply to the herein described construction contract with the prime contractor covering all construction work associated with the Project, all subcontracts exceeding \$100,000 arising from said construction contract, all herein described consultant contracts exceeding \$100,000 for architectural, landscape architecture, surveying, engineering, and related professional services, and all subcontracts exceeding \$100,000 arising from said consultant contracts.

The Borrower shall include the following, referred to as the Section 3 Clause, in every solicitation and every contract for every Section 3 Covered Project:

Section 3 Clause:

(i) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170 1u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(ii) The parties to this contract agree to comply with HUD's requirements in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the 24 CFR Part 135 regulations.

(iii) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers representative of the contractor's commitment under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(iv) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

(v) The contractor shall certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

(vi) Non-compliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(H) Bonding Requirements:

Construction contracts and subcontracts exceeding \$250,000 shall require a performance bond and a separate payment bond each in the amount of one hundred percent (100%) of the construction contract price, executed by a corporate surety company of recognized standing, authorized to do business in the State of Florida, as security for the faithful performance and payment of all contractor's obligations under the construction contract. During the construction periods the surety company shall hold a current certificate of authority as an acceptable surety on Federal Bonds, in accordance with U. S. Department of Treasury Circular 570, Current Revision.

(I) Requirements Applicable to Construction Contract and Consultant Contracts:

The Borrower shall, in connection with the award of the construction contract to be funded, in part or in whole, through this Agreement, request the County for a document containing the HOME requirements applicable to the construction contract, and shall incorporate such document into its construction contract for the Project. Additionally, the Borrower shall impose the requirements contained therein on its prime contractor and all of the prime contractor's subcontractors. The Borrower shall also, in connection with the award of each consultant contract, if funded in part or in whole through this Agreement, request the County for a document containing the HOME requirements applicable to consultant contracts, shall incorporate such document into each consultant contract for the Project, and shall impose the requirements contained therein on all affected consultants and their subconsultants.

(J) Civil Rights and Section 504 Compliance:

The Borrower shall ensure that no person shall on the grounds 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.

(K) 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.

9. INCOME REQUIREMENTS FOR OCCUPANTS OF HOME ASSISTED UNITS:

(A) Requirements for HOME Assisted Units that are sold by the Borrower:

All HOME Assisted Units that are sold by the Borrower may only be sold to, and occupied by First-Time Homebuyers who, at the time of sale, are households whose incomes, adjusted by family size, are at no more than 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.

First-Time Homebuyer shall mean an individual or household who have not owned a home during the three-year period prior to application for HOME assistance to the Borrower. The term First-Time Homebuyer also includes an individual who is a Displaced Homemaker or Single Parent.

Displaced Homemaker shall mean an individual who: 1) is an adult; 2) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and 3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

Single Parent shall mean an individual who: 1) is unmarried or legally separated from a spouse (living in another country or in documented instances of domestic violence); and 2) has one or more minor children of whom the individual has custody or joint custody, or pregnant.

All subsequent sales of the HOME Assisted Units shall be subject to the requirements of the Second Mortgage and shall be as described in Section 11 below.

(B) Requirements for HOME Assisted Units that are rented by the Borrower:

All HOME Assisted Units that are rented by the Borrower to tenants as required below, shall be initially occupied by tenant households whose incomes, adjusted by family size, are at no more than eighty percent (80%) of AMI at the time these units are first occupied. Subsequent tenant households that occupy these units at any time thereafter, shall also have household incomes, adjusted by family size, that are at no more than eighty percent (80%) of AMI at the time these tenant households occupy these units.

THE REQUIREMENTS AND RESTRICTIONS SET FORTH IN THIS SECTION 9, INCOME REQUIREMENTS FOR OCCUPANTS OF HOME ASSISTED UNITS, SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT AND SHALL BE COVENANTS RUNNING WITH THE LAND FOR THE 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.

10. 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
 - Houses of worship 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.

