

# **AGENDA**

## **Palm Beach County Housing Finance Authority**

**\*\*\*\*\***

**FRIDAY, MARCH 13, 2020**

**9:00 A.M.**

**Palm Beach County Airport Center  
Complex  
100 Australian Avenue  
4th Floor (#4-790) Training Room  
West Palm Beach, FL 33406**

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# Meeting Agenda

March 13, 2020

PBC Airport Center – Human Resources Training Room 4-790  
100 Australian Avenue, West Palm Beach, FL 33406

## Housing Finance Authority of Palm Beach County

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### Chairperson

Gary P. Eliopoulos

### Vice Chair

Bobby "Tony" Smith

### Secretary

Robin B. Henderson

Clark D. Bennett

Patrick J. Franklin

James H. Harper, Sr.

Charles V. St. Lawrence

### Executive Director

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[dbrandt@pbcgov.org](mailto:dbrandt@pbcgov.org)

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## I. Call to Order

- a. Roll call and establishment of quorum

## II. Public comment on Agenda Items

## III. Agenda Approval

- a. Additions, deletions, substitutions
- b. Adoption

## IV. Consent Agenda

- a. Minutes of the February 14, 2020 meeting
- b. General Fund Requisition #2-2020
- c. Multifamily project occupancy report for December

## V. Public hearing - "Gould House" apartments

## VI. Old Business

- a. Lake Mangonia apartments - consideration of LURA subordination – Resolution #R-2020-04

## VII. New Business

- a. Community Land Trust of PBC – consideration of a Master Line of Credit agreement – Resolution #R-2020-05
- b. Presentation of multifamily bond application for "Malibu Bay" apartments – consider approval of bond inducement Resolution #R-2020-06
- c. Presentation and acceptance of September 30, 2019 audited financials
- d. Consider change in April and May board meeting dates

## VIII. Other matters

- a. Matters of Authority members
- b. Matters of the Executive Director and Professionals
- c. Matters of the Public
- d. Next meeting date: 9:00 a.m., Friday, May 1, 2020  
PBC Airport Center, Human Resources Training Rm. 4-790

## IX. Adjournment

To: Housing Finance Authority

From: Executive Director

RE: March 13, 2020 regular meeting

Dated: March 5, 2020

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## **V. Public Hearing – “Gould House” apartments**

At the meeting of February 14, 2020, the Authority reviewed the application for and approved a not-to-exceed \$35M bond issuance official action “inducement resolution” in connection with the acquisition and rehabilitation of the 101-unit “Gould House” apartment’s project. The property is located at 21000 Ruth and Baron Coleman Boulevard in suburban Boca Raton in unincorporated Palm Beach County (“PBC”). The purchaser will be an entity affiliated with Fairfield Affordable. Included in the agenda materials is the public meeting notice posted to the Authority’s website on February 27 and published in the Palm Beach Post on February 29 both of which are more than the minimum 7 day advance notice requirement of the IRS.

## **VI. Old Business**

### **Item (a.) Lake Mangonia – LURA subordination – Resolution R-2020-04**

The owner of the Lake Mangonia (formerly Azalea Place) apartments (an entity affiliated with Southport Development) refinanced the project in February of 2018 which resulted in the redemption of the Authority’s then outstanding bonds but did result in a termination of the land use restriction agreement (“LURA”). In connection with that refinancing the Authority approved and executed the customary subordination, in the form of a First Amendment to Amended and Restated LURA, to the new HUD first mortgage on the property. The owner is now getting supplemental financing from HUD which it is consolidating into a new loan, and again seeking the Authority’s consent to a subordination of the LURA.

**Staff recommends a motion: to approve Resolution #R-2020-04 for a Second Amendment to Amended and Restated Land Use Restriction Agreement providing for a subordination of the LURA to the HUD financed mortgage security instruments.**

## VII. New Business

### **Item (a.) Community Land Trust of Palm Beach County – Master Line of Credit agreement - Resolution #R-2020-05**

The Authority has previously provided construction financing to the CLT beginning with one for the construction of the Davis Landings West apartments in 2012 up to and including an extension of a loan for the final two Kirk Road homes project which was approved at the last Authority meeting in February.

The CLT would like to apply for Community Housing Development Organization (“CHDO”) funding through PBC HES to build a home on an in-fill lot in Lake Worth. The total cost of the home is estimated at \$242K and would be sold to a buyer at 80% or less of area median income. They are seeking 24-month construction financing from the Authority for this amount, at 2% interest, to be secured by a first lien on the lot and improvements.

In order to apply for funding under the CHDO RFP, which is due on March 16, they need to demonstrate to HES that they have construction financing in place. The CLT anticipates more of this type of funding becoming available from time to time, so rather than ending up with a series of separate loan agreements each requiring Authority consideration and approval, staff is recommending a \$250K master line of credit agreement virtually the same as the one the Authority entered into with the West Palm Beach Housing Authority in 2016. Any increase in the amount of the line would need Authority approval.

The CLT’s application and backup exhibits, together with the form of approving resolution prepared by General Counsel Skip Miller, are included in the agenda materials.

**Staff recommends a motion: to approve Resolution #R-2020-05 providing for a revolving Master Line of Credit agreement with the CLT of PBC.**

**Item (b.) Presentation of multifamily bond application and consideration of approval of inducement resolution for “Malibu Bay” apartments – acquisition/rehabilitation – Lincoln Avenue Capital – Resolution R-2020-06**

Included in the agenda materials is an application, under letterhead of Lincoln Avenue Capital, Santa Monica, CA, (company bio included), requesting the consideration of the issuance of up to \$40M tax exempt bonds for the acquisition and rehabilitation of the 264-unit “Malibu Bay” family apartments located at 750 Malibu Bay Drive in the City of West Palm Beach across from the Outlet Mall on Palm Beach Lakes Boulevard. Mr. Andrew Cribbs and/or Mr. Ryan Withall are expected for the presentation on behalf of the developer.

**Background on the developer:** The bio provided by the developer states that they are primarily an affordable rental housing owner/developer with 48 properties totaling over 9K units in eleven states with offices in California and New York City. They are a Matthew Bronfman family owned business, and the general partner of the applicant/borrower will be majority owned by Bronfman family members or beneficiaries.

**The project:** The project was constructed in 2004 and consists of 263 family units of which 48 are 1/1 units of 705 square feet, 108 2/2 of 954 square feet, and 108 3/2 1,146 square feet with a pool, clubhouse and children’s playground. Current rents for the project are at the 2019 Housing Tax Credit 60% of AMI maximum limits of \$825, \$998, and \$1,151 except for one unit at 50% of AMI. The project pro-forma, with a 5% vacancy/collection loss, demonstrating a 1.15x debt service coverage.

**The financing:** Lincoln Capital Acquisitions LLC has entered into a contract to purchase the project for \$38M from an affiliated entity of the Housing Trust Group which financed the construction of the project through the Authority with the issuance of \$20M of bonds in 2003. Those bonds were redeemed in whole in 2015 but the LURA remains in effect until July 2020. The purchase and sale contract is to be assigned to the borrower entity Malibu Bay Preservation, Ltd. The Authority’s financing is proposed as a not-to-exceed \$40M tax exempt bond purchased by Citibank, N.A. under their tax exempt “Back-to-Back” program, with an initial two year interest only period followed by a 35-year principal amortization and a 16.5 year term. Citibank will also provide an \$8.3M taxable bridge loan during construction. The maximum loan-to-value ratio is 90%, the maximum loan-to-cost is 80%, the minimum debt service coverage ratio is 1.15x, and the expected all-in interest rate is approximately 3.3% excluding on-going issuer and trustee’s fees. Other sources of funding include \$15.75M of HTC equity and \$2.1M of deferred developer fee.

The following is a summary breakdown of all permanent phase sources and uses of funds including the purchase price (\$144K per unit) and \$8.5M for rehabilitation of the property (approximately \$32K per unit):

<u>Uses of Funds:</u>		<u>Sources of Funds:</u>	
Purchase price	\$ 38,000,000	Low Income Housing Tax Credit equity	\$ 15,759,373
Construction costs & contingency	8,500,000	Bonds – Series A	40,000,000
Financing costs	1,853,342	Sub debt to be assumed:	
		SF Regional Plan. Council	800,000
General development costs	1,711,158	City of WPB HOME	200,000
Operating reserves & escrow	1,353,269	PBC SHIP	262,000
Developer fee	<u>8,055,409</u>	Deferred developer fee	<u>2,451,805</u>
Total Uses	\$59,473,178	Total Sources:	\$59,473,178

Per the developers narrative rehabilitation is to include: interior renovations including interior door hardware replacement; replacement of kitchen cabinets/vanities; replacement of kitchen sinks and faucets; replacement of windows and sliding doors with higher efficiency double glazed units; replacement of bathroom fixtures with low flow toilets, showerheads, and aerators installed; replacement of appliances with EnergyStar rated units; replacement of HVAC systems with higher efficiency systems (minimum SEER 14); replacement of water heaters with higher efficiency units; replacement of interior light fixtures with higher efficiency LED fixtures; replacement of blinds; and replacement of vinyl flooring. All rehabilitation will be completed with tenants in place. Additional external work will include the replacement of the roof, replacement of attic insulation; installation of a solar panel system, painting of all exterior walls and sidings, exterior lights replacement with LED light fixtures, and upgrade of leasing office (vinyl floor installation, upgrade of light fixtures, etc.). Construction is expected to be completed within 12 months. Staff has deemed the application complete.

The anticipating schedule for this project is application/inducement consideration at the March 14 meeting, a TEFRA hearing at the next Authority meeting, with a bond authorizing resolution and a credit underwriting report presented at either the June or July meeting. Board of County Commission approval of the TEFRA results and sale of the note would be by early June, and a bond closing by July 1. Rehab construction would begin in July and be completed within one year. The form of inducement resolution to be considered at the March 13 meeting is included in the agenda materials.

**Staff recommends a motion: to approve the inducement Resolution #R-2020-06 declaring preliminary approval for the issuance of not exceeding \$40,000,000 multifamily housing revenue bonds for the “Malibu Bay” apartments, and assign Greenberg Traurig as bond counsel.**

### **Item (c.) Presentation of September 30, 2019 general fund audit report**

Mark Veil of Caler, Donten, Levine Porter & Veil, P.A., will make a presentation of the final draft of their audit report and findings together with their “Governance Report”. Upon finalization and acceptance/filing by the Authority, the auditor will submit the final report to the PBC Office of Financial Management and Budget and to the Clerk.

Pages 3 through 7 of the audit report is “Management’s Discussion and Analysis” of financial operations. In previous years I pointed out that the Authority’s total operating revenues were on a continued downward trend due to the redemption in whole of old outstanding bond issues and the attend loss of fee income. The drop multi-family bonds issues finally bottomed out in 2016 and actually rose in 2017 as newly financed projects made up for older projects at the end of their respective qualified project period set-aside requirements. While there was an additional blip in 2018, revenues improved dramatically for 2019. In addition, revenues from loans originated under the single-family mortgage “Own a Home Opportunity” program have contributed greatly to operations with 2019 being the highest level since inception of the current program in 2014. Operating expenses have held very constant and actually declined slightly in 2019 from lower professional fees for accounting and auditing servicers. As a result, operating revenues have consistently exceeded expenses for the prior three fiscal years.

Non-operating revenue/expense consists primarily of interest earnings and payoffs of down payment assistance (“DPA”) second mortgage loans, while expenditures consist of advances for DPA loan originations under the “Own A Home Opportunity Program” (“OAHOP”) single-family program with the Lee HFA. We anticipated that during the first ten or so years of loan origination under the OAHOP, which began in 2013, to see a net expense to the Authority after which loan prepayments would begin to more closely match advances; and this would result in little to no reduction of Net Position. That said Authority “Net Position” has increased over last three years. The only outstanding items remaining at the time of the March 13 agenda dissemination are two third party audit confirmations.

**Staff recommends a motion: to accept and file the September 30, 2019 general fund financial statements and audit report.**



**Item (d.) Consider changes to board meeting dates**

The next meeting of the Authority is scheduled for April 10, and the May meeting was set for the fourth Friday of May, the 22<sup>nd</sup>, as the NALHFA conference is the second week of that month and the conference room was not available on the third Friday of the month. Both general counsel and I have personal conflicts on April 10, and I also now have a conflict on May 22. What I would propose is a consolidation of these two meetings to one held on Friday, May 1 (the room has been reserved) which is roughly between the scheduled April and May meeting dates.

**Staff recommends a motion: to cancel the April 10 and May 22 meeting dates, and to post and publish the new meeting date of May 1, 2020 in Room 4-790.**

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## **Tab 1**

### **IV. Consent Items - attachments**

- a.** Minutes of February 14, 2020 regular meeting
- b.** General Fund Requisition #2-2020
- c.** Multi-family project occupancy report for December 2019

**HOUSING FINANCE AUTHORITY**  
**OF PALM BEACH COUNTY**  
**MINUTES**

**Meeting Date & Time:**

9:00 A.M., Friday February 14, 2020

**Location:**

PBC Airport Center  
100 Australian Avenue  
4<sup>TH</sup> Floor, Room 4-790  
West Palm Beach

**Attendance Sign-in Sheet/others**

Nathaniel Dutt, Nelson Mullins  
Billy Kreinik, Fairstead  
Cindee LaCourse-Blum, CLT of PBC

**Staff and professionals:**

David Brandt, Executive Director  
Jennifer Hamilton, administrative assistant  
Skip Miller - general counsel – Greenspoon Marder  
Amanda Kumar – custodian/bond trustee - US Bank  
Stephen Sanford – bond counsel – Greenberg Traurig

## **I. Call to Order**

### **a. Roll call and establishment of quorum**

Vice Chair Tony Smith called the meeting to order at 9:00 a.m.

Gary Eliopoulos, Chairman, absent  
Bobby “Tony” Smith, Vice Chair, present  
Robin Henderson – Secretary - absent  
Chuck St. Lawrence – present  
Clark D. Bennett - absent  
James H. Harper – present  
Patrick Franklin - present

The four (4) members present at roll call constituted a quorum.

## **II. Public comment on Agenda Items**

No comment from the public.

## **III. Agenda Approval**

**Mr. Franklin moved approval of the agenda. The motion was seconded by Mr. Harper and passed unanimously by a vote of 4-0.**

## **IV. Consent Agenda**

**Mr. Franklin moved approval of the Consent Agenda. The motion was seconded by Mr. St. Lawrence and passed unanimously by a vote of 4-0.**

## **V. Old Business**

### **Item (a.) Consideration of conversion of 2019 carryforward allocation**

The Executive Director (“ED”) stated that last fall the board authorized staff to submit a request for a \$50M allocation of private activity bonds (“PAB”) from the Florida Division of Bond Finance for future single family programs such as our mortgage credit certificate (“MCC”) program which requires the conversion of PAB’s into MCC authorization. The Authority was awarded the \$50M of PAB allocation, and in order to carryforward the allocation our bond counsel must make a filing with the IRS by February 15<sup>th</sup> and indicate whether it is to be used for single family or for multifamily. Since last fall there have been a number of inquiries from developers looking to acquire and rehabilitate existing multifamily rental apartments which could potentially exceed the 2020 PBC region PAB allocation of \$73M. Therefore staff is recommending that the \$50M of carryforward PAB be designated for multifamily rental housing.

**A motion to authorize bond counsel to immediately file the \$50M IRS form 8328 carryforward election of unused private activity bond volume cap for qualified residential rental projects was made by Mr. St. Lawrence. The motion was seconded by Mr. Patrick and unanimously passed by a vote of 4-0.**

## **VI. New Business**

### **Item (a.) “El Cid” apartments – approval of bond issuance authorizing Resolution #R-2020-01**

The ED gave a brief summary of the acquisition and rehab of the historic 73-unit El Cid Apartments project located in West Palm Beach. It had a twenty year Section 8 HAP contract that was expiring at the end of 2019 which has now been extended for another twenty years beginning in March based on the rehabilitation of property which is to include a new roof on the building, replacement of individual window air conditioners with combo HVAC units, replacement of bathroom and kitchens cabinets, appliances, floorings, some

common area improvements including landscaping. The bond structure is the same Freddie Mac tax exempt loan like the previous two multifamily rental housing transactions completed during calendar year 2019. The TEFRA hearing results and the issuance of the bonds was approved by the Board of County Commissioners on Tuesday. The credit underwriting report has been delivered with the recommendation from Seltzer Management, Inc. for a note amount of up to \$15.9M and is recommended for acceptance by the Authority. It is anticipated that the Freddie Mac commitment will be issued early next week which will determine the final note amount with an interest rate locked in about two days after the commitment is delivered.

Steve Sanford, bond counsel with Greenberg Traurig, reviewed the resolution we're authorizing not to exceed a \$17.5M note amount, and as previously discussed will use part of the \$50M PAB carryforward. This is a private placement with Greystone Servicing Company as the initial funding lender which then gets purchased by Freddie Mac as the permanent lender. The documents being approved under the resolution include the Project Loan Agreement between the Authority, the borrower and the fiscal agent which is US Bank; the Funding Loan Agreement under which Greystone makes a loan to the Authority; a borrower note to be secured by a mortgage which gets assigned to the fiscal agent; the typical Land Use Restriction Agreement which sets the maximum tenant income limits; a Fee Guarantee and Environmental Indemnity with the same guarantors as set for in the credit underwriting report; and then the last exhibit is the credit underwriting report.

The ED advised of one change to his agenda memorandum in that one of the guarantors, El Cid WPB SLP LLC, was removed by the credit underwriter at the request of Florida Housing Finance Corporation in connection with the review for 4% low income tax credits, which is therefore a recommendation of staff that this entity be removed from the bond documents as well.

There were some comments and question from the board regarding the age of the building and historic designation, which was followed by a staff recommendation to approve the bond authorizing resolution.

**Mr. Franklin moved approval of staff's recommendation approving Resolution #2020-01 authorizing the issuance of not to exceed \$17.5M**

**Multifamily Housing Revenue Bonds, Series 2020 for El Cid Apartments. The motion was seconded by Mr. St. Lawrence and unanimously passed by a vote of 4-0.**

**Item (b.) Community Land Trust of PBC – Kirk Road projects – First Amendment to loan agreement – Resolution #R-2020-02**

The ED provided some background on the loan made to CLT for the construction of up to 8 homes in Palm Springs. The CLT was awarded funded federal HOME funds by HES in PBC to provide assistance to build 6 homes, and these have been built and sold to families at 80 % of area median income or less. The CLT was awarding funding for the other 2 homes pursuant to a 2019 RFP by PBC. The CLT requested construction funding for these, and our general counsel Skip Miller (“GC”) said that it would be quicker and less costly to amend the extending loan agreement rather than starting over with new documents.

Ms. Cindee LaCourse-Blum of the CLT of PBC stated that the initial HOME funds from PBC were enough to fill the “affordability gap” on six homes. They had buyers by the time the homes were completed, and consisted of two 3/2 homes, three 2/2 duplexes with garages and one 4/2 home. The two other homes are to be 3/2 single family homes. She added that the site plans and HOME funding award was approved by the BCC that Thursday.

GC Miller stated the loan amount is not to exceed \$500K which the CLT will draw for construction and then repaid from reimbursement under the HOME grant and from sales proceeds. Ms. LaCourse-Blum stated that total project costs are \$550K of which \$180K will be reimbursed under the HOME grant. Ms. LaCourse-Blum stated that with the first six homes PBC required that the HOME funds had to be traditional purchase assistance model where the HOME funds turned into a purchase assistance second mortgage loan at time of sale to the homebuyer. For these two homes the HOME funds will be treated as a grant to the CLT thus reducing the purchase price to around \$150K.

The Vice Chair had some questions as to HOME and SHIP funding available to

PBC. Mr. Harper asked about the terms of the HOME funding including homebuyers incomes and any other PBC incentives. The Vice Chair also asked Ms. LaCourse-Blum about the profile of the buyers of the 6 completed homes. She stated that typical annual income is in the high thirties low to forty thousand for the household consisting of three persons. They are required by PBC to pay 3.2% of the sale price which generally covers most of their closing costs, and that they work with the lenders that have programs that provide around \$5K of assistance for homes in low income census tracts purchased by a low/mod household. Mr. Patrick asked about the typical monthly mortgage payment to which Ms. LaCourse-Blum stated that at Davis Landings West the buyer was getting a \$140K loan with an all-in monthly payment of about \$1,100.

The Vice Chair asked if the CLT was involved in any other in-fill lot donation programs in other cities in PBC, and particularly in the Glades. Ms. LaCourse-Blum stated that she had just met with the Lake Worth CRA regarding lot donations in connection with the availability of PBC HOME CHDO (ED note: Community Housing Development Organization) funding to build one or more homes, and a presentation to the League of Cities later this month to demonstrate how this can be done. The Vice Chair then asked her to come back at some point soon very soon with a proposal for the board to look at.

**Mr. Patrick made a motion to approve Resolution #R-2020-2. The motion was seconded by Mr. Harper and passed unanimously by a vote of 4-0.**

**Item (c.) Presentation of multifamily bond allocation for “Gould House” Apartments – consider approval of bond inducement Resolution #R-2020-03**

The ED opened the discussion of the consideration of an inducement resolution for the acquisition and rehabilitation of the “Gould House” seniors apartments property in western Boca area. The purchaser/developers representative Billy Kreinik then made his presentation, with an additional hand-out, to the board.

Mr. Kreinik stated that Fairstead is a 300 employee owner, operator



developer based out of New York City with about a billion dollars of real estate under management with about 11,500 rental units in four different states. He said their main business is the acquisition and rehabilitation of affordable elderly and family Section 8 properties of which they have redeveloped a total of about 9,400 units. They are a vertically integrated full service real estate firm including construction, acquisition, and provider of social services. Gould House is on the Jewish Federation of SPBC campus and is a Section 8 rent assisted elderly housing project in an area with little to no affordable rental apartments. The intent is to preserve this project as affordable and to bring it up to the highest standards they can including updating to hurricane impact windows, emergency generators, adding computer rooms, common area Wi-Fi, re-doing kitchens, baths, and flooring in the units as well as hallways, upgrading five percent of the units to ADA and two percent for hearing and visual impaired.

The ED added this transaction is very similar to “EL Cid” where the Section 8 HAP contract is expiring and is to be renewed, with the exception of rather than a very old building this one is relatively new having been built in 1990. He said that about two years ago HUD changed their methodology for determining fair market rents from a county-wide basis to a zip code basis with the idea to attract affordable housing development in higher income areas. As with El Cid the expected HAP renewal contract is going to provide rents that are roughly about twice what they originally were under the previously contract which results in the buyer paying a much higher sales price but it does preserve this as affordable housing in a higher income areas. Mr. Kreinik stated that residents only pay thirty percent of their reported income so there will be no rent increase for them regardless of what HUD is paying. He added that most of the current residents don’t really have any income so nothing will be changing for the actual resident contribution portion. The ED agreed that as with EL Cid the increase in rents under the new HAP contract has no impact on the tenants.

Mr. Harper asked if there was much resident diversity to which Mr. Kreinik stated it’s fully diversified with three main different languages including Spanish and Russian. Mr. Harper asked if there are any black residents to which he replied yes. Mr. Franklin asked how they plan to do the rehab with all the units currently occupied. Mr. Kreinik said most of the rehab will be

tenant-in-place utilizing the community room with food and activities during the work day. Work on a unit should be completed in one week. He added that they have a budget for hotel relocation for those units with more substantial rehab work where they will handle all packing and moving.

**Mr. Franklin made a motion to approve staff's recommendation for inducement resolution #R2020-03 declaring preliminary approval for the issuance of not exceeding \$35M of Multifamily Housing Revenue Bonds for the Gould House Apartments, and to assign BMO as Bond Counsel. The motion was seconded by Mr. Harper and unanimously passed by a vote of 4-0.**

#### **Item (d.) Request from Housing Leadership Council of PBC**

The ED introduced the request from Suzanne Cabrera of the HLC of PBC, who was unable to attend the meeting due to a cause of the flu, for a financial contribution to the organization to further their efforts towards promotion of affordable housing initiatives in PBC. Last year the Authority made a \$5K contribution, and added that he believed that Commissioner Bernard's presentation at last Tuesday's BoCC meeting for a \$150M bond issue for affordable housing resulted from the efforts of the HLC and others that in the housing community over the past five, six, seven, eight years together the ever rising cost of housing has convinced the BCC of the need for local funding. He added that will he did not include a recommendation in the agenda memorandum that he would suggest the same amount as the prior year. There was a discussion about funding levels and sources, and GC Miller, as a board member of the HLC, stated that it comes mostly from grants by private industry like Freddie Mac and Chase Bank, and from not-profits such as the Community Foundation. They also have membership dues but do not get any government funding. The Vice Chair added that he saw an article that appeared in the Post this week quoting Suzanne Cabrera on an array of affordable housing issues.

**Mr. Franklin made a motion to make a \$5K contribution to the HLC of PBC for the current fiscal year. The motion was seconded by Mr. Harper and unanimously passed by a vote of 4-0.**

## **VII. Other Matters**

### **Item (a.) Matters of Authority members**

Mr. Harper asked for an update on the status of the project in Riviera Beach. The ED stated that HES is still in the process of acquiring title to the four lots in the Brooks Subdivision before they proceed with construction of homes.

The Vice Chair asked the ED if he knew what was going on with Stoneybrook in Riviera Beach after the horrible stories on the news about mold and the poor condition of the units. Mr. Franklin stated that the project needs to be torn down and replaced. The ED said he would follow up and report back at the next meeting.

The Vice Chair also asked about the status of the old Briscoe/Glades Glen apartments in Belle Glade. Mr. Franklin said that the PBC Housing Authority should be taking the lead on that property. This led to a discussion on what has transpired since the PBC Housing Summit back in 2017. GC Miller said that for the past two years deliberations over the PBC inclusionary zoning program has stalled progress towards the other objectives of the summit but now the BCC is looking at the possibility of a \$150M bond issue, a third of it for homeless issues, a third for affordable housing, and a third for workforce housing. If that gets done that money could go to the Glades just as easily as it could go anywhere else in PBC. He indicated that the HLC was working on talking points that he will share that with the board.

**No action was taken.**

### **Item (b.) Matters of the Executive Director and Professionals**

The ED reminded the board of the upcoming NALFHA conference in May, and FL ALHFA in July.

**Item (c.) Matters of the Public**

None

**Item (d.) Next meeting date: 9:00 a.m., Friday, March 13, 2020 in the PBC Airport Center, Human Resources Training Room 4-790**

**VIII. Adjournment**

**Mr. Franklin moved to adjourn the meeting at 10:10 a.m. The motion was seconded by Mr. Harper and unanimously passed by a vote of 4-0.**

Respectfully submitted,

\_\_\_\_\_  
**Executive Director**

\_\_\_\_\_  
**Secretary**



**Housing Finance Authority  
of Palm Beach County**

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**Date:** February 24, 2020  
**To:** Susan Fahimi  
U.S. Bank Corporate Trust  
**From:** David M. Brandt, Executive Director   
**Re:** General Fund Disbursement #2-2020

The following invoices/reimbursement requests are hereby presented for your approval and payment, with supportive documentation attached.

<u>PAYEE</u>	<u>AMOUNT</u>
Palm Beach County Board of County Commissioners (Jan.)	\$ 20,113.95
Caler, Donten, Levine, Cohen, Porter & Veil, PA	23,325.25
Greenspoon Marder (Jan.)	373.60
FedEx	8.21
David M. Brandt (Jan. auto)	<u>500.00</u>
<b>Total General Fund Disbursement:</b>	<b>\$ 44,321.01</b>

Confirmed via email

Encls.

CC: Amanda Kumar, US Bank

Housing Finance Authority of Palm Beach County  
 Summary of Monthly Project Bond Program Reports  
 December 2019

	Project:	Date	Per Rent Roll		Number of		Total	Total	Current	Last	2019
		Report	or FHFC Recap:		TICs included:						
		was	New	Annual	# of	# of					
	received	Move-in's	renewal	IC's (1)	AR's (1)	units	Units	occup.	occup.	occup.	
1)	Azalea Place n/k/a Lake Mangonia) (#)(@)	1/15/20	10	10	9	9	150	149	99.3%	99.3%	84.9%
2)	Brenton At Abbey Park (*) (#)	1/8/20	3	n.a.	3	n.a.	160	156	97.5%	n.a.	n.a.
3)	Colonial Lakes (#)	1/15/20	0	n.a.	0	n.a.	120	120	100.0%	100.0%	99.2%
4)	Courts at Village Square (*) (#)	1/14/20	0	n.a.	0	n.a.	84	82	97.6%	98.8%	98.8%
5)	Green Cay Village (d/b/a Palm Park)	1/14/20	2	11	2	11	160	159	99.4%	99.4%	99.7%
6)	Heron Estates Senior (2)	1/17/20	1	n.a.	1	n.a.	101	100	99.0%	100.0%	n.a.
7)	Indian Trace (@) (#)	1/14/20	5	21	5	21	330	324	98.2%	98.5%	98.4%
8)	La Joya Villages (*) (#)	1/13/20	3	n.a.	3	n.a.	55	54	98.2%	96.4%	98.8%
9)	Lake Delray (*)	1/13/20	0	n.a.	0	n.a.	404	394	97.5%	99.3%	98.7%
10)	Malibu Bay (@) (*) (#)	1/17/20	6	n.a.	6	n.a.	264	251	95.1%	92.8%	95.3%
11)	Mallards Landing	1/15/19	1	n.a.	n.a.	n.a.	162	161	99.4%	n.a.	n.a.
12)	New South Bay Villas (3) (*)	1/15/20	0	n.a.	0	n.a.	131	125	95.4%	96.2%	97.6%
13)	Palm Gardens (#)	1/15/20	5	10	5	9	80	76	95.0%	93.8%	98.2%
14)	Palms West (*) (#)	1/15/20	9	n.a.	9	n.a.	290	288	99.3%	99.0%	99.1%
15)	Paul Lawrence Dunbar Senior (#) (*)	1/15/20	0	n.a.	0	n.a.	99	97	98.0%	100.0%	99.4%
16)	Pine Run Villas (*) (#)	1/15/20	0	n.a.	0	n.a.	63	63	100.0%	100.0%	99.6%
17)	Pinnacle Palms (@) (*) (#) (^)	1/15/20	6	n.a.	6	n.a.	152	148	97.4%	96.1%	97.9%
18)	Renaissance (at San Marino) (#)	1/17/20	7	19	7	19	344	335	97.4%	97.7%	98.5%
19)	Riverview House (#)	1/15/20	2	6	2	6	160	157	98.1%	98.1%	94.7%
20)	Royal Palm Place (4)	1/15/20	1	n.a.	1	n.a.	125	124	99.2%	98.4%	99.5%
21)	Venetian Isles II (d/b/a San Marco VI) (^) (@) (#)	2/3/20	1	14	1	13	112	107	95.5%	96.4%	96.7%
22)	Westgate Plaza (*) (#)	1/15/20	0	n.a.	0	n.a.	80	79	98.8%	98.8%	99.0%
23)	Woodlake (@) (*)	1/15/20	4	n.a.	4	n.a.	224	220	98.2%	97.8%	98.6%
	Totals		66		64	88	3850	3769	98.0%	97.9%	97.6%
(1)	"IC's" are initial move-in "Tenant Income Certification" forms and "AR's" are annual recertification forms provided.										
(2)	First occupancy was September 2019 and it was fully occupied by October 31, 2019.										
(3)	Project completed in January 2019 and rent up completed by March 2019.										
(4)	First occupancy began December 2018 and fully occupied May 2019.										
(^)	Has prepaid the remaining issuer fee.										
(@)	Bonds have been redeemed in whole but Qualified Project Period still in effect.										
(*)	No annual recertifications are required as long as 100% of units are certified as "Low Income".										
(#)	Current monthly rents are at LIHTC maximum or all Section 8 above LIHTC rent.										

Housing Finance Authority of Palm Beach County  
 Summary of Monthly Project Bond Program Reports  
 December 2019

		2018	2017	2016	2015	2018	2017	2016	2015	2018	2017	2016	2015
	Project:	ave.	ave.	ave.	ave.	monthly	monthly	monthly	monthly	monthly	monthly	monthly	monthly
		occup.	occup.	occup.	occup.	high	high	high	high	low	low	low	low
1)	Azalea Place (d/b/a Palm Grove)	87.5%	97.7%	99.6%	98.7%	92%	100%	100%	100%	83%	92%	99%	98%
2)	Brenton At Abbey Park f/k/a Pinnacle	98.2%	97.4%	97.5%	96.9%	100%	99%	99%	100%	97%	96%	94%	91%
3)	Colonial Lakes	97.8%	98.6%	99.9%	99.6%	100%	100%	100%	100%	95%	96%	99%	99%
4)	Courts at Village Square (1)(*)(#)	99.4%	n.a.	n.a.	n.a.	100%	n.a.	n.a.	n.a.	95%	n.a.	n.a.	n.a.
5)	Green Cay Village (d/b/a Palm Park)	99.9%	99.9%	99.4%	97.8%	100%	100%	100%	99%	99%	99%	99%	96%
6)	Heron Estates Senior (2)	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
7)	Indian Trace	98.3%	98.9%	98.6%	97.9%	100%	100%	100%	99%	98%	98%	98%	96%
8)	La Joya Villages	92.2%	94.2%	98.9%	99.8%	100%	98%	100%	100%	96%	86%	95%	98%
9)	Lake Delray (3)	95.0%	90.0%	n.a.	n.a.	99%	94%	96%	n.a.	87%	87%	96%	n.a.
10)	Malibu Bay	96.0%	96.9%	96.1%	97.4%	99%	98%	99%	100%	94%	95%	92%	94%
11)	Mallards Landing	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
12)	New South Bay Villas (4)	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
13)	Palm Gardens	99.0%	99.1%	99.1%	98.9%	100%	100%	100%	100%	96%	96%	98%	98%
14)	Palms West	99.3%	99.0%	98.6%	98.5%	100%	100%	100%	100%	97%	98%	98%	98%
15)	Paul Lawrence Dunbar Senior (5)	99.8%	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
16)	Pine Run Villas	99.1%	98.9%	98.8%	98.8%	100%	100%	100%	100%	95%	94%	97%	95%
17)	Pinnacle Palms	97.6%	97.5%	98.6%	97.3%	99%	99%	100%	99%	95%	94%	97%	96%
18)	Renaissance (at San Marino)	97.4%	97.2%	97.9%	97.6%	99%	99%	99%	99%	96%	95%	96%	96%
19)	Riverview House	96.2%	96.4%	97.0%	95.1%	99%	100%	99%	99%	1%	92%	95%	91%
20)	Royal Palm Place (6)	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
21)	Venetian Isles II (d/b/a San Marco VI)	96.4%	98.1%	98.1%	99.6%	99%	100%	100%	100%	95%	96%	96%	98%
22)	Westgate Plaza	99.2%	99.8%	99.0%	98.9%	100%	100%	100%	100%	98%	99%	95%	98%
23)	Woodlake	99.1%	99.1%	99.4%	99.4%	100%	100%	100%	100%	96%	98%	98%	98%
	Totals (7)	97.2%	97.6%	98.5%	98.3%								
(1)	First occupancy January 2018												
(2)	First occupancy September 2019												
(3)	All rehabilitation completed by May 2018.												
(4)	First occupancy of rehabbed units began on March 29, 2018 and fully occupied by March 2019.												
(5)	Rent up completed in October 2017												
(6)	First occupancy began December 2018 and fully occupied May 2019.												
(7)	Sum of the averages of each project												

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			2018	2017	2016	2015
	Project:	Location:	occup.	occup.	occup.	occup.
			turn	turn	turn	turn
			over	over	over	over
1)	Azalea Place (d/b/a Palm Grove)	Australian Ave. south of 25st Street, WPB	0%	7%	9%	15%
2)	Brenton At Abbey Park	Forest Hill Blvd. west of Haverhill, WPB	18%	25%	29%	30%
3)	Colonial Lakes	Lake Worth Rd. west of Haverhill Rd., Greenacres	30%	18%	28%	31%
4)	Courts at Village Square	NE corner of SW8th Street & Auburn Ave., Del. Bch.	2%	n.a.	n.a.	n.a.
5)	Green Cay Village (d/b/a Palm Park)	Off Jog Rd. south of Woolbright, Boynton Bch.	19%	16%	17%	26%
6)	Heron Estates Senior	2003 W. 17th Street off Congress Ave, Riviera Beach	n.a.	n.a.	n.a.	n.a.
7)	Indian Trace	N. Military Trail south of SR 710, Riviera Bch.	20%	31%	28%	38%
8)	La Joya Villages	6th Ave S. just east of US 1, Lake Worth	9%	7%	5%	5%
9)	Lake Delray	Lindell Blvd. east of I-95/south of Linton Blvd. Del. Bch.	20%	5%	n.a.	n.a.
10)	Malibu Bay	Executive Center Dr. south of PB Lake Blvd. WPB	31%	25%	22%	35%
11)	Mallards Landing	1598 Quail Drive off of Westgate Ave., WPB	n.a.	n.a.	n.a.	n.a.
12)	New South Bay Villas	MLK and Palm Beach Road, City of South Bay	n.a.	n.a.	n.a.	n.a.
13)	Palm Gardens	4th Ave N. south of 10 Ave. N., Lake Worth	14%	19%	15%	24%
14)	Palms West	1551 Quail Drive off Westgate Ave, suburban WPB	28%	11%	9%	13%
15)	Paul Lawrence Dunbar Senior	906 Grant St, corner of Division and Grant, WPB	n.a..	n.a..	n.a..	n.a..
16)	Pine Run Villas	6th Ave S./Melaleuca west of Haverhill Rd. Lk. Worth	14%	14%	14%	19%
17)	Pinnacle Palms	Executive Center Dr. south of Congress Ave. WPB	20%	15%	19%	25%
18)	Renaissance (at San Marino)	N. Military Trail north of Roebuck Rd., WPB	27%	26%	24%	34%
19)	Riverview House	Lake Worth Rd. east of S. Military Trail, Lake Worth	36%	28%	34%	48%
20)	Royal Palm Place (5)	808&906-17th St & 805&811-15th St, WPB	n.a.	n.a.	n.a.	n.a.
21)	Venetian Isles II (d/b/a San Marco VI)	N. Congress Ave. south of Northlake Blvd., Lake Park	14%	22%	22%	27%
22)	Westgate Plaza	Quail Drive and Westgate Ave., suburban WPB	4%	4%	14%	10%
23)	Woodlake	N. Jog Rd. south of Okeechobee Blvd., WPB	20%	18%	15%	21%
		Totals (7)	19%	17%	19%	25%



Housing Finance Authority of Palm Beach County  
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							Qualified		
<b>Most restrictive tenant set aside requirements per HFA bond or other subordinate/HTC financing</b>					<b>Approx. QPP start date</b>		<b>Project Period end (approximate)</b>		
100% HAP contract	1)	Azalea Place (d/b/a Palm Grove)			Apr-00		QPP for term of HAP		
4% @ 30% & 96% @ 60% AMI	2)	Brenton At Abbey Park							
25% @ 30%, 30% @ 50% AMI	3)	Colonial Lakes			May-13		2028		
100% HAP contract	4)	Courts at Village Square (fka Village Square Elder)			Jan-18		QPP for term of HAP		
100% @ 60% AMI	5)	Green Cay Village (d/b/a Palm Park)			May-07		2022		
50% HAP contract/10% @ 33% AMI	6)	Heron Estates Senior (1)			Oct-20		QPP for term of HAP		
20% @ 50% & 80% @ 60% AMI	7)	Indian Trace			Apr-03		QPP ends 2/28/2024		
25% @ 50% AMI per NSP2	8)	La Joya Villages			Feb-15		2030		
100% @ 60% AMI; 50% HAP	9)	Lake Delray			Dec-16		QPP end 11/30/2031		
100% @ 60% AMI	10)	Malibu Bay			Jun-05		QPP ends 6/6/2020		
100% @ 60% AMI	11)	Mallards Landing							
HAP contract all but 1 unit	12)	New South Bay Villas (2)			Apr-17		QPP for term of HAP		
17% @ 30% and 83% @ 60% AMI	13)	Palm Gardens			Nov-08		2023		
2% @ 50% and 98% @ 60% AMI	14)	Palms West			Sep-13		2028		
100% HAP contract	15)	Paul Lawrence Dunbar Senior			Oct-17		QPP for term of HAP		
25% @ 30%/30% @ 50%/45% @ 60%	16)	Pine Run Villas			Oct-13		2028		
100% @ 60% AMI	17)	Pinnacle Palms (3)			Jul-05		QPP ends not sooner than July 1, 2022		
25% @ 50% & 75% @ 60% AMI	18)	Renaissance (at San Marino)			2004?		2019		
100% @ 60% AMI	19)	Riverview House (4)			Aug-01		2016		
100% HAP contract	20)	Royal Palm Place (5)			Dec-18		QPP for term of HAP		
100% @ 60% AMI	21)	Venetian Isles II (d/b/a San Marco VI)			Jul-04		QPP ends 7/1/2019		
100% HAP contract	22)	Westgate Plaza			Nov-12		QPP for term of HAP		
100% @ 60% AMI	23)	Woodlake			Nov-13		2028		
	(1)	First occupancy was September 2019							
	(2)	First occupancy of rehabbed units began on March 29, 2018 and completed January 2019.							
	(3)	PBC LURA has 60% @ 55+; FHFC has 80% @ 55+ w/no tenant under 18.							
	(4)	PBC LURA amended to 100% @ 55+ from 60+, and no tenant under 18.							
	(5)	First occupancy December 2018							

## **Tab 2**

### **V.    Public hearing**

- a.** Gould Housing apartments
  - i.    Hearing notice
  - ii.    Proof of publication in Palm Beach Post

NOTICE OF PUBLIC HEARING CONCERNING THE ISSUANCE, FROM TIME TO TIME, BY THE HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA, OF NOT EXCEEDING \$35,000,000 OF ITS MULTIFAMILY HOUSING REVENUE BONDS (GOULD HOUSE).

Notice is hereby given that on Friday, March 13, 2020, at 9:00 A.M., or as soon thereafter as possible, the Housing Finance Authority of Palm Beach County, Florida (the "Authority"), will conduct a public hearing at:

**Palm Beach County Airport Center Complex  
100 Australian Avenue  
4<sup>th</sup> Floor, Conference Room #4-790  
West Palm Beach, Florida 33406**

for the purpose of giving interested persons an opportunity to be heard regarding the proposed issuance by the Authority of its Multifamily Housing Revenue Bonds (Gould House) (herein the "Bonds"), in an aggregate principal amount of not exceeding \$35,000,000. The Bonds will be issued, from time to time, to finance a loan (the "Loan") to be made by the Authority to Federation Gould Preservation LP, a Florida limited partnership, or its successor or assign (herein, the "Borrower"). The proceeds from the Loan will be used by the Borrower to finance the acquisition, rehabilitation and/or equipping of an approximately 101 unit multifamily rental housing facility for the elderly or the disabled known as "Gould House," to be available for rental to qualified individuals of low, moderate and middle income (the "Project"). The Project is located in unincorporated Palm Beach County at 21000 Ruth and Baron Coleman Boulevard, Boca Raton, Florida 33428. The Project will be owned and operated by or on behalf of the Borrower.

The Bonds will mature not later than forty (40) years from their date of issuance and will be payable from the revenues of the Project and/or such other collateral and security as shall be acceptable to the Authority. The Bonds will not constitute an indebtedness of the Authority, Palm Beach County, Florida, the State of Florida (the "State") or any other political subdivision of the State within the meaning of any constitutional or statutory debt limitation or restriction. The Authority has no taxing power.