11. SALE OF HOME ASSISTED UNITS FOR HOMEOWNERSHIP:

(A) Diligent Effort to Sell and Conversion to Rental Property:

The Borrower shall diligently undertake the Project such that all newly constructed HOME Assisted Units are sold and occupied by income certified households according to these requirements, that is, placed into service, by August 31, 2022. For each HOME Assisted Unit, if the Borrower is not able to enter into a "ratified sales contract" for the HOME Assisted Unit with a First-Time Homebuyer within nine (9) months of the date of completion of construction, then the HOME Assisted Unit shall be rented to an eligible tenant according to the requirements of Section 12 below. The date of completion of construction shall be the date of the Certificate of Completion or Certificate of Occupancy as issued by the building department with jurisdiction over the HOME Assisted Unit. For the purposes of this clause, a "ratified sales contract" shall mean a legally binding and enforceable agreement that has been agreed to by both the homebuyer and the Borrower and that specifies the price, proposed closing and occupancy dates, type of mortgage financing sought by the homebuyer and any contingencies.

(B) Duration of Applicability and Resale by First-Time Homebuyers:

These requirements shall apply to each HOME Assisted Unit sold by the Borrower for the period ending thirty (30) years from the date the First-Time Homebuyer acquires title to the HOME Assisted Unit. The initial and subsequent sale of each HOME Assisted Unit may only be made to First-Time Homebuyers.

(C) Permanent Ownership Housing:

All HOME Assisted Units sold by the Borrower shall be the principal place of residence of the First-Time Homebuyer.

(D) Homebuyer Income Certification:

The Borrower shall, for each First-Time Homebuyer intending to purchase a HOME Assisted Unit, submit, or cause to be submitted by a non-profit organization affiliated with the Borrower, the prospective homebuyer's household income information to DHES to enable DHES to income certify the homebuyer. The information submitted for each prospective homebuyer's household shall include income information for all persons intending to live in the HOME Assisted Unit.

At such time, the Borrower, or said affiliated non-profit organization, shall also submit to DHES documentation showing that each homebuyer meets the definition of a First-Time Homebuyer as provided herein.

DHES income certifications of homebuyers shall be valid for a period of six (6) months. The Borrower shall, for homebuyers who have been income certified by DHES and who have not completed their purchase of a HOME Assisted Unit by acquiring title to such unit within the aforesaid six-month period, resubmit, or cause to be resubmitted by the affiliated non-profit organization, the prospective homebuyer's household income information to DHES to enable DHES to income certify the homebuyer for an additional period of six (6) months.

Submission of the above documentation or information by a non-profit organization affiliated with the Borrower shall not relieve the Borrower of the Borrower's responsibility under this Agreement.

(E) Purchase Price:

The Purchase Price at which the Borrower shall sell each HOME Assisted Unit shall be no more than the lesser of:

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

The Borrower shall, prior to entering into a sales contract with the homebuyer, obtain DHES approval of the Purchase Price for each HOME Assisted Unit.

(F) Homebuyer's Debt Capacity:

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

(G) First Mortgage Source, Guidance and Approval, Right of First Refusal and Prohibition of Shared Appreciation:

The parties hereto recognize that the Borrower has made arrangements with **Habitat for Humanity of Palm Beach County, Inc. (hereinafter Habitat)** to be the first mortgage lender to the homebuyers of the HOME Assisted Units. The Borrower shall provide guidance and information to prospective homebuyers regarding the financial arrangements of the intended purchase transaction (including the first, second and third mortgages associated with the purchase transaction).

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

The Borrower shall assure that Habitat is prohibited from entering into a shared appreciation agreement with all homebuyers for the HOME Assisted Units.

The Habitat's first mortgage may contain a right of first refusal allowing the Habitat to purchase a HOME Assisted Unit being sold by a homeowner. The parties hereto recognize that should the Habitat exercise such right and purchase a HOME Assisted Unit, then the period during which the unit is in the Habitat's ownership shall represent an interruption in the thirty (30) year affordability period delineated in Section 11(B) above, and that the period of interruption must

be added to the end of the affordability period during which the property must be occupied by an income approved household.

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

(H) Determining the Development Subsidy:

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

The Development Subsidy for each HOME Assisted Unit shall be computed by deducting the Purchase Price for such unit as approved by DHES from the Development Costs for such unit as deemed acceptable to DHES.

This may be represented by the following:

Development Costs - Approved Purchase Price = Development Subsidy

In no instance for any HOME Assisted Unit may the Development Subsidy exceed \$100,000.

If the Development Costs minus the approved Purchase Price is more than \$100,000, then the Borrower shall seek to cover any amounts above the \$100,000 from its sources or from other sources.

If the approved Purchase Price of the HOME Assisted Unit equals or exceeds the Development Costs then the Development Subsidy amount to be used in Section 11(I) below shall be zero (0).

(I) Determining the Available Direct Subsidy:

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

This may be represented by the following:

Amount of HOME funds expended - Development Subsidy = Available Direct Subsidy

Proceed below unless the Available Direct Subsidy is zero (0) or less, then all the HOME funds expended shall be regarded as a development subsidy and therefore not subject to recapture. In this instance, the resale option must be used as indicated in 24 CFR 92.254(a)(5)(ii)(5) entitled "Amount subject to recapture".

(J) Overall Financing for HOME Assisted Units, Gap Financing and the Direct Subsidy:

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

- (i) If such difference is equal to the Available Direct Subsidy then the entire amount of the Available Direct Subsidy shall be regarded as the Direct Subsidy to the homebuyer and such entire amount shall be the amount to be secured by a Second Mortgage and Promissory Note as described below.
- (ii) If such difference is less than the Available Direct Subsidy then the amount of the difference shall be regarded as the Direct Subsidy to the homebuyer which enabled the homebuyer to buy the HOME Assisted Unit. Such amount shall be the amount to be secured by a Second Mortgage and Promissory Note as described below. In this instance, the amount above the aforementioned difference up to the amount of the Available Direct Subsidy shall be regarded as proceeds which may be retained by the Borrower.
- (iii) If such difference is more than the Available Direct Subsidy then the entire amount of the Available Direct Subsidy shall be regarded as the Direct Subsidy to the homebuyer and such entire amount shall be the amount to be secured by a Second Mortgage and Promissory Note as described below. In this instance, there is a gap in available financing that must be further examined in order for the transaction to be completed.

This gap could be addressed by one or more methods or a combination of such methods. For example: 1) the homebuyer could provide the gap in the financing, 2) the Borrower could assist the homebuyer in seeking to secure the gap financing needed to fully fund the Purchase Price which could be secured by a third mortgage from the Borrower or another lender but without adversely affecting the homebuyer's debt capacity, 3) the Borrower could seek to obtain additional subsidy from the County under one of its programs, 4) the Borrower could seek to obtain additional subsidy, such as a grant, from another source, 5) the Borrower could lower the Development Costs such as a reduction in the developer fee, or 6) a combinations of the preceding options. If the gap financing cannot be secured, then the sale of the HOME Assisted Unit shall be abandoned and the Borrower shall find another homebuyer for the unit.

Note: if the Borrower changes the above amounts such as a reduction in the Purchase Price or Development Costs, all above calculations must be redone.

(K) Mandatory Counseling:

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

The provision of the homebuyer's counseling certificate to DHES shall be a pre-condition for closing.

(L) Closing Statement:

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

(M) Second Mortgage and Promissory Note:

The Borrower shall, at the closing, cause each DHES approved prospective homebuyer to execute a Second Mortgage and Promissory Note in favor of the County, as provided in Exhibit G attached hereto and made a part hereof. The amount to be secured by the Second Mortgage and Promissory Note shall be the Direct Subsidy amount as calculated for each HOME Assisted Unit according to the method provided above. The Second Mortgage and Promissory Note shall only be subordinate to the instrument securing the first mortgage financing from Habitat.

In exchange for the receipt of said Second Mortgage and Promissory Note the County shall provide a HOME Partial Release of Mortgage for the property associated with the HOME Assisted Unit being sold by the Borrower. The HOME Partial Release of Mortgage shall remove the lien of the Mortgage from the HOME Assisted Unit being sold. The execution and delivery of said HOME Partial Release of Mortgage is hereby delegated to the County Administrator, or designee, and shall not require any further action by the Palm Beach County Board of County Commissioners. Furthermore, the County shall, in connection with the Borrower's sale of the last HOME Assisted Unit, provide the Borrower a Satisfaction of Mortgage in lieu of the above stated HOME Partial Release of Mortgage thereby evidencing the full satisfaction of the Mortgage. The execution and delivery of said Satisfaction of Mortgage is hereby delegated to the County Administrator, or designee, and shall not require any further action by the Palm Beach County Board of County Commissioners.

The Borrower shall cause the recording of the HOME Partial Release of Mortgage, the Satisfaction of Mortgage and the Second Mortgage (with a copy of its associated Promissory Note) in the public records of Palm Beach County, and thereafter cause the original Second Mortgage and the original Promissory Note to be provided to DHES.