At such meeting, persons will be given an opportunity to express their views, both orally and through written statements which are submitted to the Authority on or before the public hearing. Written statements may be submitted to: David M. Brandt, Executive Director, Housing Finance Authority of Palm Beach County, Florida, 100 Australian Avenue, Suite 410, West Palm Beach, FL 33406 or via e-mail: [dbrandt@pbcgov.org](mailto:dbrandt@pbcgov.org) on behalf of the Authority. Should any person decide to appeal any decision made by the Authority, he will need a record of the proceedings and may need to ensure that a verbatim record of the proceedings is made, which record must include testimony and evidence upon which the appeals may be based.

**In accordance with the Americans with Disabilities Act, persons with disabilities needing special assistance accommodations to participate in this proceeding should contact Mr. David M. Brandt, no later than five (5) days prior to the hearing at telephone number (561) 233-3652 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers at (800) 955-8771 (TDD) or (800) 955-8700 (VOICE) for assistance.**

This Notice is published/posted pursuant to the requirements of Treasury Regulations Section 1.147(f)-1, implementing Section 147(f) of the Internal Revenue Code of 1986, as amended.

HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

PUB: Palm Beach Post  
February 29, 2020

## PROOF OF PUBLICATION STATE OF FLORIDA

### PUBLIC NOTICE

Before the undersigned authority, personally appeared Teal Pontarelli, who on oath, says that he/she is a Legal Advertising Representative of The Palm Beach Post, a daily and Sunday newspaper, published in West Palm Beach and distributed in Palm Beach County, Martin County, and St. Lucie County, Florida; that the attached copy of advertising for a Legal - PublicNotice was published in said newspaper on: first date of Publication 02/29/2020 and last date of Publication 02/29/2020. Affiant further says that the said The Palm Beach Post is a newspaper published in West Palm Beach, in said Palm Beach County, Florida and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

HOUSING FINANCE AUTHORITY  
100 AUSTRALIAN AVE  
APT 410  
WEST PALM BEACH, FL 33406-1465

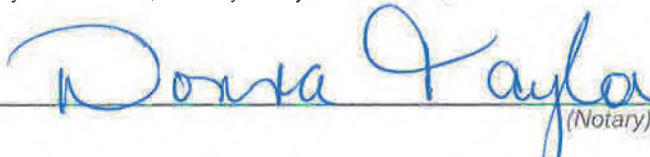
Invoice/Order Number:	0000558424
Ad Cost:	\$374.96
Paid:	\$0.00
Balance Due:	\$374.96

Signed

  
(Legal Advertising Agent)

Sworn or affirmed to, and subscribed before me, this 2nd day of March, 2020 in Testimony whereof, I have hereunto set my hand and affixed my official seal, the day and year aforesaid.

Signed

  
(Notary)



DONNA S. TAYLOR  
MY COMMISSION # GG 031838  
EXPIRES: September 19, 2020  
Bonded Thru Budget Notary Services

Please see Ad on following page(s).

Invoice/Order Number: 0000558424  
Ad Cost: \$374.96  
Paid: \$0.00  
Balance Due: \$374.96

**NOTICE OF PUBLIC HEARING  
CONCERNING THE ISSUANCE, FROM  
TIME TO TIME, BY THE HOUSING  
FINANCE AUTHORITY OF  
PALM BEACH COUNTY, FLORIDA,  
OF NOT EXCEEDING \$35,000,000 OF  
ITS MULTIFAMILY HOUSING  
REVENUE BONDS (GOULD HOUSE).**

Notice is hereby given that on Friday, March 13, 2020, at 9:00 A.M. or as soon thereafter as possible, the Housing Finance Authority of Palm Beach County, Florida (the "Authority"), will conduct a public hearing at:

**Palm Beach County  
Airport Center Complex  
100 Australian Avenue  
4th Floor, Conference Room #4-790  
West Palm Beach, Florida 33406**

for the purpose of giving interested persons an opportunity to be heard regarding the proposed issuance by the Authority of its Multifamily Housing Revenue Bonds (Gould House) (herein the "Bonds"), in an aggregate principal amount of not exceeding \$35,000,000. The Bonds will be issued, from time to time, to finance a loan (the "Loan") to be made by the Authority to Federation Gould Preservation LP, a Florida limited partnership, or its successor or assign (herein, the "Borrower"). The proceeds from the Loan will be used by the Borrower to finance the acquisition, rehabilitation and/or equipping of an approximately 101 unit multifamily rental housing facility for the elderly or the disabled known as "Gould House," to be available for rental to qualified individuals of low, moderate and middle income (the "Project"). The Project is located in unincorporated Palm Beach County at 21000 Ruth and Baron Coleman Boulevard, Boca Raton, Florida 33428. The Project will be owned and operated by or on behalf of the Borrower.

The Bonds will mature not later than forty (40) years from their date of issuance and will be payable from the revenues of the Project and/or such other collateral and security as shall be acceptable to the Authority. The Bonds will not constitute an indebtedness of the Authority, Palm Beach County, Florida, the State of Florida (the "State") or any other political subdivision of the State within the meaning of any constitutional or statutory debt limitation or restriction. The Authority has no taxing power.

At such meeting, persons will be given an opportunity to express their views, both orally and through written statements which are submitted to the Authority on or before the public hearing. Written statements may be submitted to: David M. Brandt, Executive Director, Housing Finance Authority of Palm Beach County, Florida, 100 Australian Avenue, Suite 410, West Palm Beach, FL 33406 or via e-mail: [dbrandt@pbcbgov.org](mailto:dbrandt@pbcbgov.org) on behalf of the Authority. Should any person decide to appeal any decision made by the Authority, he will need a record of the proceedings and may need to ensure that a verbatim record of the proceedings is made, which record must include testimony and evidence upon which the appeals may be based.

In accordance with the Americans with Disabilities Act, persons with disabilities needing special assistance accommodations to participate in this proceeding should contact Mr. David M. Brandt, no later than five (5) days prior to the hearing at telephone number (561) 233-3652 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers at (800) 955-8771 (TDD) or (800) 955-8700 (VOICE) for assistance.

This Notice is published/posted pursuant to the requirements of Treasury Regulations Section 1.147(f)-1, implementing Section 147(f) of the Internal Revenue Code of 1986, as amended.



## **Tab 3**

### **VI. Old Business**

- a. Lake Mangonia - Consideration of LURA subordination**
  - i. Resolution #R-2020-04 w/exhibit**



**RESOLUTION NO R. 2020-04**

**A RESOLUTION OF THE HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA, RELATING TO SUPPLEMENTAL FINANCING ON LAKE MANGONIA APARTMENTS; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO AMENDED AND RESTATED LAND USE RESTRICTION BY AND AMONG THE AUTHORITY AND PALM GROVE AFFORDABLE LLC (“OWNER”); AUTHORIZING THE PROPER OFFICERS OF THE AUTHORITY TO DO ALL THINGS NECESSARY OR ADVISABLE IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE FOR THIS RESOLUTION.**

**WHEREAS**, the Board of County Commissioners of Palm Beach County, Florida (the “Board”), has heretofore enacted an ordinance, as amended, creating the Housing Finance Authority of Palm Beach County, Florida (the “Authority”), pursuant to the provisions of Part IV of Chapter 159, Florida Statutes, as amended and supplemented (the “Act”); and

**WHEREAS**, the Board has heretofore adopted a resolution declaring a need for the Authority to function in order to alleviate the shortage of housing and capital for investment in housing within Palm Beach County, Florida (the “County”); and

**WHEREAS**, the Authority, pursuant to the Act, previously issued its Multifamily Housing Revenue Bonds Series 1999 A (Azalea Place Apartments Project) (the “Series 1999 A Bonds”) to make a loan to SP Azalea Place LP (the “Seller”) to refinance the acquisition, construction and equipping of a 150 unit multifamily residential rental housing project now known as Lake Mangonia Apartments located at 2100 North Australian Avenue, West Palm Beach, Florida (the “Project”); and

**WHEREAS**, the Seller previously sold the Project to Palm Grove Affordable LLC (the “Owner”), and in connection with such sale the Owner borrowed funds from Prudential Huntoon Paige Associates, LLC (the “Lender”) utilizing a conventional HUD Section 221(d)(4) loan (the “Refinancing”), and used the proceeds to redeem the Series 1999 A Bonds and

**WHEREAS**, in connection with the Refinancing, at the request of the Owner the Authority entered into an Amendment to Amended and Restated Land Use Restriction Agreement (the “Amendment”) dated as of February 1, 2018, pursuant to which the Authority

subordinated its rights under that certain Amended and Restated Land Use Restriction Agreement dated as of January 1, 2008 (the "Land Use Restriction Agreement") among the Authority, U.S. Bank Trust National Association, as Trustee (the "Trustee") and Seller to HUD; and

**WHEREAS**, the Owner is borrowing an additional \$1,000,000 (the "Additional Loan") from the Lender, and has requested that the Authority subordinate its rights under the Land Use Restriction Agreement to the rights of the Lender with respect to the Additional Loan; and

**WHEREAS**, the Authority has agreed to take such action as set forth herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA:**

**Section 1: Recitals.** The foregoing recitals stated above are hereby found by the Authority to be true and correct and incorporated into this Resolution.

**Section 2: Approval and Execution of Second Amendment to Amended and Restated Land Use Restriction Agreement.** The form of the Second Amendment to Amended and Restated Land Use Restriction Agreement presented at this meeting (and attached hereto as Exhibit "A") by and among the Authority and the Owner is hereby approved and adopted by the Authority, together with such changes, modifications and deletions as may be deemed necessary and appropriate. The Chairperson (or, in his absence, the Vice Chairperson or any other member of the Authority in the absence of the Vice Chairperson) is hereby authorized to execute and deliver on behalf of the Authority, and the Secretary (or, in his absence, any Assistant Secretary) of the Authority is authorized to affix the Seal of the Authority and attest to the execution of the Amendment to Amended and Restated Land Use Restriction Agreement in the form presented to this meeting together with such changes, modifications and deletions as the officer of the Authority executing the same may deem necessary and appropriate with the advice of Bond Counsel and counsel to the Authority, such execution and delivery to be conclusive evidence of the approval and authorization thereof by the Authority.

**Section 3: No Other Rights Conferred.** Except as herein otherwise expressly provided, nothing in this Resolution or in the agreements approved hereby, expressed or implied, is intended or shall be construed to confer upon any person or firm or corporation other than the Authority, the Owner, the Trustee or the Lender, any right, remedy or claim, legal or equitable, under and by reason of this Resolution or such agreements, or any other agreements to which the Authority is a party and which have been approved by the Authority or any provision thereof; this Resolution, such agreements and all of their respective provisions being intended to be and being for the sole and exclusive benefit of the Authority, the Owner, the Trustee and the Lender.

**Section 4: Severability.** In case any one or more of the provisions of this Resolution, or of agreements approved hereby or any other agreements to which the Authority is a party and which have been approved by the Authority, shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any of the other provisions of this Resolution or of such agreements.

**Section 5: Further Actions; Effectiveness of Approval.** The Chairperson, the Vice Chairperson, the Secretary of the Authority and the other members of the Authority, the Executive Director of the Authority, the Authority's general counsel or Bond Counsel, are hereby authorized and directed to do all acts and things required of them by the provisions of the this Resolution, the agreements herein approved or any other agreements to which the Authority is a party and which have been approved by the Authority. The approvals and authority contained in this Resolution shall be contingent upon and subject to the payment of the fees and expenses of the Authority and counsel to the Authority.

**Section 6: Headings Not Part of this Resolution.** Any headings preceding the texts of the several sections of this Resolution shall be solely for convenience of reference and shall not form a part of this Resolution, nor shall they affect its meaning, construction or effect.

**Section 7: Resolution Effective.** This Resolution shall take effect immediately upon its adoption.

**ADOPTED** this 13th day of March, 2020.

(SEAL)

**HOUSING FINANCE AUTHORITY OF  
PALM BEACH COUNTY, FLORIDA**

ATTEST:

By: \_\_\_\_\_  
Chairperson

\_\_\_\_\_  
[Assistant] Secretary

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: \_\_\_\_\_  
Name: Morris G. (Skip) Miller, Esq.  
Title: Attorney

**EXHIBIT A**

Form of Second Amendment to Amended and Restated Land Use Restriction Agreement

Prepared by and Return to:  
Amber F. Williams  
Pepple Cantu Schmidt PLLC  
2430 Estancia Boulevard, Suite 114  
Clearwater, Florida 33761

## SECOND AMENDMENT TO AMENDED AND RESTATED LAND USE RESTRICTION AGREEMENT

This Second Amendment to Amended and Restated Land Use Restriction Agreement is made as of \_\_\_\_\_, 2020 by and among Palm Grove Affordable LLC, a Florida limited liability company ("Borrower") and Housing Finance Authority of Palm Beach County, Florida ("Issuer").

WHEREAS, Borrower obtained financing from Lender (defined below) for the benefit of the project known as Lake Mangonia Apartments ("Project"), which loan is secured by a Multifamily Mortgage, Assignment of Leases and Rents, and Security Agreement ("Original Security Instrument") dated as of February 1, 2018, and filed for record on February 23, 2018, in Official Records Book 29670, Page 151, Public Records, Palm Beach County, Florida ("Records") on or about even date herewith, and is insured by the United States Department of Housing and Urban Development ("HUD");

WHEREAS, Borrower is obtaining supplemental financing from Lender for the benefit of the Project, which supplemental financing is evidenced and/or secured by that certain Note (Multistate) of even date herewith, in the original principal amount of ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) (the "Supplemental Note"), and that certain Supplemental Multifamily Mortgage, Assignment of Leases and Rents and Security Agreement (Florida) ("Supplemental Mortgage") of even date herewith and recorded prior hereto in the Public Records of Palm Beach County, Florida, which Supplemental Mortgage is being consolidated by that certain Consolidation and Modification Agreement ("Consolidation Mortgage") to be recorded on even date herewith with the Original Security Instrument for a total outstanding Mortgage Loan of FIFTEEN MILLION NINE HUNDRED THOUSAND AND 00/100 DOLLARS (\$15,900,000.00). The Original Security Instrument, Supplemental Mortgage and Consolidation Mortgage are hereinafter referred to as the "Security Instrument";

WHEREAS, SP Azalea Place, LP, Borrower's predecessor in interest entered into that certain Amended and Restated Land Use Restriction Agreement by and among SP Azalea Place LP, Issuer and U. S/ Bank National Association, fka U.S. Bank Trust National Association, ("Trustee") ("Restrictive Covenants") with respect to the Project, as more particularly described in Exhibit A attached hereto, dated as of January 1, 2008, recorded January 17, 2008 in OR Book 22389, Page 0001, in the Records, which Restrictive Covenants were assigned and assumed pursuant to that certain Assignment and Assumption Agreement by and among SP Azalea Place LP, Borrower, Trustee and Issuer dated as of February 1, 2018, and made effective February 27, 2018, and recorded February 23, 2018, in OR Book 29670, Page 374, in the Records, which

assignment also terminated all provisions of the Restrictive Covenants with respect to the Trustee, and which Restrictive Covenants were amended by that certain Amendment to Amended and Restated Land Use Restriction Agreement dated as of February 1, 2018, and made effective February 27, 2018, and recorded February 23, 2018, in O.R. Book 29670, Page 388, in the Records;

WHEREAS, HUD requires as a condition of its insuring Lender's financing to the Project, that the lien and covenants of the Restrictive Covenants be subordinated to the lien, covenants, and enforcement of the Security Instrument; and

WHEREAS, the Issuer has agreed to subordinate the Restrictive Covenants to the lien of the Security Instrument in accordance with the terms of this Amendment.

NOW, THEREFORE, in consideration of the foregoing and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

(a) In the event of any conflict between any provision contained elsewhere in the Restrictive Covenants and any provision contained in this Amendment, the provision contained in this Amendment shall govern and be controlling in all respects as set forth more fully herein.

(b) The following terms shall have the following definitions:

"Code" means the Internal Revenue Code of 1986, as amended.

"HUD" means the United States Department of Housing and Urban Development.

"HUD Regulatory Agreement" means the Regulatory Agreement between Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

"Lender" means Prudential Huntoon Paige Associates, LLC, a Delaware limited liability company, its successors and assigns.

"Mortgage Loan" means the mortgage loan made by Lender to the Borrower pursuant to the Mortgage Loan Documents with respect to the Project.

"Mortgage Loan Documents" means the Security Instrument, the HUD Regulatory Agreement and all other documents required by HUD or Lender in connection with the Mortgage Loan.

"National Housing Act" means the National Housing Act of 1934, as amended.

"Program Obligations" has the meaning set forth in the Security Instrument.

"Residual Receipts" has the meaning specified in the program obligations.

"Security Instrument" means the mortgage or deed of trust from Borrower in favor of Lender, as the same may be supplemented, amended or modified.

"Surplus Cash" has the meaning specified in the HUD Regulatory Agreement.

(c) Notwithstanding anything in the Restrictive Covenants to the contrary, the provisions of the Restrictive Covenants are expressly subordinate to (i) the Mortgage Loan Documents, including without limitation, the Security Instrument, and (ii) Program Obligations (the Mortgage Loan Documents and Program Obligations are collectively referred to herein as the

“HUD Requirements”). Borrower covenants that it will not take or permit any action that would result in a violation of the Code, HUD Requirements or Restrictive Covenants. In the event of any conflict between the provisions of the Restrictive Covenants and the provisions of the HUD Requirements, HUD shall be and remains entitled to enforce the HUD Requirements. Notwithstanding the foregoing, nothing herein limits the Issuer’s ability to enforce the terms of the Restrictive Covenants, provided such terms do not conflict with statutory provisions of the National Housing Act or the regulations related thereto. The Borrower represents and warrants that to the best of Borrower’s knowledge the Restrictive Covenants impose no terms or requirements that conflict with the National Housing Act and related regulations.

(d) In the event of foreclosure (or deed in lieu of foreclosure), the Restrictive Covenants (including without limitation, any and all land use covenants and/or restrictions contained herein) shall automatically terminate.

(e) Borrower and the Issuer acknowledge that Borrower’s failure to comply with the covenants provided in the Restrictive Covenants does not and shall not serve as a basis for default under the HUD Requirements, unless a default also arises under the HUD Requirements.

(f) Except for the Issuer’s reporting requirement, in enforcing the Restrictive Covenants the Issuer will not file any claim against the Project, the Mortgage Loan proceeds, any reserve or deposit required by HUD in connection with the Security Instrument or HUD Regulatory Agreement, or the rents or other income from the property other than a claim against:

- i. Available surplus cash, if the Borrower is a for-profit entity;
- ii. Available distributions of surplus cash and residual receipts authorized for release by HUD, if the Borrower is a limited distribution entity; or
- iii. Available residual receipts authorized by HUD, if the Borrower is a non-profit entity.
- iv. A HUD-approved collateral assignment of any HAP contract.

(g) For so long as the Mortgage Loan is outstanding, Borrower and the Issuer shall not further amend the Restrictive Covenants, with the exception of clerical errors or administrative correction of non-substantive matters, without HUD’s prior written consent.

(h) Subject to the HUD Regulatory Agreement, the Issuer may require the Borrower to indemnify and hold the Issuer harmless from all loss, cost, damage and expense arising from any claim or proceeding instituted against the Issuer relating to the subordination and covenants set forth in the Restrictive Covenants, provided, however, that Borrower’s obligation to indemnify and hold the Issuer harmless shall be limited to available surplus cash and/or residual receipts of the Borrower.

(i) No action shall be taken in accordance with the rights granted herein to preserve the tax exemption of the interest on the notes or bonds, or prohibiting the owner from taking any action that might jeopardize the tax-exemption, except in strict accord with Program Obligations.



BORROWER:

Palm Grove Affordable LLC, a Florida limited liability company

By: Palm Grove Manager LLC, a Florida limited liability company, its Manager

By: \_\_\_\_\_  
Scott Seckinger, its Manager

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

The forgoing instrument was acknowledged before me by means of \_\_\_\_ physical presence or \_\_\_\_ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by Scott Seckinger, as Manager of Palm Grove Manager LLC, a Florida limited liability company, the Manager of Palm Grove Affordable LLC, a Florida limited liability company on behalf of the company. He is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

ISSUER:

Housing Finance Authority of Palm Beach County,  
Florida

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF PALM BEACH

The forgoing instrument was acknowledged before me by means of \_\_\_\_ physical presence or \_\_\_\_ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by \_\_\_\_\_, as \_\_\_\_\_ of the Housing Finance Authority of Palm Beach County, Florida. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Exhibit A  
Legal Description

A parcel of land lying in Tract "BB", AUSTRALIAN PARK, WEST PALM BEACH, FLORIDA, according to the plat thereof, recorded in Plat Book 28, Pages 4 through 6, Public Records of Palm Beach County, Florida, more particularly described as follows:

Beginning at the Southwest corner of said Tract "BB", thence on an assumed bearing of North 9 degrees 27 minutes 34 seconds West along the West line of said Tract "BB", a distance of 182.37 feet to the beginning of a curve concave to the West and having a radius of 1254.59 feet; thence Northerly along the arc of said curve and continuing along the West line of said Tract "BB" and through an angle of 11 degrees 11 minutes 20 seconds, a distance of 245.0 feet; thence North 69 degrees, 21 minutes 06 seconds East, along a line radial to the aforescribed curve, a distance of 475.92 feet to the East line of said Tract "BB" and a point in a curve concave to the East and having a radius of 3014.93 feet; thence Southerly, along the arc of said curve, and along the East line of said Tract "BB" and through an angle of 1 degree 51 minutes 53 seconds, a distance of 98.12 feet to the end of said curve; thence South 9 degrees 20 minutes 45 seconds East, continuing along the East line of said Tract "BB"; a distance of 494.01 feet to the Southeast corner of said Tract "BB", thence North 89 degrees 56 minutes 45 seconds West, along the South line of said Tract "BB", a distance of 446.39 feet to the point of beginning.

The above described property may be more accurately described as follows: (Based on field measurements to form a mathematical closure):

A parcel of land lying in Tract "BB", Australian Park, West Palm Beach, Florida, according to the plat thereof, recorded in Plat Book 28, Pages 4 through 6, Public Records of Palm Beach County, Florida, more particularly described as follows:

Beginning at the Southwest corner of said Tract "BB", thence on an assumed bearing of North 9 degrees 27 minutes 34 seconds West along the West line of said Tract "BB", a distance of 182.37 feet to the beginning of a curve concave to the West and having a radius of 1254.59 feet; thence Northerly along the arc of said curve and continuing along the West line of said Tract "BB" and through an angle of 11 degrees 11 minutes 20 seconds, a distance of 245.0 feet; thence North 69 degrees, 21 minutes 06 seconds East, along a line radial to the aforescribed curve, a distance of 475.91 feet to the East line of said Tract "BB" and a point in a curve concave to the East and having a radius of 3014.93 feet (said radius point bears N.82°30'57"E. from said point); thence Southerly, along the arc of said curve, and along the East line of said Tract "BB" and through an angle of 1 degree 51 minutes 42 seconds, a distance of 97.96 feet to the end of said curve; thence South 9 degrees 20 minutes 45 seconds East, continuing along the East line of said Tract "BB"; a distance of 494.01 feet to the Southeast corner of said Tract "BB", thence North 89 degrees 56 minutes 45 seconds West, along the South line of said Tract "BB", a distance of 446.39 feet to the point of beginning.

## Tab 4

### **VII. New Business - attachments**

- a.** Community Land Trust of Palm Beach County – consider Master Line of Credit agreement
  - i. CLT request and loan application
  - ii. Resolution #R-2020-05 w/Master LOC agreement
- b.** Presentation of multifamily bond application for “Malibu Bay” and consideration of inducement resolution
  - i. Application
  - ii. Resolution #R-2020-06
- c.** Presentation and acceptance of September 30, 2019 audited financial statements
  - i. Final draft of audit report
- d.** Consider change in April and May meeting dates – no attachments



**OFFICERS:**

Timothy P Wheat  
President  
Development/Real  
Estate Sector  
Representative

Hazel Lucas  
Vice President  
Florida Rural Legal  
Services

Andrew E. Zeeman  
Treasurer  
Peninsular Electric

Silvia Ricketts  
Secretary  
CLT Lessee Member

**DIRECTORS:**

Tangenica Henry  
CLT Lessee Member

Tammy McDonald  
Urban League of  
Palm Beach County

Carolyn Pelicieux  
CLT Lessee Member

Derrick Penn  
CLT Lessee Member

Randy S. Wertepny,  
P.E.  
Kesahavarz and  
Associates

Sandra Young  
CLT Lessee Member

February 24, 2020

David Brandt, Executive Director  
Palm Beach County Housing Finance Authority  
100 Australian Avenue, Suite 410  
West Palm Beach, Florida 33406

Dear Mr. Brandt,

The Community Land Trust of Palm Beach County, Inc. (CLT of PBC) is requesting a \$250,000 line of credit to acquire, construct, renovate and/or equip single-family or multi-family residential units that will be occupied by "Eligible Persons" (as defined in Chapter 159, Part IV, Florida Statutes) in Palm Beach County.

The CLT of PBC is in the process of reaching out to municipalities in Palm Beach County requesting surplus properties for the development of affordable housing. Even with land donation, it takes development subsidy to bridge the gap in affordability with the targeted area median income households. As funding application requests are issued by the County (and other municipalities), there is a short turnaround time to line up the property, project and financing. Therefore, a line of credit would place us in the best position to take advantage of these opportunities.

I hope you will support this request and assist us in our mission to build up a permanent affordable housing infrastructure that will be available to current and future residents of Palm Beach County.

Please call me at (561)318-8430 to discuss this request and/or provide additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cindee", with a large, stylized flourish extending to the right.

Cindee LaCourse-Blum, Executive Director  
Community Land Trust of Palm Beach County, Inc.

4938 Davis Road • Lake Worth, Florida 33461  
Phone: (561) 318-8842  
<http://cltofabc.org>



RECONSTRUCTION  
REHABILITATION

Project Description (circle one for Category I and one for Category II):

Category I: MULTI-FAMILY  
SINGLE FAMILY

Category II: FOR-SALE  
RENTAL

Development Mix:

# of BR per unit	# BA per unit	# units per type	Square Footage Range	Estimated Sales/Rental Price
3	2	1	1277	150,000

Population Served (i.e. elderly, work force, etc. and % of low income): 80% AMI

Project Specifics:

Number of units: 1                      Number of buildings: 1  
Number of floors: 1                      Units per building: 1

**D. PROJECT STATUS**

Status of Project (circle current stage):

ACQUISITION/PLANNING  
ENTITLEMENTS RECEIVED  
SITE WORK  
INFRASTRUCTURE DEVELOPMENT

VERTICAL CONSTRUCTION/REHABILITATION  
CERTIFICATE OF OCCUPANCY

Estimated Completion/Occupancy Date: March 31, 2022

% of Pre-sales on For-Sale Units: \_\_\_\_\_

% of Occupancy for Rental Units: \_\_\_\_\_

Estimated Total Project Cost: \$241,769.46

Sources of Funding for Remainder of Project Cost & Summary of Terms Thereof: \_\_\_\_\_  
Palm Beach County HOME CHDO

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**E. FEASIBILITY**

Please attach a project budget including all costs of development and all sources of funding and demonstrate how borrowed funds (from all sources) will be repaid.

**F. DEVELOPER EXPERIENCE**

Please attach a description of the developer's experience, including, but not limited to, length of existence, geographic locations where work has been conducted by the developer, the number and types of projects the developer has completed, the number and types of projects currently under construction/development, and any other information the developer believes will be useful to the Authority in rendering a decision on the application.



# PBC HFA Budget

Lake Worth Beach 127 South F Street  
Budget

	Budget	Budget Changes	Current Budget	Invoiced / Spent to Date	Remaining Balance
<b>Hard Costs</b>					
Construction	\$ 172,640.25				
<b>Total Hard Costs</b>	<b>\$ 172,640.25</b>		<b>\$ 172,640.25</b>		<b>\$ 172,640.25</b>
<b>Financing Costs</b>					
Title and Recording-Construction-clos	\$ 2,500.00		\$ 2,500.00		\$ 2,500.00
Closing with Buyers	\$ 3,500.00		\$ 3,500.00		\$ 3,500.00
Construction Period Interest	\$ 2,500.00		\$ 2,500.00		\$ 2,500.00
<b>Total Financing Cost</b>	<b>\$ 8,500.00</b>	<b>\$ -</b>	<b>\$ 8,500.00</b>		<b>\$ 8,500.00</b>
<b>Soft Costs</b>					
Accounting	\$ 1,000.00		\$ 1,000.00		\$ 1,000.00
Architect	\$ 4,200.00		\$ 4,200.00		\$ 4,200.00
Legal	\$ 1,000.00		\$ 1,000.00		\$ 1,000.00
Builders Risk	\$ 1,726.40		\$ 1,726.40		\$ 1,726.40
Project Manager	\$ 5,750.00		\$ 5,750.00		\$ 5,750.00
Testing	\$ 2,000.00		\$ 2,000.00		\$ 2,000.00
Marketing	\$ 1,000.00		\$ 1,000.00		\$ 1,000.00
Permit Fees	\$ 3,452.81		\$ 3,452.81		\$ 3,452.81
Impact Fees	\$ 9,000.00		\$ 9,000.00		\$ 9,000.00
Utility Connection Fees	\$ 7,000.00		\$ 7,000.00		\$ 7,000.00
Realtors Fees	\$ 4,500.00		\$ 4,500.00		\$ 4,500.00
Developers Fee	\$ 15,000.00		\$ 15,000.00		\$ 15,000.00
Owner Contingency Hard or Soft	\$ 5,000.00		\$ 5,000.00		\$ 5,000.00
<b>Total Soft Costs</b>	<b>\$ 60,629.21</b>		<b>\$ 60,629.21</b>		<b>\$ 60,629.21</b>
<b>Total Budget</b>	<b>\$ 241,769.46</b>	<b>\$ -</b>	<b>\$ 241,769.46</b>		<b>\$ 241,769.46</b>

## Sources of Income

Sale \$150,000 \$ 150,000.00  
CHDO \$ 92,000.00

**TOTAL \$ 242,000.00**

## Community Land Trust of Palm Beach County, Inc.

### Developer Experience

The Community Land Trust of Palm Beach County, Inc. (CLT of PBC) was formed early 2006 to help address the need for affordable housing in Palm Beach County. The core mission of the CLT of PBC is to create a permanent stock of rental and homeownership opportunities that will remain affordable in perpetuity and that is controlled by the community it serves. To fulfill its mission, the CLT of PBC undertakes the following activities:

- **Housing Development-** The CLT of PBC just completed Phase I of the Kirk Road CLT Homes Project. This phase of the project consists of the development of six scattered site CLT homes that have been sold to families with incomes at or below 80% AMI. Project financing from the Housing Finance Authority of Palm Beach County, and \$100k from the Citi/Grounded Solutions Accelerator Program.
- In 2018, the CLT of PBC completed Davis Landings West, a 24 unit CLT home ownership community located in Suburban Lake Worth. Project financing includes a \$1.7 million Federal HOME Loan through Palm Beach County, \$132,551 in impact fee assistance from Palm Beach County, \$500k Pre-Development Loan from Florida Housing Finance Corporation and \$3.4 million in private financing from the Housing Finance Authority of Palm Beach County.
- In 2012, the CLT of PBC partnered with Realtex Development Corporation to win the Lake Worth CRA RFP to develop 55 affordable, 2 and 3-bedroom multi-family units in the City of Lake Worth.
- In October 2012, the CLT of PBC completed Phase I of Davis Landings. An affordable multi-family rental development consisting of 25 rental units that are made available to extremely low, very-low and moderate income households. Davis Landings is currently 100% occupied.
- **Housing Acquisition and Neighborhood Stabilization-** Through the Urban Infill Housing Program and Neighborhood Stabilization Program (NSPP), the CLT of PBC has acquired thirty-one (31) vacant and/or foreclosed housing units, to rehab if necessary, and made them available for resale to very-low and low income households.
- **Lease with an Option to Purchase-** The CLT of PBC manages an affordable rental lease with option to purchase program.
- **Homebuyer Counseling-** CLT of PBC staff provides one-on-one confidential home buyer counseling and a two hour CLT specific orientation in-house.
- **Coordinate Services-** CLT of PBC staff coordinates services with other providers for credit and budget counseling, to establish IDA Accounts, for financial literacy classes, for home buyer post purchase counseling and to obtaining financing from home buyer assistance programs.
- **First Mortgage Financing-** CLT of PBC staff assists clients in obtaining first mortgage financing from one of our partner lenders.
- **Stewardship-** One of the defining roles that a CLT undertakes is stewardship. Once a homeowner purchases a CLT home, the CLT of PBC has and will continue to ensure that the owners are well served during their tenure of ownership. The role of stewardship is assisting home buyers with their homestead exemption and reviewing annual tax assessments: assistance with questions about escrow accounts, homeowners warranties, home improvements.



## Project Experience

To date, the CLT of PBC has acquired/rehabbed/constructed 61 single family homes for resale and has developed a 25 unit multi-family affordable housing development. The CLT of PBC has also developed another 55 unit multi-family project with a private partner.

### Kirk Road CLT Homes Phase I

In 2018, the CLT of PBC completed Phase I of the Kirk Road CLT Homes Project. This phase of the project consists of the development of six (6) scattered site CLT homes that have been sold to families with incomes at or below 80% AMI.

The project was comprised of (2) 4-bedroom/2 bath/1 car garage units, 1 duplex of 3 bedroom/2 bath/1 car garage units, and (3) 2 bedroom/2 bath/1 car garage units.

Project financing included:

- \$749,767 in HOME CDHO funding from Palm Beach County
- \$1 million in private financing from the Housing Finance Authority of Palm Beach County
- \$100k from the Citi/Grouped Solutions Accelerator Program.





## Davis Landings West, Affordable Housing Development, Suburban Lake Worth, FL



In 2018, the CLT of PBC completed Davis Landings West, a 24-unit affordable homeownership community comprised of sixteen single family homes and eight townhomes. Twenty-two of the homes have been sold to households with incomes at or below 80% of the AMI and the remaining two will be set aside for households at or below 120% AMI. All homes will be sold under the community land trust model of homeownership.

## La Joya Villages Affordable Housing Development, Lake Worth



In 2013, the CLT of PBC partnered with a private partner, Realtex Southeast, to develop La Joya Villages, a 55-unit affordable multi-family housing development in Lake Worth, Florida. The development is comprised of two and three bedroom rental units. Twenty-five percent of the units are set-aside for households whose incomes are at or below 50% of the AMI. The remaining units are set aside for households whose income is at or below 60% of the AMI. Construction was completed in March 2015. The project was financed with seven layers of funding as follows:

- \$4,156,241 in 4% LIHTC from Florida Housing Corporation
- \$3,580,000 in tax exempt bonds from Palm Beach County Housing Finance Authority
- \$1,832,807 NSP2 from the Lake Worth CRA
- \$600k HOME from Palm Beach County
- \$500k Federal Home Loan Bank of Atlanta AHP
- \$50k Neighborworks through Housing Partnership
- \$50k Grant from the Community Foundation of Palm Beach and Martin Counties

### La Joya References:

Joan C. Oliva  
Executive Director  
Lake Worth Community Redevelopment Agency  
29 S. "J" Street  
Lake Worth, FL 33460  
(561) 493-2550  
<http://www.lakeworthcra.org>





**Davis Landings**  
**Affordable Housing Development**  
**Suburban Lake Worth, FL**

In 2011, the CLT of PBC was awarded \$5.7 million in Federal Neighborhood Stabilization Program 2 (NSP2) funds to construct Davis Landings, a 25-unit affordable multifamily rental development. The project was completed in September 2012, well ahead of the contractual deadline of December 15, 2012.

Fifty-five percent of the units are sets aside for households whose incomes are at or below 50% of the AMI and twenty-five percent of the units are set aside for households with incomes at or below 30% AMI. Davis Landings is currently 100% occupied.



*Davis Landings*



**RESOLUTION NO. R-2020-05**

**A RESOLUTION OF THE HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA; APPROVING THE APPLICATION FOR FINANCING SUBMITTED BY THE COMMUNITY LAND TRUST OF PALM BEACH COUNTY, INC.; APPROVING A REVOLVING LOAN TO THE COMMUNITY LAND TRUST OF PALM BEACH COUNTY, INC. IN THE FORM OF A LINE OF CREDIT IN AN AMOUNT NOT TO EXCEED \$250,000; APPROVING THE FORM OF AND AUTHORIZING ENTERING INTO A MASTER LINE OF CREDIT AGREEMENT WITH THE COMMUNITY LAND TRUST OF PALM BEACH COUNTY, INC.; AUTHORIZING ENTERING INTO PROJECT LOAN AGREEMENTS AND OTHER LOAN DOCUMENTS CONSISTENT WITH THE MASTER LINE OF CREDIT AGREEMENT; AUTHORIZING THE PROPER OFFICERS OF THE AUTHORITY TO DO ALL THINGS NECESSARY OR ADVISABLE IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE FOR THIS RESOLUTION.**

**WHEREAS**, the Board of County Commissioners of Palm Beach County, Florida (the “Board”), has heretofore enacted an ordinance, as amended, creating the Housing Finance Authority of Palm Beach County, Florida (the “**Authority**”), pursuant to the provisions of Part IV of Chapter 159, Florida Statutes, as amended and supplemented (the “**Act**”); and

**WHEREAS**, the Board has heretofore adopted a resolution declaring a need for the Authority to function in order to alleviate the shortage of housing and capital for investment in housing within Palm Beach County, Florida (the “**County**”); and

**WHEREAS**, the Community Land Trust of Palm Beach County (the “the Applicant”) has submitted an application (the “**Application**”) to the Authority for a revolving loan from the Authority’s Surplus Funds in the form of line of credit in the aggregate principal amount not to exceed \$250,000 (the “**Loan**”) to finance the Projects, as described in the Application and in the Master Line of Credit Agreement between the Applicant and the Authority attached as Exhibit “A” hereto;

**WHEREAS**, based upon the Application and subject to further review and analysis, the Authority has determined that the Projects constitutes Eligible Housing within the meaning of the Authority’s policies and procedures for the use of surplus funds (“**Surplus Funds Policy**”); and

**WHEREAS**, the Authority wishes to enter into certain agreements with the Applicant with respect to its consideration of the Applicant's request for a Loan from the Authority's Surplus Funds and the financing of the Projects.

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA:**

**Section 1: Recitals.** The foregoing recitals stated above are hereby found by the Authority to be true and correct and incorporated into this Resolution.

**Section 2: Approval of Application.** The Authority approves the Application attached hereto as Exhibit "A," in consideration of the Applicant's creditworthiness, experience and prior financings with the Authority, and the nature of the Projects to be funded with the proceeds of the Loan.

**Section 3: Approval of Revolving Loan.** The Authority hereby approves the making of a revolving loan to Applicant in an aggregate principal amount of not to exceed \$250,000 (the "**Loan**") to finance the Projects, as described in the hereinafter defined Master Agreement.

**Section 4: Approval and Execution of Master Agreement.** The Authority is hereby authorized to enter into a Master Line of Credit Agreement with the Applicant in substantially the form attached as Exhibit "B" hereto (the "**Master Agreement**"). The Chairperson or, in the Chairperson's absence, any other member of the Authority, is hereby authorized to execute and deliver the Master Agreement, the execution thereof by the Authority being conclusive evidence of the approval of the form of such Master Agreement.

**Section 5: Authority to Enter into Project Loan Agreements and Other Loan Documents.** The terms of the financing for each Project will be as provided by the Master Agreement, with the specific terms to be evidenced by a Project Loan Agreement between the Authority and the Applicant (the "Project Loan Agreements"). The Authority is authorized to enter



into Project Loan Agreements and such other loan documents with the Applicant as are usual and customary for a revolving loan of this type, so long as such documents are consistent with the provisions of the Master Agreement. Such documents shall be in such form as may be approved by the Executive Director and of the Authority and general counsel to the Authority, and the Executive Director is hereby authorized and directed to execute and deliver any such documents on behalf of the Authority.

**Section 6: No Other Rights Conferred.** Except as herein otherwise expressly provided, nothing in this Resolution or in the agreements approved hereby, expressed or implied, is intended or shall be construed to confer upon any person or firm or corporation other than the Authority or the Applicant, any right, remedy or claim, legal or equitable, under and by reason of this Resolution or such agreements, or any other agreements to which the Authority is a party and which have been approved by the Authority or any provision thereof; this Resolution, such agreements and all of their respective provisions being intended to be and being for the sole and exclusive benefit of the Authority and the Applicant.

**Section 7: Severability.** In case any one or more of the provisions of this Resolution, or of agreements approved hereby or any other agreements to which the Authority is a party and which have been approved by the Authority, shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any of the other provisions of this Resolution or of such agreements.

**Section 8: Further Actions; Effectiveness of Approval.** The Chairperson, the Vice Chairperson, the Secretary of the Authority and the other members of the Authority, the Executive Director of the Authority and the Authority's general counsel, are hereby authorized and directed to do all acts and things required of them by the provisions of the this Resolution, the agreements herein approved or any other agreements to which the Authority is a party and which have been approved by the Authority.

**Section 9: Headings Not Part of this Resolution.** Any headings preceding the texts of the several sections of this Resolution shall be solely for convenience of reference and shall not form a part of this Resolution, nor shall they affect its meaning, construction or effect.

**Section 10: Resolution Effective.** This Resolution shall take effect immediately upon its adoption.

**ADOPTED** this 13th day of March, 2020.

(SEAL)

**HOUSING FINANCE AUTHORITY OF  
PALM BEACH COUNTY, FLORIDA**

ATTEST:

By: \_\_\_\_\_  
Name: Gary Eliopoulos  
Title: Chairperson

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: [Assistant] Secretary

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: \_\_\_\_\_  
Name: Morris G. (Skip) Miller, Esq.  
Title: Attorney

EXHIBIT "A"  
APPLICATION

EXHIBIT "B"

MASTER LINE OF CREDIT AGREEMENT

**MASTER LINE OF CREDIT AGREEMENT**

**THIS MASTER LINE OF CREDIT AGREEMENT**, dated as of the \_\_\_\_ day of March, 2020 (the “Agreement”), is made by and between the **COMMUNITY LAND TRUST OF PALM BEACH COUNTY, INC.**, a Florida non profit corporation (the “Borrower”) with its principal place of business located at 4938 Davis Road, Lake Worth Beach, Florida 33461 and the **HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA**, a public body corporate and political entity organized and existing under the laws of the State of Florida (the “Lender”) with its principal place of business located at 100 Australian Avenue, Suite 410, West Palm Beach, Florida 33406.

**RECITALS:**

A. The Borrower has applied to the Lender for a revolving loan in the form of a line a credit authorizing the Borrower to borrow up to an aggregate principal sum of \$250,000, or such larger amount as approved by subsequent action of the board of Lender (the “Line of Credit”), to be advanced by the Lender pursuant to the terms hereof.

B. The Lender will make loans to Borrower from time to time (each, a “Loan” and collectively, the “Loans”) upon satisfaction by the Borrower of the requirements to be set forth herein and in a separate loan agreement relating to each Loan.

C. The Borrower will use the proceeds of each Loan to acquire, construct, renovate and/or equip single-family or multi-family residential units that will be occupied by “Eligible Persons” (as defined in Chapter 159, Part IV, Florida Statutes) or persons of such lesser income as may be required by the Lender, and to comply with the applicable ordinances, codes or statutes that govern the construction, renovation and equipping rehabilitation or reconstruction of single-family or multi-family residential units in Palm Beach County, Florida (the “County”).

D. The boards of each of the Lender and the Borrower have approved the execution and delivery of this Agreement and have authorized their respective Executive Directors to execute and deliver Project Agreements and, in the case of the Borrower, Notes pursuant hereto.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Borrower and the Lender hereby agree as follows:

**ARTICLE I**

**Definitions**

1.1 For the purposes hereof:

(a) “Agreement” or “Master Line of Credit Agreement” shall mean this agreement between the Borrower and the Lender, as it may be amended or supplemented from time to time;

(b) “Costs” means the costs of each Project, as more specifically set forth in the Project Loan Agreement for such Project.