THE REQUIREMENTS AND RESTRICTIONS SET FORTH IN THIS SECTION 11, SALE OF HOME ASSISTED UNITS FOR HOMEOWNERSHIP, SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT AND SHALL BE COVENANTS RUNNING WITH THE LAND FOR THE 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.

12. RENTAL OF HOME ASSISTED UNITS TO TENANTS:

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

(A) Diligent Effort, Rental Occupancy, and Repayment of HOME Funds:

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

(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 Project Completion as defined herein

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 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 24 CFR 92.203(a)(1)(i).

In addition to the Borrower's verification of each tenant's household income at the time a new tenant occupies a HOME Assisted Unit, the Borrower shall re-verify the tenant's household income **annually** 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 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 HOME Assisted Unit is first occupied, and thereafter, at any time new tenants occupy a HOME Assisted Unit: 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;

(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 12, RENTAL OF HOME ASSISTED UNITS TO TENANTS, 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 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.

13. REPORTING REQUIREMENTS:

(i) The Borrower shall submit to the County a **Monthly Performance Report** in the form provided as Exhibit D to this Agreement. The Borrower shall first submit this Report on the last day of the month during which this Agreement is executed, and thereafter, on the last day of each subsequent month. After the Borrower provides a Report for the month during which the last Certificate of Occupancy issued for the Project, the Borrower may cease submitting this Report.

(ii) The Borrower shall submit to the County a **Tenant Information Report** in the form provided as Exhibit E 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.

(iii) The Borrower shall submit to the County an **Annual Rent Roll** in the form provided as Exhibit F 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.

(iv) The Borrower shall submit to the County a **Section 3 Report** to be provided on a monthly basis. The format and content of said report shall be determined by the County at a later date and promptly communicated to the Borrower.

(v) The Borrower agrees to submit to DHES any other reports required by HUD and/or DHES in connection with activities undertaken through this Agreement.

14. 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 construction 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.

15. 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.

(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.

16. 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.

17. 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.

18. 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 adjudicated 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, and Borrower 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, and Borrower 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 costs eligible for reimbursement by the County as set forth herein by September 30, 2022. In the event Borrower fails to use all HOME funds by September 30, 2022, 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 Complete Construction and Secure Final Certificates of Occupancy:

If the Borrower fails to complete the construction of, and to secure final certificates of occupancy for, the five (5) HOME Assisted Units by September 30, 2022, unless revised by written agreement between the parties.

(G) Failure to Sell and Place Units into Service:

If the Borrower fails to sell the five (5) HOME Assisted Units to First-Time Homebuyers and placed such units into service by December 31, 2022, unless revised by written agreement between the parties.

(H) 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.

19. 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, exercise one or all of the following remedies:

(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.

20. 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 Principles 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 to 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: Habitat Housing Solutions, Inc.
4639 Lake Worth Road
Greenacres, FL 33463

(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.

21. 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.

IN WITNESS WHEREOF, Borrower and the County have caused this Agreement to be executed on the dates set forth herein.

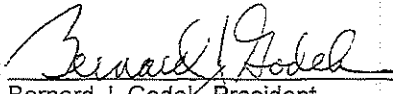
Signed, sealed and delivered
in the presence of:

BORROWER:

HABITAT HOUSING SOLUTIONS, INC.
a Florida not for profit corporation



Witness Signature


By: 

Bernard J. Godek, President



Print Witness Name

Date: May 27, 2021



Witness Signature

MICHAEL R. WILSON

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 May 27, 2021, by Bernard J. Godek, as President of Habitat Housing Solutions, Inc., who is personally known to me, or who has produced as identification and who did/did not take an oath.



(NOTARY SEAL ABOVE)

Signature: 

Notary Name: MICHAEL R. WILSON
Notary Public - State of Florida

R2021 1078 AUG 17 2021

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

FOR ITS BOARD OF COUNTY COMMISSIONERS

By: Jonathan Brown
Jonathan B. Brown, Director
Dept. of Housing and Economic Sustainability

Date: 6/9/2021

Approved as to Form and
Legal Sufficiency

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

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

By: Sherry Howard
Sherry Howard
Deputy Director

EXHIBIT A

LEGAL DESCRIPTION

The West 80 feet of the East 315 feet of the South 85 feet of the North 1075 feet of Lot 30, Section 31, Township 43 South, Range 37 East.

Lot 7, of Armstrong Addition to Pahokee, according to the Plat Thereof, as recorded in Plat Book 23, Page 12, of the Public Records of Palm Beach County, Florida.

FISHERS SECOND ADDITION LOT 6, BLOCK A. The above being the real property described under Tax Certificate Number 22934 in the Tax Deed recorded in Official Records Book 19437, Page 1928, Public Records of Palm Beach County, Florida.

Lots 11, and 12, inclusive of Block B of Byrd's Addition of South Bay No. 1, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 18, Page 61.

Lots 13, 14, 15, and 16, inclusive of Block B of Byrd's Addition of South Bay No. 1, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 18, Page 61.

EXHIBIT B

PROMISSORY NOTE

\$625,000

West Palm Beach, Florida

Date: _____

FOR VALUE RECEIVED the undersigned **HABITAT HOUSING SOLUTIONS, 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 and Twenty Five Thousand and 00/100 Dollars (\$625,000.00)** (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) Unless acceleration is made by Holder pursuant to the provisions hereof, the outstanding principal balance from time to time remaining unpaid from the date of each disbursement, plus accrued interest thereon, plus any amounts due under this Note or any other Loan Document shall be paid in full no later than **December 31, 2022 (Maturity Date)**, however, Holder shall prior to the Maturity Date, upon the sale of each HOME Assisted Unit in accordance with the Loan Agreement, forgive the portion of the principal amount of this Note disbursed by the Holder in connection with the sold HOME Assisted Unit and thereupon deliver to the Maker a partial release of the Mortgage in exchange for the receipt of a separate mortgage from the buyer of the HOME Assisted Unit as more fully described in the Loan Agreement.
- 3) Upon acceleration, this Note shall bear interest at the maximum interest rate allowed by applicable law until paid in full.
- 4) 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, Florida.
- 5) 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, and 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 IN ANY ACTION, WHETHER ARISING IN CONTRACT OR TORT, BY STATUTE OR OTHERWISE, IN ANY WAY RELATED TO THIS NOTE. THIS PROVISION IS A MATERIAL INDUCEMENT FOR HOLDER'S EXTENDING CREDIT TO MAKER AND NO WAIVER OR LIMITATION OF HOLDER'S RIGHTS UNDER THIS PARAGRAPH SHALL BE EFFECTIVE UNLESS IN WRITING AND MANUALLY SIGNED ON HOLDER'S BEHALF.

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

Signed, sealed and delivered
in the presence of:

MAKER:

Witnesses:

HABITAT HOUSING SOLUTIONS, INC.,
a Florida not for profit corporation

Witness Signature

By: **DO NOT SIGN THIS EXHIBIT**
Bernard J. Godek, President

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 Bernard J. Godek, as President of Habitat Housing Solutions, 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 **HABITAT HOUSING SOLUTIONS, 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 **Six Hundred and Twenty Five Thousand and 00/100 Dollars (\$625,000.00)** to Mortgagor and in connection therewith Mortgagor has this date executed and delivered to Mortgagee a Promissory Note, in the amount of \$625,000, (the "Note"). A true copy of the 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 Mortgaged Property 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 Mortgaged Property in fee simple and has good right to convey the same, that the same are unencumbered 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 **\$625,000** and has a maturity date of December 31, 2022, unless such maturity is accelerated as set forth in the Note, or this Mortgage, 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:

At any time while the Mortgaged Property is in the possession of the Mortgagor, the Mortgagor shall comply with the following requirements:

The Mortgagor will keep the Mortgaged Property continuously insured in an amount no less than its 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 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:

At any time while the Premises are in the possession of the Mortgagor, the Mortgagor shall comply with the following requirements:

(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) Use of Loan Funds, Units to be Constructed and Related Dates:

The Mortgagor shall use the loan proceeds in the amount of **\$625,000** for eligible project costs specified in the Loan Agreement in order to construct five (5) dwelling units (the "HOME Assisted Units") located on the Premises as is more fully described in the Loan Agreement.