(c) “Default Condition” means the occurrence or existence of an event or condition which, upon the giving of notice or the passage of time, or both, would constitute an Event of Default;

(d) “Draw Request” means a written request for any advance of Loan proceeds for a Project, which shall be submitted for each requested advance as set forth in Section 2.3 hereof and in the Project Loan Agreement for such Project;

(e) “Event of Default” means an Event of Default as defined in Section 7.1 hereof;

(f) “Force Majeure” means strikes, lock-outs, riots or other labor troubles, unavailability of materials, a national emergency, any rule, order or regulation of Governmental Authorities, tornadoes, floods, hurricanes or other natural disasters, or other similar causes not within the Borrower’s control;

(g) “Governmental Authorities” means any governmental (including health and environmental) office, officer or official whose consent or approval is required as a prerequisite to the commencement of the construction of a Project or to the operation and occupancy of a Project or to the performance of any act or obligation or the observance of any agreement, provision or condition of whatsoever nature herein contained;

(h) “Loan Documents” means, with respect to a Project, this Agreement, the Project Loan Agreement for such Project, the Note for such Project and all other documents executed in connection herewith;

(i) “Note” or “Notes” means, with respect to each Loan, the Promissory Note or Notes of the Borrower dated as of the closing date of such Loan in favor of the Lender in the amount of the Loan as well as any promissory note or notes issued by the Borrower in substitution, replacement, extension, amendment or renewal of any such promissory note or notes;

(j) “Project” shall have the meaning assigned to such term in each Project Loan Agreement.

(k) “Project Loan Agreement” or “Project Loan Agreements” shall mean the agreement or agreements between the Borrower and the Lender setting forth the terms and conditions of each Loan, as such agreement or agreements may be amended or supplemented from time to time.

(l) “Vendors” means the general contractor(s) for the Project, and their sub-contractors or suppliers.

## ARTICLE II

### The Loans

#### 2.1 Loan Terms

(a) General. Subject to the terms and conditions of this Agreement and each Project Loan Agreement, the Lender may lend and the Borrower may borrow up to an aggregate principal sum of \$250,000 or such larger amount as may be approved by subsequent action of the board of Lender. Upon written request of the Borrower, the Lender may, in its sole discretion, determine to make a Loan hereunder to the Borrower for a Project. Each borrowing shall be evidenced by a Note, and the terms and conditions applicable to such Loan shall be set forth in a Project Loan Agreement. A Note may be either revolving or non-revolving, as agreed upon by the Borrower and the Lender. Each Note shall be in substantially the form attached hereto as Exhibit A. Notes and Project Loan Agreements shall each be numbered "1" and upward, in chronological order.

(b) Interest. The principal balance outstanding on each Note from time to time shall bear interest at the rate of one percent (1%) per annum for Notes with a maturity of one year or less from the date of issuance, two percent (2%) per annum for Notes with a maturity of more than one year but not more than two years, and three percent (3%) per annum for Notes with a maturity of more than two years but not more than three years, calculated on an actual/365 day basis. Principal of and interest on each Loan shall be repayable at the times and in the manner set forth in the applicable Note.

2.2 Advances. The Lender agrees that it will from time to time as provided in each Project Loan Agreement, so long as there shall exist no Default Condition or Event of Default, advance proceeds of each Loan to the Borrower. Provided, that if after an Advance under a particular Note the principal amount outstanding under such Note will be more than \$100,000, the Borrower will provide the Lender with either (a) third party documentation satisfactory to the Lender that the Borrower is entitled to reimbursement for the amount requested, or (b) a mortgage on the real property on which the applicable Project is located and evidence of title and priority of such mortgage acceptable to the Lender in its sole discretion; and provided, further, that if after an Advance under a particular Note the principal amount outstanding under such Note will be more than \$250,000, the Borrower shall provide the Lender with a mortgage as described above.

2.3 Draw Requests. At least three (3) business days (or such shorter or longer period as may be agreed to by the Borrower and the Lender in a Project Loan Agreement) prior to each Loan advance requested by the Borrower, the Borrower must submit to the Lender a Draw Request, which shall include:

(a) A completed request for advance in the form attached hereto as Exhibit B (or in such format as is otherwise acceptable to the Lender) setting forth the amount of Loan proceeds desired, together with such certifications and additional information as the Lender may require in its reasonable discretion, signed by the Executive Director or other authorized officer of the Borrower; and

(b) Such other documentation as may be required by the applicable Project Loan Agreement.

2.4 Advance Amount. Following receipt of a Draw Request, the Lender shall determine the amount of the advance it will make in accordance with requirements of the applicable Project Loan Agreement.

2.5 Deposit of Advances. All Loan advances shall be made by depositing same in the Borrower's account designated to the Lender, or in such other manner as is mutually acceptable to the Borrower and the Lender.

2.6 Option to Pay Vendors. If an Event of Default shall exist, at its option, the Lender may make Loan advances directly to the unpaid party providing the Costs for which payment is sought in the Draw Request, and the execution of this Agreement by the Borrower shall, and hereby does, constitute an irrevocable direction and authorization to so advance the funds. No further direction or authorization from the Borrower shall be necessary to warrant such direct advances.

### ARTICLE III

#### Conditions Precedent to Closing and Advances

3.1 Periodic Advances. The Lender shall not be obligated to close on any Loan or to make the first Loan advance or any subsequent Loan advances until all of the conditions contained in this Agreement and the applicable Project Loan Agreement have been satisfied, all in form and substance reasonably satisfactory to the Lender and the Lender's counsel. Advances shall only be made for Costs.

### ARTICLE IV

#### The Borrower's Covenants and Agreements

4.1 Payment. The Borrower will pay when due all sums owing to the Lender under the Notes, this Agreement, the Project Loan Agreements and the other Loan Documents and all sums advanced to Borrower.

4.2 Further Assurances. On demand of the Lender, the Borrower will do any act, or execute any additional documents reasonably required by the Lender to secure a Loan or to comply with the Loan Documents, including, but not limited to, additional financing statements or continuation statements, new or replacement notes and/or mortgages and agreements supplementing, extending or otherwise modifying a Note and/or Project Loan Agreement and certificates as to the amount of the indebtedness evidenced by the Note from time to time, to the extent that said demand does not place Borrower in default of any or its existing notes, mortgages or agreements relating to the properties, and as otherwise only permitted by law.



4.3 Construction, Renovation and/or Equipping. The Borrower will begin construction of each Project as soon as practicable, and in any event, within thirty (30) days after the date of the applicable Project Loan Agreement; will continue conscientiously the construction, renovation and/or equipping of such Project which construction, renovation and/or equipping will be in compliance with all applicable laws at all times, will not discontinue or permit the discontinuance of work on a Project for as much as twenty (20) business days, except for Force Majeure causes, in which event construction of such Project may be discontinued for the length of such Force Majeure, but in no event for more than ninety (90) days and, in any event, will complete such Project, including installation of any required items of personalty in substantial compliance with the plans and specifications therefor, free and clear of liens or claims of liens for material supplied or for labor services performed in connection with the construction of such Project.

4.4 Payment of Vendors. The Borrower will advise the Lender in writing immediately if the Borrower receives any notice, written or oral, from any Vendor to the effect that said Vendor has not been paid for any services provided to the Borrower in connection with a Project, and the Borrower will deliver to the Lender on demand, any contracts, bills of sale, statements, receipted vouchers or agreements with such Vendors.

4.5 Fees and Expenses. Whether or not a Loan is made, or all Loan proceeds advanced, the Borrower agrees to pay all expenses (pre- and post-closing) reasonable in amount incurred by the Lender, or by the Borrower in order to meet the Lender's requirements, in connection with such Loan, including (without limitation) fees for appraisal, reappraisal, environmental assessments, survey, recording, filing, and title insurance, builder's risk and other insurance premiums, brokerage commissions and claims of brokerage, property taxes, documentary stamp taxes, intangible taxes, architect's fees and such legal fees as are reasonable in amount charged at attorneys' normal hourly rates without regard to the statutory presumption, incurred by the Lender in connection with the making of a Loan and the enforcement of the Lender's rights under the Loan Documents. Any such amounts paid by the Lender shall be deducted from the amount requested in the first requisition.

4.6 Preservation of Contracts. The Borrower will not, without prior written notification to the Lender, terminate or cancel its contracts or agreements with its general contractor for the providing of labor, services or materials in connection with the construction of a Project.

4.7 Use of Loan Funds. The Borrower shall use all Loan proceeds advanced to the Borrower solely in payment of costs incurred in connection with the corresponding Project, in accordance with the Cost Breakdown.

4.8 Insurance. The Borrower covenants to maintain at all times the following minimum insurance, or such greater insurance as may be required by a Project Loan Agreement:

- (a) General liability insurance with a minimum combined single limit of \$2,000,000; and

(b) Workers compensation insurance as required by the laws of the State of Florida.

4.9 Taxes and Insurance. Upon the request of the Lender, the Borrower shall submit to the Lender such receipts and other statements which shall evidence, to the satisfaction of the Lender, that all taxes, assessments and insurance premiums have been paid in full.

4.10 Availability of Utilities. All utility services necessary for the construction of a Project and the operation thereof for their intended purposes are presently available, or will be available when needed, through presently existing public or unencumbered private easements or rights-of-ways, including but not limited to, water supply, storm and sanitary sewer, gas, electric and telephone facilities, and all such utilities are non-interruptible.

4.11 Hazardous Substances. The Borrower warrants and represents to the Lender that to the best of the Borrower's knowledge, that (i) any real property on which a Project is or will be located has not been, is not now being used and will not be used in violation of any federal, state or local environmental law, ordinance or regulation, (ii) no proceedings have been commenced, or notice(s) received, concerning any alleged violation of any such environmental law, ordinance or regulation and (iii) any real property on which a Project is or will be located is and will be free of hazardous or toxic substances and wastes, contaminants, oil, radioactive or other materials (including without limitation any asbestos containing materials) the removal of which is required or the maintenance of which is restricted, prohibited or penalized by any federal, state or local agency, authority or governmental unit. Except for materials necessary for the normal routine maintenance of a Project, which such materials shall be used in accordance with all applicable governmental laws, ordinances and regulations, the Borrower covenants that it shall not permit any such materials to be brought on to any real property on which a Project is or will be located, or if so brought or found located thereon, shall be immediately removed, with proper disposal, and all required environmental cleanup procedures shall be diligently undertaken pursuant to all such laws, ordinances and regulations.

The Borrower further represents and warrants that Borrower will promptly transmit to Lender copies of any citations, orders, notices or other material governmental or other communications received with respect to any hazardous materials, substances, wastes or other environmentally regulated substances affecting a Project. Borrower agrees to permit Lender, its agents, contractors and employees to enter and inspect any Project or any other of Borrower's places of business or any other property of Borrower at any reasonable time upon three (3) days prior notice for the purposes of conducting an environmental investigation and audit (including taking physical samples) to ensure that the Borrower is complying with its obligations under the within covenants and Borrower shall reimburse Lender on demand for the cost of any such environmental investigation and audit. Borrower shall provide Lender, its agents, contractors, employees and representatives with access to and copies of any and all data and documents relating to or dealing with any hazardous material used, generated, manufactured, stored or disposed of by Borrower's business operations within five (5) days of the request therefor.

To the maximum extent permitted by law and in the terms hereof, the Borrower agrees that it will reimburse the Lender for and hereby holds the Lender harmless from all fines or

penalties made or levied against the Lender by any governmental agency or authority as a result of or in connection with (i) the use of any real property on which a Project is or will be located, (ii) the use of the facilities thereon, or (iii) the use, generation, storage, transportation, discharge, release or handling of any hazardous or toxic materials, wastes or substances (as such terms are defined by any applicable federal, state or local law), or any other material the use, generation, storage, transportation, discharge, release or handling of which is regulated by any federal, state or local statute, law, rule, regulation, ordinance or order at any time, or as a result of any release of any nature onto the ground or into the water or air from or upon the such real property at any time, and also agrees that it will reimburse the Lender for and indemnify and hold the Lender harmless from any and all costs, expenses, (including all reasonable attorneys' fees) and for all civil judgments or penalties incurred, entered, assessed, or levied against the Lender as a result of the Borrower's use of the Land or as a result of any release of any nature onto the ground or into the water or air by the Borrower from or upon such real property ("Environmental Indemnity"). Such reimbursement or indemnification shall include but not be limited to any and all judgments or penalties to recover the cost of cleanup of any such release by the Borrower from or upon such real property and all expenses incurred by the Lender as a result of such a civil action, including but not limited to reasonable attorneys' fees at trial and all appellate levels.

The Environmental Indemnity shall survive the repayment of the Loan.

4.12 Indebtedness. Except for indebtedness currently in existence as listed on Exhibit C hereto, the Borrower shall not contract, create, incur, assume or permit to exist any indebtedness secured by any Project or by real property on which a Project is or will be located unless said indebtedness is approved by Lender in writing.

4.13 Transfer of Assets. The Borrower shall not sell, lease, assign or otherwise dispose of or transfer any assets, except in the normal course of its business, or enter into any merger or consolidation, or transfer control or ownership of the Borrower.

4.14 Liens. The Borrower shall not grant, suffer or permit any contractual or non-contractual lien, on or security interest (other than Permitted Exceptions, as provided in each Project Loan Agreement) in any of its assets which serve as collateral for any of the Borrower's obligations to Lender, or fail to promptly pay when all due all lawful claims, whether for labor, materials or otherwise.

4.15 Good Standing. The Borrower shall maintain its existence, good standing and qualification to do business, where required and comply with all laws, regulations and governmental requirements including, without limitation, environmental laws applicable to it or any of its property, business operations and transactions.

4.16 Adverse Condition. The Borrower shall promptly advise Lender in writing of (i) any condition, event or act which comes to its attention that would or might materially adversely affect Borrower's financial condition or operation or Lender's rights under the Loan Documents, (ii) any litigation filed by or against Borrower that would materially adversely affect the Borrower's financial condition or operation or Lender's rights under the Loan Documents, (iii) any event that has occurred that would constitute an Event of Default

under any of the Loan Documents, and (iv) any material uninsured or partially uninsured loss through fire, theft, liability or property damage.

4.17                    Tangible Personal Property. The Borrower shall maintain all of its tangible property in good condition and repair and make all necessary replacements thereof, and preserve and maintain all licenses, trademarks, privileges, permits, franchises, certificates and the like necessary for the operation of its business.

4.18                    Reports. The Borrower shall provide the Lender with a copy of (a) the Borrower's budget for each of its fiscal years, within thirty (30) days of its adoption, and (b) the audited annual financial statements of the Borrower, within 180 days of the end of each fiscal year of the Borrower.

## ARTICLE V

### Representations and Warranties

5.1        Borrower makes the following representations and warranties:

(a)        Good Standing. Borrower is duly organized, validly existing and in good standing under the laws of the State and has the power and authority to own and manage property, including each Project, and to carry on business in each jurisdiction in which Borrower does business.

(b)        Authority. Borrower has full power and authority to execute and deliver the Loan Documents and to incur and perform the obligations provided for therein, all of which have been duly authorized by all proper and necessary action of the governing body of Borrower. No consent or approval of any public authority or other third party is required as a condition to the validity of any Loan Document, and Borrower is in compliance with all laws and regulatory requirements to which it is subject.

(c)        Enforceability. This Agreement and the other Loan Documents executed by Borrower constitute valid and binding obligations of Borrower, as the case may be, enforceable in accordance with their terms, subject to the effect of bankruptcy, insolvency and general principles of equity.

(d)        Litigation. There is no proceeding involving Borrower pending or, to the best knowledge of Borrower, threatened before any court or governmental authority, agency or arbitration authority that would materially adversely affect Borrower's financial condition or operation or Lender's rights under the Loan Documents, except as disclosed to Lender in writing and acknowledged by Lender prior to the date of this Agreement.

(e)        No Conflicting Agreements. There is no statute, ordinance, resolution, bylaw, or other document pertaining to the organization, power or authority of Borrower and no provision of any existing agreement, mortgage, indenture or contract binding on Borrower or affecting its property, which would conflict with or in any way prevent the execution, delivery or carrying out of the terms of this Agreement and the other Loan Documents.

(f) Assets. Borrower has good title to its assets, and such assets are free and clear of liens, except those granted to Lender and except for Permitted Exceptions (as described in each Project Loan Agreement).

(g) Taxes. Any taxes and assessments due and payable by Borrower have been paid or are being contested in good faith by appropriate proceedings and the Borrower has filed all tax returns as required.

(h) Place of Business. Borrower's chief executive office is located at 4938 Davis Road, Lake Worth Beach, Florida 33461.

(i) Environmental Compliance. The conduct of Borrower's business operations and the condition of Borrower's property does not and will not violate any federal laws, rules or ordinances for environmental protection, regulations of the Environmental Protection Agency and any applicable local or state law, rule, regulation or rule of common law and any judicial interpretation thereof relating primarily to the environment or Hazardous Materials.

(j) Affirmation of Representations. All representations and warranties made hereunder shall be deemed to be made at and as of the date hereof and at and as of the date of any Project Loan Agreement, the issuance of any Note and any advance thereunder

## ARTICLE VI

### Events of Default

6.1 Default. The occurrence of any of the following (time being of the essence as to this Agreement and all of its provisions) constitutes an Event of Default by Borrower under this Agreement and, at the option of Lender, under the other Loan Documents:

(a) Scheduled Payment. Borrower's failure to make any payment required by a Note within fifteen (15) days of the date such payment is due.

(b) Monetary Default. Borrower's failure to make any other payment required by the Loan Documents within fifteen (15) days of the date such payment is due.

(c) Other. Borrower's failure to perform any other obligation imposed upon Borrower under the Loan Documents which is not cured within any applicable grace period provided or, with respect to such breaches, failures or violations of this Agreement, the Notes, or the other Loan Documents within thirty (30) days following written notice of such breach or violation from Lender provided, however, that if such breach, failure or violation cannot be cured with the exercise of reasonable diligence within such thirty (30) day period, then the period for curing may be extended for up to an additional ninety (90) days, but not beyond, provided Borrower commences such cure within fifteen (15) days after such notice and thereafter proceeds diligently to complete the curing of same.

(d) Representation. Any representation or warranty of Borrower contained herein or in any certificate delivered pursuant hereto, or in any other instrument or statement

furnished in connection herewith, proves to be incorrect or misleading in any material, adverse respect as of the time when the same shall have been made, including, without limitation, any and all financial statements, operating statements, or schedules attached thereto, furnished by Borrower to Lender or pursuant to any provision of this Agreement or the other Loan Documents.

(e) Bankruptcy. Borrower (i) files a voluntary petition in bankruptcy or a petition or answer seeking or acquiescing in any reorganization or for an arrangement, composition, readjustment, liquidation, dissolution, or similar relief for itself pursuant to the United States Bankruptcy Code or any similar law or regulation, federal or state, relating to any relief for debtors, now or hereafter in effect; or (ii) makes an assignment for the benefit of creditors or admits in writing its inability to pay or fails to pay its debts as they become due; or (iii) suspends payment of its obligations or takes any action in furtherance of the foregoing; or (iv) consents to or acquiesces in the appointment of a receiver, trustee, custodian, conservator, liquidator or other similar official of Borrower, for all or any part of the Premises or other assets of such party, or either; or (v) has filed against it an involuntary petition, arrangement, composition, readjustment, liquidation, dissolution, or an answer proposing an adjudication of it as a bankrupt or insolvent, or is subject to a reorganization pursuant to the United States Bankruptcy Code, an action seeking to appoint a trustee, receiver, custodian, or conservator or liquidator, or any similar law, federal or state, now or hereafter in effect, and such action is approved by any court of competent jurisdiction and the order approving the same shall not be vacated or stayed within sixty (60) days from entry; or (vi) consents to the filing of any such petition or answer, or shall fail to deny the material allegations of the same in a timely manner.

(f) Judgments. (1) A final judgment, other than a final judgment in connection with any condemnation, is entered against Borrower that (i) materially and adversely affects the value, use or operation of a Project, or (ii) materially and adversely affects, or reasonably may materially and adversely affect, the validity, enforceability or priority of the lien or security interest created by the Loan Documents, or both; or (2) execution or other final process issues thereon with respect to any collateral for a Note; and (3) Borrower does not discharge the same or provide for its discharge in accordance with its terms, or procure a stay of execution thereon, in any event within thirty (30) days from entry, or Borrower shall not, within such period or such longer period during which execution on such judgment shall have been stayed, appeal therefrom or from the order, decree or process upon or pursuant to which such judgment shall have been entered, and cause its execution to be stayed during such appeal, or if on appeal such order, decree or process shall be affirmed and Borrower shall not discharge such judgment or provide for its discharge in accordance with its terms within sixty (60) days after the entry of such order or decree or affirmance, or if any stay of execution on appeal is released or otherwise discharged.

(g) Liens. Any federal, state or local tax lien or any claim of lien for labor or materials or any other lien or encumbrance of any nature whatsoever is recorded against Borrower or any real estate on which a Project is located and is not removed by payment or transferred to substitute security in the manner provided by law, within twenty (20) days after it is recorded in accordance with applicable law.

(h) Leases. Borrower's default in the performance of its obligations as lessor under any lease of all or any portion of a Project or any real estate on which a Project is located, if any, which default could result, in Lender's judgment, in the termination of said lease, and such default would result in the reduction of rentals collected by the Borrower.

(i) Other Notes or Mortgages. Borrower's default in the performance or payment of Borrower's obligations under any other note, or under any other mortgage whatsoever which continues beyond any applicable notice or grace period set forth therein.

(j) Borrower Default under Loan Documents. Borrower's default in the payment or performance of any of Borrower's obligations under any of the Loan Documents which continues beyond any applicable notice or grace period set forth therein.

(k) Transfer of Property or Ownership. Any sale, conveyance, transfer, assignment, or other disposition of all or any part of a Project or any real estate on which a Project is located, other than leases to individual tenants in the ordinary course of business, unless the sale of such real property is contemplated as part of such Project.

(l) False Statement. Any statement or representation of Borrower contained in the materials furnished to Lender or any other lender prior or subsequent to the making of a Loan are discovered to have been false or incorrect or incomplete in any material respect.

## ARTICLE VII

### The Lender's Rights and Remedies

The following rights and remedies are available to the Lender:

7.1 Acceleration. Upon the occurrence of an Event of Default, the entire unpaid principal balance of the Loans shall, at the option of the Lender and without advance notice to the Borrower, become immediately due and payable. In addition, upon acceleration, any and all other obligations of the Borrower to the Lender shall be immediately due and payable.

7.2 No Further Advances. Upon the occurrence of an Event of Default or the existence of a Default Condition, the Lender shall not be obligated to make further advances to the Borrower, notwithstanding anything herein or in the Note to the contrary.

7.3 Disputes. Where disputes have arisen which, in the opinion of the Lender, may endanger timely completion of a Project or fulfillment of any condition precedent or covenant herein or in a Project Loan Agreement, the Lender may agree to advance Loan proceeds for the account of the Borrower without prejudice to the Borrower's rights, if any, to recover said proceeds from the party to whom paid. Such agreement or agreements may take the form which the Lender, in its sole discretion deems proper, including, but without limiting the generality of the foregoing, agreements to indemnify (on behalf of the Borrower and/or for the Lender's own account) any title insurer against possible assertion of lien claims, agreements to

pay disputed amounts and the like. All sums paid or agreed to be paid pursuant to such undertaking shall be advances of Loan proceeds.

7.4 Remedies Cumulative; Nonwaiver. In the Event of a Default under this Agreement or any of the other Loan Documents, Lender shall have all remedies at law and/or in equity. All remedies of the Lender provided for herein or in the other Loan Documents are cumulative and shall be in addition to any and all other rights and remedies provided for or available under the other Loan Documents, at law or in equity. The exercise of any right or remedy by the Lender hereunder shall not in any way constitute a cure or waiver of a Default Condition or an Event of Default hereunder or under the Note or any Loan Document, or invalidate any act done pursuant to any notice of the occurrence of a Default Condition or Event of Default, or prejudice the Lender in the exercise of any of its rights hereunder or under the Note or any Loan Document, unless, in the exercise of said rights, the Lender realizes all amounts owed to it under the Note and other Loan Documents.

7.5 No Liability of the Lender. Whether or not the Lender elects to employ any or all remedies available to it in the event of an occurrence of a Default Condition or an Event of Default, the Lender shall not be liable for the construction of or failure to construct or complete or protect a Project or for payment of any expense incurred in connection with the exercise or any remedy available to the Lender or for the construction or completion of a Project or for the performance or nonperformance of any other obligation of the Borrower.

7.6 Security Interest. It is understood and agreed that the Lender shall have and enjoy and is hereby granted a lien on and a security interest in, any and all materials (stored on-site or off-site), reserves, deferred payments, deposits or advance payments for materials (stored on-site or off-site), unadvanced Loan proceeds, insurance refunds, impound accounts, refunds for overpayment of any kind, and any surplus of withheld funds resulting from the invalidity of “stop notice” claims or the failure of claimants to prosecute their claims to judgment, to the extent the same arise out of or occur in connection with the construction of a Project, and such lien and security interest shall constitute additional security for the indebtedness of the Borrower evidenced by a Note, and the Lender shall have and possess any and all rights and remedies of a secured party provided by law with respect to enforcement of and recovery on its security interest on such items and amounts.

## ARTICLE VIII

### General Conditions

The following conditions shall be applicable throughout the term of this Agreement and each Project Loan Agreement:

8.1 Waivers. No waiver of any Default Condition or Event of Default or breach by the Borrower hereunder shall be implied from any delay or omission by the Lender to take action on account of such Default Condition or Event of Default, and no express waiver shall affect any Default Condition or Event of Default other than the Event of Default specified in the waiver and it shall be operative only for the time and to the extent therein stated. Waivers of any covenants, terms or conditions contained herein must be in writing and shall not be



construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by the Lender to or of any act by the Borrower requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent or similar act. No single or partial exercise of any right or remedy of the Lender hereunder shall preclude any further exercise thereof or the exercise of any other or different right or remedy.

8.2 Benefit. This Agreement is made and entered into for the sole protection and benefit of the Lender and the Borrower, their successors and assigns, and no other person or persons shall have any right to action hereon or rights to the Loan proceeds at any time, nor shall the Lender owe any duty whatsoever to any claimant for labor performed or material furnished in connection with the construction of a Project, or to apply any unadvanced portion of the Loan to the payment of any such claim, or to exercise any right or power of the Lender hereunder or arising from any Default Condition or Event of Default by the Borrower.

8.3 Assignment. The terms hereof shall be binding upon and inure to the benefit of the heirs, successors, assigns, and personal representatives of the parties hereto; provided, however, that the Borrower shall not assign this Agreement or any Project Loan Agreement or any of its rights, interests, duties or obligations hereunder or thereunder or any Loan proceeds or other moneys to be advanced pursuant to a Project Loan Agreement under in whole or in part without the prior written consent of the Lender, which consent may be withheld at Lender's sole discretion, and that any such assignment (whether voluntary or by operation of law) without said consent shall be void. It is expressly recognized and agreed that the Lender may assign this Agreement, a Note and any other Loan Documents, in whole or in part to any other person, firm, or legal entity provided that all of the provisions hereof shall continue in full force and effect and, in the event of such assignment, the Lender shall thereafter be relieved of all liability hereunder and any Loan advances made by any assignee shall be deemed made in pursuance and not in modification hereof and shall be evidenced by such Note and secured by this Agreement, the applicable Project Loan Agreement and any other Loan Documents.

8.4 Amendments. Neither this Agreement nor any Project Loan Agreement shall be amended except by a written instrument signed by all parties hereto.

8.5 Terms. Whenever the context and construction so require, all words used in the singular number herein shall be deemed to have been used in the plural, and vice versa, and the masculine gender shall include the feminine and neuter and the neuter shall include the masculine and feminine

8.6 Term; Termination. This Agreement shall be for a three (3) year term, beginning on the dated date hereof. The parties may extend this Agreement for successive three (3) year terms by amending this Agreement to so provide in the manner set forth in Section 8.4. This Agreement may be terminated by either party, with or without cause, by giving sixty (60) days notice to the other party. In the event of the expiration or earlier termination of this Agreement, this Agreement shall nonetheless remain in effect to the extent necessary to for any Project Loan Agreement or Note that is still in effect.



With a copy to:

Greenspoon Marder LLP  
525 Okeechobee Boulevard, Suite 900  
West Palm Beach, Florida 33401  
Attn: Morris G. (Skip) Miller, Esq.

Notices given or made to any officer, partner, agent or employee of either party or if given or made to the counsel of such party, at its address herein shall constitute receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been received shall also constitute receipt. Notwithstanding the foregoing, no notice of change of address shall be effective until the date of receipt thereof.

8.12 WAIVER AND JURY TRIAL. BY ACCEPTANCE HEREOF, THE PARTIES MUTUALLY AGREE THAT NEITHER PARTY, NOR ANY PARTNER, ASSIGNEE, SUCCESSOR, HEIR, OR LEGAL REPRESENTATIVE OF THE PARTIES (ALL OF WHOM ARE HEREINAFTER REFERRED TO AS THE "PARTIES") SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDINGS, COUNTERCLAIM, OR ANY OTHER LITIGATION PROCEDURE BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY INSTRUMENT EVIDENCING, SECURING, OR RELATING TO THE INDEBTEDNESS AND OTHER OBLIGATIONS EVIDENCED HEREBY, ANY RELATED AGREEMENT OR INSTRUMENT, ANY OTHER COLLATERAL FOR THE INDEBTEDNESS EVIDENCED HEREBY OR THE DEALINGS OR THE RELATIONSHIP BETWEEN OR AMONG THE PARTIES, OR ANY OF THEM. NONE OF THE PARTIES WILL SEEK TO CONSOLIDATE ANY SUCH ACTION, IN WHICH A JURY TRIAL HAS BEEN WAIVED, WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN WAIVED. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY NEGOTIATED BY THE PARTIES. THE WAIVER CONTAINED HEREIN IS IRREVOCABLE, CONSTITUTES A KNOWING AND VOLUNTARY WAIVER, AND SHALL BE SUBJECT TO NO EXCEPTIONS. LENDER HAS IN NO WAY AGREED WITH OR REPRESENTED TO ANY OF THE PARTIES THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

IN WITNESS WHEREOF, the Borrower and the Lender have executed this Agreement as of the above-written date, all duly authorized thereunto, the Borrower doing so under seal.

[SEAL]

BORROWER:

COMMUNITY LAND TRUST OF PALM  
BEACH COUNTY, INC.

By: \_\_\_\_\_  
Cindee LaCourse-Blum  
Executive Director

LENDER:

HOUSING FINANCE AUTHORITY OF  
PALM BEACH COUNTY, FLORIDA

By: \_\_\_\_\_  
Gary Eliopoulos, Chairperson

## EXHIBITS

- A. Form of Promissory Note
- B. Draw Request Form

EXHIBIT "A"

Form of Promissory Note







# LINCOLN AVENUE CAPITAL

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**PRIVATE & CONFIDENTIAL**

February 28, 2020

David Brandt  
Executive Director  
Housing Finance Authority of Palm Beach County  
100 Australian Avenue, Suite 410  
West Palm Beach, FL 33406

Re: HFA OF PALM BEACH COUNTY MULTIFAMILY RENTAL HOUSING BOND PROGRAM

Dear Mr. Brandt,

Please find the Housing Finance Authority Of Palm Beach County, Florida Multifamily Rental Housing Bond Program Project Application Form attached. Lincoln Avenue Capital is requesting \$40,000,000 of Tax Exempt bonds to support our acquisition and rehabilitation of Malibu Bay Apartments, located at 750 Malibu Bay Dr, West Palm Beach, FL 33401.

We are excited about this opportunity and look forward to working with you further. Should you need any further follow up, please do not hesitate to contact Ryan Withall ([ryan@lincolnavecap.com](mailto:ryan@lincolnavecap.com)) or Eric Ray ([eric@lincolnavecap.com](mailto:eric@lincolnavecap.com)).

Sincerely,

Yoni Gruskin, Partner  
Lincoln Avenue Capital

**APPLICATION**

**HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA  
MULTIFAMILY RENTAL HOUSING BOND PROGRAM  
PROJECT APPLICATION FORM**

**A. Developer Information:**

1. Applicant Name: Malibu Bay Preservation, Ltd.
2. Name of Owner for Inducement Resolution: Malibu Bay Preservation, Ltd.
3. Type of Entity (e.g. Florida corporation, limited partnership, etc): Limited Partnership Ownership chart of the Entity including individual principals is provided as “**Exhibit** ”.
4. Address: 201 Santa Monica Blvd, Suite 550, Santa Monica, CA 90401
5. Contact Person: Yoni Gruskin & Andrew Cribbs
6. Telephone: 424-222-8253
7. E-mail address: acribbs@lincolnavecap.com

**B. Project Information**

1. Project Name: Malibu Bay  
  
NOTE: After Inducement, Project name MAY NOT BE CHANGED OR ALTERED WITHOUT CONSENT OF THE AUTHORITY. If available, provide the actual trade, 'marking' or d/b/a name.
2. Project Street Address/Zip Code (if new construction, give street names, city and zip code): 750 Malibu Bay Dr, West Palm Beach, FL 33401
3. County Commission District in which Project is Located: Palm Beach County

**C. Project Category and Population:**

1. Choose all that apply:  
New Construction  Acquisition  Remarketing   
Rehabilitation  Refunding  Acquisition/Rehab   
  
(a) If acquisition or acquisition/rehab was selected, is the project occupied?

No  Yes  If yes include plan for temporary relocation of existing tenants as “**Exhibit IN-PLACE REHAB, NO RELOCATION**”

2. Is the Project designated to serve a specific target group (i.e. elderly, disabled)? No  Yes  If yes, please specify and indicate an minimum age requirements of household members: No specific target group.

**D. Project Status:**

Has construction begun? No  Yes  Date permits issued

Is the project complete? No  Yes  Date CO issued

**E. Number of Units:**

Total Number of Units: 264

Number of Residential Units: 264

Number of Set-Aside Units:264

Percent of Set-Aside Units: 100%

**F. Manager/Employee Units:**

Are there one or more manager or employee units in the Project?

No  Yes  If yes, how many? 1 Unit Type(s): 1

**G. Breakdown of Units by Square Footage and Monthly Rent Charged.**

All units in the Project must be listed including all manager/employee units. Indicate manager/employee units with an asterisk.

# of Bedrms /Unit	# of Baths /Unit	Sq. Ft. /Unit	# of Units Per BR/BA type	% of Area Median Income	Monthly Gross Rent for Set- Aside Units*	Less Utility Allow. (for LIHTC Project )	Net Rent for Set- Aside Units	Monthly Market Rent+
1	1	705	1	50	824	88	736	1101
1	1	705	47	60	989	88	901	1101
2	2	954	108	60	1186	98	1088	1129
3	2	1146	108	60	1370	120	1250	1304


\* NOTE: For any Project anticipating the use of tax credits, gross rents include the net rent plus the allowance for tenant-paid utilities for set-aside units. These rents may not exceed the allowable rents for the chosen set-aside as shown on the applicable rent charts by the FHFC. Rents will be capped based on set-aside chosen below or if lower due to other funding source(s).

Utility allowance of \$88 1 bedroom \$98 2 bedroom \$120 3 bedroom 4 bedroom

+ NOTE: Answer for market rate units only.

**H. Proposed minimum Set-aside required for Tax Exempt Bond Financing.**

CHOOSE ONLY ONE:

- 20% of units at 50% of area median income
- 40% of units at 60% of area median income

**I. Describe Project:**

Malibu Bay Apartments (“the Project”), is located West Palm Beach, Florida (Palm Beach County). The Project was completed in 2004 and developed by Housing Trust Group (the seller). Collectively, the property consists of 264 affordable units of which there are 84 one-bedroom units of 705 square feet, 108 two-bedroom units of 954 square feet, and 108 three-bedroom units of 1,146 square feet. The property currently has regulatory restrictions through the LIHTC program, as well as the Housing Finance Authority of Palm Beach County, Florida. 263 units restricted at 60% of AMI and 1 unit at 50% AMI. .

**J. Describe Project Features, Amenities and any Resident Programs that will be provided:**

This site features a large swimming pool with sundeck, resort-style clubhouse and children’s playground. Lincoln Avenue Capital is planning to purchase the property in 2020 with the plan begin a tax credit rehabilitation project in mid-2020.

**K. Will any units be accessible to the handicapped?**

Yes  No  How many?

**L. Type of Building(s):**

Elevator  Walkup  Townhouse

Detached           Semi-detached

**M. Style of building(s), number of buildings and number of stories:**

**Garden style; 11 buildings; 3 stories**

**N. Does the current Land Use and Zoning permit the proposed development at the proposed Density?**

Yes  No

If no, explain:

**O. Project Financing And Proposed Structure:**

1. Overview of Proposed Financing Summary:

NOTE: Material changes in the proposed structure after submittal of the application may result in delay of consideration by the Authority or loss of priority

	Check If app.	Amount - Construction	% of Project Cost	Amount - Permanent	% of Project Cost
Tax-Exempt Bonds	X	\$40,000,000	67%	\$40,000,000	67%
Taxable Bonds	X	\$8,300,000	14%		
SAIL					
HOME (State Funds)					
HOME - West Palm Beach	X	\$200,000	0%	\$200,000	0%
CDBG					
SHIP	X	\$262,000	0%	\$262,000	0%
South Florida Regional Planning Council	X	\$800,000	1%	\$800,000	1%
LIHTC Equity	X	\$9,911,178	17%	\$15,759,373	26%
Deferred Developer Fee	X			\$2,451,805	4%
<b>Total</b>	<b>X</b>	<b>\$59,473,178</b>	<b>100%</b>	<b>\$59,473,178</b>	<b>100%</b>

Briefly describe sources listed above:

Lender: Citi Community Capital

Tax Credit Syndicator: Boston Financial Investment Management

2. Subordinate Financing:

- (a) If SAIL, HOME, CDBG, FHLB, SHIP and/or other funding is shown as already committed, attach a letter from the appropriate governmental entity detailing the commitment, including the dollar amount, source of funding, conditions of funding (including income and/or rent restrictions), whether the funding is a loan or a grant, and if a loan, the interest rate, loan terms, amortization, and payback schedule. Attach the letter(s) as an exhibit. Said letter shall be attached hereto as “**Exhibit** .”

- (b) If SAIL, HOME, CDBG FHLB, SHIP and/or other funding is shown and is not firmly committed, attach an explanation of how the development will be completed without those funds. Said explanation shall be attached as **“Exhibit .”**
- (c) Does the Applicant firmly commit to complete the bond financing if those funds are not received? Yes  No

3. Tax Credits - If the Project receives Bond financing, will LIHTC be used?

Yes  No

(a) If yes, LIHTC Requested Amount \$ \$16,587,494

(b) If yes, name of Syndicator: Boston Financial Investment Management

A preliminary commitment letter, including general terms such as a description of how the syndication funding will be paid out during construction and following completion, must be attached hereto. Said letter shall be attached hereto as **“Exhibit .”**

(c) Is the project located in a QCT/DDA/ZCTA/RECAP: Yes  No   
If yes evidence of such designations are attached as **“Exhibit’s .”**

(d) If the project is subject to a FHFC location restriction (LDA) area attach a description as **“Exhibit .”**

4. Rental Assistance. Is project-based rental assistance anticipated for this Project?

No  Yes

If yes, check all that apply:

Moderate Rehab  RD 515

Section 8  Other

Number of units receiving assistance

Number of years remaining on rental assistance contract:

Number of years expected for new rental assistance contract:

5. Credit Enhancement or bond purchaser:

Describe any letter of credit, third party guarantor, bond purchaser, private placement agent, housing program funding (FHA-insured loan, Fannie Mae or Freddie Mac), surety bond or other financing enhancements anticipated for this project, including, but not limited to the name of the party providing such financing/credit enhancement, the rating of such provider and the term of such financing/credit enhancement:

Citi Community Capital will purchase the bonds directly using their Back to Back structure (see term sheet)

A preliminary commitment letter/term sheet from the provider of such financing/credit enhancement shall be attached hereto as “**Exhibit** ”

6. Proposed bond structure:

Type of interest rate expected: fixed  floating

Term of Bonds including option put:

Estimated interest terms:

Placement structure: private placement  public offering

7. Economic Feasibility of the Project:

A description of the Project feasibility structure shall be attached hereto as “**Exhibit** ” including, at a minimum, the following:

- (a) Pro forma cash flows at maximum interest rate at which Project will work;
- (b) Detailed sources and uses, including developer's fees, overhead and all hard and soft costs.
- (c) The maximum annual debt service at which the Applicant commits to proceed: \$1,735,623
- (d) The minimum principal amount of tax exempt bonds the Applicant will accept to proceed with the Project: \$40,000,000

**P. Proposed Project Schedule**

<u>Activity</u>	<u>Date</u>
HFA board meeting to consider application	3/13/2020
Final site plans & architectural drawings	4/15/2020
Complete third party credit underwriting	6/1/2020
Approval of subordinate financing	N/A
All other necessary local approvals	6/1/2020
Obtain Credit Enhancement/Bond Purchase Commitment	3/15/2020
HUD approvals (if applicable)	N/A
Issue bonds	7/1/2020
Start construction or rehabilitation	7/1/2020
Complete construction or rehabilitation	7/1/2021
Start rent-up	N/A

Complete rent-up

N/A

**Q. Ability To Proceed**

Each Application shall be reviewed for feasibility and ability of the Applicant to proceed with construction of the Project.

1. **Site Control**

Site Control must be demonstrated by the Applicant through bond closing or termination of the Memorandum of Agreement. At a minimum, a Contract for Purchase and Sale or long-term lease must be held by the Applicant for the proposed site. A purchase contract must include the following: (i) the remedy for default on the part of the seller must include or be specific performance, (ii) the buyer MUST be the Applicant and, (iii) other than clear title, the only permissible contingency for seller or assignor to transfer the site to the Applicant is the award of bond financing.

Site is controlled by:

Evidence of Site Control shall be attached hereto as “**Exhibit** ” and shall be in the form of either:

- (a) Contract for Purchase and Sale or long-term land lease agreement (a Title Insurance Commitment may be requested to show marketable title in the name of the Seller).
- (b) Deed (a Title Insurance Policy Showing marketable title in the name of the Applicant may be requested).

2. **Zoning and Land Development Regulations:**

NOTE: Applicant must provide documentation that the site is appropriately zoned and consistent with local land use regulations regarding density and intended use.

- (a) Is the site appropriately zoned for the proposed Project?  
No  Yes
- (b) Indicate zoning designation(s): See zoning report
- (c) Current zoning permits \_\_\_\_\_ units per acre, or \_\_\_\_\_ units for the site (PUD).
- (d) Total number of Units in Project:
- (e) A letter from the appropriate local government official verifying i.) the zoning designation, ii.) that the proposed number of units and intended use are consistent with current land use regulations and



referenced zoning designation shall be attached hereto as “**Exhibit**”

3. Site Plan:

- (a) New Construction: Has the preliminary or conceptual site plan been approved by the appropriate local government authority?

Yes  No

If yes, a copy of the approved site plan shall be attached hereto as “**Exhibit** .”

If no, local approval is expected on: \_\_\_\_\_ and a letter from the appropriate local government official indicating preliminary or conceptual site plan, or if no neither preliminary or conceptual approval is given prior to final site plan approval, a description of status of the local government review of the Project shall be attached hereto as “**Exhibit**”

- (b) Rehabilitation: Was site plan approval required by local governmental authorities at the time this Project was originally placed in service?