The Mortgagor shall be required to have drawn 50% of the loan, **by January 31, 2022.**

The Mortgagor shall be required to have drawn 100% of the loan, **by July 31, 2022.**

The Mortgagor shall be required to have completed construction of, and secured final certificates of occupancy for, the five (5) HOME Assisted Units **by September 30, 2022.**

The Mortgagor shall be required to have sold the five (5) HOME Assisted Units to Eligible Beneficiaries (as defined in the Loan Agreement) and placed such units into service **by December 31, 2022.**

(b) Income Requirements for Occupants of HOME Assisted Units:

The Mortgagor shall cause all HOME Assisted Units to be occupied by households whose incomes are as specified in Section 9 of the Loan Agreement entitled: Income Requirements for Occupants of HOME Assisted Units.

(c) Sale of Home Assisted Units for Homeownership:

The Mortgagor shall sell all HOME Assisted Units according to the requirements of Section 11 of the Loan Agreement entitled: Sale of Home Assisted Units for Homeownership.

(d) Rental of Home Assisted Units to Tenants:

HOME Assisted Units that the Mortgagor is unable to sell according to the requirements of Section 11 of the Loan Agreement shall be rented by the Mortgagor according to the requirements of Section 12 of the Loan Agreement entitled: Rental of Home Assisted Units to Tenants.

THE REQUIREMENTS AND RESTRICTIONS SET FORTH IN THIS SECTION 1.6 SHALL BE COVENANTS RUNNING WITH THE LAND FOR THE TERM OF THIS MORTGAGE AND SECURITY AGREEMENT AND SHALL SURVIVE THE SATISFACTION OR EARLIER TERMINATION OF THIS MORTGAGE AND SECURITY AGREEMENT. IN THE EVENT THE MORTGAGE IS SATISFIED PRIOR TO THE MATURITY DATE, 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, FLORIDA.

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 Mortgaged Property 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, upon 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 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 of the Premises 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 Mortgaged Property; (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 Mortgaged Property 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), and except as permitted under Section 2.3 herein, without the Mortgagee's prior written consent, which consent may be granted or denied in Mortgagee's sole discretion, 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) unless otherwise permitted by the Mortgagee as provided herein, 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, 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 not 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 is 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 any of the other Loan Documents including, without limitation, 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 Assumption of Note and Special Conditions:

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

In the event the Note will not be assumed upon sale or transfer of the Premises, all available proceeds of the sale or transfer 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) The outstanding principal under the Note;
- (4) This Mortgage debt in full, including fees.

(b) Except as set forth in Section 2.3(a) above, all of the principal and interest of the indebtedness secured hereby shall be due and payable upon sale or transfer of the Premises.

(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 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, permitted successors and permitted 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 as provided herein and in the Loan Documents.

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: Habitat Housing Solutions, Inc.
 4639 Lake Worth Road
 Greenacres, FL 33463

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 record 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 Mortgaged Property 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 or other Loan Documents 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 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 Loan Documents and the Loan Documents, as modified, shall remain superior to the interest of any party in the Mortgaged Property 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 party 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.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

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:

MORTGAGOR:

Witnesses:

HABITAT HOUSING SOLUTIONS, INC.,
a Florida not for profit corporation

Witness Signature

By: **DO NOT SIGN THIS EXHIBIT**
Bernard J. Godek, President

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 Bernard J. Godek, as President of Habitat Housing Solutions, 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 A
The Premises

LEGAL DESCRIPTION

The West 80 feet of the East 315 feet of the South 85 feet of the North 1075 feet of Lot 30, Section 31, Township 43 South, Range 37 East.

Lot 7, of Armstrong Addition to Pahokee, according to the Plat Thereof, as recorded in Plat Book 23, Page 12, of the Public Records of Palm Beach County, Florida.

FISHERS SECOND ADDITION LOT 6, BLOCK A. The above being the real property described under Tax Certificate Number 22934 in the Tax Deed recorded in Official Records Book 19437, Page 1928, Public Records of Palm Beach County, Florida.

Lots 6, 7, 8, 9, 10, 11, and 12, inclusive of Block B of Byrd's Addition of South Bay No. 1, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 18, Page 61.

Lots 13, 14, 15, and 16, inclusive of Block B of Byrd's Addition of South Bay No. 1, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 18, Page 61.