Yes  No

4. Environmental:

Has an Environmental Assessment been completed and if so describe any required remedial action necessary: **Yes**

5. Concurrency:

Project-specific letters from the local government or provider verifying availability of infrastructure and capacity (water, sewer, road, and school) for the proposed Project shall be attached hereto as “**Exhibit’s** .”

**R. Other Information:**

- (a) Do you presently have an application for this project submitted elsewhere or has this project been denied financing elsewhere?

Yes  No

- (b) How many and what type of projects have you completed in the Palm Beach County? 0

- (c) Applicant/borrower GP:

Firm: Malibu Bay GP LLC  
Phone: (424) 222 8253  
Natural principals: Jeremy Bronfman  
Contact Person: Jonathan Gruskin

- (d) Developer:  
Firm: Malibu Bay Developer, LLC  
Phone: (424) 222 8253  
Natural principals: Jeremy Bronfman  
Contact Person: Jonathan Gruskin
- (e) Proposed Architect:  
Firm: Ebersoldt + Associates  
Phone: (314) 241 4566  
Contact Person: Chuck Reitzel
- (f) Proposed Managing Agent:  
Firm:  
Phone:  
Contact Person:
- (g) Proposed General Contractor:  
Firm: Langerman Construction  
Phone:  
Contact Person: Adam Taylor
- (h) Proposed Developer's Attorney:  
Firm: Sterns Weaver  
Phone: (305) 789 4107  
Contact Person: Brooke Perlyn
- (i) Proposed Investment Banker (see Authority "Bond Underwriter Selection Policy") or private placement bond purchaser:  
Firm: RBC Capital Markets  
Phone: (727) 895 8892  
Contact Person: Helen Feinberg
- (j) Proposed Credit Underwriter:  
Firm: Seltzer Management  
Phone: (850) 233 3616 ext 223  
Contact Person: Ben Johnson
- (k) Provide the following for the property/project seller or lessor:  
Entity:  
Phone:  
Contact Person:

[Remainder of page intentionally left blank]

**Certificate of Understanding**

I, Jonathan Gruskin, representing Lincoln Avenue Capital, have read and understand the federal requirements and the Housing Finance Authority of Palm Beach County, Florida's Guidelines for Issuance of Multi-Family Housing Revenue Bonds, and hereby adhere thereto. Furthermore, I hereby certify that the information contained in the Application is true and correct to the best of my knowledge.

Dated on this 28 day of February, 2012020.

By:  
Printed Name: Jonathan Gruskin  
Title: Partner

**Credit Enhancer/Bond Purchaser Certificate of Understanding**

I, \_\_\_\_\_, representing \_\_\_\_\_, have read and understand the Housing Finance Authority of Palm Beach County, Florida's Guidelines for Issuance of Multi-Family Housing Revenue Bonds, and hereby agree to adhere thereto.

Dated on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_\_ .

By:  
Printed Name:  
Title:

[Malibu Bay Preservation, Ltd.]  
A Florida Limited Partnership

[Malibu Bay GP LLC]  
00.01% General Partner  
A Delaware Limited Liability  
Company

[TBD SPECIAL LIMITED PARTNER]  
Special Limited Partner

[TBD Investor LP]

13 Hazeltine LLC  
5.00%

SJB Management LLC  
36.00%

ENB Family LLC  
24.00%

Matthew Bronfman  
Family EMBT  
19.00%

Red Rocks 90, LLC  
16.00%

Zack Ulman  
Sole Member

Jeremy S. Bronfman  
Sole Member

Eli M. Bronfman  
Sole Member

Various Beneficiaries  
(See Addt'l Info)

Jonathan A. Gruskin  
Sole Member

# Additional Information

## **Matthew Bronfman Family EMBT**

### **Beneficiaries**

- Matthew Bronfman
- Jeremy Bronfman
- Eli Bronfman
- Gabriela Bronfman
- Sadie Bronfman
- Sasha Bronfman
- Tess Bronfman
- Ezekiel Bronfman
- Coby Bronfman

## **Matthew Bronfman Family EMBT**

### **Trustees**

- Matthew Bronfman
- Almog Geva
- Mayo Shattuck
- John Weinberg
- Edgar Bronfman Jr.
- Adam Bronfman



**LINCOLN AVENUE CAPITAL**

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An Introduction to our Firm



# Who we are

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*Lincoln Avenue Capital is a family owned and operated owner, developer, and investor in affordable housing nationwide. Lincoln Avenue's primary focus is providing low-income families with affordable housing through government supported rental subsidies, including but not limited to the Section 8 and Section 42 programs. Lincoln Avenue's experienced and creative team works quickly and diligently to execute on a variety of affordable housing transactions, ensuring delivery of quality low-income housing to communities while providing both financial and social returns.*

# What makes us unique

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- **Commitment** – *Every team member is driven by a common commitment to provide individuals and families with quality, affordable homes.*
- **Savvy** – *We bring new solutions to the table to develop affordable housing by recruiting industry-leading talent with a diversity of backgrounds and experiences.*
- **Integrity** – *Our self-capitalized, employee-owned business creates partnerships built on trust.*
- **Sustainability** – *We work not only to sustain communities, but also our planet.*

# Our firm at a glance



## 48 properties

under Lincoln Avenue ownership

## 9K+ units

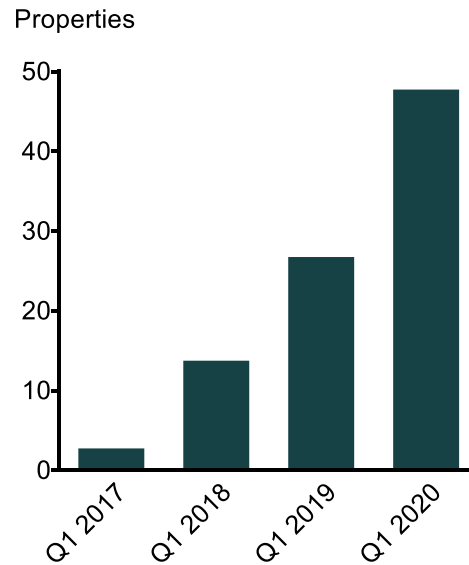
across 11 states

## 3,600+

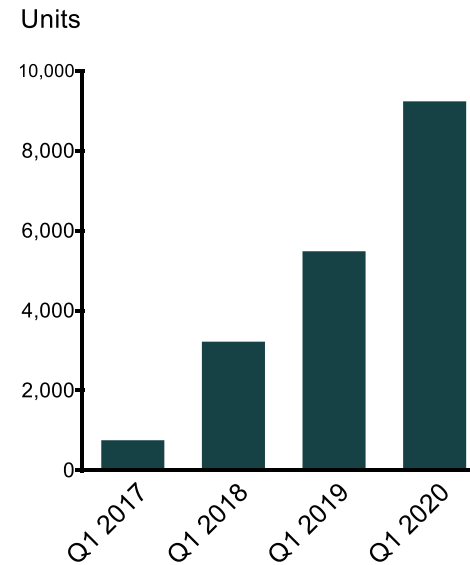
affordable units directly preserved through the Qualified Contract process

## Unparalleled growth over last 3 years

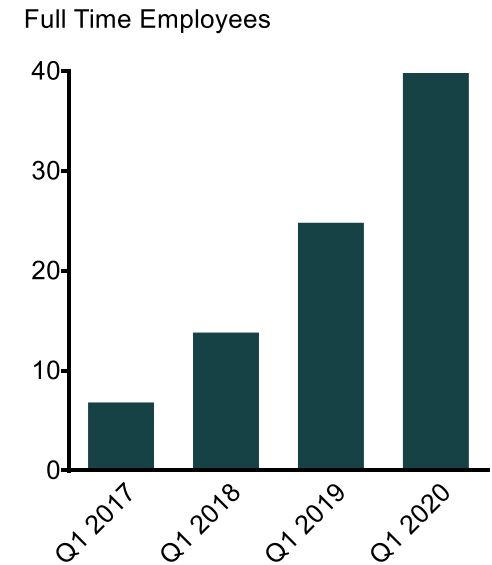
### 16X Property Growth



### 11X Unit Growth



### 6X FTE growth



# We have added 3,754 units at 21 properties over the last ~12 months



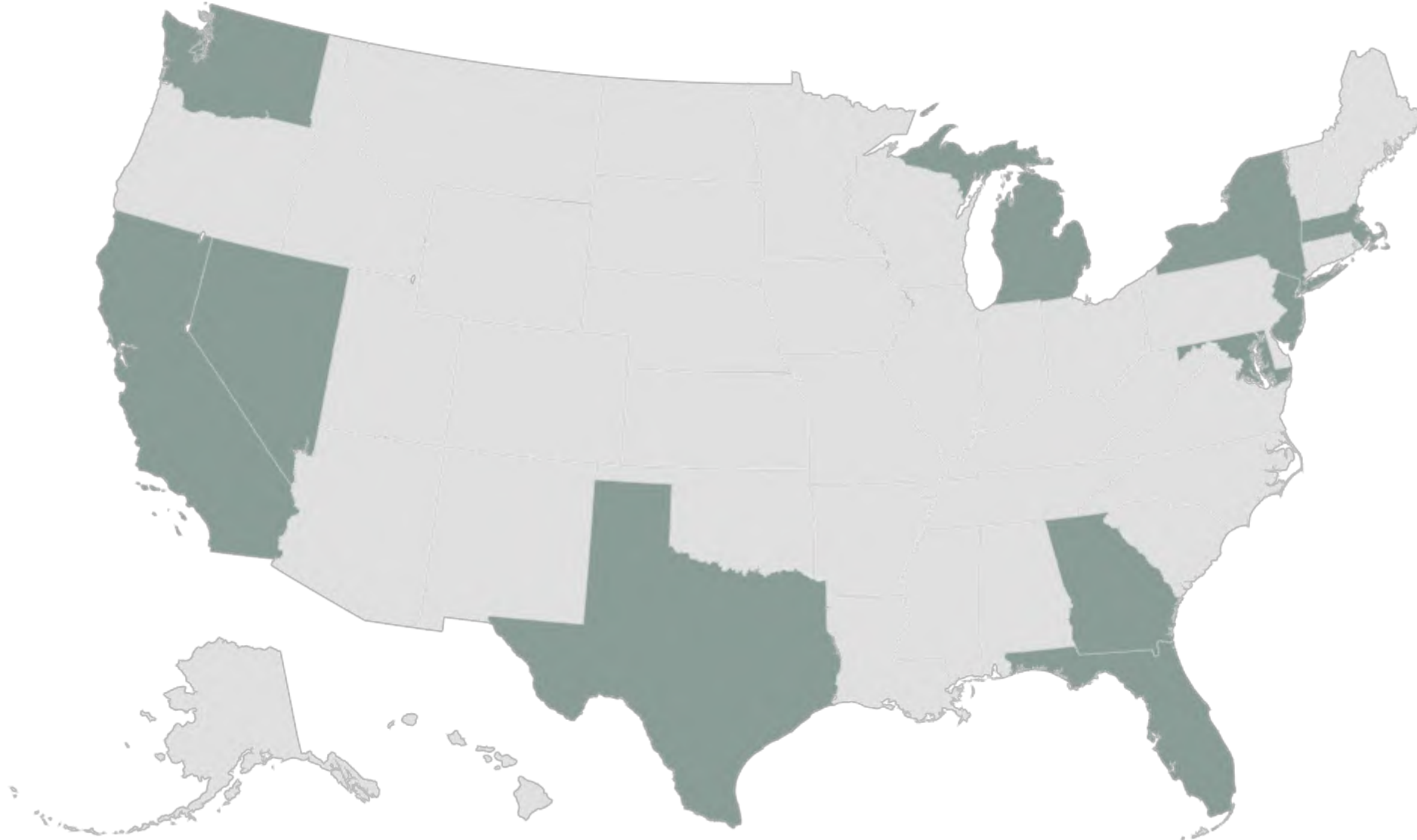
Property name	City & State		Units
Southwest Village	Reno	NV	332
Sutton Place	Amherst	NY	246
Gateway at Lake Jackson	Lake Jackson	TX	160
Windstone	Everett	WA	133
Quail Run	Vancouver	WA	129
Riverwalk II	Homestead	FL	112
Mariposa	Federal Way	WA	194
Whisperwood	Seattle	WA	126
Lakestone	Ann Arbor	MI	144
Ashton of Richmond Hill	Richmond Hill	GA	232
Monaco Arms	Jacksonville	FL	156
Fort Vancouver	Vancouver	WA	131
Orchard Place	Greece	NY	550
Villas at Lake Smart	Winter Haven	FL	220
Pine View	Fallbrook	CA	101
Valencia Park	Orlando	FL	208
Maplewood Park	Union City	GA	108
Brownsville Transit Village I	Miami	FL	96
Brownsville Transit Village II	Miami	FL	100
Prospect Park	Fort Lauderdale	FL	125
Southern Highlands	National City	CA	151



Quail Run



# Our properties currently span 11 states



# Our management team has significant real estate, finance, strategy, and operations experience

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Lincoln Avenue Capital Management LLC is led by members of the third and fourth generation of the Bronfman family and two non-family partners with deep experience in affordable housing and management consulting. The team brings a diversity of backgrounds and experiences and shares a deep commitment to ensuring delivery of quality low-income housing to communities while providing both financial and social returns. The partners previously held positions at The Related Companies, Goldman Sachs, Bain & Company as well as a number of hedge funds and technology firms.

# Contact Information

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201 Santa Monica Blvd. Suite 550  
Santa Monica, CA 90401  
424-222-8260

**New York Office:**

Lincoln Avenue Capital  
680 5<sup>th</sup> Avenue, Floor 17  
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646-585-5525

# Disclaimer

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## **Malibu Bay Apartments – West Palm Beach, FL**

### **Project Narrative**

Malibu Bay Apartments (“the Project”), is located West Palm Beach, Florida (Palm Beach County). The Project was completed in 2004 and developed by Housing Trust Group (the seller). Collectively, the property consists of 264 affordable units of which there are 84 one-bedroom units of 705 square feet, 108 two-bedroom units of 954 square feet, and 108 three-bedroom units of 1,146 square feet. The property currently has regulatory restrictions through the LIHTC program, as well as the Housing Finance Authority of Palm Beach County, Florida. 263 units restricted at 60% of AMI and 1 unit at 50% AMI. This site features a large swimming pool with sundeck, resort-style clubhouse and children’s playground. Lincoln Avenue Capital is planning to purchase the property in 2020 with the plan begin a tax credit rehabilitation project in mid-2020.

### **Description of Rehabilitation**

The 4% Bond/LIHTC transaction will feature a full site renovation of approximately \$8,500,000 or \$32,000 per unit. This renovation, which will be completed within twelve months of closing of the bond transaction, will focus on improving tenant quality of life and improving the physical condition and operational efficiency of the Project. We plan on completing: interior renovations including interior door hardware replacement; replacement of kitchen cabinets/vanities; replacement of kitchen sinks and faucets; replacement of windows and sliding doors with higher efficiency double glazed units; replacement of bathroom fixtures with low flow toilets, showerheads, and aerators installed; replacement of appliances with EnergyStar rated units; replacement of HVAC systems with higher efficiency systems (minimum SEER 14); replacement of water heaters with higher efficiency units; replacement of interior light fixtures with higher efficiency LED fixtures; replacement of blinds; and replacement of vinyl flooring. All rehabilitation will be completed with tenants in place. Additional external work will include the replacement of the roof, replacement of attic insulation; installation of a solar panel system, painting of all exterior walls and sidings, exterior lights replacement with LED light fixtures, and upgrade of leasing office (vinyl floor installation, upgrade of light fixtures, etc.).

### **Description of Occupancy Requirements and Other Regulatory Matters**

In connection with the above-described tax credit transaction, the Project will become encumbered by a federal credits regulatory agreement specifying that rents and income cannot exceed 60% of the AMI for a 30-year period from closing. No involuntary displacement of existing tenants will occur because of this preservation.



Boston Financial  
Investment Management, LP  
*a Limited Partnership*

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February 28, 2020

Yoni Gruskin  
Managing Director  
Lincoln Avenue Capital, LLC  
201 Santa Monica Blvd, Ste. 550  
Los Angeles, CA 90401

RE: Malibu Bay Apartments  
West Palm Beach, FL

Dear Yoni:

Thank you for giving us the opportunity to present an initial proposal for an equity placement for Malibu Bay Apartments (the "Property"). Boston Financial has reviewed the operating budget including rents and expenses. The Property will consist of 264 apartments for families located in West Palm Beach, FL. Financing is projected to come from Federal LIHTC tax credit equity in the amount of \$15,759,373. Additionally the Property will source tax-exempt bonds and assume soft financing to fund the project. We understand that you are in the process of obtaining financing commitments and a tax credit allocation for the Property. Given the history of our successful investment in affordable housing in Florida over the last 20 years and your familiarity with us, I expect that we will be able to quickly close a transaction that works for everybody in accordance with FHFC regulations.

Based on the information you have provided to us, this letter will outline the principal terms on which a limited partnership sponsored by Boston Financial ("BFLP") would acquire an interest in the partnership owning the Property (the "Partnership") for an institutional fund of ours.

We will not begin our due diligence review until we have evidence that you have received an as of right volume cap and we have an executed proposal letter in hand. We have reviewed the application, modeled this transaction, and are prepared to issue a formal proposal upon confirmation that you have been awarded tax credits. A site visit will be scheduled shortly thereafter. Assuming no issues arise, our due diligence review should be completed within 60 days of receipt of all due diligence materials.

#### 1. Price.

We are assuming that the Property will generate annual Federal tax credits of approximately \$1,676,697. BFLP's net proceeds of approximately \$15,759,373, representing an equity raise of \$0.94 per credit dollar for Federal LIHTC tax credits for 99.99% of the tax credits, would be contributed directly to the project. BFLP will pay for its own legal expenses. We anticipate charging an investor due diligence fee of \$15,000.

We are prepared to fund the capital contributions in multiple installments under a negotiated pay-in schedule. Prior to closing, we will confirm your equity needs to ensure that they meet the requirements of all your lenders. The investor service fee, in the amount of \$15,000 per year, will be due after all debt service and operating costs and can be deferred if cash flow is insufficient. The anticipated pay-

in schedule is based on the reserves being funded in accordance with the Agency's requirements. Our pay-in schedule appears below:

<b>Percent Paid (%)</b>	<b>Amount Paid (\$)</b>	<b>Conditions</b>
10.0%	\$1,575,937	Admission
51.2%	\$8,068,799	100% Completion
35.8%	\$5,641,856	Final Closing & Stabilization
3.0%	\$472,781	8609s
<b>100%</b>	<b>\$15,759,373</b>	

## 2. Operating Benefits and Residuals

The profits, losses and tax credits of the Partnership will be shared among the partners as follows: 99.99% to BFLP and .01% to the "General Partner. After BFLP receives a priority distribution, 90% of the remaining cash flow will go to the General Partner. A portion of the General Partner's share may be distributed as an incentive management fee.

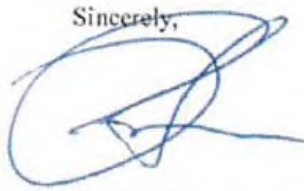
Upon sale or refinancing of a Property, 90% of the residuals will go to the General Partner after the satisfaction of any outstanding General Partner obligations.

## 3. Guarantees

In addition, the General Partner and the developer will be required to complete construction and accomplish a final loan closing at their cost. Additionally, for a negotiated period of time the General Partner will be required to fund deficits without reimbursement. Subsequently, the General Partner will be required to lend funds, up to a maximum negotiated amount, if the project continues to run at a deficit. These loans can be repaid from cash flow or residuals. We expect a guarantor satisfactory to BFLP will guarantee construction completion and lease-up through stabilized occupancy, as well as operating deficits and tax credit recapture.

Boston Financial is a nationally recognized expert in low-income housing. We have the largest affordable housing portfolio in the industry with a total cost in excess of \$10 billion under management. Based upon a long history of conservative structuring and economic evaluation of properties, we have an outstanding record of success for investments which we have sponsored over the past 50 years.

We look forward to working with you on this project.

Sincerely,  
  
Roy Faerber  
Senior Vice President



February 28, 2020

Lincoln Avenue Capital  
201 Santa Monica Blvd, Suite 550  
Santa Monica, CA 90401  
Attn: Ryan Withall

**Re: Commitment to utilize Private Activity Bonds to finance a Multifamily Rental Project in an amount not to exceed \$ 40,000,000 relating to a rehabilitation project to be known as Malibu Bay Apartments located in West Palm Beach, FL (the "Property")**

Ladies and Gentlemen:

Citibank, N.A. ("CITI") is pleased to offer to Lincoln Avenue Capital, LLC ("Sponsor"), as the Sponsor of a to-be-formed affiliate ("Borrower"), this commitment ("Commitment") for financing , subject to the terms, requirements and conditions which follow. All capitalized terms used herein, unless otherwise defined, shall have the meaning set forth on Exhibit A annexed hereto and incorporated herein by this reference (the "Commitment Terms"). CITI's decision to issue this Commitment was made in reliance upon the representations and material supplied by Sponsor and Sponsor's representatives, as more particularly described on Exhibit B annexed hereto. CITI understands that Sponsor intends to submit this Commitment to the Palm Beach County Housing Finance Authority ("Governmental Lender") in support of Sponsor's application to obtain a private activity bond allocation with respect to the financing of the Property. **This Commitment is subject to, among other things, CITI completing due diligence to confirm the representations made by Sponsor and obtaining credit committee approval.**

**In connection with this Commitment, CITI will be acting solely as a principal and not as your agent, advisor or fiduciary. CITI has not assumed a fiduciary responsibility with respect to this Commitment, and nothing in this Commitment or in any prior relationship between you and CITI will be deemed to create an advisory, fiduciary or agency relationship between us in respect of this Commitment. You should consider carefully whether you would like to engage an independent advisor to represent or otherwise advise you in connection with this Commitment , if you have not already done so.**

**A. Transaction Summary.** The terms of the tax-exempt financing transaction (the "Transaction") that is the subject of this Commitment is as follows:

1. On the issuance date (the "Closing Date"), CITI shall fund a loan (the "Funding Loan") to Governmental Lender, and Governmental Lender shall simultaneously issue a note (the "Governmental Lender Note") to CITI. The proceeds of the Funding Loan shall be used by Governmental Lender to make a tax-exempt loan (the "Tax-Exempt Loan" or the "Borrower Loan") to Borrower to finance the Property, for which the Governmental Lender receives a borrower note (the "Borrower Note"). Borrower shall be responsible for securing the issuance and delivery of the Tax-Exempt Loan by the Governmental Lender.
2. Upon closing of the transaction, the rights of Governmental Lender in the Borrower Loan and all documents evidencing and securing the Borrower Loan (the "Borrower Loan Documents") shall be assigned to a fiscal agent, which may be CITI (the "Fiscal Agent"), as security for the Governmental Lender's obligations to CITI evidenced by the Governmental Lender Note. CITI

will administer and direct the disbursement of the proceeds of the Funding Loan and the Borrower Loan and will oversee the construction work to be performed on the Property (the “Improvements”). The completion of the Improvements and all related work shall be performed during the Interim Phase (as hereinafter defined).

3. CITI shall have the right to engage a third party servicer (“Servicer”) to provide limited servicing/oversight functions on behalf of CITI pursuant to a separate servicing agreement with CITI. CITI shall pay Servicer any applicable servicing fee.

4. At such time as the Conditions to Conversion set forth herein are satisfied, if ever, the Loan shall convert from the Interim Phase to the Permanent Period (as hereinafter defined). In the event that the Conditions to Conversion are not satisfied on or before the last day of the Interim Phase, as more particularly provided herein, at the option of CITI, the Tax-Exempt Loan will be subject to acceleration, and all obligations of CITI with respect to the transaction contemplated by this Commitment shall terminate.

5. CITI anticipates that CITI’s interest in the Tax-Exempt Loan may be transferred to any eligible investor, which may be a government sponsored enterprise or institutional investor (or a trust for the benefit thereof) and CITI’s underwriting and documentation will provide for the possibility of such transfer.

**B. Conditions Precedent to Closing.** The obligation of CITI to make the Funding Loan is subject to satisfaction of the following conditions precedent (“Conditions Precedent to Closing”), in each case in a manner acceptable to CITI. The form and substance of all documents and items submitted by Borrower hereunder must be acceptable to CITI and its counsel.

1. Credit Approval. This Commitment is subject, among other things, to CITI obtaining final credit committee approval. Sponsor understands and agrees that this Commitment does not, in any manner, constitute a commitment or agreement to make a loan. Any documentation will be forthcoming only after final approval of the underwriting by CITI’s credit committee. The financing will be documented separately and will contain terms and conditions that may be in addition to or in substitution of those set forth in the Commitment.

2. Documents. Borrower shall duly authorize, execute and deliver or cause to be delivered at closing a Multifamily Note, a Multifamily Deed of Trust, Deed to Secure Debt or Mortgage, where appropriate (the “Security Instrument”), a Guaranty or Guarantees (including a Completion and Payment Guaranty for the Interim Phase and a Non-recourse Carve-out Guaranty), an Agreement of Environmental Indemnification, a Replacement Reserve Agreement, a Construction Funding Agreement, Assignments and any other assignment, financing statement, agreement or document required by CITI in connection with the Loan (collectively, the “Mortgage Documents”). The Funding Loan Agreement, the Borrower Loan Agreement, the Borrower Note and all other documents executed or issued in connection with the transaction shall be referred to, collectively, as the “Tax-Exempt Loan Documents”. The Security Instrument and Borrower Note shall initially be for the benefit of Governmental Lender and shall be assigned on the Closing Date to CITI. The Tax-Exempt Loan Documents must be in a form satisfactory to CITI and Governmental Lender. Where appropriate, the Mortgage Documents and the Tax-Exempt Loan Documents shall be acknowledged, recorded and filed in the public record, and all recording receipts promptly delivered to CITI.

3. Title Insurance. Borrower shall promptly deliver to CITI a commitment for a mortgagee’s title insurance policy, prepared in accordance with CITI’s title insurance instructions, along with a pro forma policy in the form included in such instructions. The title insurance commitment and policy must satisfy all of the requirements of such instructions and include such other coverage and

endorsements as CITI may require. The company and/or agent issuing the commitment shall be acceptable to CITI in all respects. Borrower shall also furnish CITI with copies of all instruments affecting title to the Property including, but not limited to, all instruments referenced in Schedule B of the pro forma policy.

4. UCC Search/Perfection. Borrower shall commission UCC searches in the real estate records and personal property records of the following jurisdictions and shall furnish written reports of such searches to CITI: (i) the jurisdiction where the Property is located, (ii) any other jurisdiction in which Borrower has its principal office for the conduct of its business, (iii) in the central UCC filing location specified by the law of the state where the Property is located, and (iv) any other office where filing is necessary to perfect Governmental Lender’s or Fiscal Agent’s security interest in the Collateral (as hereinafter defined). All such searches shall be updated to the time of recordation of the Mortgage Documents and shall show no security interests affecting the Property, Guarantor or Borrower, other than those naming Governmental Lender or Fiscal Agent as the secured party. Borrower shall cause the appropriate filing of financing statements, on forms supplied by CITI, evidencing Governmental Lender’s or Fiscal Agent’s perfected first priority security interest in all personal property, machinery, equipment, building materials, contract rights, furniture, fixtures, royalties, receivables and other rights related thereto, as well as all leases, rents, revenues and proceeds therefrom and all proceeds of the foregoing (collectively, the “Collateral”). Such filing shall be in compliance with both the Uniform Commercial Code, as adopted in the state in which the Property is located, and all other applicable laws affecting the perfection of security interests. Borrower shall furnish to CITI, promptly upon recordation, receipted or time stamped copies of the filed financing statements.

5. Authority. Borrower shall furnish to CITI certified documents satisfactory to CITI evidencing Borrower’s power and authority to enter into the Mortgage Documents and the Tax-Exempt Loan Documents. If Borrower is a corporation, such documents shall include Borrower’s Articles of Incorporation, Bylaws, corporate resolution relevant to the Loan and a Certificate of Good Standing from the state of incorporation and the state where the Property is located. If Borrower is a partnership, such documents shall include a copy of the partnership agreement and partnership certificate, and the above-referenced corporate documents for any corporate general partner of Borrower. If Borrower is a limited liability company, such documents shall include a copy of the Articles of Organization and Operating Agreement and the Certificate of Authenticity or Certificate of Good Standing from the state of organization and the state where the Property is located.

6. Leases. The standard form of lease used at the Property shall be subject to the prior written approval of CITI. All new leases and renewals of existing leases shall be made on the approved standard form of lease unless otherwise agreed to by CITI. There must be no commercial leases affecting the Property, except for any laundry lease and other commercial lease disclosed in writing to and approved in writing by CITI and its counsel prior to the date of this Commitment. Any current commercial lease or laundry lease must be subordinated to the lien of the Security Instrument and other Mortgage Documents. Borrower agrees that any future commercial lease or laundry lease or renewal of any current commercial lease or laundry lease will contain language acceptable to CITI subordinating said lease to the lien of the Security Instrument and other Mortgage Documents. There must be no default under any current commercial lease or laundry lease.

7. Borrower’s Management Agreement. Borrower shall furnish to CITI a copy of Borrower’s management agreement. The management agreement must be with a professional management company and both the management company and the terms of the management agreement must be

approved in writing by CITI. Borrower shall not make or permit to be made any changes to the management agreement without the prior written approval of CITI. Without limiting the foregoing, the management agreement must be terminable by owner on 30 days’ notice, with or without cause and without payment of any termination fee. If required by CITI, a portion of the management fee may be required to be subordinated to debt service and other amounts payable with respect to the Loan.

8. Rent Roll. If applicable, Borrower shall promptly furnish a copy of the rent roll for the Property, with an updated rent roll to be delivered contemporaneously with closing and as of the Conversion Date (as hereinafter defined).

9. Appraisal. CITI shall have received an appraisal of the Property satisfactory to CITI.

10. Opinion of Borrower’s Counsel. Borrower shall deliver to CITI a written opinion by Borrower’s counsel approved by CITI, addressed to CITI, Issuer and Bond Trustee and in the form furnished or approved by CITI’s counsel.

11. Insurance. Borrower shall deliver to CITI an insurance policy evidencing the existence of insurance relating to the Property, which evidence shall include “paid” premium invoices, conforming in all respects to CITI’s insurance requirements as provided to Borrower in a separate package, as same may, from time to time, be modified. Such insurance for the Property shall include, without limitation, coverage for acts of terrorism and, if applicable, flood insurance (as more particularly set forth in Paragraph 17 below). In addition, Borrower must deliver prior to closing (i) the original, or a copy certified by the insurance agent, of the policy(ies) of insurance; or (ii) the insurance binder; or (iii) a certificate of insurance (Acord Form 28 property or Acord Form 27 liability or other form, satisfactory to Lender, provided by the insurance agent); or (iv) original letter from the insurance carrier on the primary layer, signed by an officer of such carrier, attaching the form of insurance policy pursuant to which coverage is being provided, and, if applicable, original letter from each insurance carrier on the excess layers, signed by an officer of such carrier(s) agreeing that it is bound to the form of insurance policy delivered by the primary carrier (*i.e.*, agreeing to “follow form” to the primary carrier). The letter must set forth the date by which the policy will be delivered to CITI, which must not be more than sixty (60) days following closing. All mortgagee/loss payee/additional insured endorsements must be attached to the letter.

12. Permits/Occupancy. Borrower shall deliver to CITI evidence satisfactory to CITI that all applicable governmental authorities have authorized construction of the Improvements and the development and, if applicable, the operation of the Property as a multifamily residential unit, including, without limitation, occupancy permits (if applicable) and building permits. Any nonresidential occupancy must be approved in writing by CITI.

13. Zoning/Subdivision. Borrower shall deliver to CITI certification from the local governmental authority (i) that the use of the Property as a multifamily residential complex complies with all zoning and subdivision ordinances and regulations applicable to the Property and that it is either a legal, conforming use or a legal, nonconforming use acceptable under CITI’s underwriting standards, (ii) that the Property has been properly subdivided, and (iii) that the improvements on the Property can be rebuilt on the same location to their presently existing size, shape and density if partially or totally destroyed.

14. Access/Utilities. Borrower shall deliver to CITI evidence satisfactory to CITI that the Property is located on a publicly dedicated and maintained roadway or acceptable easement thereto, is served by public water and sewer systems, electricity and telephone service, and receives adequate municipal services (fire, police and transportation, among others).

15. Other Compliance. Borrower shall deliver to CITI evidence satisfactory to CITI that the Property, and Borrower’s operation thereof, is in compliance with all local and/or state building, safety, health and fire codes, all clean air and water acts and other Hazardous Materials Laws (as hereinafter defined), and all equal opportunity, anti-discriminatory and fair housing requirements.
16. Survey. Borrower shall deliver to CITI a current, certified, “boundary” or “as-built” (as applicable) ALTA survey of the Property and surveyor’s certificate, prepared by a registered engineer or surveyor approved by CITI. The survey and surveyor’s certificate shall be satisfactory in form and substance to CITI and shall contain those matters set forth in CITI’s survey instructions.
17. Flood Zone Map/Certification/Insurance. Borrower shall deliver to CITI a certification from Borrower’s architect, engineer or surveyor stating whether the Property is located in a designated special Flood Plain Hazard area, as designated by appropriate federal agencies. If all or any portion of the Property is at any time during the term of the Loan, located in such an area, Borrower shall provide satisfactory evidence to CITI of the existence of flood insurance policies in the maximum amount required pursuant to applicable laws covering all of the improvements on the Property which lie within, are bounded by, or are in any way affected by such area.]
18. Operating Documents. Borrower shall furnish copies of any form documents used for the Property and any equipment leases, licenses, franchises, permits, contracts, and any other agreements required for the operation, use, management or occupancy of the Property, and all such items shall be subject to written approval by CITI.
19. Financial Statements of Borrower and Guarantor. CITI shall receive, for its review and approval detailed financial statements for Borrower, any principal in Borrower and each Guarantor, certified by Borrower, such principal or the Guarantor, as the case may be. CITI may also require updated and/or recertified financial statements as of the Closing Date.
20. Environmental Assessment Report. CITI shall receive and approve a written report or reports from CITI’s independent environmental inspectors confirming that the Property and any site within the vicinity of the Property (i) has not contained and does not currently contain any Hazardous Material or underground storage tanks or any other pollutants that could be detrimental to the Property, human health or the environment, (ii) does not contain radon gas in levels unacceptable to CITI, (iii) complies with all applicable Hazardous Material Laws and has not been identified by any environmental regulatory body as a site containing Hazardous Material or underground storage tanks, (iv) shows no other environmental problem that would bring the Property within the purview of any federal, state or local environmental law or ordinance, and (v) contains no residual effect due to the removal of storage tanks or Hazardous Material. All deficiencies with respect to any environmental matters which CITI deems to be material shall be corrected by Borrower at its own expense to the satisfaction of CITI. “Hazardous Material” means and includes, without limitation, mold, asbestos and any substance containing asbestos, the group of organic compounds known as polychlorinated biphenyls, flammable explosives, radioactive materials, lead-based paint, chemicals known to cause cancer or reproductive toxicity, pollutants, effluents, contaminants, emissions or related materials and any items included in the definition of hazardous or toxic wastes, materials or substances under the Hazardous Material Laws. “Hazardous Material Laws” means and includes, all federal, state and local statutes, ordinances, regulations, orders, and decrees now or hereafter promulgated in connection with preserving the environment and/or the handling, storage, transport and disposal of Hazard Material.
21. Separate Tax Parcel(s). The Property shall constitute one or more separate and distinct tax parcels for purposes of all real estate taxes and assessments. There shall be no overlap whatsoever



between the Property and any other property which will not be subject to the first lien of the Security Instrument. Borrower shall also furnish the most recent tax bills for the Property.

22. Opinion of Tax Counsel. CITI must receive from nationally recognized tax counsel approved by CITI an unqualified opinion (i) as to the validity and enforceability of the Tax-Exempt Loan, (ii) that the interest on the Tax-Exempt Loan is excluded from the gross income of the owners thereof for federal income tax purposes under the Internal Revenue Code of 1986, as amended, and (iii) that the interest on the Tax-Exempt Loan is excluded from the gross income of the owners thereof for state income tax purposes if such exclusion is available under state law. Tax counsel must have (a) addressed its opinion to CITI, (b) addressed its opinion to CITI or (c) provided CITI a letter, addressed to CITI, stating that CITI may rely upon the opinion. Both the opinion and, if applicable, the reliance letter must be satisfactory to CITI.

23. Governmental Lender Requirements. CITI must receive evidence that Governmental Lender shall not impose restrictions, requirements or conditions in connection with its willingness to issue the Tax-Exempt Loan that are unacceptable to CITI. The restrictions imposed by the Tax-Exempt Loan Documents must be consistent with the restrictions on the use of the Property, on the income of tenants and on any rent charge that was used in underwriting the Funding Loan.

24. Low-Income Housing Tax Credits (“LIHTC”). CITI must approve any land use restriction agreement or regulatory agreement regulating or restricting the use or manner of operation of the Property and requiring that the Property be operated as a residential rental project occupied by individuals of low income (as provided for in the Treasury Regulations under Section 42(g) of the Internal Revenue Code). Such regulatory agreement must provide that the Property shall at all times be operated in such manner as to comply with the requirements of the Internal Revenue Code, the Treasury Regulations and IRS Rulings for obtaining and for preserving the LIHTC. In addition, the eligibility of the Property for LIHTC shall be evidenced to CITI in a manner satisfactory to CITI. Such regulatory agreement must be reviewed and approved in writing by CITI.

25. Equity and Funding Conditions. CITI must approve the partners/members (including the Tax Credit Investor), the applicable investment agreement, and the organizational documents of Borrower. CITI must receive and approve evidence satisfactory to CITI in all respects that the amount of the equity contribution is projected to be at least the level used by CITI in underwriting the transaction. Borrower’s organizational documents shall contain restrictions acceptable to CITI on the syndication or other transfer of the Tax Credit Investor’s interest, in whole or in part (including any interest therein), to eligible investors. In addition, prior to the Closing Date, CITI must receive and approve evidence satisfactory to CITI in all respects that Borrower (i) has timely received all required equity contributions to be made to Borrower as of the Closing Date, (ii) has fully funded, for the benefit of the Property, all cash required to be invested in the Property as of the Closing Date, and (iii) has made satisfactory arrangements to fund all cash required to be funded after the Closing Date. Borrower must also provide and CITI must approve in writing any developer’s agreement relating to the Property.

26. Interim Phase Budget. CITI will require satisfactory evidence that other funds and Loan Proceeds are adequate to complete the Improvements and carry the costs of the Property (including but not limited to interest, taxes, insurance, and operating costs), as determined by CITI based upon its review of scope of work, the Appraisal and other relevant information. CITI reserves the right to receive, review and approve all project expenditures made prior to closing.

27. Architectural Consultant and Construction Inspector. CITI shall have approved an architectural consultant to monitor the progress of the Improvements (the “Architectural Consultant”) and Borrower and the Architectural Consultant shall have executed and delivered to

CITI an agreement in form and substance acceptable to CITI, pursuant to which the Architectural Consultant shall agree to certify hard cost progress payments and to provide the certifications required pursuant to this Preliminary Commitment upon completion of the Improvements. In addition, CITI will enter into an agreement directly with a construction inspector (“Construction Inspector”) for the benefit of CITI, but at the sole cost and expense of Borrower, to review the plans and specifications, contracts and budget for the Improvements and to monitor the progress of the construction of the Improvements in the manner required by CITI.

28. Approved Plans. CITI and its engineering consultants and the Construction Inspector shall have received and approved the plans and specifications for the Improvements (such plans and specifications, as approved by CITI are referred to herein as the “Approved Plans”), the budget for completion of the Improvements, a fixed or a guaranteed maximum price contract for completion of the Improvements with a general contractor acceptable to CITI and a construction draw schedule for the Improvements.

29. Change Orders. The Approved Plans and the Construction Contract, and any change orders issued thereunder, will be subject to the approval of CITI.

30. Contractors. The architect, general contractor and such other contractors and subcontractors with respect to the Property as shall be identified by Borrower and approved by CITI shall have acknowledged the collateral assignment of their respective contracts to CITI and agreed in writing to continue performance on behalf of CITI under their respective contracts without additional cost in the event of a default by Borrower, which agreements shall be in form and substance acceptable to CITI and its counsel.

31. Payment and Performance Bonds. To the extent indicated on Exhibit A hereto, Borrower shall be required to deliver to CITI payment and performance bonds with respect to its contractor and major subcontractors (as determined by CITI).

32. Additional Documents. Upon request by CITI, Borrower shall furnish CITI with any documentation being furnished to any other party lending or investing in the Property (including CITI), including any plans for the Improvements, construction budgets, contracts and disbursement requests. In addition, Borrower shall deliver to CITI all other documents, instruments and other items required by CITI in connection with the making of the Funding Loan.

33. Additional Funding Requirements: All final documentation and due diligence must be delivered to tax counsel and/or counsel to CITI prior to the release of any funds for the Funding Loan, and under no circumstances will CITI authorize the closing of the Funding Loan until counsel to CITI has received the following final documentation: Trust Indenture, Funding Loan Agreement, Tax Certificate (or comparable document), Multifamily Note(s), the regulatory agreement/land use restriction agreement associated with the Tax-Exempt Loan, TEFRA approval(s), Governmental Lender’s resolution(s), proof of volume allocation, , IRS Form 8038, final opinions of tax counsel and Borrower’s counsel, any enhancement instrument, and, if applicable, all documentation required from HUD.

34. Fees and Expenses. Borrower shall have paid the Financing Fee (as hereinafter defined) and any other costs and expenses then due and payable pursuant to the provisions of this Preliminary Commitment.

**C. Conversion of the Mortgage Loan to the Permanent Period**. The conditions set forth in the Loan and Tax-Exempt Loan Documents (collectively, the “Conditions to Conversion”) must be satisfied no later than the date that is ninety (90) days prior to the last day of the Interim Phase (the “Conversion Package Submission Date”), and must continue to remain satisfied through the date of conversion of the Loan to the Permanent Period (the “Conversion Date”) as will be set forth in the Loan Documents, in each

case, in a manner acceptable to CITI, if the Loan is to convert from the Interim Phase to the Permanent Period. For purposes of this Preliminary Commitment, the term Interim Phase means the period from the Closing Date through the day prior to the Conversion Date and the term Permanent Period means the period from the Conversion Date (inclusive) through the maturity date (or earlier termination) of the Loan.

**D. Fees and Expenses.** Borrower shall be responsible for the following fees and expenses in connection with the financing:

1. Application Fee. Borrower hereby acknowledges requirement of an application fee (the “Application Fee”) as set forth in the Preliminary Commitment Terms, which amount shall be non-refundable. In the event additional funds are required to complete CITI’s review and due diligence, Borrower will be advised of such costs in advance. Any and all additional costs will be billed to Borrower as they are incurred. The Application Fee is applicable toward third party reports, underwriting and processing (as set forth in the Preliminary Commitment Terms), and CITI’s legal fees.
2. Origination Fee. The Origination Fee as set forth in the Exhibit A shall be due and payable on the Closing Date. The Origination Fee reflects a fee payable to CITI in exchange for providing financing for the Project.
3. Conversion Fee. Borrower shall pay CITI a Conversion Fee as set forth in the Preliminary Commitment Terms for CITI’s services in processing information to determine whether the Conditions to Conversion have been satisfied. The Conversion Fee shall be due when Borrower first submits information to satisfy the Conditions to Conversion.
4. Fees and Expenses. Sponsor shall pay when due, whether or not the closing occurs, all reasonable and actual expenses, fees and charges with respect to the cost of issuance of the Tax-Exempt Loan (including tax and Governmental Lender counsel fees, Governmental Lender fees, Fiscal Agent fees, Fiscal Agent counsel fees, financial advisor fees, printing and mailing costs and other Tax-Exempt Loan related fees and costs), and the Tax-Exempt Loan processing and closing, or in any way connected therewith, including, without limitation, appraisal fees, survey costs, title insurance costs, architectural fees, engineering fees, inspection fees, mortgage or similar taxes and all attorneys’ fees and legal costs of CITI. Without limiting the foregoing, Sponsor specifically agrees to pay all costs relating to document preparation and review of real estate due diligence items by counsel to CITI.

**E. Assignment; Acceptance; Termination.**

1. Acceptance. In order for this Commitment to be binding on CITI, Sponsor must execute a copy of this Commitment and return it, along with the Application Fee to CITI within five (5) business days after the date first set forth above (the “Outside Acceptance Date”), time being of the essence.
2. Expiration. This Commitment must be accepted on or before the Outside Acceptance Date, and the Tax-Exempt Loan must be issued prior to the Outside Closing Date set forth in the Commitment Terms, or this Commitment shall terminate and be of no further force and effect; provided, however that the provisions of this Commitment that explicitly survive termination shall continue in full force and effect. In the event that Sponsor does not obtain an allocation for the full amount of the Tax-Exempt Loan at least thirty (30) days prior to the Outside Closing Date, or the issuance of the Tax-Exempt Loan and the making of the Funding Loan by CITI does not occur by the Outside Closing Date, Sponsor may request an extension of this Commitment (not to exceed ninety (90) days), which extension shall be in Citi’s sole discretion. In the event the requested extension is approved by CITI in its sole discretion, in addition to the Financing Fee and other

amounts due hereunder, Sponsor shall pay to CITI a commitment extension fee equal to 0.25% (25 basis points) of the Interim Phase Amount on the Closing Date.

3. Termination. CITI may terminate this Commitment at any time if:

a. Any material adverse change (financial or otherwise) shall occur at any time prior to the Closing Date with respect to (i) the Property, the proposed Improvements, and/or the other security for the Tax-Exempt Loan, or (ii) the credit of Borrower and/or Sponsor (and/or any of the principals of Borrower and/or Sponsor) or any Guarantor or any other person or entity connected with the Loan, or (iii) any other source of repayment of the Loan.

b. Any part of the Property shall have been taken in condemnation or other like proceeding, or any such proceeding is pending or threatened as of the Closing Date, or any part of the Property is damaged and not repaired to CITI’s satisfaction prior to the Closing Date.

c. If requested, certifications of the non-occurrence of (a) and (b) above, in form acceptable to CITI, are not executed by Borrower on the Closing Date, or if Borrower has not delivered on the Closing Date updated personal financial statements for any Guarantor.

d. After acceptance of this Commitment, the Tax-Exempt Loan is not issued and closed on or prior to the Outside Closing Date (as the same may be extended pursuant to Section E2.).

e. If, in CITI’s sole judgment, CITI’s underwriting and due diligence indicate the reasonable possibility of a material adverse change in the Property, the proposed Improvements, the Sponsor, the Borrower and/or any Guarantor.

f. If the OFAC representation and warranty in Section F5. is no longer true and correct.

4. Upon termination, Sponsor shall pay to CITI any other reasonable damages CITI may have incurred due to non-delivery of the Tax-Exempt Loan. **Sponsor’s or Borrower’s obligation to pay all amounts due under this Commitment shall survive the termination or expiration of this Commitment.** If Sponsor or Borrower fails or refuses to comply with the terms of this Commitment, CITI, at its option, shall have the right to enforce any rights and remedies it may have at law or in equity, including, but not limited to, the collection of costs and expenses arising out of such breach, including reasonable attorneys’ fees and disbursements.

5. Final Underwriting. By accepting this Commitment, Sponsor expressly acknowledges that the obligation of CITI to provide the Funding Loan is subject to the completion of final loan underwriting by CITI, final CITI loan committee approval, and the satisfaction of any additional or differing conditions including interest rates that may be required by CITI as a result of such committee approval. By accepting this Commitment, Sponsor expressly acknowledges that the obligation of CITI to provide the financing described in this Commitment is subject to the satisfaction of the obligations and terms and conditions required by Citi for new construction and rehabilitation projects.

**F. Miscellaneous.**

1. Further Assurances. Sponsor hereby expressly acknowledges that CITI intends to incur costs upon acceptance of this Commitment. Upon acceptance of the Commitment, Sponsor shall be strictly obligated to close the transaction contemplated hereby. Sponsor acknowledges that

failure to close the transaction will subject CITI to substantial costs and damages. Therefore, Sponsor hereby expressly agrees:

- a. To perform all of the requirements, terms and conditions contained herein at the time and in the manner herein and as required by CITI.
  - b. Refrain from taking any action that would result in CITI’s inability to arrange for the making of the Funding Loan.
  - c. On the request of CITI, to re-execute or ratify any of the Mortgage Documents and/or the Tax-Exempt Loan Documents, or execute any other documents as may be reasonably necessary to effect the delivery of the Tax-Exempt Loan to any investor.
2. **Indemnification for Brokerage Commissions.** Sponsor acknowledges and agrees that any fees due for tax-exempt loan or related mortgage loan origination services shall be Borrower’s sole responsibility. Borrower and Sponsor shall indemnify and hold CITI harmless from and against any and all claims, demands and liability for brokerage commissions, assignment fees, finders’ fees or other compensation whatsoever arising from the issuance of this Commitment, the making of the Tax-Exempt Loan that may be asserted against CITI by any person or entity. **Sponsor’s and Borrower’s obligation to indemnify CITI hereunder shall survive the termination or expiration of this Commitment.**
3. **Authorization.** Sponsor and the undersigned Guarantor hereby authorize CITI to obtain and forward any and all credit information, including credit reports and financial statements and all other information of any kind received or reasonably required in connection with this Commitment to any rating agency and to any potential investor.
4. **Exclusivity.** The terms and provisions of this Commitment are intended for the sole and exclusive benefit of CITI and Borrower, and not for the benefit of, nor for the purpose of being relied upon, by any other party.
5. **OFAC Provisions.** Sponsor hereby represents and warrants that no portion of the Property has been or will be purchased, improved, equipped or furnished with proceeds of any illegal activity. Sponsor further represents and warrants that to the best of Sponsor’s knowledge, after having made diligent inquiry, Sponsor, Borrower, each Person owning a direct or indirect interest in Borrower, each Guarantor, each person owing a direct or indirect interest in each Guarantor, the Property Manager, and each tenant at the Property: (a) is not currently identified on OFAC List, and (b) is not a Person with whom a citizen of the United States is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of United States law, regulation, or Executive Order of the President of the United States. The Sponsor further acknowledges and agrees that it shall have a continuing obligation during the processing of this Commitment to notify CITI promptly if it knows or has reason to believe that the representations and warranties contained herein are no longer correct. Sponsor has implemented procedures, and will consistently apply those procedures throughout the term of the Tax-Exempt Loan, to ensure the foregoing representations and warranties remain true and correct during the term of the Tax-Exempt Loan. For the purposes hereof, “**OFAC List**” means the list of specially designated nationals and blocked persons subject to financial sanctions that is maintained by the U.S. Treasury Department, Office of Foreign Assets Control and any other similar list maintained by the U.S. Treasury Department, Office of Foreign Assets Control pursuant to any Requirements of Law, including, without limitation, trade embargos, economic sanctions, or other prohibitions imposed by Executive Order of the President of the United States, which OFAC List is accessible through the internet website <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>, and “**Person**” means an individual, partnership, limited partnership, corporation, limited liability company, business trust,

joint stock company, trust, unincorporated association, joint venture, governmental authority or other entity of whatever nature.

6. Borrower’s Representations. The validity of this Commitment and CITI’s obligations hereunder shall at all times be subject to the accuracy and validity of all information and representations furnished by Sponsor to CITI with regard to the Tax-Exempt Loan , which shall have been and shall continue to be true and not misleading in all material respects.

7. Loan Data. All inspections, reports, appraisals, environmental studies or other data submitted to, commissioned for, conducted or produced by or for CITI are for its benefit and use and shall be the property of CITI. No right of inspection or approval contained in this Commitment shall be deemed to impose upon CITI any duty or obligation whatsoever to take any action or to notify any person with respect thereto, and no liability shall be imposed upon any such party and no warranty shall be deemed or construed to arise by reason of any inspection undertaken or approval given by any such party, its agents, employees or representatives, any such inspections and approvals being made solely for the benefit of such party. **The provisions of this paragraph shall survive the termination or expiration of this Commitment.**

8. Discretion. In any instance where the consent or approval of CITI may be given or is required, or where any determination, judgment or decision is to be rendered by CITI under this Commitment, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by CITI (or its designated representative) at its sole and exclusive option and in its sole and absolute discretion.

9. Waiver. CITI reserves the right, in its sole discretion, to waive in whole or part any of the terms, requirements and conditions in this Commitment, the Mortgage Documents, the Bond Documents or other documents referenced herein; provided, however, that such waiver shall in no event be construed to constitute a waiver of the applicable terms, requirements or conditions as they may apply in the future.

10. Successors and Assigns. Sponsor acknowledges and agrees that CITI at its option may assign or otherwise transfer the Bonds and all documents evidencing and securing the Bonds including, but not limited to, this Commitment, to other parties subsequent to the execution of this Commitment. Neither Sponsor nor Borrower may assign its rights, interest, or obligations under this Commitment without first obtaining CITI’s prior written consent. This Commitment shall be binding upon the successors and permitted assigns of Borrower.

11. Governing Law. This Commitment shall be governed by and construed in accordance with the laws of the State of New York. Sponsor agrees that any legal action that may arise out of this Commitment will be commenced only in the United States District Court, Southern District of New York, or New York State Courts sitting in New York County, New York, and Sponsor hereby submits to the jurisdiction of any such court. All Mortgage Documents and Bond Documents (other than this Commitment) shall be governed by the laws of the State where the Property is situated. **The governing law election with respect to this Commitment shall survive the termination or expiration of this Commitment.**

12. WAIVER OF TRIAL BY JURY. SPONSOR AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS COMMITMENT OR THE RELATIONSHIP BETWEEN BOND PURCHASER, BONDHOLDER REPRESENTATIVE AND BORROWER OR SPONSOR THAT IS TRIABLE OF RIGHT BY A JURY AND WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN BY SPONSOR KNOWINGLY AND VOLUNTARILY WITH

THE BENEFIT OF COMPETENT LEGAL COUNSEL AND APPLIES TO ALL ACTIONS WHETHER ARISING IN CONTRACT, TORT, EQUITY OR OTHERWISE. **THIS PROVISION SHALL SURVIVE THE TERMINATION OF EXPIRATION OF THIS COMMITMENT.**

13. Survival. The covenants, terms and conditions set forth in this Commitment shall not survive the Closing Date (unless expressly provided to the contrary). In the event of any conflict between this Commitment and the Mortgage Documents and/or the Bond Documents, the Mortgage Documents and/or the Bond Documents, as applicable, shall prevail.

14. Confidentiality The provisions of this Commitment and all of the terms and conditions contained herein are confidential and Sponsor shall not share this Commitment, or the terms and conditions contained herein, with any third party; provided however, Sponsor may show this Commitment to the Issuer in connection with its application for issuance of the Bonds. **This confidentiality provision shall survive the termination or expiration of this Commitment.**

15. Anti Tying Policy. CITI maintains a policy of strict compliance to the anti-tying provisions of the U.S. Bank Holding Company Act of 1956, as amended, and the regulations issued by the Federal Reserve Board implementing the anti-tying rules (collectively, the "Anti-tying Rules"). Moreover, our credit policies provide that credit must be underwritten in a safe and sound manner and be consistent with Section 23B of the Federal Reserve Act and the requirements of federal law. Consistent with these requirements and our Anti-tying Policy:

- a. The extension of commercial loans or other products or services to you by CITI or any of its subsidiaries will not be conditioned on your taking other products or services offered by CITI or any of its subsidiaries or affiliates, unless such a condition is permitted under an exception to the Anti-tying Rules.
- b. CITI will not vary the price or other terms of any product or service offered by CITI or its subsidiaries on the condition that you purchase another product or service from CITI or any of its affiliates, unless CITI is authorized to do so under an exception to the Anti-tying Rules.
- c. CITI will not require you to provide property or services to CITI or any affiliate of CITI as a condition to the extension of a commercial loan to you by CITI or any of its subsidiaries, unless such a requirement is reasonably required to protect the safety and soundness of the loan.
- d. CITI will not require you to refrain from doing business with a competitor of CITI or any of its affiliates as a condition to receiving a commercial loan from CITI or any of its subsidiaries, unless the requirement is reasonably designed to ensure the soundness of the Loan.

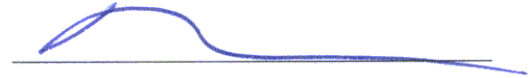
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If you have any questions relating to this Commitment, or if we can be of any further assistance, please do not hesitate to let us know.

Very truly yours,

CITIBANK, N.A., a national banking association

By:



Name: Michael Hemmens

Title: Vice President

The undersigned hereby accepts the foregoing Commitment and agrees to be bound by the terms, requirements and conditions set forth herein.

Date: \_\_\_\_\_

**SPONSOR:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT A**

**COMMITMENT TERMS**

This Exhibit A is an integral part of, and establishes additional terms, conditions and requirements of, the Commitment to which this is annexed.

**SUMMARY OF MORTGAGE LOAN TERMS**

Project:	Malibu Bay Apartments, a 264-unit multifamily rehabilitation project.
Maximum Tax-Exempt Loan Amount:	An amount estimated to be \$40,000,000.
Number of Units:	264
Low-Income Units:	263 units @ 60% of AMI 1 unit @ 50% of AMI
Permanent Period Interest Rate:	A rate currently estimated to be 3.31%
Financing Fee:	A fee, payable to CITI, equal to 1.00% of the amount of the Maximum Mortgage Loan Amount. This fee includes permanent lending services.
Conversion Fee:	\$10,000.
Guarantor(s):	Anticipated to be Lincoln Avenue Capital, LLC.
Closing Date:	TBD
Initial Construction Period:	24 months.
Possible Extension Period(s):	One 6 month extension.
Permanent Loan Term:	30 Years. At the end of the 17 <sup>th</sup> year following the Closing Date, Citi, in its sole discretion, will require repayment of the loan in full (upon not less than 6 months prior written notice).
Amortization Period:	35 years.
Lockout Period:	10 years following Conversion.
Yield Maintenance:	From Closing until 16.5 years after closing.
Loan Sizing Criteria:	<u>Maximum Loan to Value:</u> 90%. <u>Maximum Loan to Cost:</u> 80%. <u>Debt Service Coverage:</u> 1.15 to 1.00.

Required Reserves following Conversion:	\$300/Unit/Year for Years 1-5. Thereafter, subject to increases once every 5 Years, based upon a physical needs assessment
Approved Subordinate Financing:	The terms, conditions and documentation of the Approved Subordinate Financing, if any, including the form of subordination agreement subordinating the Approved Subordinate Financing to the Loan, are subject to the review and approval CITI in its sole discretion.
Payment and Performance Bonds:	Required from General Contractor.
Tax Credit Equity Provider:	TBD. Must be acceptable to CITI in all respects.

**EXHIBIT B**

**Initial Due Diligence Completed**

1. Review of proposed income and expense statements (budget).
2. Review of estimated sources and uses statement.
3. Inspection of proposed site and sub market.
4. Review of financial information of Sponsor, Borrower and principals of each.

**REAL ESTATE PURCHASE AND SALE AGREEMENT**

**MALIBU BAY APARTMENTS**  
**West Palm Beach, Florida**

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (hereinafter called the "Agreement"), is made and entered into as of the 15th day of November, 2019 (the "Effective Date"), by and among **EXECUTIVE TRUST, LTD.**, a Florida limited partnership, whose address is 3225 Aviation Avenue, Coconut Grove, FL 33133 ("Seller") and **LINCOLN CAPITAL ACQUISITION LLC**, a Delaware limited liability company, whose address is 201 Santa Monica Boulevard, Suite 550, Santa Monica, California 90401 ("Purchaser").

**RECITALS:**

**A.** Seller is the owner of the Property (as defined in Section 2) commonly known as Malibu Bay Apartments, 750 Malibu Bay Drive, West Palm Beach, FL 33401.

**B.** Seller desires to sell the Property to Purchaser and Purchaser desires to purchase the Property upon the terms and conditions set forth herein.

**WITNESSETH**

In consideration of the mutual covenants, agreements, benefits and burdens hereinafter set forth, and other good and valuable consideration, in hand paid by Purchaser to Seller, the receipt and sufficiency of which are hereby acknowledged, it is agreed that:

**1. PURCHASE PRICE:**

**1.01** Seller hereby agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller the Property pursuant to the terms and conditions of this Agreement. The purchase price ("Purchase Price") to be paid by Purchaser to Seller for the Property is THIRTY EIGHT MILLION and no/100 Dollars (\$38,000,000.00).

**1.02** With regard to any reserves held by any governmental agency on Seller's behalf, or by Seller's lender ("Lender"), if such loan is being assumed by Purchaser, any reserves shall remain the property of Seller at Closing. The parties shall obtain from Lender a statement of escrow and reserve balances as of a date no more than five days before the date of Closing.

**1.03** The Purchaser's obligation to purchase the Property is contingent upon the Purchaser's obtaining any required approval from certain government agencies as more fully described in Section 15 hereof (the "Agency Approval").

**1.04** Purchaser may, but shall not be obligated to, assume all or any portion of the subordinate debt which encumbers the Property and is outstanding as of the Closing Date (the “Existing Subordinate Debt”). A schedule of the Existing Subordinate Debt is attached hereto as Exhibit “J”. If Purchaser intends to assume all or any portion of the Existing Subordinate Debt, it shall submit all necessary applications and documentation necessary for approval by the applicable lender of the Purchaser’s acquisition of the applicable Existing Subordinate Debt within ten (10) days following the Effective Date, and Purchaser is solely responsible for obtaining any and all consents and approvals relating thereto. If Purchaser does not intend to assume all or any portion of the Existing Subordinate Debt, it shall notify Seller the earlier of thirty (30) days prior to Closing or such earlier time prior to Closing as required by any Existing Subordinate Debt document for prepayment. The outstanding amount of any assumed Existing Subordinate Debt, inclusive of the current outstanding principal and accrued interest, shall be credited to the Purchase Price at Closing; provided that the Purchaser shall be responsible for all fees and expenses in connection with the lender’s approval (without any credit therefor) except for any monitoring or other ongoing fees which shall be prorated as of the Closing. The Seller shall be responsible for paying all fees and expenses in connection with the prepayment of any of the Subordinate Debt as well as the senior mortgage encumbering the Property.

If Purchaser does not intend to assume all or any portion of the Existing Subordinate Debt, and has provided notice to Seller in accordance with this Section, Seller shall pay the outstanding Existing Subordinate Debt from proceeds of the sale of the Property. Notwithstanding anything to the contrary herein, in connection with any assumption by purchaser of all or any portion of the Existing Subordinate Debt, Purchaser shall obtain a release of Seller and its affiliates and guarantors from all obligations in connection therewith that accrue from and after the Closing to the extent consistent with such lender’s standard practices and forms. To the extent required by any lender, the Seller and its affiliates and any guarantors shall reaffirm their obligations in connection therewith to the extent they accrue prior to the Closing Date. The decision of Purchaser to assume all or any portion of the Existing Subordinate Debt shall not be a condition precedent to Purchaser’s obligation to perform hereunder. Purchaser shall keep Seller informed as to the status of any approvals.

**2. PROPERTY:**

**2.01** Property as used in this Agreement shall mean and include the following:

**2.01.1** Fee title to the real estate (“Land”) described on Exhibit A attached hereto and made a part hereof, together with all of the appurtenances belonging to the Land and Seller’s right, title and interest in and to all streets, alleys and other public or private ways adjacent thereto, before or after vacation thereof.

**2.01.2** All of the buildings, structures and improvements in, upon and under the Land comprising that certain rental apartment buildings commonly known as Malibu Bay Apartments, 750 Malibu Bay Drive, West Palm Beach, FL 33401 and any and all other facilities, improvements, and fixtures owned by Seller and appurtenant to the Land, together with all rights, easements and benefits in any way benefiting and/or appertaining thereto (“Improvements”);

**2.01.3** All of the Seller's right, title and interest in and to all fixtures, equipment, furniture, furnishings, appliances, supplies, tools, signs, and other personal property attached or otherwise used in connection with the Property owned by the Seller and located on the Land and used in the ownership, operation and maintenance of the Land and Improvements (collectively the "Personal Property"). The term "Personal Property" shall not include insurance policies, utility deposits, bank accounts, or cash on deposit, nor shall it include items of personal property belonging to tenants occupying space in the Improvements. All security deposits or other deposits owed to tenants, together with interest thereon (collectively "Security Deposits") shall constitute Personal Property and shall be assigned to Purchaser, or Purchaser shall receive a credit therefor, at Closing. Any other cash reserves and escrows, whether held by Seller or Seller's Lender, are and shall remain property of the Seller until Closing; provided, however, if such funds cannot be released to Seller at Closing, including those Restricted Reserve Accounts, such accounts shall transfer with the Property to Purchaser at Closing, with a credit to Seller, as set forth in Section 1.02 hereof; and

**2.01.4** All intangible property used in connection with the Property, including, without limitation, all trademarks, trade names, including any name used to identify the building, contract rights, guarantees, licenses, permits, and warranties (collectively "Intangible Personal Property").

**3. EARNEST MONEY:**

**3.01** Within three (3) business days of the Purchaser's and Seller's delivery to each other of fully executed originals of this Agreement, Purchaser shall promptly deposit TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) as Initial Earnest Money ("Initial Earnest Money") with Royal Abstract Title Company, as Escrowee, under an escrow agreement among the parties and Escrowee.

**3.02** Within three (3) business days after the expiration of the Inspection Contingency Period and in the event Purchaser has not elected to terminate this Agreement in accordance with Section 7.01 hereof, the Purchaser shall deposit FOUR HUNDRED THOUSAND and no/100 DOLLARS (\$400,000.00) as an Additional Earnest Money (the "Additional Earnest Money"). After expiration of the Inspection Contingency Period, the Earnest Money shall be non-refundable except as expressly set forth herein.

**4. CLOSING:**

**4.01** The closing of the transaction contemplated by this Agreement ("Closing") shall take place on or before July 30, 2020 ("Closing Date"), at the offices of the Seller's Counsel (as herein described) or such other place mutually agreed upon by the parties.

**4.02** Purchaser shall have, in its sole and absolute discretion, one (1) option to extend the Closing Date by thirty (30) days. Purchaser shall notify Seller, in writing at least thirty (30) days prior to the originally-scheduled Closing Date, of its exercise of each such option and, upon such exercise, deposit additional Earnest Money of \$50,000 ("Extension Earnest Money"). The Initial Earnest Money, the Additional Earnest Money and any Extension Earnest Money are collectively

referred to as “Earnest Money” in this Agreement. In the event the sale of the Property does close, the Earnest Money shall be credited toward the Purchase Price at Closing.

**4.03** The Purchase Price, less the Earnest Money, plus or minus credits, adjustments, prorations, closing costs and other charges in accordance with the terms of this Agreement, shall be paid in immediately available good funds at Closing.

## **5. COVENANTS, REPRESENTATIONS AND WARRANTIES:**

**5.01** To induce Purchaser to execute, deliver and perform this Agreement, Seller covenants, represents and warrants to Purchaser as follows:

(a) All representations and warranties of Seller appearing in this Section 5.01 of this Agreement are true and correct and, subject to Section 5.05, will be true and correct on the Closing Date.

(b) Seller has the power and authority to sell, transfer, convey and deliver the Property to be sold and purchased hereunder and all required action and approvals therefor have been duly taken and obtained with the exception of the Agency Approval. The individuals signing this Agreement and all other documents executed pursuant hereto on behalf of Seller have been duly authorized to sign same on behalf of Seller and to bind Seller.

(c) The execution and delivery of this Agreement, the consummation of the transactions provided for herein and the fulfillment of the terms hereof will not result in a breach of any of the terms or provisions of, or constitute a default under, any agreement of Seller or any instrument to which Seller is a party or by which Seller or the Property is bound, or any judgment, decree or order of any court or governmental body, or any applicable law, rule or regulation.

(d) At Closing, Seller will have and will convey and transfer to Purchaser, or its nominee, good, indefeasible and marketable title to the Property, insured as such by Royal Abstract Title Company, as agent or other title insurer selected by Purchaser (“Title Company”), free and clear of all mortgages, liens, encumbrances, ground rents, leases, tenancies, licenses, security interests, covenants, conditions, restrictions, rights of way, easements, encroachments and any other matters affecting title, subject only to the Permitted Exceptions (hereinafter defined).

(e) The Rent Roll attached as Exhibit B hereto is a true, complete and correct list of all leases and tenancies for all or any portion of the Property as of the date of the Rent Roll (the “Leases”).

(f) There are no leases or tenancies for all or any portion of the Property other than as set forth in Exhibit B. As of the date of Exhibit B, and except as shown on Exhibit B, each of the Leases shown thereon are valid and subsisting and in full force and effect, have not been amended, modified or supplemented other than as indicated thereon, and to the best of Seller’s knowledge, the tenant under each Lease is in possession of the leased premises. No tenant under any of the Leases has asserted any claim of which Seller has

notice which would in any way affect the collection of rent from such tenant and Seller knows of no default or breach on the part of the landlord (nor has Seller received any notice thereof) under any of the Leases.

(g) The rents and other income and charges set forth in Exhibit B are the actual rents, income and charges currently being collected by Seller under the Leases, and the same have been actually received for the month of, or the month immediately preceding, the date of such Exhibit except as indicated on Exhibit B or otherwise disclosed to Purchaser in writing. No apartment is occupied rent-free or by any employee of Seller except as disclosed in Exhibit B. Except as expressly set forth in Exhibit B, no tenant under any of the Leases is entitled to any purchase option, concessions, allowances, set-offs, rebates or refunds or has prepaid any rents or other charges for more than the current month; none of the Leases and none of the rents or other amounts payable thereunder have been assigned, pledged, or encumbered; all of the Leases are free and clear of any right or interest of any real estate broker or any other person (whether or not such brokers or other persons have negotiated the Leases or have contracted with the Seller for the collection of the rents thereunder); and no brokerage or leasing commission or other compensation is or will be due or payable to any person, firm, corporation or other entity with respect to, or on account of, any of the Leases or any extensions or renewals thereof.

(h) No written notice has been given to Seller by any holder of any mortgage or deed of trust on the Property or by any insurance company which has issued a policy with respect to any of the Property of any defect or deficiency, nor has any such party requested the performance of any repairs, alterations or other work to the Property other than as disclosed in the attached Exhibit F. If such notice is received by Seller prior to Closing, Seller shall promptly inform Purchaser of the notice. Seller will not complete repairs, alterations or other work required in order to comply with such notice and to correct any such defect prior to Closing at Seller's cost and expense unless requested to do so by Purchaser with a modification to the Purchase Agreement obligating Purchaser to reimburse Seller for these expenditures at Closing.

(i) There is no pending condemnation, eminent domain, or similar proceeding affecting all or any portion of the Land or Improvements, and Seller has not received any written notice of any of the same and Seller has no knowledge that any such proceeding is contemplated.

(j) There are no laundry equipment leases and no management, service, equipment, supply, maintenance or concession agreements with respect to or affecting all or any portion of the Property except as set forth in Exhibit C ("Service Contracts") attached hereto. To Seller's knowledge there are no defaults under any of the Service Contracts, and all of the Service Contracts are in good standing and in full force and effect. Seller acknowledges and agrees Purchaser shall have no liability whatsoever, with respect to any period prior to Closing, to employees of Seller with respect to any employee benefit plans or programs, retirement plans, welfare benefits, excess benefit plans, plans maintained to provide worker's compensation or unemployment benefits and practices for Seller's past or present employees, independent contractors or either of their beneficiaries or dependents, whether or not any of such employees are offered employment by, or become employees of,



Purchaser. Seller shall terminate any Service Contract which by its terms is terminable, which termination shall be effective as of Closing unless Purchaser provides written notice to the contrary prior to Closing, or as soon thereafter as such service contract permits. Seller shall be liable for the cost of any such termination.

(k) To the best of Seller's knowledge, all licenses, permits, authorizations, consents and approvals required by all governmental or quasi-governmental authorities having jurisdiction, if any, have been issued for the buildings, structures, and other improvements which are a part of the Property, have been paid for in full, and are in full force and effect.

(l) No portion of the Property is subject to or is affected by any special assessment or special taxing district that is not disclosed on the real estate tax bills and, to Seller's knowledge, no such assessment has been proposed. Purchaser will be responsible only for payments of any such assessment due on or after Closing, and Seller will be responsible for payments of any such assessment due prior to Closing.

(m) To the best of Seller's knowledge, no default or breach exists under any of the covenants, conditions, restrictions, agreements, rights-of-way or easements, if any, affecting all or any portion of the Property which are to be performed or complied with by the owner of the Property and Seller actually knows of no such defaults by any other parties under such covenants or agreements.

(n) Except as disclosed to Purchaser, as of the date hereof there is no action, suit or proceeding pending or, to the actual knowledge of the Seller, threatened against or affecting all or any portion of the Property, or any of the Leases, or relating to or arising out of the ownership, management or operation of the Property, in any court or before or by any federal, state, county or municipal department, commission, board, bureau, or agency or other governmental instrumentality, and Seller knows of no such reason for any such proceeding. If any such action, suit or proceeding exists, comes to the actual knowledge of Seller between the date hereof and Closing, or if any such action, suit or proceeding is commenced after the date of Closing and if the same is related to or arises out of the ownership, management or operation of the Property prior to Closing, then (1) Seller shall notify Purchaser of same in writing, and (2) notwithstanding any survival period set forth in this Agreement, Seller shall indemnify, defend and hold Purchaser and its successors and assigns harmless from and against any and all loss, claim, cost, damage, expense and liability whatsoever, including reasonable attorneys' fees, which any of said parties may suffer or incur as a result of such action, suit or proceeding.

(o) Seller has no notice of any proposed change in the assessed valuation of all or any portion of the Property.

(p) Intentionally omitted.

(q) All fixtures, articles of personal property and other Personalty included in and which are a part of this sale are now, and at Closing will be, owned by Seller free and clear

of any conditional bills of sale, chattel mortgages, security agreements or financing statements or other liens or security interests of any kind and are in good working order.

(r) All security deposits with respect to the Leases, as set forth in Exhibit B, have been received by Seller and are now held by the property manager as agent for Seller. No security deposits with respect to any of the Leases have not been applied in accordance with the Leases or otherwise, except as noted on Exhibit B.

(s) Except as disclosed to Purchaser, all water, sewer, gas, electric, and drainage facilities and all other utilities and public or quasi-public improvements upon or adjacent to the Land required for the normal operation of the Property are installed, are in good working order, are adequate to service the Property and are paid currently.

(t) Other than as set forth herein, Seller has not received any notice of violation of any applicable federal, state or local governmental laws, regulations, ordinances, codes, statutes or requirements relating to the emission, discharge, release, or threatened release of Hazardous Material into the environment, and to environmental and occupational health and safety matters and Hazardous Materials.

Seller has entered into that certain Declaration of Interim Restrictive Covenants with the Florida Department of Environmental Protection regarding the former use of the Property as a golf course and certain contaminants found on the Property arising therefrom. The Seller has remediated the condition and has complied with the Engineering Maintenance Plan established for the Property.

The term "Hazardous Materials" shall mean and include the following, including mixtures thereof; any hazardous substance, pollutant, contaminant, waste, by-product or constituent regulated under federal, state or local law, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et. Seq.; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel; pesticides, regulated under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136 et. Seq; asbestos and asbestos-containing materials, PCBs and other substances regulated under the Toxic Substances Control Act, 15 U.S.C. Section 2601 et. Seq.; source material, special nuclear material, by-product material and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act or the Nuclear Waste Policy Act of 1982; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. 1910.1200 et. Seq.; and industrial process and pollution control wastes, whether or not hazardous within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.

(u) To the best of Seller's knowledge, there is no default, or occurrence which with the passage of time or delivery of a notice, would constitute a default, under any regulatory agreement encumbering the Property.

(v) Intentionally Omitted.

(w) Intentionally Omitted.

(x) Intentionally Omitted.

(y) Seller is not acting, directly or indirectly for, or on behalf of, any person, group, entity or nation named by any Executive Order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism) or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, or nation pursuant to any law that is enforced or administered by the Office of Foreign Assets Control and Seller is not engaging in the transaction contemplated by this Agreement, directly or indirectly, on behalf of, or instigating or facilitating the transaction contemplated by this Agreement, directly or indirectly, on behalf of, any such person, group, entity or nation. Seller is not engaging in the transaction contemplated by this Agreement, directly or indirectly, in violation of any laws relating to drug trafficking, money laundering or predicate crimes to money laundering. None of the funds of Seller have been or will be derived from any unlawful activity with the result that the investment of direct or indirect equity owners in Seller is prohibited by law or that the transaction contemplated by this Agreement, or this Agreement is or will be in violation of any law. Seller has and will continue to implement procedures, and has consistently and will continue to consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times prior to Closing.

(z) To the best of Seller's knowledge, there are no employees directly engaged by Seller in connection with the operation or maintenance of the Property. Purchaser shall have no obligation to offer employment to any employees of Seller or Seller's management agent.

(aa) To the best of Seller's knowledge, there are no union contracts and no unfunded pension obligations concerning Seller's or, to Seller's knowledge, the property manager's employees engaged at the Property.

(bb) To the best of Seller's knowledge, other than with regard to a municipal lien for trash collection, which will be satisfied by Seller at Seller's expense prior to or simultaneously with the Closing, Seller has received no notice of any violation of any law, regulation, ordinance, order or other requirement of any governmental authority having jurisdiction over or affecting all or any part of the Property.

(cc) As of the Closing Date, there shall be no open permits in connection with the Property. The Seller shall not issue any notices of commencement after date that is 30 days prior to the Closing Date.

(dd) All representations and warranties by Seller contained herein are true, correct and complete in all material respects and the same shall not omit any material information required to make the submission thereof fair, true and complete and not misleading.

**5.02** Purchaser acknowledges that neither Seller nor any agent or representative of Seller has made, and Seller is not liable or bound in any manner by, any expressed or implied warranties, guaranties, promises, statements, inducements, representations or information pertaining to the Property, except as expressly provided in this Agreement. PURCHASER IS PURCHASING THE PROPERTY AND IMPROVEMENTS ON AN “AS-IS, WHERE-IS” BASIS WITH ALL FAULTS, WITH NO WARRANTIES OF ANY KIND EXPRESSED OR IMPLIED, EITHER ORAL OR WRITTEN, EXCEPT AS STATED IN THIS AGREEMENT, WHETHER OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, CONDITION OF IMPROVEMENTS, OR OTHERWISE MADE BY SELLER OR ANY AGENT OF SELLER, INCLUDING BUT NOT LIMITED TO, THE ENVIRONMENTAL, PHYSICAL, STRUCTURAL OR FINANCIAL CONDITION OF THE PROPERTY. WITHOUT LIMITATION OF THE FOREGOING, ALL OF THE INFORMATION AND MATERIALS, IF ANY, PROVIDED BY SELLER OR SELLER’S AGENTS IS PROVIDED SOLELY FOR INFORMATION PURPOSES; AND SELLER MAKES NO WARRANTY, REPRESENTATION OR GUARANTY AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION OTHER THAN AS SET FORTH IN THIS AGREEMENT.

**5.03** Purchaser covenants, represents and warrants to Seller as follows:

- (a) Purchaser is duly organized and validly existing in the state of its formation, and is in good standing.
- (b) Purchaser has the power and authority to purchase and accept the Property and all required action and approvals therefor have been duly taken and obtained. The individuals signing this Agreement and all other documents executed pursuant hereto on behalf of Purchaser are duly authorized to sign same on behalf of Purchaser and to bind Purchaser.
- (c) The execution and delivery of this Agreement, the consummation of the transactions provided for herein and the fulfillment of the terms hereof will not result in a breach of any of the terms or provisions of, or constitute a default under, any agreement of Purchaser or any instrument to which Purchaser is a party or by which Purchaser is bound, or any judgment, decree or order of any court or governmental body, or any applicable law, rule or regulation.
- (d) All representations or warranties by Purchaser contained herein, and all statements or other information contained in any certificate or other instrument furnished or to be furnished to Seller pursuant hereto or in connection with the transactions contemplated hereunder are and shall be true, correct, and complete in all material respects and the same shall not omit any material information required to make the submission thereof fair, true and complete and not misleading.

**5.04** All representations and warranties contained in Sections 5.01 and 5.03 shall survive the Closing for six (6) months.

**5.05** Seller shall promptly notify Purchaser in writing of any event or condition known to Seller which occurs prior to Closing hereunder, which causes a material adverse change in the

Seller's representations and warranties. Seller shall have the right to rectify any such nonconforming occurrence, in a reasonably timely manner, but in no event later than the Closing. If Seller chooses not to rectify the adverse change, Purchaser shall, as its sole remedy hereunder, have the right to terminate this Agreement and receive a full return of the Earnest Money or proceed to Closing, and in no event shall Seller have any liability to Purchaser for such change in representations and warranties unless such change is due to a willful or grossly negligent act, in which case such change shall be deemed to be a default hereunder. Purchaser shall promptly notify Seller in writing of any event or condition known to Purchaser which causes a material or adverse change in the Purchaser's representations and warranties. Purchaser shall have the right to rectify any such nonconforming occurrence, in a reasonably timely manner, but in no event later than the Closing.

**5.06 Indemnities.** In the event that a lien, or claim of lien, or a certified copy of any judgement arising from any cause of action or any litigation should be recorded against the Property prior to Closing including any third-party claim for unpaid material, services, property damage or personal injury arising out of or resulting from any activities upon the Property by Seller or its agents or employees other than matters adjusted at closing and for which Purchaser received a credit at closing, Seller shall defend, or cause to be defended, Purchaser and any affiliate, employee, partner, officer of partner, director of partner, or shareholder of partner of Purchaser, and the Property against any such claim or cause of action and hold Purchaser and any affiliate, employee, partner, officer of partner, director of partner, or shareholder of partner of Purchaser harmless from and against any and all loss, cost or expense, including, but not limited to reasonable attorneys' fees and costs related thereto. In the event that a lien, claim, or cause of action or any litigation should arise, including without limitation any tenant litigation or any third party's claim for unpaid material, services, property damage or personal injury arising out of or resulting from any activities upon the Property by Purchaser or its agents or employees, Purchaser shall defend, or cause to be defended, Seller, and any affiliate, employee, partner, officer, shareholder or director of Seller, against any such claim or cause of action and hold Seller, and any affiliate, employee, agent, partner, officer, shareholder or director of Seller, harmless from and against any and all loss, cost or expense, including, but not limited to reasonable attorneys' fees and costs related thereto. The indemnities and obligations set forth in this Section 5.06 shall survive the Closing for a period of six (6) months.

**5.07** Seller shall deliver to Purchaser, within five (5) business days after the date of this Agreement and to the extent that same are in Seller's (or Seller's agent's) possession or control, copies of the documents listed on Exhibit E (collectively, the "Diligence Documents"). To the extent any Diligence Documents are not delivered in accordance with the foregoing or statement is given that the documents are not readily available or in Seller's possession, the Inspection Contingency Period (as defined in Section 7.01) shall be extended on a day for day basis until all such Diligence Documents have been delivered.

## **6. TITLE COMMITMENT/SEARCHES/SURVEY**

**6.01 (a) Title Commitment.** Purchaser shall obtain (1) a title insurance commitment (the "Commitment") issued by the Escrowee, as agent for the Title Company, pursuant to which the Title Company shall agree to issue to Purchaser an owner's policy of title insurance and any endorsements requested by Purchaser (collectively, the "Title Policy"), in the amount of the Purchase Price, insuring marketable fee simple title to the Land and Improvements in Purchaser upon recording of

the Deed (including GAP coverage), subject to the exceptions therein; and (2) copies of all recorded and exception instruments listed in the Commitment (the "Exception Instruments").

**(b) Title Defects.** Purchaser shall have until the expiration of the "Inspection Contingency Period" (hereinafter defined in Section 7.01) to object, by delivering written notice ("Objection Notice") to Seller with respect to any matters shown in the Commitment and Survey which are not acceptable to Purchaser, and any matters shown therein and not objected to by Purchaser within said Inspection Contingency Period shall be deemed approved by Purchaser (the "Permitted Exceptions"). If Purchaser does give such notice within the timeframe described above and objects to title or survey matters, then Seller shall have ten (10) days to deliver a written response to which objections, if any, Seller agrees to cure. If Purchaser is not satisfied with the objections Seller agrees to cure, then Purchaser may terminate this Agreement by delivering a written notice of termination, within five (5) days after receipt of Seller's response whereupon the Earnest Money shall be returned to Purchaser and neither party shall have any further obligation to the other, except for those obligations that expressly survive the termination of this Agreement. Seller shall have until ten (10) days after the delivery of the Objection Notice to cure the objections Seller has agreed to cure; provided, however, if such objection is to a monetary lien or monetary encumbrance which can be cured by the payment of money, Seller shall satisfy or bond over such lien or encumbrance, and if Seller shall fail to do so, Purchaser shall have the right to deduct an amount sufficient to satisfy such liens or encumbrances from the Purchase Price at Closing. With respect to those title matters that Seller is obligated hereunder to satisfy, a title matter shall be considered remedied if Seller secures the agreement of the Title Company to issue the Title Policy to Purchaser without making exception for the matter in question, or to provide affirmative insurance with respect to such matter. If Seller does not so remedy any matters to which Purchaser has objected and Seller has agreed to cure within the timeframe set forth above, then Purchaser shall (as its sole remedy) have the option of either (1) completing this transaction and accepting such title as Seller is able to convey, without reduction of the Purchase Price, or (2) terminating this Agreement, in which event the Earnest Money shall be returned to Purchaser and neither party shall have any further obligation to the other hereunder, except for those obligations which expressly survive the termination of this Agreement. From time to time, at any time after the expiration of the Inspection Contingency Period and prior to the Closing Date, Purchaser may give written notice of objections to matters of title first appearing in any updated title commitment issued after the initial Commitment or matters of survey which were not disclosed by the Original Survey if the Updated Survey was not yet received by the expiration of the Inspection Contingency Period and all such additional objections shall be subject to procedures for resolution of title and survey objections set forth in this Section; provided, however, that in no event shall the Closing Date be extended as a result of any title objection unless mutually agreed to by the parties.

**6.02** At its election and cost, Purchaser may order UCC, judgment and tax lien searches on the names of Seller and its constituent owners/partners. In the event there is any violation of any law, regulation, ordinance, order or other requirement of any governmental authority having jurisdiction over or affecting all or any part of the Property, the Seller shall be obligated to cure said violation and pay any penalties resulting therefrom.

**6.03** Within five (5) days after the date hereof, Seller shall deliver to Purchaser the most recent survey of the Property in Seller's possession (the "**Original Survey**"). Purchaser, may, at its

sole cost and expense, obtain an updated survey (the "**Updated Survey**"; together with the Original Survey, the "**Survey**").

## **7. INSPECTION CONTINGENCY PERIOD:**

**7.01** For the period from the Effective Date and continuing for thirty (30) days ("Inspection Contingency Period") subject to extension pursuant to Section 5.07, and thereafter until Closing, Purchaser shall have the right to enter upon the Land to inspect the Property and to conduct environmental tests and investigations at its sole cost and expense. Seller shall cooperate with Purchaser, or its agents, in arranging such inspections. Purchaser shall conduct all such inspections and reviews in confidence and so as not to interfere unreasonably with the operation of the Property. During the Inspection Contingency Period, Purchaser may order an environmental report, at Purchaser's sole cost and expense, to be conducted by an environmental engineering firm selected by Purchaser (the "Environmental Study"). Purchaser shall provide prior written notice to the Seller of any invasive testing.