EXHIBIT D

PALM BEACH COUNTY
DEPARTMENT OF HOUSING AND ECONOMIC SUSTAINABILITY

MONTHLY PERFORMANCE REPORT

Report For:	Month: _____ Year: 20____
Project Name:	Habitat Housing Solutions: 5 Units
Report Prepared By:	_____ Name Signature Date

FINANCING ACTIVITIES

Describe your accomplishments during the reporting period: _____

DESIGN AND LAND PLANNING ACTIVITIES

Describe your accomplishments during the reporting period: _____

CONSTRUCTION ACTIVITIES

Describe your accomplishments during the reporting period: _____

MARKETING AND SALE ACTIVITIES

Describe your accomplishments during the reporting period: _____

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

EXHIBIT E

PALM BEACH COUNTY
DEPARTMENT OF HOUSING AND ECONOMIC SUSTAINABILITY

TENANT INFORMATION REPORT

Project Name:	Habitat Housing Solutions: 5 Units		
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 F

**PALM BEACH COUNTY
DEPARTMENT OF HOUSING AND ECONOMIC SUSTAINABILITY
ANNUAL RENT ROLL**

Project Name:	Habitat Housing Solutions: 5 Units		
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:				
	Unit No. ___	Unit No. ___	Unit No. ___	Unit 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	[]	[]	[]	[]
	[]	[]	[]	[]
	Unit No. ___	Unit No. ___	Unit No. ___	Unit 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	[]	[]	[]	[]
	[]	[]	[]	[]

EXHIBIT G

Return to:
Palm Beach County
Department of Housing and Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406
Attention: Dorina Jenkins

SECOND MORTGAGE
(HOME PROGRAM)

THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT WHEN DUE IS \$ _____ PLUS ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERM OF THIS MORTGAGE.

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

WITNESSETH, that for good and valuable considerations, and in consideration of the sum of _____ and 00/100 Dollars (\$ _____) loaned by Mortgagee to Mortgagor, Mortgagor has executed and delivered to Mortgagee a Promissory Note of even date herewith, a copy of which is attached hereto as Attachment 1, and Mortgagor hereby gives, leases, bargains, sells, warrants, aliens, remises, releases, conveys, assigns, transfers, mortgages, hypothecates, deposits, pledges, sets over and confirms unto the Mortgagee all the certain land of which the Mortgagor is now seized and in possession situate in Palm Beach County, Florida, hereinafter the "Property", viz:

Legal Description

Property Control Number:

Property Address:

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

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

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

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

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

Note to preparer: the below paragraph regarding flood insurance must be included in the mortgage for 205 S. Barfield Highway and 290 Cypress Avenue in Pahokee but NOT for 540 SW 8th Street, Belle Glade (delete this note after you have done so).

The Mortgagor shall, for the term of this Mortgage, keep all buildings, other structures and improvements, now existing or which may hereafter be erected or installed on the land mortgaged hereby, insured against loss by flood. Flood insurance, from the National Flood Insurance Program, shall be in amounts not less than the remaining principal balance on the Note plus the remaining principal balance on the First Note (as defined below) and shall have attached thereto loss payable clauses in favor of the Mortgagee and the First Mortgage (as defined below).

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

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

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

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

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

For the purpose of and without limiting the generality of the preceding sentence, the occurrence any time of any of the following events shall be deemed to be an Event of Default hereunder:

(a) Any sale, conveyance, assignment or other transfer of or the grant of security interest in, all or any part of the title to the Property within **thirty (30) years** of the date of this Mortgage without the prior written consent of the Mortgagee. Nevertheless, title to the Property may be voluntarily transferred by the Mortgagor to another Mortgagor only if such other Mortgagor has been approved by the County, in its sole discretion and in writing, as being an income eligible homebuyer, and only if no additional HOME assistance is provided to such other Mortgagor. Such other approved Mortgagor shall then abide by these covenants for the remainder of the **thirty (30) year** term of this Mortgage which shall then be accomplished by means of a new mortgage executed by the other approved Mortgagor upon satisfaction of this Mortgage, which new mortgage shall encumber the Property for the balance of the **thirty (30) year** term and otherwise be identical to this Mortgage.

Notwithstanding the foregoing, the First Lender (as defined below) may acquire title to the Property under its right of first refusal at the time the Mortgagor sells, conveys, assigns or otherwise transfers title to the Property where such acquisition of title by the First Lender is subject to this Mortgage then: (i) the First Lender shall, within one (1) year of acquiring title to the Property, further sell, convey, assign or otherwise transfer title to the Property to another Mortgagor, approved by the County, who meets the conditions specified above, and (ii) the other Mortgagor shall abide by these covenants for the remainder of the **thirty (30) year** term of this Mortgage and grant the County a new mortgage which shall encumber the Property for the balance of the **thirty (30) year** term and otherwise be identical to this Mortgage. The County may exercise its rights and remedies as made available under this Mortgage should the foregoing not be met.

(b) Any new or additional liabilities without the prior written consent of Mortgagee.

(c) Any lease of the Property or a part thereof.

(d) Any default under the First Mortgage.

(e) Any consent by the Mortgagee, or any waiver of an event of default, shall not constitute a consent to, or waiver of any right, remedy or power of the Mortgagee upon a subsequent event of default. If any sum of money herein referred to is not promptly paid within 15 days after the same becomes due, or if each and every agreement, stipulation, condition and covenant of said note and this Mortgage, or either, are not fully performed, complied with and abided by, then the entire sum mentioned in said Promissory Note, and this Mortgage, or the entire balance unpaid thereon, shall forthwith or thereafter, at the option of the Mortgagee, become and be due and payable, anything in said Promissory Note or herein to the contrary notwithstanding. Failure by the Mortgagee to exercise any of the rights or options herein provided shall not constitute a waiver of any rights or options under said note or this Mortgage accrued or thereafter accruing.

Right to Appointment of Receiver. In any action to foreclose this Mortgage, the Mortgagee shall be entitled, without notice, without regard to the adequacy of any security for the indebtedness secured hereby and without regard to the solvency of any person, firm or company who is or may become liable for the payment of all or any part of the debt secured hereby, to have a receiver appointed with all the rights and powers permitted under the laws of the State of Florida. In addition, the receiver shall be entitled to take any and all action necessary or deemed advisable to lease the Property, including, without limitation, making reasonable improvements or tenant improvements and adding the cost of same to the debt secured hereby. In the event that a receiver of the Property is appointed hereunder, such receiver shall also have and may enforce all of the rights and remedies of the Mortgagee hereof.

Right to Enter Property: The Mortgagee, by any of its agents or representatives, shall have the right to inspect the Property from time to time at any reasonable hour of the day. Should the Property, or any part thereof, at any time require inspection, repair, care or attention of any kind or nature not provided by this Mortgage 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 Property 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.

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

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

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

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

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT WHEN DUE IS \$ _____ PLUS ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERM OF THIS MORTGAGE.

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

SIGNED, SEALED, AND DELIVERED IN THE PRESENCE OF:

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

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

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, on _____, by _____, who is personally known to me or has produced _____ as identification and who did (did not) take an oath.

Signature: _____

NotaryName: _____
Notary Public - State of Florida

(NOTARY SEAL ABOVE)

ATTACHMENT 1

PROMISSORY NOTE
(HOME PROGRAM)

Amount: \$ _____

Date: _____

Property Address: _____

Place: Palm Beach County, Florida

FOR VALUE RECEIVED, the undersigned _____ (herein the "Maker") jointly and severally promise(s) to pay to the order of Palm Beach County, a political subdivision of the State of Florida, (herein the "County"), 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 amount of _____ and 00/100 Dollars (\$ _____), plus accrued interest, if any, and any advancements made pursuant to the terms of the Mortgage, to be paid in lawful money of the United States of America, as follows:

Maker shall, within thirty (30) years of the date hereof, upon the lease, sale, transfer, conveyance or alienation of any part or all of the property identified and legally described in the Mortgage used to secure this Promissory Note, pay the County in full the sum of the principal amount hereof plus accrued interest, if any, plus any advancements made pursuant to the terms of the Mortgage, which sum shall become immediately due and payable.

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

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

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

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

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

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

Thirty (30) years from the date of this Promissory Note, if the following two conditions have been met, the entire Promissory Note will be deemed satisfied and the Maker shall have no further obligation to the County under this Promissory Note:

1) There have been no defaults in the performance of any of the covenants, understandings and agreement obtained and entered into to secure financing used in connection with this Promissory Note or in said Mortgage; and

2) There has been no sale, transfer, conveyance or alienation of any part or all of the property secured in said Mortgage.

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

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

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

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

Name: _____ Signature: _____

Name: _____ Signature: _____