**7.02** If, in its sole and absolute discretion, Purchaser is not satisfied with the Property for any reason or no reason, Purchaser shall give Seller a notice of disapproval by 11:59 pm eastern standard time on the last day of the Inspection Contingency Period with a copy to Escrowee, and this Agreement shall then be deemed terminated and the Earnest Money and all interest earned thereon, if any, shall be returned to Purchaser. If Purchaser does not timely provide a notice of disapproval prior to the expiration of the Inspection Contingency Period, the inspection contingency shall be deemed waived by Purchaser and Purchaser's inspection rights shall continue so long as this Agreement is in effect.

**7.03** During and after the Inspection Contingency Period and until closing, Seller will make all records, books and files of Seller and of the property manager, currently in their possession and relating to the ownership and operation of the Property or any part thereof, available to Purchaser and Purchaser's representative for examination at the Property or at the office of the property manager during regular business hours and upon reasonable prior written notice.

**7.04** Purchaser shall maintain all non-public information obtained concerning Seller and the Property confidential with the same degree of care as it uses with respect to its own confidential information; provided, however, that Purchaser shall have the right to disclose such information to its counsel, consultants, partners, potential equity providers, potential lenders and such other third parties as it may deem reasonably necessary to complete the transactions described in this Agreement. Upon termination of this Agreement for any reason whatsoever, Purchaser shall promptly deliver to Seller, or destroy as Seller may request by written notice to Purchaser, all records, information, tests, data, pictures, evaluations, appraisal reports and similar documents whether supplied by Seller or prepared by or for Purchaser. At Seller's request, Purchaser's deliveries to Seller shall include all environmental, engineering and physical inspection reports, appraisals, feasibility analyses, marketing studies and marketing plans in Purchaser's possession; provided that Purchaser shall not be obligated to deliver any financial, structural or strategic analysis or documents related thereto including, but not limited to any applications submitted to any governmental agencies for the purposes of receiving financing or any real estate tax exemptions.

**7.05** Purchaser acknowledges that neither Seller nor anyone acting, or purporting to act, on behalf of Seller, has made any representations with respect to the Property, including, without limitation, the physical condition, the state of repair or maintenance of the same, the income received by Seller therefrom, or the costs and expenses for the operation or maintenance thereof, except as set forth in this Agreement and as provided in writing and delivered by Seller to Purchaser and/or its representative(s).

**7.06** Purchaser shall repair and restore any damage (subject to ordinary wear and tear) caused by Purchaser, Purchaser's employees, agents, consultants, lenders, or any other parties conducting tests, investigations, reviews, inspections or studies on behalf of Purchaser of the Property or any of the materials made available by Seller or the property manager. Purchaser shall indemnify and hold Seller and property manager harmless from and against any and all claims for damages or injuries arising out of any tests, investigations, reviews, inspections or studies conducted by Purchaser or any others at the request of Purchaser; provided that Purchaser's indemnity obligation shall not extend to (a) the negligence of the Seller or any of its agents and (b) the mere discovery of a preexisting condition. Purchaser shall maintain a general commercial liability policy naming Seller and property manager as additional insureds in the amount of Two Million and no/100 Dollars (\$2,000,000) to cover any losses, claims or damages arising out of Purchaser's inspection of the Property, and Purchaser shall provide Seller with a certificate of insurance demonstrating the existence of such insurance before going upon the Property to perform any diligence investigations. Purchaser shall also notify Seller in advance of any owner representatives visiting the Property and all representatives, agents, inspectors or third-party vendors/contractors hired by Purchaser, must check in with the property management office prior to accessing the Property.

## **8. RISK OF LOSS:**

**8.01** Risk of loss or damage from fire or other casualty is assumed by Seller until the Closing, subject to the specific provisions of Subsection 8.02 hereinbelow.

**8.02** If on the date of Closing any portion of the Property has been damaged and not repaired as a result of any fire, accident or other casualty or act of God, to such an extent that the cost of repairs therefor is less than Five Hundred Thousand Dollars (\$500,000.00), as determined by an architect agreed upon by the parties, then Purchaser shall perform under this Agreement, provided Purchaser simultaneously receives at Closing an assignment from Seller (with consent of the insurance company) of all applicable casualty insurance proceeds for any casualty damages not yet repaired. In addition, Purchaser shall receive a credit at Closing for the amount of any deductible not to be paid for by insurance proceeds. Seller shall be entitled to any applicable casualty insurance proceeds for casualty damages repaired by Seller prior to the Closing. Rental interruption insurance proceeds shall be prorated as of the Closing Date.

**8.03** If, however, such cost of repair, as determined by the architect, is in excess of Five Hundred Thousand Dollars (\$500,000.00), Purchaser shall, at its option, either: (i) complete Purchaser's obligations hereunder in which event Purchaser shall be entitled to collect all available applicable insurance proceeds and shall have no claim against Seller in connection therewith and Purchaser shall receive a credit at Closing for the amount of any deductible not paid for by insurance proceeds under the applicable insurance policy and any rental interruption insurance proceeds shall be prorated as of the Closing Date; or (ii) cancel this Agreement and receive a refund of the Earnest



Money and all interest accrued thereon; in which event no party shall have any further rights or obligations hereunder. Purchaser's election shall be made within thirty (30) days after receipt of the architect's decision.

**8.04** If the loss under Paragraph 8.02 or 8.03 has not been finally determined by the architect as of the Closing Date, then Purchaser shall have the right to extend the Closing Date to a date that is ten (10) days from the date of such determination. Seller covenants that until the Closing Date it will maintain insurance the same as its current policy, which shall be available to Purchaser for inspection. Seller further covenants that it will use its best efforts to adjust any loss as expeditiously as possible.

**8.05** In the event any material portion of the Land and Improvements is condemned or is the subject of a condemnation proceedings by any governmental authority under its power of eminent domain, Purchaser may elect to: (i) proceed to purchase the remaining portion of the Property with no adjustment to the Purchase Price, in which event Seller shall assign to Purchaser all of Seller's right, title and interest in and to any condemnations awards whether pending or already paid, or (ii) terminate this Agreement, in which event the Earnest Money and all interest earned thereon shall be returned to Purchaser and no party shall have any further rights or obligations hereunder. The term material is defined as an event of condemnation which (a) reduces the value of the Property by Five Hundred Thousand Dollars (\$500,000.00) or more or, (b) materially affects access to the Property or (c) materially affects parking at the Property.

## **9. EVENTS OCCURRING AT CLOSING:**

**9.01** At the Closing and contemporaneously with Purchaser's compliance with the provisions of Section 9.02 below, Seller shall deliver, or cause to be delivered, to Escrowee for the benefit of Purchaser all of the following in form and substance reasonably acceptable to Purchaser, the delivery of which shall be a condition to Purchaser's obligation to consummate the Purchase of the Property:

**9.01.1** A special warranty deed in the form attached hereto as Exhibit D (the "Deed") duly executed by the Seller, which conveys title to the Land and Improvements, free and clear of all liens, encumbrances, easements and restrictions of record, except the Permitted Exceptions and real estate taxes not due and not payable at the time of Closing.

**9.01.2** A Bill of Sale and Assignment of Leases and Contracts and Security Deposits ("Bill of Sale"), duly executed by the Seller and Purchaser in the form attached hereto as Exhibit H.

**9.01.3** An "ALTA Owner's Statement" executed by Seller in the form required by the Title Company for the purpose of deleting exceptions for labor performed, material supplied or services provided for or to the Property prior to Closing, if any such exceptions shall arise prior to Closing.

**9.01.4** A closing statement prepared by Escrowee as Title Agent and approved by Seller .

**9.01.5** Possession of the Property shall be delivered to Purchaser at Closing, subject only to the Permitted Exceptions.

**9.01.6** An assignment to Purchaser of all escrow and reserve accounts held by Lender, unless Lender authorizes the release of such funds directly to Seller

**9.01.7** Notice to tenants in the form attached hereto as Exhibit I.

**9.01.8** Intentionally Omitted.

**9.01.10** A written certification (“FIRPTA Certificate”) in form reasonably satisfactory to Purchaser and dated not earlier than ten (10) days prior to the date of Closing, which certification shall be in compliance with the Tax Reform Act of 1986 (the “Act”) and the regulations thereunder that are imposed by the Foreign Investment in Real Property Tax Act (“FIRPTA”) and certifying that Seller is not a person or entity subject to withholding under FIRPTA and the Act and containing Seller’s tax identification number and address. In the event that Seller does not provide such written certification, Purchaser may withhold at Closing ten percent (10%) of the gross proceeds of the sale of the Property for remittance to the Internal Revenue Service in accordance with the provisions of the Act.

**9.01.11** An assignment and assumption of any regulatory agreements as required to obtain the Agency Approvals.

**9.01.12** Seller's Certificate stating that all of the representations and warranties made by Seller in Section 5.01 are true in all material respects as of the Closing, or if not, identifying the reasons for the discrepancies, which reasons shall be acceptable to Purchaser in its sole and absolute discretion.

**9.01.13** IRS Form 1099-S.

**9.01.14** Intentionally Omitted.

**9.01.15** A Seller Sworn Statement in the form and content of Exhibit G.

**9.01.16** Seller shall execute and deliver such other instruments and take such other action as may reasonably be required to consummate the transactions contemplated by this Agreement, including any documents required by any Issuer (as defined below) or other governmental agency or the Title Company, as applicable.

**9.02** At the Closing and contemporaneously with Seller’s compliance with the provisions of Subsection 9.01 above, Purchaser shall:

**9.02.1** Pay to Seller in immediately available funds the Purchase Price, adjusted for the adjustments, prorations and credits herein provided for and reduced by the Earnest Money and interest thereon which shall be paid to Seller at Closing.

**9.02.2** Deposit the amount of money required for the payment of such Closing costs, expenses and other items as are required to be paid by Purchaser hereunder.

**9.02.3** Deposit an executed counterpart of the Bill of Sale.

**9.02.4** Deposit an executed copy of the closing statement prepared by Escrowee as Title Agent and approved by Purchaser.

**9.02.5** Deposit an executed counterpart of any assignment and assumption of any regulatory agreement, as applicable.

**9.02.6** Intentionally omitted.

**9.02.7** Execute and deliver such other instruments and take such other action as may reasonably be required to consummate the transactions contemplated by this Agreement, including any documents required by Issuer or any other governmental agency or Title Company, as applicable.

**10. PRORATED ITEMS, CREDITS AND ADJUSTMENTS:**

**10.01** At Closing, the following adjustments, prorations and credits shall be computed as of the date of Closing and the Purchase Price shall be adjusted to reflect such items. All prorations shall be based on the actual number of days in the month of the Closing with the Seller to have the date of Closing.

**10.01.1** All rentals and other income received by Seller relating to the Property collected by Seller for the month of Closing shall be deemed earned ratably on a per diem basis and prorated accordingly. Any unpaid past amounts due from tenants of the Property shall not be adjusted or prorated at Closing, but if and when collected by Seller or Purchaser, such amounts shall be paid over and applied as follows: (i) on account of rents and other income due to Purchaser since the Closing until all such sums are paid, (ii) on account of rents and other income for the month of Closing and prorated between Seller and Purchaser, and (iii) thereafter, on account of rents and other income due Seller for any month prior to the month of Closing. Seller shall remit any such amounts to Purchaser. Purchaser and Seller shall remit to the other party any amounts due hereunder within five (5) days of the remitting party's receipt along with a statement calculating the amount of any post-Closing collections due to the other party.

**10.01.2** Unpaid ad valorem real property taxes, special assessments and all other public or governmental charges against the Land and Improvements (including charges, assessments, liens or encumbrances for sewer, water, drainage or other public improvements completed or commenced on or prior to the date of Closing) for the year of Closing and prior years shall be adjusted and apportioned as of the Closing Date. Prorations of the real estate taxes will be based upon the most recent real estate taxes for a full tax year, with the maximum available discount Unless the estimated tax proration calculated at Closing differs from the actual proration by an amount in excess of Five Thousand Dollars (\$5,000), there shall be no later re-proration.

**10.01.3** All prepayments made or payments due under any continuing service contracts affecting the Property, if any, including water, sewer, electric, gas, cable and utility bills, garbage removal and maintenance agreements shall be adjusted and apportioned as of the Closing and thereafter assumed by Purchaser. Whenever feasible an actual meter reading shall be taken except Seller shall cause final water meter reading to be taken and final water bill shall be paid by Seller immediately before Closing. Seller shall receive a credit at Closing for any utility deposit made by Seller and assigned to Purchaser, provided that Seller reserves the option to recover any of its utility deposits in lieu of assigning them to Purchaser and receiving a credit therefor. Notwithstanding the foregoing, Seller shall terminate any Service Contracts which are terminable and which Purchaser notifies Seller to terminate prior to Closing pursuant to Paragraph 5.01(j) and Seller shall pay any termination fees; provided to the extent any Service Contract is not terminable by its terms, any fee paid by a the service provide under such Service Contract to the Seller shall be prorated with the Purchaser.

**10.01.4** At the option of the parties, Purchaser shall receive a credit for the amount of the Security Deposits, plus any interest required by law, in lieu of an assignment of the security deposit account(s).

**10.01.5** All other charges and fees customarily prorated and adjusted in similar transactions, within Palm Beach County, Florida, shall be prorated at Closing and thereafter assumed by Purchaser. In the event that accurate prorations and other adjustments cannot be made at Closing because current bills or statements are not obtainable (such as utility bills), the parties shall prorate on the best available information, subject to adjustment upon receipt of the final bill or statement, but no later than ninety (90) days after Closing.

**10.02** Seller shall pay the following costs and expenses in connection with the Closing:

**10.02.1** Costs of obtaining any required title curative documents;

**10.02.2** Recording fee for any title curative documents or releases;

**10.02.03.** One-half (1/2) of any escrow or closing fees charged by the Title Company or Escrowee for the Closing Escrow; and

**10.02.4** Any county and state transfer taxes and any local or municipal transfer taxes or similar charges including any documentary stamps.

**10.03** Purchaser shall pay the following costs and expenses in connection with the Closing:

**10.03.1** Recording fees for the Deed;

**10.03.2** Recording fees for any mortgage documents and premium for the owner's title insurance policy, and the mortgage policy of title insurance, if any, together with all endorsements thereto;

**10.03.3** One-half (1/2) of (a) any escrow or closing fees charged by the Title Company or Escrowee for the Closing Escrow and (b) the cost of an owner's title insurance policy conforming with Section 6;

**10.03.4** Escrow or closing fees charged by the Title Company or Escrowee for any lender's escrow, if utilized for purposes of closing, and the cost of any endorsements to the owner's title policy or lender's title policy; and.

**10.03.5** Any fees charged by any governmental agency or its professionals providing the Agency Approvals in connection with the sale and transfer of the Property and any assumption of any regulatory agreement; provided that any ongoing fees shall be prorated as of the Closing Date.

**10.04** All other expenses incurred by Seller or Purchaser with respect to the consummation of the transaction contemplated by this Agreement, including, but not limited to, attorneys' fees of Purchaser and Seller, are to be borne and paid exclusively by the party incurring same, without reimbursement, except to the extent otherwise specifically provided in this Agreement.

**11. SELLER'S COVENANT REGARDING OPERATION OF THE PROPERTY PRIOR TO CLOSING:**

**11.01** Subject to the provisions herein concerning repairs and replacements in the event of condemnation or casualty, until Closing, Seller, at Seller's expense, shall maintain the Property in its present condition, subject to normal wear and tear. Until Closing, Seller, at Seller's expense, shall operate the Property in substantially the same manner as the Property is being operated on the date of this Agreement, but shall not enter into any contracts or agreements which are not cancelable without payment or penalty within thirty (30) days' notice, except with Purchaser's consent and except leases for residential apartments, provided that leases for residential apartments shall not be for more than one (1) year.

11.01.1 Seller will cause the insurance (or equivalent) which Seller maintains with respect to the Property to be continued in full force and effect until Closing.

11.01.2 Seller will promptly notify Purchaser, in writing, and deliver copies to Purchaser, of any notice received by Seller of the levy (or threatened levy) of any special governmental assessment, any violation of (i) any law, regulation, ordinance, order or other requirement of any governmental authority having jurisdiction over or affecting all or any part of the Property, or (ii) of any restrictive covenants affecting the Property.

11.01.3 Seller will cause the Property to be maintained in substantially the same condition and repair as it currently exists, reasonable wear and tear and casualty excepted, and without limiting the foregoing, with respect to any and all units which have been vacant for five (5) days or more prior to the Closing Date, Seller shall be obligated to either (i) make same in a "rent ready condition" on or before the Closing Date, or (ii) credit Purchaser at Closing in the amount of One Thousand and No/100 Dollars (\$1,000.00) per such vacant unit. For purposes of the foregoing, the term "rent ready condition" means a

condition in which units similar to the units contained in the Property are offered for lease to prospective tenants in the normal course of Seller's business. Seller will not remove any item(s) of Personal Property to be conveyed hereunder from its present location unless same is replaced with an item of substantially the same quality and character.

11.01.4 Seller will not, without the prior written consent of the Purchaser, permit any material structural modifications or additions to the Property or any part thereof.

## **12. REAL ESTATE COMMISSION:**

**12.01** Purchaser and Seller warrant to and indemnify each other that other than a commission payable solely by Seller to Seller's broker, if applicable, no third parties are due a brokerage fee from the closing of this transaction and Purchaser shall have no liability with respect to any such broker commissions. This warranty and indemnification shall survive the Closing.

## **13. DEFAULT AND REMEDIES**

**13.01** In the event Purchaser fails, refuses or is unable to consummate the purchase and sale contemplated by this Agreement, then Seller's sole remedy shall be as set forth in this Section 13.01. In such event, and provided Purchaser's failure, refusal or inability is not the result of a default by Seller in any of its obligations hereunder, Seller shall give the Escrowee and Purchaser written notice of Purchaser's default, in which event the Escrowee promptly shall pay the Earnest Money Deposit, together with the interest earned thereon to Seller, and such payment shall be liquidated damages and not a penalty. Purchaser and Seller each acknowledge that it would be difficult to ascertain the actual damages as to the loss of the value of the bargain, certain carrying costs and other indirect costs which would be suffered by Seller if Purchaser defaults in consummating the purchase and sale contemplated by this Agreement. Therefore, it is stipulated by the parties hereto that the Earnest Money represents a reasonable estimate of the probable loss to Seller resulting from any such default by Purchaser. Upon payment of the Earnest Money by the Escrowee to the Seller, neither party to this Agreement shall have any further liability to the other and this Agreement shall be and become null and void and of no further force and effect, either at law or in equity.

**13.02** In the event Seller defaults under its obligations under this Agreement or fails, refuses or is unable to consummate the purchase and sale contemplated by this Agreement, Purchaser shall have the right to give the Escrowee and the Seller written notice of Seller's default, whereupon the Escrowee shall promptly pay the Earnest Money Deposit to Purchaser. Upon payment of the Earnest Money by the Escrowee to the Purchaser, neither party to this Agreement shall have any further liability to the other and this Agreement shall be and become null and void and of no further force and effect, either at law or in equity. Alternatively, Purchaser shall be entitled to exercise the remedy of specific performance against Seller as its sole remedy hereunder. Notwithstanding and in addition to the foregoing, in the event that the failure to consummate this transaction by Seller is due to a Seller default or otherwise due to the action or inaction of Seller, and the Purchaser cannot, as a legal or practical matter, avail itself of the remedy of specific performance, Seller shall be required to reimburse Purchaser for its legal and other consultants' fees and other third party transaction costs incurred in negotiating this Agreement and conducting its due diligence and otherwise preparing for Closing, up to a maximum of One Hundred Thousand and no/100 Dollars (\$100,000).

**13.03** If Seller is not in default and the transaction does not close by reason of the non-satisfaction of a condition to Closing for Purchaser's benefit which is not waived, then notwithstanding anything to the contrary in this Agreement, the Earnest Money shall be returned to Purchaser, and this Agreement shall become null and void. Upon payment of the Earnest Money by the Escrowee to the Purchaser, neither party to this Agreement shall have any further liability to the other and this Agreement shall be and become null and void and of no further force and effect, either at law or in equity.

**14. MISCELLANEOUS PROVISIONS:**

**14.01** This Agreement constitutes the entire Agreement between the parties with respect to the transactions contemplated herein, and it supersedes all prior discussions, understandings or agreements between the parties.

**14.02** This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors, personal representatives, heirs and assigns.

**14.03** Failure by Purchaser or Seller to insist upon or enforce any of their respective rights hereunder shall not constitute a waiver thereof, except as provided for herein. No waiver of or modification or amendment to any of the provisions of this Agreement shall be valid unless in writing and executed by the parties against whom it is sought to be enforced.

**14.04** This Agreement shall be construed, interpreted and enforced in accordance with all applicable federal laws and regulations and, to the extent consistent with such federal laws, the laws of the State of Florida.

**14.05** The paragraphs or section headings herein are for the convenience of reference only and shall not be deemed to vary the content of this Agreement or the covenants, agreements, representations and warranties herein set forth or limit the provisions or scope thereof.

**14.06** All notices, requests, consents, and other communications hereunder shall be in writing and shall be personally delivered, sent by Federal Express or other overnight courier, sent by email or mailed by first class, registered or certified mail, return receipt requested, postage prepaid:

If to Seller:

Executive Trust, Ltd.  
3225 Aviation Avenue, 6<sup>th</sup> Floor  
Coconut Grove, FL 33133  
Attention: Randy Rieger  
Email: Randy@htgf.com

cc: Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A  
150 West Flagler Street, Suite 2200  
Miami, FL 33130  
Attention: Brian J. McDonough

Email: [bmcdonough@stearnsweaver.com](mailto:bmcdonough@stearnsweaver.com)

Or to such other address as may have been furnished by Seller to Purchaser and Escrowee in writing.

If to Purchaser:

201 Santa Monica Boulevard, Suite 550  
Santa Monica, California 90401  
Attention: Jonathan Gruskin  
Email: [yoni@lincolnavenuecapital.com](mailto:yoni@lincolnavenuecapital.com)

cc: Levitt & Boccio, LLP  
423 West 55<sup>th</sup> Street, 8<sup>th</sup> Floor  
New York, New York 10019  
Attention: David S. Boccio, Esq.  
Email: [dboccio@levittboccio.com](mailto:dboccio@levittboccio.com)

Or to such other address as may have been furnished by Purchaser to Seller and Escrowee in writing.

If to Escrowee:  
Royal Abstract  
125 Park Avenue, #1610  
New York, NY 10017  
Attn: Marty Kravet

Or to such other address as may have been furnished by Escrowee to Purchaser and Seller in writing.

Any notice, request, consent or other communications shall be deemed received (i) on the day when it is personally delivered, (ii) on the day when it is sent by email if sent before 5:00 PM Eastern Time, (iii) on the day after being sent after 5:00 PM Eastern Time by email or facsimile, (iv) on the day of receipt if sent by overnight courier, or (v) the third (3<sup>rd</sup>) business day after it is deposited in the United States mail and mailed as aforesaid, as the case may be.

**14.07** Purchaser shall have the right to assign this Agreement to an affiliate of Purchaser or to another person or entity, provided Purchaser or an affiliate of Purchaser is a general partner, managing member or Class B member/partner therein and otherwise controls said entity or to a non-profit or public housing agency for purposes of taking advantage of any real property tax abatement provided that Purchaser or its affiliate directly or indirectly controls such entity. In the event of any such assignment, both Purchaser and Purchaser's assignee shall be obligated under this Agreement and under any related instruments under which liability is intended to survive closing, including the assumption of post-closing liability with respect to leases, service contracts, and Purchaser indemnities.

**14.08** If any provision in this Agreement is found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision or public



policy and if such court should declare such portion or provision of this Agreement to be illegal, invalid, unlawful, void or unenforceable as written, then such portion or provision shall be given force to the fullest extent possible and this Agreement as so modified shall continue in full force and effect; provided, however, the party who, or whose interest hereunder, is benefited by the portion, provision or provisions determined to be illegal, invalid, unlawful, void or unenforceable may declare this Agreement terminated by written notice to the other party, given within twenty-one (21) days after such judicial determination.

**14.9** In the event the time for performance or the giving of notice under the Agreement falls on a Saturday, Sunday or legal holiday, the time for performance or giving of notice shall be on the next day that is not a Saturday, Sunday, or legal holiday.

**14.10** The Recitals set forth above are hereby incorporated in and made a part of this Agreement as fully and with the same effect as if set forth thereunder in their entirety.

**14.11** Intentionally Omitted.

**14.12** This Agreement may be executed on two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. Any party may execute this Agreement and deliver it by facsimile transmission and such Agreement and signature sent by facsimile shall be treated as an original Agreement and signature by all the parties to this Agreement.

**14.13** Neither Purchaser nor Seller may record this Agreement, or any portion or memorandum hereof, in the public records. Neither Purchaser nor Seller may disclose the contents of this Agreement to any third party, other than potential lenders, financial investors or professionals assisting Purchaser in investigating the acquisition of the Property, without the express written consent of the other party. Any recording of this Agreement, or any portion or memorandum hereof, shall, without further notice required, constitute an immediate uncured default by such recording party hereunder, and upon such recording this Agreement shall automatically terminate and have no further force or effect. Immediately upon default by the recording party under this paragraph, Escrowee shall promptly pay the damages referenced in Section 13 to the non-defaulting party liquidated damages and not as a penalty.

## **15. AGENCY APPROVAL:**

**15.01** The Property is encumbered by (a) a Land Use Restriction Agreement in favor of the Housing Finance Authority of Palm Beach County, Florida, U.S. Bank National Association, as Trustee, and FHFC and (b) a Land Use Restriction Agreement in favor of the City of West Palm Beach, Florida (collectively, the "Covenants"). Purchaser hereby expressly agrees to assume the obligations of the Seller under the Covenants arising from and after the Closing Date, even if Purchaser elects not to assume the Existing Subordinate Debt.

**15.02** Purchaser's obligations hereunder are contingent upon Purchaser obtaining any and all Agency Approvals required for the assumption of the Covenants and transfer of the Property, by the holder of each of the Covenants.

**15.03** Prior to the end of the Inspection Contingency Period, Purchaser shall make an application to each of the applicable holders of the Covenants, to obtain the Agency Approvals and upon request, will provide Seller with the cover letter/email evidencing such submission(s). Seller agrees to cooperate with Purchaser in connection with Purchaser's request for and efforts to obtain the Agency Approvals. Purchaser shall use commercially reasonable effort to obtain the Agency Approvals. If Purchaser fails to obtain the Agency Approvals by March 15, 2020, then Purchaser may terminate this Agreement upon written notice to Seller. In the event of the termination of this Agreement by Purchaser pursuant to this Section 15.03, Purchaser shall be entitled to the Earnest Money and thereafter neither Seller nor Purchaser shall have any further rights, obligations or liabilities hereunder except for those obligations that expressly survive the termination of this Agreement. Notwithstanding the foregoing, to the extent the holder of any of the Covenants providing an Agency Approval, makes its approval of the transactions contemplated herein contingent on Purchaser accepting any material adverse condition, the Purchaser shall not be required to accept such condition and shall have the right to terminate this Agreement and the Earnest Money shall be returned to it.

**16. DEFERRED TAX EXCHANGE:** Seller and/or Purchaser may desire to consummate the conveyance of the Property as part of a tax deferred exchange for the benefit of Seller and/or Purchaser, as applicable, pursuant to Section 1031 of the Internal Revenue Code. Seller and/or Purchaser may assign all of its or their respective contract rights and obligations hereunder to an exchange accommodation titleholder or a qualified intermediary, as part of, and in furtherance of, such tax deferred exchange. The parties agree to assist and cooperate in such exchange for the benefit of the other at no cost, expense or liability to the cooperating party and without reduction or alteration of the rights of the parties under this Agreement; and each party further agrees to execute any and all documents (subject to the reasonable approval of legal counsel) as are necessary in connection with such exchange at the electing party's sole expense provided that the other party shall not be required to undertake any material liability or obligation in so doing and provided that such exchange does not extend the Closing Date. Each party shall indemnify, hold harmless and defend the other from and against any and all claims, demands, causes of action, liabilities, losses, costs, damages and expenses (including reasonable attorneys' fees and expenses and court costs incurred in defending any such claim or in enforcing this indemnity) that may be incurred by the other party and arising out of such other party's participation in such exchange, which obligation shall survive the Closing. Notwithstanding the foregoing, should either party fail to effect a tax deferred exchange as contemplated in this Section 16 for any reason, then the sale or acquisition, as applicable, of the Property shall be consummated in accordance with terms and conditions of this Agreement just as though the provisions of this Section 16 had been omitted from this Agreement, except that the other party shall be reimbursed and indemnified from resulting costs and expenses as provided in this Section. Nothing contained in this Section 16 shall release either party of any of its obligations or liabilities under this Agreement, whether accruing before, at or after Closing, nor shall anything contained in this Section 16 shall release either party of any of its obligations or liabilities under this Agreement, whether accruing before, at or after Closing, nor shall anything contained in this Section 16 impose any liability or obligation on any party with respect to the tax consequences of this transaction to the other party.

*(remainder of page intentionally left blank)*

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement as of the day and year first above written.

**SELLER:**

**EXECUTIVE TRUST, LTD**, a Florida limited partnership

By: \_\_\_\_\_

Name: Randy E. Rieger

Its: Manager of Executive Trust Associates, LLC, its General Partner

**PURCHASER:**

**LINCOLN CAPITAL ACQUISITION LLC**, a Delaware limited liability company

By: \_\_\_\_\_

Name: Jonathan A. Gruskin

Its: Vice President

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement as of the day and year first above written.

**SELLER:**

**EXECUTIVE TRUST, LTD**, a Florida limited partnership

By: \_\_\_\_\_

Name: Randy E. Rieger

Its: Manager of Executive Trust Associates, LLC, its General Partner

**PURCHASER:**

**LINCOLN CAPITAL ACQUISITION LLC**, a Delaware limited liability company

By:  \_\_\_\_\_

Name: Jonathan A. Gruskin

Its: Vice President

**JOINDER BY THE ESCROWEE**

Royal Abstract <sup>National LLC</sup>~~Title Company~~ referred to in this Agreement as the "Escrowee," hereby acknowledges that it received this Agreement executed by Seller and Purchaser on November \_\_\_\_, 2019, and accepts the obligations of the Escrowee as set forth herein. The Escrowee shall notify Seller and Purchaser when the Escrowee receives the Earnest Money Deposit or any other funds pursuant to this Agreement. The Escrowee hereby agrees to hold and distribute the Earnest Money Deposit and interest thereon, and Closing proceeds in accordance with the terms and provisions of this Agreement. The Escrowee hereby assumes all responsibilities for information reporting required under Section 6045(e) of the Internal Revenue Code. The Escrowee will not be a necessary party to any amendment of this Agreement that does not increase the Escrowee's obligations or liabilities hereunder.

<sup>National LLC</sup>  
ROYAL ABSTRACT ~~TITLE COMPANY~~

By: [Signature]  
Name: Nancy Georgiou  
Title: Authorized Signatory

Date signed: November 15, 2019

**EXHIBIT A**

**LEGAL DESCRIPTION**

All of Malibu Bay, according to plat thereof, as recorded in Plat Book 101, Page 54, of the Public Records of Palm Beach County, Florida.

Together with a Non-Exclusive Drainage Easement for the benefit of the above described property by virtue of the Grant Of Easement recorded in O.R. Book 16174, Page 1054, Public Records of Palm Beach County, Florida.

Also known as:

**PARCEL 1:**

Being a parcel of land lying in portions of Sections 17, 19, and 20, Township 43 South, Range 43 East, Palm Beach County, Florida, and being more particularly described as follows:

Commencing at a point in the South line of Palm Beach Lakes Boulevard, as recorded in Plat Book 28, Page 94, of the Public Records of Palm Beach County, Florida at the intersection with the Northwest corner of the Plat of EXECUTIVE CENTER DRIVE, as recorded in Plat Book 88, Page 55, of the Public Records of Palm Beach County, Florida; thence along the North line of said Plat of EXECUTIVE CENTER DRIVE, the following four (4) courses and distances: 1) South 04°03'34" East, a distance of 52.51 feet; 2) South 45°04'45" East, a distance of 71.77 feet to a point of curvature of a circular curve concave to the Southwest having a radius of 2007.85 feet and a central angle of 09°30'08"; 3) along the arc of said curve an arc length of 332.99 feet; 4) North 36°57'36" East, a distance of 2.62 feet to the Point of Beginning; thence continue North 36°57'36" East, a distance of 417.18 feet; thence North 53°02'24" West, a along a line radial to the next described curve, 30.00 feet to a point of curvature of a circular curve concave to the Southeast having a radius of 2538.57 feet and a central angle of 02°08'52"; thence along the arc of said curve an arc distance of 95.15 feet; thence South 49°23'42" East, a distance of 395.50 feet; thence South 23°46'37" East, a distance of 216.19 feet; thence South 29°18'45" East, a distance of 21.53 feet; thence South 38°50'37" East, a distance of 43.83 feet; thence South 35°50'27" East, a distance of 46.10 feet; thence South 16°20'21" East, a distance of 130.50 feet; thence South 24°46'56" West, a distance of 8.29 feet; thence South 23°46'37" East, a distance of 482.54 feet; thence South 68°28'10" West, a distance of 176.16 feet to a point of curvature of a circular curve concave to the Northwest having a radius of 460.00 feet and a central angle of 25°03'41"; thence along the arc of said curve an arc length of 201.21 feet to a point in the said Northerly line of the Plat of EXECUTIVE CENTER DRIVE; thence along said Northerly line the following four (4) courses and distances: 1) North 48°34'10" West, a distance of 4.12 feet to a point of curvature of a circular curve concave to the Northeast having a radius of 2017.61 feet and a central angle of 15°34'12"; 2) along the arc of said curve an arc distance of 548.28 feet; 3) North 32°59'58" West, a distance of 354.71 feet to a point of curvature of a circular curve concave to the Southwest having a radius of 2010.35 feet and a central angle of 2°35'59"; 4) along the arc of said curve an arc distance of 91.21 feet to the Point of Beginning.

THE ABOVE NOW BEING DESCRIBED AS:

All of the Plat of MALIBU BAY, according to the Plat thereof, as recorded in Plat Book 101, Page 54, of the Public Records of Palm Beach County, Florida.

TOGETHER WITH THE FOLLOWING DESCRIBED PROPERTY:

PARCEL 2:

A drainage easement lying in Section 17, Township 43 South, Range 43 East, Palm Beach County, Florida being more particularly described as follows:

Commencing at the Southwest corner of said Section 17; thence South  $89^{\circ}51'41''$  East, along the South line of said Section 17, a distance of 95.10 feet; thence departing said South line North  $36^{\circ}57'36''$  East, a distance of 176.22 feet; thence North  $53^{\circ}02'24''$  West on a radial bearing, a distance of 30.00 feet to a point on the Northerly line of an 80 foot Non-Exclusive Outfall Easement and Drainage Easement recorded in Official Records Book 8135, Page 1017, Official Records book 11870, Page 300 and Official Records Book 2550, Page 1406, Public Records of Palm Beach County, Florida and a point of curvature of a curve concave to the Southeast, having a radius of 2538.27 feet, a radial bearing of South  $53^{\circ}02'24''$  East, and a central angle of  $02^{\circ}08'52''$ ; thence Northeasterly along said Northerly line and arc of said curve, a distance of 95.15 feet to the Point of Beginning; thence continue along said Northerly line and said curve, concave to the Southeast, having a radius of 2538.27 feet, a radial bearing of South  $50^{\circ}53'32''$  East and a central angle of  $11^{\circ}24'29''$ ; thence Easterly along the arc of said curve, a distance of 505.39 feet to a point on the North line of a 60 foot Drainage Easement, as described in Official Records Book 2550, Page 1406, Public Records of Palm Beach County, Florida; thence North  $62^{\circ}01'43''$  East, along said North line, a distance of 328.99 feet to a point on the Westerly line of a 50 foot Drainage Easement as described in Official Records Book 2550, Page 1406; thence departing said North line North  $26^{\circ}37'24''$  West, along the Westerly line of said 50 foot Drainage Easement, a distance of 182.97 feet to a point on the Northerly line of a parcel of land described in Official Records Book 11242, Page 1534, Public Records of Palm Beach County, Florida; thence North  $63^{\circ}55'19''$  East, along said Northerly line, a distance of 50.00 feet to a point on the Easterly line of said 50 foot Drainage Easement; thence South  $26^{\circ}37'24''$  East, along the Easterly line, a distance of 241.33 feet to the Southeast corner of said 60 foot Drainage Easement described in Official Records Book 2550, Page 1406; thence South  $62^{\circ}01'43''$  West, along the Southerly line of said 60 foot Drainage Easement, a distance of 365.37 feet; thence South  $39^{\circ}29'03''$  East to the Southeast corner of said 80 feet Non-Exclusive Outfall Easement and Drainage Easement recorded in Official Records Book 8135, Page 1017, Official Records Book 11870, Page 300 and Official Records Book 2550, Page 1406, a distance of 18.77 feet and the point of curvature of a non-tangent curve concave to the Southeast, having a radius of 2458.27 feet, a radial bearing of South  $39^{\circ}29'03''$  East and a central angle of  $11^{\circ}27'24''$ ; thence Southwesterly along the South line of said 80 foot easement and the arc of said curve, a distance of 491.55 feet; thence departing said South line, North  $49^{\circ}23'42''$  West, a distance of 80.03 feet to the Point of Beginning.

INFORMATIONAL NOTE ONLY: Tax Folio #74-43-43-17-27-000-0000

**EXHIBIT B**  
**RENT ROLL/LEASES**

*[See attached]*



**RENT ROLL DETAIL**

As of 11/01/2019

**Parameters:** Properties - ALL;Show All Unit Designations or Filter by - ALL;Subjournals - ALL;Exclude Formers? - Yes;Sort by - Unit;Report Type - Details + Summary;Show Unit Rent as - Market + Addl.;

-- Historically generated Rent Roll Detail data may differ due to the following product functions (including but not limited to) --

- Back-dated move-ins/outs or apply dates
- Applicants transferred to another unit will appear in the new unit , not the old
- Cancelling notices to vacate or transfer
- Undoing move-ins/outs or transfers

**RENT ROLL DETAIL**

As of 11/01/2019

**Parameters:** Properties - ALL; Show All Unit Designations or Filter by - ALL; Subjournals - ALL; Exclude Formers? - Yes; Sort by - Unit; Report Type - Details + Summary; Show Unit Rent as - Market + Addl.;

**Amt / SQFT: Market = 260,640 SQFT; Leased = 244,146 SQFT;**

Floorplan	# Units	Average SQFT	Average Market + Addl.	Market + Addl. Amt / SQFT	Average Leased	Leased Amt / SQFT	Units Occupied	Occupancy %	Units Available
1BR-60	47	705	825.00	1.17	835.78	1.19	45	95.74	2
1BR-H50	1	705	674.00	0.96	601.00	0.85	1	100.00	0
2BR-60	108	954	998.00	1.05	1,010.54	1.06	103	95.37	4
3BR-60	108	1,146	1,151.00	1.00	1,152.88	1.01	99	91.67	9
<b>totals / averages:</b>	<b>264</b>	<b>987</b>	<b>1,028.56</b>	<b>1.04</b>	<b>1,034.00</b>	<b>1.05</b>	<b>248</b>	<b>93.94</b>	<b>15</b>

**occupancy and rents summary for current date**

unit status	Market + Addl.	# units	potential rent
Occupied, no NTV	249,725.00	243	251,547.00
Occupied, NTV	2,821.00	3	2,881.00
Occupied NTV Leased	1,996.00	2	2,004.00
Vacant Leased	3,819.00	4	3,819.00
Admin/Down		0	-
Vacant Not Leased	13,180.00	12	13,180.00
<b>totals:</b>	<b>271,541.00</b>	<b>264</b>	<b>273,431.00</b>

**summary billing by sub journal for current date**

sub journal	amount
RESIDENT	233,524.00
SUBSIDY	29,072.00
<b>total:</b>	<b>262,596.00</b>

**summary billing by transaction code for current date**

code	amount
DAMAGES	177.00
EMPLCRED	(998.00)
PETFEE	70.00
PETMONTHLYPREMIUM	20.00
RENT	227,360.00

**Employees living at Malibu Bay**

1. Pierrericard Asseus, Maint Tech: paying \$998 p/mo, asking for 20% discount
2. Cyprian Maryat, Main Tech: paying \$825 p/mo, asking for 20% discount
3. George Wong, Porter: Paying \$1,151 p/mo, asking for 20% Discount
4. William Dames, Security: in an Exempt unit (no rent), but moving out November 29, 2019

**RENT ROLL DETAIL**

As of 11/01/2019

**Parameters:** Properties - ALL;Show All Unit Designations or Filter by - ALL;Subjournals - ALL;Exclude Formers? - Yes;Sort by - Unit;Report Type - Details + Summary;Show Unit Rent as - Market + Addl.;

**summary billing by transaction code for current date**

<b>code</b>	<b>amount</b>
SUBSIDYRENT	29,072.00
WASH/DRY	6,895.00
<b>total:</b>	<b>262,596.00</b>

**EXHIBIT C**

**SERVICE CONTRACTS**

- |                                  |  |
|----------------------------------|--|
| 1. Nanak's Landscaping, Inc.     | grounds/landscaping                              |
| 2. Executive Color System's, Inc | office copy machine                              |
| 3. HandyTrac                     | key control system                               |
| 4. Lake & Wetland Management     | lake maintenance                                 |
| 5. Massey Services               | pest prevention                                  |
| 6. DynaFire                      | wireless alarm monitoring/fire alarm/life safety |
| 7. All States Rentals            | trash compactor                                  |
| 8. HTG Management, LLC           | property management                              |

**EXHIBIT D**

**FORM OF DEED**

**Prepared by and return to:**

[ ]

**SPECIAL WARRANTY DEED**

THIS SPECIAL WARRANTY DEED is made effective on \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (“*Grantor*”), whose mailing address is \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ (“*Grantee*”), whose mailing address is \_\_\_\_\_.

**WITNESSETH:**

Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration to it in hand paid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, and convey unto Grantee and its successors and assigns forever, that certain real property together with all the tenements, hereditaments and appurtenances, with every privilege, right, title, interest, estate, reversion, remainder and easement thereto belonging or in anywise appertaining (the “*Property*”) in Pinellas County, Florida, as more particularly described in **Exhibit A** attached hereto and made a part hereof,

Tax Parcel ID No. \_\_\_\_\_.

TO HAVE AND TO HOLD the Property to rely proper use, benefit and behalf of Grantee in fee simple forever.

AND GRANTOR hereby covenants with Grantee that Grantor is lawfully seized of the Property in fee simple; that Grantor has good right and lawful authority to sell and convey the Property; and that Grantor does hereby specially warrant the title to the Property and will defend the same against the lawful claims of all persons claiming by, through or under Grantor, but against none other.

SUBJECT, HOWEVER, only to those matters set forth more particularly on **Exhibit B** attached hereto, including, without limitation: (i) \_\_\_\_\_.

IN WITNESS WHEREOF, Grantor has executed this deed the day and year above written.

Signed in the presence of:

**GRANTOR:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

STATE OF \_\_\_\_\_)  
COUNTY OF \_\_\_\_\_)

This foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, the  
\_\_\_\_\_ of \_\_\_\_\_ on behalf of the company. He/She [is  
personally known to me] [has produced \_\_\_\_\_ as identification].

Notary Public: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
[NOTARY SEAL]

**EXHIBIT A**

**LAND**

## EXHIBIT E

### DILIGENCE DOCUMENTS LIST

To the extent Seller has not already delivered (or made available via electronic file share) and to the extent the following are in Seller's custody, control or possession relating to the Property, Seller will deliver or make available to Buyer at the Property:

1. Last 3 years and YTD ad valorem tax statements for the applicable taxing authorities;
2. Copies of existing surveys of the properties showing improvements situated thereon;
3. Existing title policies;
4. An itemized inventory of any personal property to be conveyed together with the properties;
5. Current rent rolls showing, as of the most recent month, the name of each tenant (and any pre-leased tenant names), the amount of security deposit, unit rental amount and the date through which rent is paid, lease period and the lease initiation date;
6. Access to each of the tenant leases currently in effect;
7. A list stating the amount of money paid for property taxes, insurance premiums and all utilities for the last 3 calendar years and current year to date;
8. Miscellaneous contracts such as management, landscaping, exterminating, trash removal, security service, cable, etc. as applicable;
9. Monthly operating expenses that detail all income and expenses for the past 12 months of operations and year-end and year-to-date operating statements for the past 2 years respectively;
10. A "loss run" printout from the property and general liability carrier for the last five years;
11. Copies of all inspections and reports, in Seller's possession, made on the property within the last 2 years by state, city or any other public or private authority;
12. A detailed list of all capital expenditures at the Project for the previous five (5) years;
13. Any and all regulatory agreements;
14. A copy of all property utility bills paid over the past 24 months

Except with respect to the representations, warranties and covenants set forth in the Agreement, neither the Seller nor its property manager has, and neither will make or be deemed to have made any representation or warranty of any kind or nature whatsoever, express or implied, about the foregoing materials, or the accuracy, reliability or usefulness of any information contained therein. Buyer further acknowledges and agrees that Buyer shall not be justified in relying on the above materials or any information contained therein



without independent investigation and verification thereof, and Buyer hereby waives and relinquishes any and all claims, actions or causes of action which Buyer may ever have against Seller and/or the property manager with respect to any and all of the foregoing materials or the contents thereof except to the extent Seller has made an express representation or warranty with respect thereto in the Agreement. The provisions hereof shall survive termination hereof or Closing.

**EXHIBIT F**  
**INSPECTION REPORTS**

NONE

**EXHIBIT G**

**SELLER CERTIFICATE**

SELLER'S SWORN STATEMENT

The undersigned, a duly authorized representative of [Seller Entity] ("Seller"), hereby certifies to \_\_\_\_\_ ("Purchaser") and its successors and assigns, and [\_\_\_\_\_] the following with respect to the requirements of Section 42(d)(2) of the Internal Revenue Code of 1986, as amended (the "Code"), regarding the eligibility of existing buildings for federal low income housing tax credit as it relates to the acquisition of improvements located at: [\_\_\_\_\_] and commonly known as \_\_\_\_\_ (the "Project"):

Seller has been the continuous and sole owner of the improvements and amenities located in and on that parcel of real property described in Exhibit A (the "Property") for the period commencing on [\_\_\_\_\_] until the date on which the Property will be conveyed to \_\_\_\_\_ ("Purchaser"), on or about \_\_\_\_\_, 2019 (the "Transfer Date").

The Seller accepts tenant vouchers as rental assistance under Section 8 of the United States Housing Act of 1937, as amended, with respect to all of the units in the Project.

Neither Seller nor any of its partners/members/shareholders (as applicable) nor any brothers, sisters, spouses or other related persons to such beneficial owners own, either directly or indirectly, greater than 50% any capital or profits interest in Purchaser. None of Seller's partners, nor any members of such partners, have been institutional investors, life insurance companies or banking institutions.

**SELLER**

[\_\_\_\_\_]

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT H

### BILL OF SALE AND ASSIGNMENT OF LEASES AND CONTRACTS AND SECURITY DEPOSITS

This instrument (the “Instrument”) is executed and delivered as of the \_\_\_\_ day of \_\_\_\_\_, 2019 pursuant to that certain Agreement of Purchase and Sale (“Agreement”) dated \_\_\_\_\_, 2019 by and between [ ] (“Seller”), and [ ] (“Purchaser”), covering the real property described in Exhibit A attached hereto (“Real Property”).

1. Sale of Personalty. For good and valuable consideration, Seller hereby sells, transfers, sets over and conveys to Purchaser the following:

(a) Tangible Personalty. All of the furniture, fixtures, equipment, interior appliances, machines, apparatus, supplies and personal property of every nature and description and all replacements thereof now owned by Seller (including any interest in such property that is leased by Seller) and located in or on the Real Property, except any such personal property belonging to tenants under the Leases, including, without limitation, all of the personal property described on Exhibit B attached hereto; and

(b) Intangible Personalty. All the right, title and interest of Seller in and to any and all of the intangible personal property related to the Real Property, including, without limitation contract rights related to the construction, operation, ownership or management of the Real Property (but excluding Seller’s obligations under contracts except those expressly assumed in this Instrument); and governmental permits, approvals and licenses to the extent assignable.

2. Assignment of Leases and Contracts and Security Deposits. For good and valuable consideration, Seller hereby assigns, transfers, sets over and conveys to Purchaser, and Purchaser hereby accepts the following:

(a) Leases. All of the landlord’s right, title and interest in and to the tenant leases (“Leases”) covering the Real Property, as set forth on the Rent Roll attached hereto as Exhibit C, which Seller certifies is true and correct in all material respects as of the date stated thereon, and Purchaser hereby assumes all of the landlord’s obligations under the Leases arising from and after the Closing Date (as defined in the Agreement); and

(b) Property Contracts. The Property Contracts described in Exhibit D attached hereto (the “Property Contracts”), and Purchaser hereby assumes the obligations of Seller under such Property Contracts arising from and after the Closing Date.

(c) Security Deposits. The security deposits described in Exhibit \_\_\_ attached hereto (the “Security Deposits”), and Purchaser hereby assumes the obligations of Seller with respect to the Security Deposits.

3. Indemnification. Seller shall defend, indemnify and hold harmless Purchaser from and against any liability, damages, causes of action, expenses, and reasonable attorneys’ fees incurred by Purchaser by reason of the failure of Seller to fulfill, perform, discharge, and observe its obligations with respect to the Leases, the Property Contracts, the Security Deposits arising on or before the date hereof. Purchaser shall defend, indemnify and hold harmless Seller from and against any liability, damages, causes of action, expenses, and reasonable attorneys’ fees incurred by Seller by reason of the failure of Purchaser to fulfill, perform, discharge, and observe its obligations with respect to the Leases, the Property Contracts or Security Deposits arising after the date hereof.

4. PURCHASER ACKNOWLEDGES THAT IT HAS INSPECTED THE LEASES, THE PROPERTY CONTRACTS AND THE SECURITY DEPOSITS AND THAT THIS ASSIGNMENT IS MADE BY SELLER AND ACCEPTED BY PURCHASER WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, AND WITHOUT RECOURSE AGAINST SELLER, EXCEPT AS EXPRESSLY SET FORTH IN THE AGREEMENT.

SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, the undersigned have caused this Bill of Sale and Assignment of Leases and Contracts and Security Deposits to be executed as of the date written above.

**SELLER:**

[ ]

**PURCHASER:**

[ ]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT I**  
**NOTICE TO TENANTS**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, 2019

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Re: Sale of \_\_\_\_\_ - Notice of Sale

Dear Tenant:

This is to notify you that the project described above has been acquired by [Seller Entity], a \_\_\_\_\_ . All rental payments should continue to be made to the property management office on site (or the night drop box), and other communications regarding your lease should be directed to the property manager at the property management office. Your security deposit in the amount of [\$ \_\_\_\_\_] has been transferred to the new owner who, shall from now on, have the responsibility for the return thereof.

Very truly yours,

**“SELLER”**

[Seller Entity], a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**“PURCHASER”**

EXHIBIT J

EXISTING SUBORDINATE DEBT

1. South Florida Regional Planning Council 2<sup>nd</sup> mortgage (original principal amount \$800,000)
2. Palm Beach County 3<sup>rd</sup> mortgage (original principal amount \$262,000)
3. City of West Palm Beach 4<sup>th</sup> mortgage (original principal amount \$200,000)



Malibu Bay - West Palm Beach, FL

All r/c

Sources		Construction	Perm
Tranche A Bonds - (Tax Exempt)		\$38,458,775	\$38,458,775
Tranche B Bonds - (Taxable Tail)		\$6,300,000	-
Soft Debt		\$1,200,000	\$1,200,000
LIHTC Equity		\$10,243,592	\$15,759,373
GP Capital Contribution		\$100	\$100
Deferred Developer Fee	-		\$2,451,805
<b>Total Sources</b>		<b>\$57,870,053</b>	<b>\$57,870,053</b>
<b>(GAP)/SURPLUS</b>			
<b>Development Budget</b>			
		<b>Basis Calculation</b>	
Purchase Price (\$mms):		\$38,000	
		Acquisition	Rehab
		%	%
		\$	\$
<b>Acquisition</b>			
	<b>Land</b>	<b>Per Unit</b>	<b>Purchase</b>
Purchase Price	\$2,660,000	\$143,939	\$38,000,000
<b>Rehab Hard Costs</b>			
Apartment Rehab	\$25,518	\$ 6,736,842	0%
Solar Installation	\$0	-	15%
<b>Builder Costs</b>			
General Requirement	6.00%	\$404,211	0%
Overhead	2.00%	\$134,737	0%
Profit	6.00%	\$404,211	0%
Hard Cost Contingency	10.00%	\$768,000	0%
<b>Total Hard Costs</b>	<b>\$32,000</b>	<b>\$8,448,000</b>	
<b>Project Soft Costs</b>			
Architect		\$300,000	0%
Builder's Risk Insurance		\$35,000	0%
Building/Construction Permits		\$100,000	0%
GC P&P Bond	1.00%	\$76,800	0%
PCNA		\$15,000	0%
Accounting (Cost Certification/Audit)	1.00%	\$15,000	0%
Title		\$65,000	0%
Survey		\$15,000	0%
Appraisal		\$10,000	0%
Environmental		\$20,000	0%
Tenant Relocation Expenses		\$65,000	0%
Capitalized Bond Interest	0.15%	\$57,688	0%
<b>TC Issuance</b>			
FHFC Tax Credit Application Fee		\$3,000	0%
TEFRA Fee		\$1,500	0%
FHFC Tax Credit Underwriting Fee		\$20,000	0%
FHFC Administration Fee	9.00% Annual Credits	\$150,903	0%
FHFC Compliance Fee		\$50,000	0%
<b>Bond Fees</b>			
Bond Cost of Issuance	0.40% Of Bonds	\$127,314	0%
Bond Application	\$15 Per Unit	\$3,960	0%
Bond Counsel		\$40,000	0%
Financial Advisor Fee		\$25,000	0%
<b>Permanent Financing Issuance Costs</b>			
Lender Counsel		\$65,000	0%
Borrower Consel		\$75,000	0%
HUD Inspection Fee	0.75% of rehab	\$63,360	0%
HUD Exam Fee	0.30%	\$115,376	0%
Financing Fee	0.75%	\$288,441	0%
<b>Reserves and Escrows</b>			
RE Tax/Insurance Escrow (Months)	6	\$238,382	0%
Operating Reserve (Months)	3	\$850,887	0%
HUD 223(f) Capital Reserves	\$1,000	\$264,000	0%
<b>Soft Cost Contingency</b>			
Soft Cost Contingency	189	\$50,000	0%
<b>Total Soft Costs</b>		<b>\$3,206,611</b>	
<b>Total Acq. / Hard / Soft Costs</b>		<b>\$49,654,611</b>	
<b>Developer Fee</b>			
Acquisition Fee	18%	\$6,361,200	100%
Rehab Fee	18%	\$1,854,242	0%
<b>Total Development Costs (Uses)</b>		<b>\$57,870,053</b>	<b>\$41,701,200</b>
<b>Cash Fee</b>		<b>\$5,763,637</b>	<b>\$11,196,730</b>
		<b>Eligible Basis:</b>	<b>\$41,701,200</b>
		QCT/DDA Boost	100%
		Qualified Units	100%
		LP Ownership	99.99%
		TC Percentage	3.17%
		<b>Annual Credits</b>	<b>\$1,321,796</b>
		Pricing	\$0.94
		<b>Equity Proceeds</b>	<b>\$12,423,638</b>
			<b>\$3,335,734</b>

# Malibu Bay - West Palm Beach, FL

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	CONSTRUCTION				PIS DATE											
Year #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
Date	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	
Year	12/31/2021	12/31/2022	12/31/2023	12/31/2024	12/31/2025	12/31/2026	12/31/2027	12/31/2028	12/31/2029	12/31/2030	12/31/2031	12/31/2032	12/31/2033	12/31/2034	12/31/2035	
<b>Revenue</b>																
Gross Potential Rent	2.0%	\$3,546,265	\$3,617,191	\$3,689,534	\$3,763,325	\$3,838,592	\$3,915,363	\$3,993,671	\$4,073,544	\$4,155,015	\$4,238,115	\$4,322,878	\$4,409,335	\$4,497,522	\$4,587,472	\$4,679,222
% growth	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%
Loss to Lease																
% Vacancy	0.0%															
<b>Total Gross Income</b>		<b>\$3,546,265</b>	<b>\$3,617,191</b>	<b>\$3,689,534</b>	<b>\$3,763,325</b>	<b>\$3,838,592</b>	<b>\$3,915,363</b>	<b>\$3,993,671</b>	<b>\$4,073,544</b>	<b>\$4,155,015</b>	<b>\$4,238,115</b>	<b>\$4,322,878</b>	<b>\$4,409,335</b>	<b>\$4,497,522</b>	<b>\$4,587,472</b>	<b>\$4,679,222</b>
Vacancy		(\$177,313)	(\$180,860)	(\$184,477)	(\$188,166)	(\$191,930)	(\$195,768)	(\$199,684)	(\$203,677)	(\$207,751)	(\$211,906)	(\$216,144)	(\$220,467)	(\$224,876)	(\$229,374)	(\$233,961)
Vacancy %	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%
Bad Debt																
Vacancy %																
Model/Employee																
Vacancy %																
Concessions																
Vacancy %																
<b>Total Vacancy %</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>	<b>5.0%</b>
<b>Total Rental Income</b>		<b>\$3,368,952</b>	<b>\$3,436,331</b>	<b>\$3,505,058</b>	<b>\$3,575,159</b>	<b>\$3,646,662</b>	<b>\$3,719,595</b>	<b>\$3,793,987</b>	<b>\$3,869,867</b>	<b>\$3,947,264</b>	<b>\$4,026,209</b>	<b>\$4,106,734</b>	<b>\$4,188,868</b>	<b>\$4,272,646</b>	<b>\$4,358,099</b>	<b>\$4,445,261</b>
Other Income		\$198,397	\$192,165	\$192,165	\$192,165	\$192,165	\$192,165	\$192,165	\$192,165	\$192,165	\$192,165	\$192,165	\$192,165	\$192,165	\$192,165	\$192,165
Water and Sewer Reimbursement		\$247,174	\$254,589	\$254,589	\$254,589	\$254,589	\$254,589	\$254,589	\$254,589	\$254,589	\$254,589	\$254,589	\$254,589	\$254,589	\$254,589	\$254,589
<b>Total Revenue</b>		<b>\$3,804,523</b>	<b>\$3,883,086</b>	<b>\$3,951,812</b>	<b>\$4,021,913</b>	<b>\$4,093,417</b>	<b>\$4,166,350</b>	<b>\$4,240,742</b>	<b>\$4,316,622</b>	<b>\$4,394,019</b>	<b>\$4,472,964</b>	<b>\$4,553,488</b>	<b>\$4,635,623</b>	<b>\$4,719,400</b>	<b>\$4,804,853</b>	<b>\$4,892,015</b>
<b>Expenses</b>	<b>% growth</b>															
G&A	3.0%	\$143,760	\$148,073	\$152,515	\$157,090	\$161,803	\$166,657	\$171,657	\$176,807	\$182,111	\$187,574	\$193,201	\$198,997	\$204,967	\$211,116	\$217,450
Marketing	3.0%	\$974	\$1,004	\$1,034	\$1,065	\$1,097	\$1,130	\$1,163	\$1,198	\$1,234	\$1,271	\$1,309	\$1,349	\$1,389	\$1,431	\$1,474
Payroll	3.0%	\$395,237	\$376,194	\$387,479	\$399,104	\$411,077	\$423,409	\$436,112	\$449,195	\$462,671	\$476,551	\$490,847	\$505,573	\$520,740	\$536,362	\$552,453
Repairs & Maintenance	3.0%	\$124,019	\$127,740	\$131,572	\$135,519	\$139,584	\$143,772	\$148,085	\$152,528	\$157,104	\$161,817	\$166,671	\$171,671	\$176,821	\$182,126	\$187,590
Electricity	3.0%	\$21,053	\$21,684	\$22,335	\$23,005	\$23,695	\$24,406	\$25,138	\$25,892	\$26,669	\$27,469	\$28,293	\$29,142	\$30,016	\$30,917	\$31,844
Gas	3.0%															
Water & Sewer	3.0%	\$272,416	\$280,588	\$289,006	\$297,676	\$306,606	\$315,804	\$325,279	\$335,037	\$345,088	\$355,441	\$366,104	\$377,087	\$388,400	\$400,052	\$412,053
Trash	3.0%	\$81,701	\$84,152	\$86,677	\$89,277	\$91,955	\$94,714	\$97,555	\$100,482	\$103,497	\$106,601	\$109,799	\$113,093	\$116,486	\$119,981	\$123,580
Turnover	3.0%															
Management Fee	3.0%	\$102,802	\$105,886	\$109,062	\$112,334	\$115,704	\$119,175	\$122,750	\$126,433	\$130,226	\$134,133	\$138,157	\$142,301	\$146,571	\$150,968	\$155,497
Insurance	3.0%	\$154,176	\$158,801	\$163,565	\$168,472	\$173,526	\$178,732	\$184,094	\$189,617	\$195,308	\$201,165	\$207,200	\$213,416	\$219,818	\$226,413	\$233,205
Real Estate Tax	3.0%	\$322,588	\$332,266	\$342,234	\$352,501	\$363,076	\$373,968	\$385,187	\$396,743	\$408,645	\$420,904	\$433,531	\$446,537	\$459,933	\$473,731	\$487,943
<b>Total Expenses (Pre-RR)</b>		<b>\$1,586,725</b>	<b>\$1,636,387</b>	<b>\$1,686,478</b>	<b>\$1,736,043</b>	<b>\$1,786,124</b>	<b>\$1,841,768</b>	<b>\$1,897,021</b>	<b>\$1,953,931</b>	<b>\$2,012,549</b>	<b>\$2,072,926</b>	<b>\$2,135,113</b>	<b>\$2,199,167</b>	<b>\$2,265,142</b>	<b>\$2,333,086</b>	<b>\$2,403,089</b>
Replacement Reserves	3.0%	\$79,200	\$81,576	\$84,023	\$86,544	\$89,140	\$91,815	\$94,569	\$97,406	\$100,328	\$103,338	\$106,438	\$109,631	\$112,920	\$116,308	\$119,797
<b>Total Expenses (Including RR)</b>		<b>\$1,665,925</b>	<b>\$1,717,963</b>	<b>\$1,769,501</b>	<b>\$1,822,587</b>	<b>\$1,877,264</b>	<b>\$1,933,983</b>	<b>\$1,991,590</b>	<b>\$2,051,337</b>	<b>\$2,112,877</b>	<b>\$2,176,264</b>	<b>\$2,241,552</b>	<b>\$2,308,798</b>	<b>\$2,378,062</b>	<b>\$2,449,494</b>	<b>\$2,528,086</b>
<b>Net Operating Income</b>		<b>\$2,138,598</b>	<b>\$2,165,123</b>	<b>\$2,182,311</b>	<b>\$2,199,327</b>	<b>\$2,216,153</b>	<b>\$2,232,768</b>	<b>\$2,249,152</b>	<b>\$2,265,284</b>	<b>\$2,281,142</b>	<b>\$2,296,701</b>	<b>\$2,311,937</b>	<b>\$2,326,825</b>	<b>\$2,341,338</b>	<b>\$2,355,449</b>	<b>\$2,369,129</b>
Debt Service		\$1,367,912	\$1,735,623	\$1,735,623	\$1,735,623	\$1,735,623	\$1,735,623	\$1,735,623	\$1,735,623	\$1,735,623	\$1,735,623	\$1,735,623	\$1,735,623	\$1,735,623	\$1,735,623	\$1,735,623
<b>Cash Flow After Debt Service</b>		<b>\$770,686</b>	<b>\$429,500</b>	<b>\$446,688</b>	<b>\$463,704</b>	<b>\$480,529</b>	<b>\$497,145</b>	<b>\$513,529</b>	<b>\$529,661</b>	<b>\$545,518</b>	<b>\$561,077</b>	<b>\$576,314</b>	<b>\$591,202</b>	<b>\$605,715</b>	<b>\$619,826</b>	<b>\$633,506</b>

**RESOLUTION NO. R-2020-06**

**A RESOLUTION OF THE HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY (THE "AUTHORITY") DECLARING THE AUTHORITY'S PRELIMINARY INTENT TO ISSUE ITS NOT TO EXCEED \$40,000,000 MULTIFAMILY HOUSING REVENUE BONDS, NOTES OR OTHER EVIDENCES OF INDEBTEDNESS (IN ANY EVENT REFERRED TO HEREIN AS THE "BONDS") WHICH MAY BE ISSUED IN ONE OR MORE SERIES TO OBTAIN FUNDS TO BE LOANED TO MALIBU BAY PRESERVATION, LTD., OR ANOTHER ENTITY CREATED BY LINCOLN AVENUE CAPITAL, LLC, ITS SUCCESSORS OR ASSIGNS (THE "BORROWER"), FOR THE FINANCING OF THE ACQUISITION, REHABILITATION AND EQUIPPING OF A QUALIFYING HOUSING DEVELOPMENT IN THE CITY OF WEST PALM BEACH, PALM BEACH COUNTY, KNOWN AS MALIBU BAY; INDICATING THE AUTHORITY'S OFFICIAL INTENT TO USE A PORTION OF THE PROCEEDS OF SUCH BONDS TO REIMBURSE CERTAIN EXPENDITURES PAID OR INCURRED PRIOR TO THE DATE OF ISSUANCE THEREOF; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A MEMORANDUM OF AGREEMENT; AUTHORIZING VALIDATION OF THE BONDS; PROVIDING CERTAIN OTHER DETAILS WITH RESPECT THERETO; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to the provisions of the Florida Constitution, Part IV of Chapter 159, Florida Statutes, as amended and supplemented, and other applicable provisions of law (the "Act") and the policies of the Housing Finance Authority of Palm Beach County, Florida (the "Authority"), Malibu Bay Preservation, Ltd., a Florida limited partnership (the "Borrower"), has submitted a request to the Authority requesting that the Authority issue, pursuant to the provisions of the Act, multifamily housing revenue bonds, notes or other evidences of indebtedness to finance the costs of the acquisition, rehabilitation and equipping of an approximately 264 unit multifamily rental housing facility known as Malibu Bay, located at 750 Malibu Bay Drive, West Palm Beach, Palm Beach County, Florida 33401 (the "Project"), to be rented to qualified persons and families as required by the Act and the Internal Revenue Code of 1986, as amended (the "Code") in Palm Beach County, Florida; and

**WHEREAS**, the Authority desires, as requested by the Borrower, to declare its preliminary intent to issue, in one or more series, its Multifamily Housing Revenue Bonds in the initial aggregate principal amount of not exceeding \$40,000,000 (or such other debt instrument as may be allowed by the Act and approved by Bond Counsel and the Authority's counsel, herein, the "Bonds") pursuant to the limitations and conditions set forth in this Resolution and in subsequent resolutions and other instruments of the Authority, which amount the Borrower has

represented will, together with other available funds of the Borrower, be sufficient to finance the acquisition and rehabilitation of the Project; and

**WHEREAS**, the Bonds will be secured by amounts payable under the terms of a loan or financing agreement between the Authority and the Borrower providing for payments in amounts or other collateral sufficient to pay and secure the principal of and interest on the Bonds as the same become due and payable, and/or such other security as shall be acceptable to the Authority; and

**WHEREAS**, it is intended by the Authority that the interest on the Bonds will be excludable from gross income for federal income tax purposes; and

**WHEREAS**, the action taken by this Resolution does not constitute final approval of the financing of the costs of the Project or of the issuance of the Bonds and is not an absolute commitment by the Authority to issue the Bonds; and

**WHEREAS**, the Authority's approval of the financing of the costs of the Project will be effected in accordance with applicable law and regulations and the financial terms, security for the repayment of the Bonds, restrictions on transferability, if applicable, and other matters will be determined and/or approved by subsequent proceedings of the Authority and by other appropriate regulatory bodies as may be required by applicable law and regulations, including but not limited to, approval by the Board of County Commissioners of Palm Beach County, Florida of certain matters relating thereto; and

**WHEREAS**, the Authority has been informed by the Borrower that it has and anticipates that it will incur certain capital expenditures relating to the Project prior to the issuance of the Bonds by the Authority; and

**WHEREAS**, such capital expenditures will be paid from the Borrower's own money or from the proceeds of a taxable financing; and

**WHEREAS**, the Code and applicable regulations (the "Regulations") require the Authority to declare its official intent to allow the Borrower to be reimbursed for certain capital expenditures incurred by the Borrower in connection with the Project prior to the issuance of the Bonds from a portion of the proceeds of the Bonds, when and if the Bonds are issued; and

**WHEREAS**, it is intended by the Authority that this Resolution constitutes such official intent with respect to the reimbursement, from proceeds of the Bonds, of those certain capital expenditures the Borrower has and will incur prior to the issuance of the Bonds as provided in Section 4 and 5 herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

**SECTION 1.** The recitals set forth above are adopted by the Authority as the findings of the Authority and are incorporated herein.

**SECTION 2.** The Authority is authorized and empowered by the Act and Article V, Division 3, Sections 2-181 et seq., Palm Beach County Code of Ordinances (the “Ordinance”) to adopt this Resolution and to enter into transactions such as those contemplated by the Borrower in connection with the financing of the costs of the Project through the issuance of the Bonds, and to fully perform the obligations of the Authority to be undertaken in connection with the financing of the costs of the Project through the issuance of the Bonds in order to assist in alleviating the shortage of housing and of capital to finance the construction and/or rehabilitation of affordable housing in Palm Beach County, Florida, and this Resolution is adopted and such actions are to be taken pursuant to the provisions of the Act and the Ordinance.

**SECTION 3.** The statements contained in this Resolution with respect to the reimbursement of the capital expenditures referred to in this Resolution are intended to be the Authority’s statements of official intent as required by, and in conformance with, the provisions of Section 1.150-2(e) of the Regulations. The expression of official intent set forth herein is made in reliance upon the representation of the Borrower that it reasonably expects to pay with its own funds or incur expenses in connection with the Project prior to the issuance of the Bonds and to be reimbursed for those expenses from the proceeds of the Bonds.

**SECTION 4.** All of the capital expenditures to be reimbursed in connection with the Project pursuant to this Resolution from proceeds of the Bonds that are issued as tax exempt obligations, will be for costs that (a) are properly chargeable to the capital account of the Borrower under general income tax principles, (b) constitute non-recurring working capital expenditures (of a type not customarily payable from current revenues), or (c) are costs of issuing the Bonds and will meet the requirements of the Code in that such capital expenditures have been or will be incurred after the date that is sixty (60) days before the date of adoption of this Resolution.

**SECTION 5.** The Authority reasonably expects to use a portion of the proceeds of the Bonds, when and if issued, to reimburse the Borrower for the capital expenditures contemplated under this Resolution made prior to not earlier than sixty (60) days prior to the adoption of this Resolution, and no funds from sources other than the “reimbursement bond issue” (as such term has the meaning assigned to it under the Regulations) portion of the bonds are, or are reasonably expected to be, reserved, allocated on a long term basis, or otherwise set aside by the Authority pursuant to the Authority’s policies to pay for such capital expenditures.

**SECTION 6.** The Authority will direct the Borrower, upon receipt of the proceeds of the Bonds (or within thirty (30) days thereafter), to allocate in writing the amount of proceeds of the Bonds (i.e., the reimbursement bond issue) used to reimburse the costs of the Project (herein, the “Prior Expenditures”). Such allocation will be accomplished within the later of (a) eighteen months from the earliest date such Prior Expenditures were incurred or (b) the date the rehabilitation of Malibu Bay is substantially completed (but in no event later than three (3) years after the first Prior Expenditure was made).

**SECTION 7.** The maximum principal amount of Bonds expected to be issued for the financing of the costs of the acquisition, rehabilitation and equipping of the Project through the issuance of the Bonds is \$40,000,000.

**SECTION 8.** The adoption of this Resolution does not in any way entitle or create any rights in or for Borrower other than as set forth herein and the terms of this Resolution shall not constitute final approval of the financing of the costs of the Project or authorization for the Authority to issue the Bonds; such approval and authorization shall be considered by the Authority by other appropriate regulatory bodies in subsequent proceedings as required by applicable law and regulations and shall be contingent upon, among other things:

(A) The execution by the Borrower of a loan or financing agreement with the Authority in a form and substance and on terms acceptable to the Authority, including adequate provision being made for the operation, repair and maintenance of Malibu Bay at the expense of the Borrower and for the payment of the principal of, premium, if any, and interest on the Bonds and reserves, if any, therefor;

(B) The Authority's final determination that the proposal of the Borrower otherwise complies with all of the provisions of the Act and the policies of the Authority; and

(C) Unless waived by the Authority, in compliance with the Authority's policies and guidelines, either (i) the provision by the Borrower of credit enhancement to secure the Bonds and a rating acceptable to the Authority from rating agencies acceptable to the Authority, obtained by the Borrower with respect to the Bonds, or (ii) the private placement of the Bonds with an institutional investor acceptable to the Authority.

**SECTION 9.** Attached hereto as Exhibit A is the form of Memorandum of Agreement to be entered into by and between the Authority and the Borrower (the "Agreement"). The Borrower's agreement to enter into and perform under the Agreement shall be a condition precedent for the General Counsel to the Authority, Bond Counsel and the Executive Director of the Authority to take any actions with respect to the preparation of any documents to be used in connection with the financing of the costs of the Project through the issuance of the Bonds. The Agreement, in the form attached hereto as Exhibit A, is hereby approved. The Chairperson or, in the Chairperson's absence, any other member of the Authority, is hereby authorized to execute and deliver the Agreement, the execution thereof by the Authority being conclusive evidence of the approval of the form of such Agreement.

**SECTION 10. IT IS EXPRESSLY STATED AND AGREED THAT THE ADOPTION OF THIS RESOLUTION IS NOT A GUARANTY, EXPRESS OR IMPLIED, THAT THE AUTHORITY SHALL APPROVE THE CLOSING AND ISSUE THE BONDS FOR THE FINANCING OF THE COSTS OF THE PROJECT. THIS RESOLUTION IS QUALIFIED IN ITS ENTIRETY BY THE PROVISIONS OF THE ACT, OR ANY SUBSEQUENTLY ENACTED OR EFFECTIVE LEGISLATION CONCERNING A STATE VOLUME CEILING ON MULTIFAMILY HOUSING BONDS. THE BORROWER SHALL HOLD THE AUTHORITY AND ITS PAST, PRESENT AND FUTURE MEMBERS, OFFICERS, STAFF, ATTORNEYS, FINANCIAL ADVISORS, AND EMPLOYEES HARMLESS FROM ANY LIABILITY OR CLAIM BASED UPON THE FAILURE OF THE AUTHORITY TO CLOSE THE TRANSACTION AND ISSUE THE BONDS OR FROM ANY OTHER CAUSE OF ACTION ARISING FROM THE ADOPTION OF THIS RESOLUTION, THE PROCESSING OF THE FINANCING OF THE COSTS OF THE PROJECT THROUGH THE ISSUANCE OF THE BONDS**

**EXCEPT FOR THE GROSS NEGLIGENCE OR WILLFUL AND WANTON MISCONDUCT OF THE AUTHORITY.**

**SECTION 11.** To the extent deemed necessary by Bond Counsel to the Authority or by General Counsel to the Authority, General Counsel and/or Bond Counsel to the Authority are authorized to institute appropriate proceedings for the validation of the Bonds pursuant to Chapter 75, Florida Statutes.

**SECTION 12.** The Authority has no jurisdiction regarding zoning and land use matters and the adoption of the Resolution is not intended to express any opinion regarding same.

**SECTION 13.** All resolutions or parts thereof, of the Authority in conflict herewith are, to the extent of such conflict, hereby modified to the extent of such conflict.

**SECTION 14.** This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** this 13th day of March, 2020.

**HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA**

By: \_\_\_\_\_  
Chairperson / Vice Chairperson

ATTEST:

\_\_\_\_\_  
[Assistant] Secretary

**EXHIBIT A**  
**FORM OF MEMORANDUM OF AGREEMENT**



**MEMORANDUM OF AGREEMENT**  
**(MALIBU BAY)**

This Memorandum of Agreement (“Agreement”) is dated as of the \_\_\_\_ day of March, 2020, between the Housing Finance Authority of Palm Beach County, Florida, a public body corporate and politic under the laws of the State of Florida (the “Authority”), and Malibu Bay Preservation, Ltd., a Florida limited partnership (together with its respective successors or assigns, the “Borrower”).

WHEREAS, the Authority is authorized and empowered by the provisions of the Constitution and laws of the State of Florida (the “State”) to issue bonds, notes or other evidences of indebtedness for the purposes of providing funds to finance the acquisition, construction, rehabilitation and equipping of “qualifying housing developments” as defined in the Florida Housing Finance Authority Law, Part IV of Chapter 159, Florida Statutes (the “Act”), and to loan the proceeds from the sale of such bonds, notes or other evidences of indebtedness to others to finance the acquisition, construction, rehabilitation and equipping of such qualifying housing developments; and

WHEREAS, the Borrower desires to finance the costs of acquisition, rehabilitation and equipping of an approximately 264 unit multifamily rental housing facility known as Malibu Bay, located at 750 Malibu Bay Drive, in the City of West Palm Beach, West Palm Beach County, Florida 33401 (the “Project”), to be rented to qualified persons and families as required by the Act and the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, the Borrower has requested that the Authority issue its multifamily housing revenue bonds or similar evidence of indebtedness in an aggregate principal amount of not to exceed \$40,000,000 (in either case referred to herein generically as the “Bonds”) and to loan the proceeds thereof to the Borrower to finance the costs of the Project; and

WHEREAS, based on the request of the Borrower, the Authority has preliminarily determined to issue the Bonds; and

WHEREAS, based upon preliminary information made available to it and subject to further review and analysis, the Authority believes that the issuance of the Bonds will result in the assistance in alleviating the shortage of rental housing for eligible persons and families of moderate, middle and lesser income and will assist in alleviating the shortage of capital available for investment in such rental housing, and thereby increase the health, safety, morals, welfare, and tax base of the State and in Palm Beach County (the “County”); and

WHEREAS, the Borrower desires the Authority to continue its review and analysis of the Borrower’s request to provide financing of the costs of the Project through the issuance of the Bonds; and

WHEREAS, the Authority, by its adoption on March 13, 2020 of its Resolution No. R-2020-06 (the “Initial Resolution”), has indicated its willingness to proceed with its consideration of the Borrower’s request for such financing; and

WHEREAS, the Authority wishes to enter into certain agreements with the Borrower with respect to its consideration of the Borrower's request to provide financing of the costs of the Project through the issuance of the Bonds.

NOW, THEREFORE, for good and valuable consideration, the parties hereto agree as follows:

1. The Authority agrees:

(a) That, if the Authority determines that the Borrower and the Project meet all prerequisites for the issuance of the Bonds established by the Authority and as required under the Act, it will make all reasonable efforts to authorize the issuance and sale of the Bonds pursuant to the terms of the Constitution of the State, the Act, the Initial Resolution, applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and this Memorandum of Agreement; and

(b) That, if the Bonds are issued, the Authority will make a loan to the Borrower to finance the costs of the Project through the issuance of the Bonds, with installment payments due under a loan or financing agreement between the Authority and the Borrower to be at least sufficient to pay the principal of, interest on and redemption premiums, if any, with respect to the Bonds as and when the same shall become due and payable, together with all other costs and expenses connected with such financing, and such obligations of the Borrower to be secured by such collateral acceptable to the Authority; and

(c) That, in the event the Authority acquires an interest in or a mortgage on Malibu Bay, it will convey or release any such interest it retains in Malibu Bay to the Borrower upon the retirement of the outstanding Bonds, and the payment by the Borrower of all other costs connected with such financing.

2. The Borrower agrees:

(a) That the Borrower will provide to the Authority, at the Borrower's expense, a credit underwriting report addressed to the Authority by a credit underwriter approved by the Authority relating to the Project; and

(b) That the Borrower will use all reasonable efforts to find one or more purchasers for the Bonds; and

(c) That the Borrower will enter into a loan or financing agreement with the Authority, under the terms of which the Borrower will be obligated to pay to the Authority sums sufficient to pay and secure the principal of, interest on and redemption premiums, if any, with respect to the Bonds when the same shall become due and payable, to operate, maintain and repair Malibu Bay at its own expense, to report annually to the Authority the annual bond indebtedness outstanding and any other information necessary to comply with Section 218.32, Florida Statutes, and to pay all costs and expenses incurred by the Authority in connection with the financing of the costs of the Project, except as may be paid out of Bond proceeds or otherwise; and

(d) That all risk of loss to Malibu Bay will be borne by the Borrower.

3. All commitments of the Authority under Paragraph 1 hereof and of the Borrower under Paragraph 2 hereof are subject to the mutual agreement of the Authority and the Borrower as to the terms and conditions of the above-referenced loan or financing agreement and of the Bonds and the other instruments and proceedings relating to the Bonds, and to the sale of the Bonds pursuant to such terms and conditions. It is the intent of the parties hereto that the Bonds shall be prepared in such form and shall be issued, underwritten, if applicable, and sold and the proceeds thereof used, all as may be mutually agreed upon by the parties in accordance with the requirements and provisions of the Constitution of the State and the Act.

4. The Borrower acknowledges and agrees that, prior to or simultaneously with the issuance and delivery of the Bonds, it will enter into a regulatory or land use restriction agreement (the "Regulatory Agreement") with respect to Malibu Bay, in form and substance acceptable to the Authority and its counsel and the Borrower. The Borrower further acknowledges that the Regulatory Agreement will obligate the Borrower to pay the Authority an annual fee based on the original principal amount of Bonds (as described in the Regulatory Agreement) for the Qualified Project Period (as defined in the Regulatory Agreement) notwithstanding that the Bonds may no longer be outstanding.

5. The ability of the Authority to issue the Bonds contemplated hereby and pursuant to the Initial Resolution, shall be subject to the approval by the Board of County Commissioners (the "County Commission") of Palm Beach County, Florida of the issuance of the Bonds to finance the Project and of the purchaser of the Bonds within the meaning of the Authority's enabling ordinance.

6. The Borrower agrees to indemnify, defend and hold harmless the Authority, its members and its agents against any and all liability, loss, costs (including any credit underwriting), expenses, charges, claims, damages and attorney's fees of whatever kind or nature, which the Authority, its members or its agents may incur or sustain by reason or in consequence of the relationship existing between the Authority and the Borrower with respect to the execution and delivery of this Memorandum of Agreement, the consideration of the Borrower's request to issue the Bonds to finance the costs of the Project or the issuance and sale of the Bonds, except for the gross negligence or willful and wanton misconduct of the Authority or its members and agents. The Borrower hereby releases the Authority, the members and officers of the Authority, and the agents, attorneys and employees of the Authority from any liability, loss, cost, expenses, charges, claims, damages and reasonable attorneys fees of whatever kind or nature which may result from the failure of the Authority to issue the Bonds regardless of the reason therefor.

7. This Agreement will terminate nine (9) months from the date of adoption of the Initial Resolution (the "Initial Inducement Period") unless the final documents have been executed and the Bonds have been issued. The Authority may (but shall not be required to) consider extending this Agreement upon the submission by the Borrower of a status report providing tangible evidence that the Borrower continues to make progress towards the issuance of the Bonds. In the event this Agreement is terminated Borrower agrees that it will reimburse the parties named below for all fees and out-of-pocket expenses which the Authority, and the

Authority's Bond Counsel, Disclosure Counsel, if any and General Counsel may have incurred in connection with the execution of this Memorandum of Agreement or anything related thereto or in connection with the request of the Borrower to issue the Bonds and the performance by the Authority or its professional staff described herein of their obligations described hereunder; and upon such reimbursement this Memorandum of Agreement shall thereupon terminate.

8. The Authority acknowledges that the Borrower has delivered to the Authority a completed application for financing meeting the requirements of and containing the information required by the Authority, and has delivered to the Authority the non refundable application fee in the amount of \$1,500 (the "Application Fee"), and a non-refundable fee in the amount of \$6,000 (the "Public Hearing Fee") to (a) schedule and hold the public hearing with respect to the Bonds required by Section 147(f) of the Code (the "TEFRA Hearing"), and (b) request the approval of the Bonds by the County Commission for purposes of Section 147(f) of the Code. The Authority makes no assurance or representation that the County Commission will approve the issuance of the Bonds.

9. In order for the Authority to issue the Bonds on a tax-exempt basis, the Authority must apply for and receive private activity bond allocation for the Bonds from the State of Florida Division of Bond Finance. The Authority will use its best efforts to, at the request of the Borrower (assuming that (a) the Borrower has provided any omitted information and corrected any incorrect information in its application to the Authority and (b) the County Commission has approved the issuance of the Bonds), apply for such private activity bond allocation. The Authority makes no assurance or representation that private activity bond allocation will be available at the times or in the amount requested. In addition, the Authority retains the discretion to determine in what order of priority and in what amount it will apply for private activity bond allocation for Malibu Bay and other projects which have also requested the Authority to apply for private activity bond allocation.

10. The Borrower will, prior to the Authority authorizing Bond Counsel to commence the drafting of bond documents, deliver to the Authority a good faith deposit payable to the Authority in the amount of \$55,000 (the "Good Faith Deposit"). The Good Faith Deposit will be held by the Authority until either (i) the Bonds have been issued or (ii) this Agreement is terminated prior to the issuance of the Bonds. If the financing of the Project as contemplated hereunder is completed as provided in clause (i) of this Section 10, the Borrower shall have the option of having the Good Faith Deposit returned in whole or applied against its costs at the time of closing. If the event in clause (ii) of this Section 10 shall occur, the Authority shall be entitled to keep the Good Faith Deposit hereunder to the extent necessary to pay the expenses incurred by the Authority, its Bond Counsel, General Counsel and Disclosure Counsel, if any, related to this financing and the amount of the Good Faith Deposit so applied shall be credited against the Borrower's obligation to pay such amounts and any remaining amount shall be promptly returned to Borrower.

11. The sale of the Bonds shall also be subject to approval by the County Commission, as required, and no assurance can be given by the Authority as to the outcome of such review. Further, no assurance can be given by the Authority as to the result of any action or inaction by a governmental agency, whether local, state, or federal, nor as to the result of any judicial action, which may affect in any way the issuance of the Bonds; and the Authority shall

not be responsible or held liable for any costs or damages incurred by any party as a result thereof.

12. If the Authority abandons its efforts to issue the Bonds in its discretion, or if the Borrower shall terminate this Memorandum of Agreement by written notice to the Authority, this Memorandum of Agreement shall terminate. Nothing contained herein, however, shall release the Borrower from its obligations to indemnify the Authority or its obligations to pay the expenses incurred by the Authority, its Bond Counsel, General Counsel and Disclosure Counsel, if any, related to this financing in accordance with the terms of this Memorandum of Agreement.

13. This Memorandum of Agreement may be supplemented and amended from time to time by written agreement signed by both parties, and shall be superseded by the loan agreement to be executed by the Authority and the Borrower, upon the execution thereof, to the extent the terms thereof conflict with the terms contained herein.

14. Notwithstanding any other provision of this Memorandum of Agreement, as a matter of general assurance by the Borrower to the Authority, the Borrower hereby covenants and agrees that it will pay the fees of the Authority, and that it will indemnify the Authority for all reasonable expenses, costs and obligations incurred by the Authority, including but not limited to any printing costs, any rating agency fees, verification agent fees, the fees and expenses of Bond Counsel, General Counsel to the Authority and Disclosure Counsel, if any, under the provisions of this Memorandum of Agreement to the end that the Authority will not suffer any out-of-pocket losses as a result of the carrying out of any of its undertakings herein contained. The only obligation the Authority shall have in connection with this Memorandum of Agreement shall be the payment of the Bonds, if and when issued, but such payment shall be limited solely to the revenues derived from the financing, sale, operation or leasing of Malibu Bay or posted collateral, and nothing contained in this Memorandum of Agreement shall ever be construed to constitute a personal or pecuniary liability or charge against the Authority or any member or officer, employee or agent of the Authority, and in the event of a breach of any undertaking on the part of the Authority contained in this Memorandum of Agreement, no personal or pecuniary liability or charge payable directly or indirectly from the general funds of the Authority shall arise therefrom.

15. If the Bonds to be issued hereunder are to be underwritten by a public offering, they shall be underwritten by investment banking firms acceptable to the Authority selected in accordance with the Authority's policies and guidelines.

16. The Borrower acknowledges and agrees to the terms of the Initial Resolution.

17. Nothing herein shall be deemed to require that the Authority agree to submit itself to the jurisdiction of the courts of any state other than the State of Florida or the venue of any Florida court other than Palm Beach County.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal to the Memorandum of Agreement as of the day and year first above written.

**HOUSING FINANCE AUTHORITY OF PALM**

**BEACH COUNTY, FLORIDA**

By: \_\_\_\_\_  
Chairperson / Vice Chairperson

(SEAL)

ATTEST:

\_\_\_\_\_  
[Assistant] Secretary

**MALIBU BAY PRESERVATION, LTD., a Florida limited partnership**

By: Malibu Bay GP LLC, a Delaware limited liability company, its General Partner

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

The obligations of the Borrower under the within Memorandum of Agreement are guaranteed by the undersigned developer of the Project, as of the day and year first above written.

**MALIBU BAY DEVELOPER LLC, a \_\_\_\_\_ limited liability company**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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**Audited Financial Statements**

**Housing Finance Authority of  
Palm Beach County, Florida**  
A Component Unit of Palm Beach County, Florida

**Fiscal Years Ended September 30, 2019 and 2018**



# DRAFT

HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA  
A COMPONENT UNIT OF PALM BEACH COUNTY, FLORIDA

AUDITED FINANCIAL STATEMENTS

SEPTEMBER 30, 2019 AND 2018

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## Independent Auditor's Report

To the Honorable Chair and Members of the Board  
Housing Finance Authority of Palm Beach County  
West Palm Beach, Florida

### **Report on the Financial Statements**

We have audited the accompanying financial statements of the Housing Finance Authority of Palm Beach County, Florida (the "Authority"), a component unit of Palm Beach County, Florida, as of and for the years ended September 30, 2019 and 2018, and the related notes to the financial statements, as listed in the table of contents.

### ***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### ***Auditor's Responsibility***

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with U.S. generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Authority's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

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We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

## *Opinion*

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Housing Finance Authority of Palm Beach County, Florida, as of September 30, 2019 and 2018, and the respective changes in financial position and cash flows for the years then ended, in accordance with U.S. generally accepted accounting principles.

## **Other Matters**

### *Required Supplementary Information*

U.S. generally accepted accounting principles require that the *Management's Discussion and Analysis* on pages 3 to 7 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with U.S. generally accepted auditing standards, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audits of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

### **Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated February 4, 2020, on our consideration of the Authority's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Authority's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Authority's internal control over financial reporting and compliance.

West Palm Beach, Florida  
February 4, 2020

## MANAGEMENT'S DISCUSSION AND ANALYSIS

The Management of the Housing Finance Authority of Palm Beach County, Florida (the "Authority"), presents the readers of our financial statements the following narrative overview and analysis of the financial activities for the fiscal years ended September 30, 2019 and 2018. Please consider this information in conjunction with the accompanying financial statements (beginning on page 8).

### Financial Highlights

- The Authority's assets exceeded its liabilities (net position) at the close of the fiscal year by approximately \$12.2 and \$11.9 million in 2019 and 2018, respectively, all of which is considered unrestricted and according to the Authority's enabling legislation is available for any use described in the Florida Housing Finance Authority Law in the Florida Statutes.
- During 2019, the Authority's operating revenues exceeded its operating expenses by approximately \$387,000. During 2018, the Authority's operating revenues exceeded its operating expenses by approximately \$126,000.
- Cash and cash equivalents of the Authority increased in 2019 by approximately \$2.3 million from the 2018 balance principally because of \$193,000 in GNMA and FNMA pay downs received, \$1.8 million more in receipts from the revolving construction loan activity than advances paid, and \$150,000 in repayments of down payment second mortgage assistance received. Cash and cash equivalents of the Authority increased in 2018 by approximately \$287,000 from the 2017 balance principally because of \$226,000 in GNMA and FNMA pay downs received, \$106,000 more in advances than receipts on down payment second mortgage assistance, \$113,000 net advances on notes receivable, and \$261,000 of interest received.

### Overview of the Financial Statements

The Housing Finance Authority of Palm Beach County is a single enterprise fund and presents its financial statements using the economic resources measurement focus and accrual basis of accounting, which is the same measurement focus and basis of accounting employed by private-sector business enterprises. This discussion and analysis is intended to serve as an introduction to the Authority's financial statements which include comparative Statements of Net Position, Statements of Revenues, Expenses, and Changes in Net Position, Statements of Cash Flows, and notes to the financial statements.

The Statements of Net Position present information on the Authority's assets and liabilities, with the difference between the two reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the Authority is improving or deteriorating.

The Statements of Revenues, Expenses, and Changes in Net Position are the basic statements of activities for enterprise funds. These statements provide the user information on the Authority's operating revenues and expenses, non-operating revenues and expenses and whether the Authority's financial position has improved or deteriorated as a result of the year's operations.

The Statements of Cash Flows present the change in the Authority's cash and cash equivalents during the years reported. This information can assist the user of the report in determining how the Authority financed its activities and how it met its cash requirements.

The notes to the financial statements provide additional information that is essential to a full understanding of the data provided in the statements and can be found beginning on page 12 of this report.

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## Summary of Net Position

As indicated earlier, net position may serve over time as a useful indicator of the Authority's financial position. The Authority's net position at September 30, 2019 and 2018 totaled \$12,223,541 and \$11,892,392, respectively, an increase of \$331,149 in 2019 and an increase of \$239,567 in 2018. A condensed summary of the Authority's net position for fiscal years 2019, 2018, and 2017 is presented below:

	2019	2018	2017
<b>Assets</b>			
Cash, investments, and accrued interest	\$ 11,094,684	\$ 8,973,335	\$ 8,954,254
Other current assets	1,045,707	2,811,125	2,894,026
Noncurrent assets	<u>229,904</u>	<u>227,138</u>	<u>-</u>
<b>Total Assets</b>	<u>\$ 12,370,295</u>	<u>\$ 12,011,598</u>	<u>\$ 11,848,280</u>
<b>Liabilities</b>			
Accounts payable and other liabilities	\$ 36,754	\$ 64,206	\$ 90,455
Noncurrent liabilities	<u>110,000</u>	<u>55,000</u>	<u>105,000</u>
<b>Total Liabilities</b>	<u>\$ 146,754</u>	<u>\$ 119,206</u>	<u>\$ 195,455</u>
<b>Net Position - Unrestricted</b>	<u>\$ 12,223,541</u>	<u>\$ 11,892,392</u>	<u>\$ 11,652,825</u>

At September 30, 2019, 2018, and 2017, the net position was unrestricted and available for any authorized expenditure.

## Summary of Revenues, Expenses, and Changes in Net Position

In fiscal year 2019, the Authority's net position increased overall due to an increase in income from operations, primarily due to an increase of \$61,431 in Authority fee income and an increase of \$134,966 in Single Family Mortgage Program income. Operating expenses decreased \$64,006 primarily as a result of a decrease in contract services and professional fees of \$73,038, and an increase in other expenses of \$9,032. The 2019 decrease in non-operating revenues and expenses was primarily due to an increase of \$310,000 in advances for down payment second mortgage assistance program loans, an increase of \$56,282 in repayments on down payment second mortgage assistance program loans, and an increase of \$50,236 in interest income.

In fiscal year 2018, the Authority's net position increased due to an increase in non-operating revenues and expenses of \$137,986, primarily due to a decrease of \$68,800 in advances for down payment second mortgage assistance program loans and an increase of \$47,601 in repayments on down payment second mortgage assistance program loans. The 2018 decrease in operating revenues included a decrease of \$35,727 in Authority fee income and an increase of \$5,816 in Single Family Mortgage Program income. Operating expenses decreased \$18,275 primarily as a result of decreases in professional fees of \$8,411 and other expenses of \$11,838.

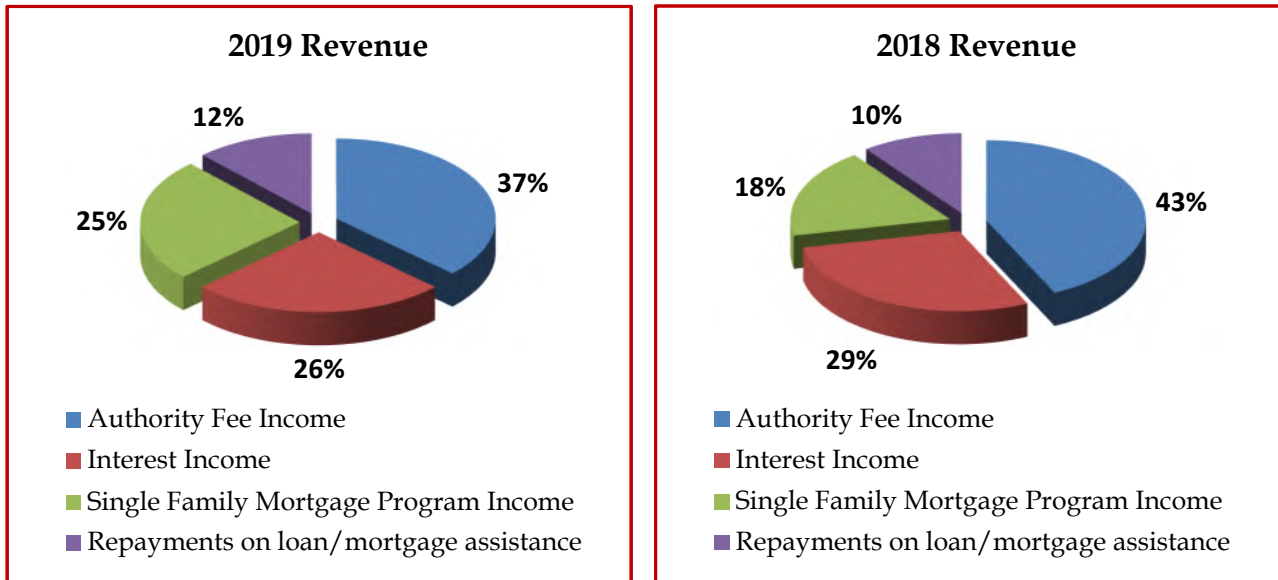
# DRAFT

A summary of revenues and expenses for the years ended September 30, 2019, 2018, and 2017 is presented below:

	2019	2018	2017
<b>Operating Revenues</b>			
Authority fee income	\$ 446,045	\$ 384,614	\$ 420,341
Single Family Mortgage Program income	<u>300,531</u>	<u>165,565</u>	<u>159,749</u>
Total Operating Revenues	<u>746,576</u>	<u>550,179</u>	<u>580,090</u>
<b>Operating Expenses</b>			
Contract services	268,457	291,523	289,549
Professional fees	59,306	109,278	117,689
Other expenses	<u>32,097</u>	<u>23,065</u>	<u>34,903</u>
Total Operating Expenses	<u>359,860</u>	<u>423,866</u>	<u>442,141</u>
<b>Income from Operations</b>	386,716	126,313	137,949
<b>Non-Operating Revenues (Expenses)</b>			
Interest income	313,616	263,380	244,601
Repayments on loan program assistance	-	-	5,100
Repayments on down payment second mortgage assistance program loans	150,000	93,718	46,117
Advances for down payment second mortgage assistance program loans	(510,000)	(200,000)	(268,800)
Net decrease in fair value of investments	<u>(9,183)</u>	<u>(43,844)</u>	<u>(51,750)</u>
Total Net Non-Operating Revenue (Expenses)	<u>(55,567)</u>	<u>113,254</u>	<u>(24,732)</u>
<b>Increase in Net Position</b>	331,149	239,567	113,217
<b>Net position at beginning of year</b>	<u>11,892,392</u>	<u>11,652,825</u>	<u>11,539,608</u>
<b>Net position at end of year</b>	<u>\$ 12,223,541</u>	<u>\$ 11,892,392</u>	<u>\$ 11,652,825</u>

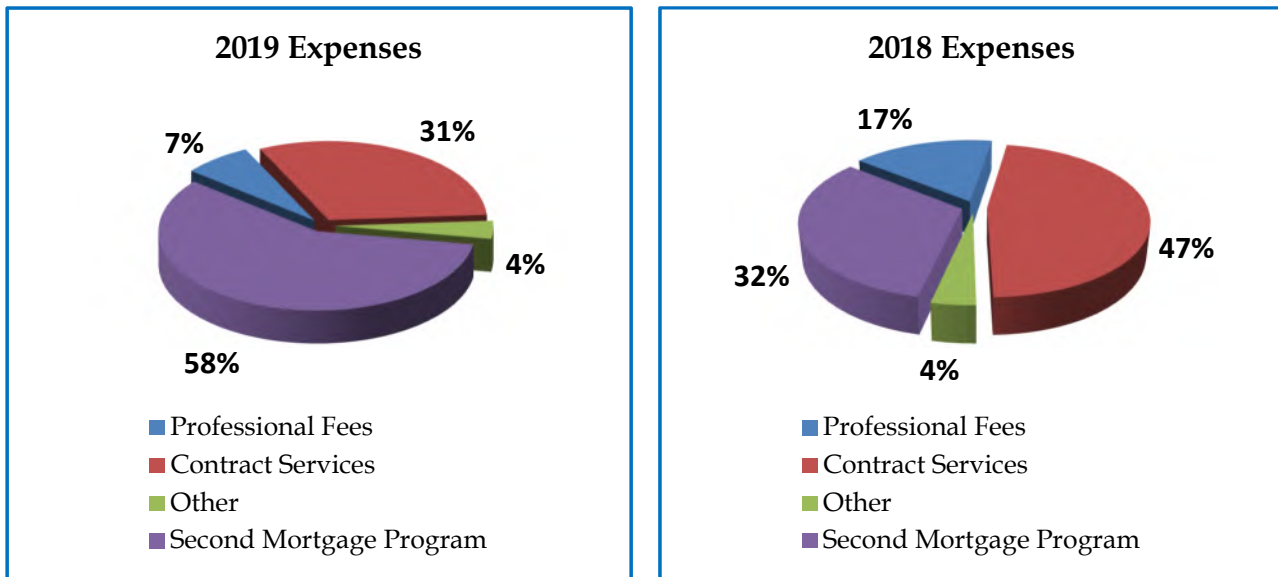
**Revenues by Source**

The following graphs illustrate the major sources and percentage of revenues (exclusive of change in fair value of investments) for the years ended September 30, 2019 and 2018:



**Expenses by Source**

The following graphs illustrate the major cost centers and the percentage of expenses (exclusive of change in fair value of investments) for the years ended September 30, 2019 and 2018:



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## **Capital Assets**

As of September 30, 2019 and 2018, the Authority did not have any capital assets. Its facilities and personnel costs are contracted from Palm Beach County, Florida.

## **Long-Term Debt**

As of September 30, 2019 and 2018, the Authority had no long-term debt payable from general revenue as the Authority is prohibited from doing so by Florida Housing Finance Authority Law under Part IV of Chapter 159, Florida Statutes (1979) (the "Housing Act"), from incurring debt payable from general revenue.

## **Requests for Information**

This financial report is designed to provide a general overview of the Authority's finances for all those interested. Questions concerning any of the information provided in this report or requests for additional information should be addressed to David Brandt, Executive Director, Housing Finance Authority of Palm Beach County, 100 Australian Avenue, Suite 410, West Palm Beach, Florida 33406.

Sincerely,

David Brandt  
Executive Director



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**FINANCIAL STATEMENTS**

# DRAFT

## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### STATEMENTS OF NET POSITION

September 30, 2019 and 2018

	<u>2019</u>	<u>2018</u>
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents - includes restricted amounts of \$110,000 in 2019 and \$55,000 in 2018	\$ 10,395,224	\$ 8,069,063
FNMA and GNMA Certificates	689,048	891,630
Accrued interest receivable	10,412	12,642
Notes receivable - current portion	1,016,397	2,782,946
Other receivable	28,310	28,179
Prepaid expenses	1,000	-
TOTAL CURRENT ASSETS	<u>12,140,391</u>	<u>11,784,460</u>
<b>NONCURRENT ASSETS</b>		
Notes receivable - noncurrent portion	229,904	227,138
TOTAL NONCURRENT ASSETS	<u>229,904</u>	<u>227,138</u>
TOTAL ASSETS	12,370,295	12,011,598
<b>LIABILITIES</b>		
<b>CURRENT LIABILITIES</b>		
Accounts payable	36,754	64,206
TOTAL CURRENT LIABILITIES	<u>36,754</u>	<u>64,206</u>
<b>NONCURRENT LIABILITIES</b>		
Escrow deposits	110,000	55,000
TOTAL NONCURRENT LIABILITIES	<u>110,000</u>	<u>55,000</u>
TOTAL LIABILITIES	146,754	119,206
<b>NET POSITION</b>		
Unrestricted	<u>12,223,541</u>	<u>11,892,392</u>
TOTAL NET POSITION	<u>\$ 12,223,541</u>	<u>\$ 11,892,392</u>

See notes to financial statements.

# DRAFT

## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### STATEMENTS OF REVENUES, EXPENSES, AND CHANGES IN NET POSITION

Years Ended September 30, 2019 and 2018

	<u>2019</u>	<u>2018</u>
<b>OPERATING REVENUES</b>		
Authority fee income	\$ 446,045	\$ 384,614
Single Family Mortgage Program income	300,531	165,565
TOTAL REVENUES	<u>746,576</u>	<u>550,179</u>
<b>OPERATING EXPENSES</b>		
Contract services	268,457	291,523
Accounting and auditing fees	42,900	77,723
Legal fees, consulting and administration	16,406	31,555
Other expenses	32,097	23,065
TOTAL EXPENSES	<u>359,860</u>	<u>423,866</u>
INCOME FROM OPERATIONS	386,716	126,313
<b>NON-OPERATING REVENUES (EXPENSES)</b>		
Interest income	313,616	263,380
Repayments on down payment second mortgage assistance program loans	150,000	93,718
Advances for down payment second mortgage assistance program loans	(510,000)	(200,000)
Net decrease in the fair value of investments	(9,183)	(43,844)
TOTAL NET NON-OPERATING REVENUES (EXPENSES)	<u>(55,567)</u>	<u>113,254</u>
INCREASE IN NET POSITION	331,149	239,567
Net position at beginning of year	<u>11,892,392</u>	<u>11,652,825</u>
Net position at end of year	<u>\$ 12,223,541</u>	<u>\$ 11,892,392</u>

See notes to financial statements.

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## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### STATEMENTS OF CASH FLOWS

Years Ended September 30, 2019 and 2018

	<u>2019</u>	<u>2018</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Cash receipts from programs	\$ 446,045	\$ 384,614
Cash receipts from Single Family Mortgage Program	300,400	137,386
Cash payments for contract and professional services	(355,215)	(427,050)
Cash payments for other expenses	<u>(33,097)</u>	<u>(23,065)</u>
NET CASH PROVIDED BY OPERATING ACTIVITIES	358,133	71,885
<b>CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES</b>		
Receipt of escrow deposits	55,000	65,000
Release of funds from escrow	<u>-</u>	<u>(115,000)</u>
NET CASH PROVIDED BY (USED IN) NON-CAPITAL FINANCING ACTIVITIES	55,000	(50,000)
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Principal receipts from investments		
FNMA and GNMA Certificates	193,399	226,199
Advances on note receivables	(1,970,420)	(1,317,715)
Receipts on notes receivable	3,734,203	1,201,657
Interest income received on investments and notes receivable	315,846	261,451
Repayments on down payment second mortgage assistance program loans	150,000	93,718
Advances on down payment second mortgage assistance program loans	<u>(510,000)</u>	<u>(200,000)</u>
NET CASH PROVIDED BY INVESTING ACTIVITIES	<u>1,913,028</u>	<u>265,310</u>
INCREASE IN CASH AND CASH EQUIVALENTS	2,326,161	287,195
Cash and cash equivalents at beginning of year	<u>8,069,063</u>	<u>7,781,868</u>
Cash and cash equivalents at end of year	<u><u>\$ 10,395,224</u></u>	<u><u>\$ 8,069,063</u></u>

# DRAFT

	<u>2019</u>	<u>2018</u>
<b>RECONCILIATION OF INCOME FROM OPERATIONS TO NET CASH PROVIDED BY OPERATING ACTIVITIES</b>		
Income from operations	\$ 386,716	\$ 126,313
Adjustments to reconcile income from operations to net cash provided by operating activities		
Increase in prepaid expenses	(1,000)	-
Increase in other receivable	(131)	(28,179)
Decrease in accounts payable	<u>(27,452)</u>	<u>(26,249)</u>
<b>NET CASH PROVIDED BY OPERATING ACTIVITIES</b>	<u>\$ 358,133</u>	<u>\$ 71,885</u>
<b>NON-CASH INVESTING ACTIVITIES</b>		
Net decrease in the fair value of investments	<u>\$ (9,183)</u>	<u>\$ (43,844)</u>

See notes to financial statements.

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## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE A - SIGNIFICANT ACCOUNTING POLICIES

Organization and Purpose: The Housing Finance Authority of Palm Beach County, Florida (the "Authority"), a component unit of Palm Beach County, Florida, was created as a Florida Public Corporation in accordance with the Florida Housing Finance Authority Law, Part IV of Chapter 159, Florida Statutes (1979) (the "Housing Act"), following the adoption of an approving ordinance enacted by the Board of County Commissioners of Palm Beach County, Florida, (the "County") to alleviate the shortage of housing available at affordable rates in the County and the shortage of capital for investment in such housing.

Pursuant to the powers granted to the Authority by the Housing Act, the Authority issues single family and multi-family Revenue Bonds to finance the purchase of housing by families with low and moderate incomes through investing in mortgage loans to eligible families. The first mortgage loans are pledged as security for the payment of the Bonds' principal and interest. As of September 30, 2019, the Authority has approximately \$126.6 million of Housing Revenue Bonds outstanding that were originally issued in the aggregate principal amount of \$206.1 million. Bonds issued by the Authority are not deemed to constitute debt of the Authority, Palm Beach County, the State of Florida, or any political subdivision thereof. The Authority also issues mortgage credit certificates to first-time homebuyers; the issuance of mortgage credit certificates does not create an asset or liability of the Authority. The Authority has also entered into interlocal agreements with other housing finance authorities to allow for the origination of single family mortgage loans in Palm Beach County; these loan programs do not create an asset or liability of the Authority. In connection with the mortgage credit certificates and single family mortgage programs, the Authority has funded down payment assistance second mortgages as further described in Note D. The Authority also makes loans of its surplus funds for the development of affordable housing.

Financial Reporting Entity: In evaluating how to define the Authority for financial reporting purposes, management has considered all potential component units. The decision whether or not to include a potential component unit in the reporting entity was made by applying the criteria set forth in U.S. generally accepted accounting principles (GAAP). As defined by U.S. generally accepted accounting principles, the financial reporting entity consists of (a) the primary government, (b) organizations for which the primary government is financially accountable, and (c) other organizations for which the primary government is not accountable, but for which the nature and significance of their relationship with the primary government are such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete. Component units are legally separate organizations for which the elected officials of the primary government are financially accountable. In addition, component units can be other organizations for which the nature and significance of their relationship with the primary government are such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete.

The Authority determined that the only entity to consider when applying the above criteria was Palm Beach County, Florida. The Board of County Commissioners of Palm Beach County appoints the governing Board of the Authority and is financially accountable for the operations of the Authority. Accordingly, the Authority is considered a component unit of Palm Beach County, Florida.

Basis of Presentation and Accounting: The Authority's operations are accounted for in a single enterprise fund. The Authority uses the accrual basis of accounting under which revenues are recognized in the period earned and expenses are recognized in the period liabilities are incurred.

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## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE A - SIGNIFICANT ACCOUNTING POLICIES (Continued)

Measurement Focus: The Authority's single enterprise fund is accounted for on a cost of service or "economic resources" measurement focus. This means that assets and all activities are included in the statement of net position. Operating statements present increases (revenues) and decreases (expenses) in net position.

Budgets: The Authority adopts an annual, operating budget as a financial plan for the year. The budget is adopted by the governing board as an operating plan and budgetary basis financial statements are not presented because there is no legal requirement to report budgetary basis financial information.

Cash and Cash Equivalents: Cash and cash equivalents consist of money market mutual funds, the Palm Beach County Investment Pool, and investments in the Florida Prime Fund managed by the State of Florida, State Board of Administration. The Authority considers all highly liquid investments with an original maturity of three months or less and all deposits withdrawable upon demand to be cash equivalents. Deposits in the Florida Prime Fund and the Palm Beach County Investment Pool are generally available for withdrawal by the Authority on a next day basis and are therefore considered cash equivalents.

Investments: In accordance with the Authority's investment policy, the Authority may invest in the following investments for the purpose of generating income from available funds on hand:

- The Florida Prime Fund (formerly the Local Government Surplus Trust Fund) or any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act as provided in Section 163.01, Florida Statutes.
- Securities and Exchange Commission registered money market funds with the highest credit quality rating from a Nationally Recognized Statistical Rating Organization.
- Savings accounts in state certified qualified public depositories, as defined in Section 280.02, Florida Statutes.
- Certificates of deposit in state certified qualified public depositories, as defined in Section 280.02, Florida Statutes.
- Direct obligations of the U.S. Treasury.
- Federal agencies and instrumentalities.

The Authority may also enter into transactions made for its organizational purposes. These transactions include investments in first or second mortgage loans, mortgage-backed securities, custodial receipts (also known as "interest only strips" or "excess interest portions"), or other qualifying housing development loans made pursuant to Part IV, Chapter 159 Florida Statutes.

Investments are recorded at fair value based on quoted market prices. When a readily available quoted market value is not available, fair value is based on management's best estimate by reference to market data comparables.

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## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE A - SIGNIFICANT ACCOUNTING POLICIES (Continued)

The effective yield on the Authority's cash and cash equivalents and investments as of September 30, 2019 and 2018 was approximately 2.54% and 2.31%, respectively.

Restricted Assets: Restricted resources are used first to fund expenses incurred for restricted purposes.

Insurance: The Authority does not purchase commercial insurance, but relies on the constitutional doctrine of Sovereign Immunity for general liability claims under Florida law. Sovereign Immunity generally limits liability to \$200,000 per person/\$300,000 per incident unless a claims bill is approved by the Florida Legislature awarding damages in excess of that amount. The Authority is also covered through a policy held by Palm Beach County. The Authority has not incurred any claims over the past three fiscal years.

Ad Valorem Taxes: The Authority receives no ad valorem property tax revenues.

Compensated Absences and Other Postemployment Benefits: The Authority has no compensated absence obligations or postemployment benefits because all of its personnel and related benefit costs are provided under an outsource agreement with the County. During the years ended September 30, 2019 and 2018, the Authority's costs related to such services were \$268,457 and \$291,523, respectively.

Net Position: The financial statements utilize a net position presentation. Net position is categorized as:

*Restricted* – This component of net position consists of constraints placed on the use of net position by external restrictions imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments or constraints imposed by law through constitutional provisions or enabling legislation. The Authority had no restricted net position at September 30, 2019 or 2018.

*Unrestricted* – This component of net position consists of elements of net position that do not meet the definition of *Restricted*.

Revenues and Expenses: The Authority realizes both operating and non-operating revenues and expenses. Operating revenues are derived from fees collected in connection with the issuance of multi-family bond issues and loan origination fees for single family programs. Operating expenses are the expenses related to administration of those programs. Non-operating revenues and expenses result principally from interest income and expense, repayments and advances on down payment second mortgage assistance program loans, and net proceeds, investments, and arbitrage rebate refunds from redemption of bonds.

Multi-family fees are collected from the developers of multi-family housing projects and consist of periodic fees paid to the Authority based on fixed fee amounts or on a specified percentage of the outstanding principal balances of the long-term debt which financed the projects. The Authority may also collect fees from multi-family project developers at the time of application and upon closing of the related long-term debt. Multi-family fee structures and rates are established by policy.



# DRAFT

## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE A - SIGNIFICANT ACCOUNTING POLICIES (Continued)

Implementation of GASB Statements: The following GASB Statement was effective for the Authority for the fiscal year ended September 30, 2019.

GASB Statement No. 83, *Certain Asset Retirement Obligations*, and No. 88, *Certain Disclosures Related to Debt, including Direct Borrowings and Direct Placements*, were effective for the fiscal year ended September 30, 2019. These statements were not applicable to the Authority, as the Authority has no capital assets or debt.

Recent Accounting Pronouncements: The GASB has issued the following Statements effective in future years that may impact the Authority. Management has not completed its analysis of the effects, if any, of the following GASB statement that may be applicable to the financial statements of the Authority:

GASB Statement No. 84, *Fiduciary Activities*, establishes guidance regarding what constitutes fiduciary activities for accounting and financial reporting purposes, the recognition of liabilities to beneficiaries, and how fiduciary activities should be reported. The requirements of this Statement will be effective for the Authority for the fiscal year ending September 30, 2020.

GASB Statement No. 87, *Leases*, improves accounting and financial reporting for leases by governments. The statement increases the usefulness of governments' financial statements by requiring recognition of certain lease assets and liabilities for leases that previously were classified as operating leases and recognized as inflows of resources or outflows of resources based on the payment provisions of the contract. The requirements of this Statement will be effective for the Authority for the fiscal year ending September 30, 2021.

GASB Statement No. 89, *Accounting for Interest Cost Incurred before the End of a Construction Period*, enhances the relevance and comparability of information about capital assets and the cost of borrowing for a reporting period and simplifies accounting for interest cost incurred before the end of a construction period. The requirements of this Statements will be effective for the Authority for the fiscal year ending September 30, 2021.

GASB Statement No. 90, *Majority Equity Interests, an Amendment of GASB Statements No. 14 and No. 61*, establishes guidance regarding the reporting of a government's majority equity interest in a legally separate organization and the disclosure of financial statement information for certain component units. The requirements of this Statement will be effective for the Authority for the fiscal year ending September 30, 2020.

GASB Statement No. 91, *Conduit Debt Obligations*, provides a single method of reporting conduit debt obligations by issuers and requires additional note disclosures. The requirements of this Statement will be effective for the Authority for the fiscal year ending September 30, 2022.

GASB Statement No. 92, *Omnibus 2020*, addresses certain practice issues identified during implementation and application of certain GASB Statements, including 1) the effective date of GASB Statements No. 87 and Implementation Guide 2019-3 related to *Leases* for interim reports; 2) reporting of intra-entity transfers between a primary government employer and component unit defined benefit pension plan; 3) the applicability of GASB Statement No. 73 to reporting assets accumulated for OPEB;

# DRAFT

## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE A - SIGNIFICANT ACCOUNTING POLICIES (Continued)

4) applicability of GASB Statement No. 84 to postemployment benefit arrangements; 5) measurement of assets and liabilities related to asset retirement obligations; 6) reporting for amounts recoverable by public entity risk pools from reinsurers or excess insurers; and 7) certain terminology references. The requirements of this Statement related to items 1) and 7) are effective for the fiscal year ending September 30, 2020 and the remaining requirements will be effective for the Authority for the fiscal year ending September 30, 2021.

Estimates: The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

#### NOTE B - CASH AND CASH EQUIVALENTS AND INVESTMENTS

Cash and Cash Equivalents: At September 30, 2019 and 2018, cash and cash equivalents consisted of the following:

	<u>2019</u>	<u>2018</u>
Unrestricted:		
Florida Prime Fund	\$ 23,748	\$ 23,157
Federated Government Obligations		
Tax-Managed Fund	89,641	89,641
Fidelity Governmental Fund	79,767	84,641
Goldman Sachs Financial Square Government Fund	2,904,210	938,412
Fidelity Institutional Money Market Treasury Portfolio	114,732	-
Palm Beach County Investment Pool	<u>7,073,126</u>	<u>6,878,212</u>
	10,285,224	8,014,063
Restricted:		
Fidelity Institutional Money Market Treasury Portfolio	<u>110,000</u>	<u>55,000</u>
Total cash and cash equivalents	<u>\$ 10,395,224</u>	<u>\$ 8,069,063</u>

The investment in the Florida Prime Fund consists of equity in an external investment pool administered by the State of Florida pursuant to statutory requirements and operated in a manner consistent with the SEC's Rule 2a7 of the Investment Company Act of 1940. Rule 2a7 allows SEC registered mutual funds to use amortized cost rather than fair value to report net position used to compute share prices if certain conditions are met. Those conditions include restrictions on the types of investments held, restrictions on the term-to-maturity of individual investments and the dollar-weighted average of the portfolio, requirements for portfolio diversification, and requirements for divestiture considerations in the event of security downgrades and defaults, and required actions if the fair value of the portfolio deviates from amortized cost by a specified amount. The fair value of the position in the pool is considered to be the same as the Authority's account balance (amortized cost) in the pool. The investment in the pool is not evidenced by securities that exist in physical or book entry form.

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## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE B - CASH AND CASH EQUIVALENTS AND INVESTMENTS (Continued)

The Federated Government Obligations Tax-Managed Fund, Fidelity Governmental Fund, Goldman Sachs Financial Square Government Fund, and Fidelity Institutional Money Market Treasury Portfolio are open end, institutional, money market mutual funds investing in U.S. Treasury and agency obligations and repurchase and reverse repurchase agreements. These money market mutual funds are reported at fair value based on the net asset value (NAV) quoted on a national stock exchange.

On July 10, 2009, the Authority entered into an interlocal agreement with the Clerk and Comptroller, Palm Beach County, to appoint the Clerk as investment manager for the Authority with respect to funds designated by the Authority for investment in the Palm Beach County Investment Pool. The County's pooled cash fund is a highly liquid investment pool of approximately \$2.0 billion and \$1.7 billion as of September 30, 2019 and 2018, respectively, of which approximately 13% and 11%, respectively, is invested in U.S. Government and Agency obligations. Almost all remaining amounts at September 30, 2019 and 2018 were invested in money market accounts and certificates of deposit. The fair value of the Authority's investment in the Palm Beach County Investment Pool is based on information provided by the Clerk and Comptroller, Palm Beach County, Florida. The County's investment policy for this pool requires that all securities be insured or registered in the name of the County and held by a third party custodial institution, with capital and surplus stock of at least \$500 million and a separate custody account at the Federal Reserve Bank that is restricted for the safekeeping of County-owned securities. The equity in the County pooled cash system is available to the Authority on a demand basis. Additional information is available from the County's Comprehensive Annual Financial Report (CAFR) regarding the County's investment policy, interest rate risk, credit risk, custodial credit risk and concentration of credit risk.

The County's CAFR may be viewed on-line at [www.mypalmbeachclerk.com/public-funds/county-financial-reports/comprehensive-annual-financial-report-cafr](http://www.mypalmbeachclerk.com/public-funds/county-financial-reports/comprehensive-annual-financial-report-cafr) or may be ordered from Palm Beach County Clerk & Comptroller, Attn: Financial Reporting, 301 North Olive Avenue, West Palm Beach, Florida 33401, or by calling (561) 355-2912.

At September 30, 2019 and 2018, restricted cash equivalents of \$110,000 and \$55,000, respectively, were held as escrow deposits from developers (see Note E).

Investments: The cost and fair value of FNMA and GNMA investments at September 30, 2019 and 2018 are as follows:

	September 30, 2019		
	<u>Cost</u>	<u>Fair Value</u>	<u>Unrealized Appreciation</u>
FNMA Certificates bearing interest at 5.49% - 6.40%, due August 1, 2029 through November 1, 2032	\$ 209,412	\$ 212,278	\$ 2,866
GNMA Certificates bearing interest at 5.49% - 7.00%, due November 15, 2024 through August 15, 2032	<u>442,083</u>	<u>476,770</u>	<u>34,687</u>
	<u>\$ 651,495</u>	<u>\$ 689,048</u>	<u>\$ 37,553</u>

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## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE B - CASH AND CASH EQUIVALENTS AND INVESTMENTS (Continued)

	September 30, 2018		
	<u>Cost</u>	<u>Fair Value</u>	<u>Unrealized Appreciation</u>
FNMA Certificates bearing interest at 5.49% - 6.40%, due August 1, 2029 through November 1, 2032	\$ 265,999	\$ 268,966	\$ 2,967
GNMA Certificates bearing interest at 5.24% - 7.00%, due November 15, 2024 through August 15, 2032	<u>579,901</u>	<u>622,664</u>	<u>42,763</u>
	<u>\$ 845,900</u>	<u>\$ 891,630</u>	<u>\$ 45,730</u>

The net change in the fair value of these investments for the years ended September 30, 2019 and 2018 was a decrease of \$9,183 and \$43,844.

The Authority monitors the following deposit and investment risks:

**Interest Rate Risk:** Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. The money market mutual funds and Florida Prime have a weighted average maturity of less than 90 days, resulting in minimal interest rate risk. The Palm Beach County Investment Pool has an effective duration of approximately 0.44 years. The Authority's investment policy limits the maturity of investments to match cash and anticipated cash flow requirements. The investment in FNMA and GNMA securities are subject to interest rate risk as a function of the length of time to maturity and are based on pools of residential home mortgage loans which are subject to prepayments and, therefore, are highly sensitive to changes in interest rates. The table below summarizes the scheduled maturities of these securities at September 30, 2019.

	<u>Fair Value of Investment Maturities</u>	
	<u>Six to Ten Years</u>	<u>More Than Ten Years</u>
FNMA Certificates bearing interest at 5.49% - 6.40%	\$ 74,179	\$ 138,099
GNMA Certificates bearing interest at 5.49% - 7.00%	<u>77,857</u>	<u>398,913</u>
	<u>\$ 152,036</u>	<u>\$ 537,012</u>

**Credit Risk:** Credit risk is the risk that an issuer will not fulfill its obligations. The Authority's investment policy addresses credit risk by limiting allowable investments to the Florida Prime Fund, deposits with a financial institution meeting the requirements of a Florida qualified public depository, Securities Exchange Commission registered money market funds with the highest credit quality rating from a Nationally Recognized Statistical Rating Organization (NRSRO), and securities guaranteed by the U.S. Government. The policy also provides that the Authority may provide funding for or acquire an interest in first or second mortgage loans, custodial receipts or any other loan made in conjunction with a

# DRAFT

## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE B - CASH AND CASH EQUIVALENTS AND INVESTMENTS (Continued)

qualified housing development as defined by Florida Statutes. The security rating by a Nationally Recognized Statistical Rating Organization is an indication of credit risk. The Palm Beach County Investment Pool consists of investments that comply with the Authority's investment policy with an average credit rating of AA+/Aa1. The GNMA and FNMA securities are rated AA+ and the Florida Prime Fund, Federated Government Obligations Tax-Managed Fund, Fidelity Governmental Fund, Goldman Sachs Financial Square Government Fund, and Fidelity Institutional Money Market Treasury Portfolio are rated AAAM by Standard & Poor's at September 30, 2019.

Custodial Credit Risk: Custodial credit risk is defined as the risk that the Authority may not recover the securities held by another party in the event of a financial failure. The Authority's investment policy for custodial credit risk requires all investment securities to be held in the Authority's name by a third party safekeeping institution. The investments in the Florida Prime Fund, Federated Government Obligations Tax-Managed Fund, Fidelity Governmental Fund, Goldman Sachs Financial Square Government Fund, Palm Beach County Investment Pool and Fidelity Institutional Money Market Treasury Portfolio are considered *unclassified* pursuant to the custodial credit risk categories. The investments in FNMA and GNMA securities are held by the Authority's safekeeping agent in the Authority's name.

Concentration of Credit Risk: Concentration of credit risk is defined as the risk of loss attributed to the magnitude of an investment in a single issuer. The Authority's investment policy addresses the concentration of credit risk by diversifying to the extent practicable to control the risk of loss resulting from over concentration of assets in a specific maturity, issuer, instrument, dealer or bank. At September 30, 2019 and 2018, approximately 31% and 30%, respectively, of the Authority's investments were in FNMA certificates, and 69% and 70%, respectively, were in GNMA certificates.

Fair Value of Investments: The Authority follows the provisions of GASB Statement No. 72, *Fair Value Measurement and Application*, which establishes a framework for measuring the fair value of investments in a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives highest priority to unadjusted quoted prices in active markets for identical assets (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy under GASB Statement No. 72 are described below:

Level 1: Inputs to the valuation methodology are unadjusted quoted prices for identical assets in active markets that the Authority has the ability to access at the measurement date.

Level 2: Inputs to the valuation methodology include the following:

- Quoted prices for similar assets in active markets.
- Quoted prices for identical or similar assets in inactive markets.
- Inputs other than quoted prices that are observable for the assets.
- Inputs that are derived principally from or corroborated by observable market data by correlation or other means.

If the asset has a specified contractual term, the Level 2 input must be observable for substantially the full term of the asset.

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## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE B - CASH AND CASH EQUIVALENTS AND INVESTMENTS (Continued)

Level 3: Inputs to the valuation methodology are unobservable and significant to the fair value measurement. These unobservable inputs reflect the entity's own estimates for assumptions that market participants would use in pricing the asset or liability. Valuation techniques would typically include discounted cash flow models and similar techniques, but may also include the use of market prices of assets that are not directly comparable to the subject asset.

The fair value measurement of an asset within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. Valuation techniques used need to maximize the use of observable inputs and minimize the use of unobservable inputs. The categorization of an investment within the fair value hierarchy is based upon the pricing transparency of the investment and does not necessarily correspond to the Authority's perceived risk of that investment.

**Valuation Methodologies:** The following valuation methods and assumptions were used by the Authority in estimating the fair value of financial instruments that are measured at fair value on a recurring basis under GASB Statement No. 72:

*FNMA and GNMA Certificates:* Valued at the closing price reported on the active exchange on which the individual securities are actively traded. Securities that are not actively traded are valued using a matrix pricing technique based on the securities' relationship to quoted benchmark prices.

The methods and assumptions described above may produce a fair value calculation that may not be indicative of net realizable value or reflective of future fair values. Furthermore, while the Authority believes its valuation methodologies are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine fair value of certain financial instruments could result in a different fair value measurement at the reporting date. There were no changes in the methods and assumptions used for the year ended September 30, 2019.

**Fair Value of Investments:** The financial assets measured at fair value on a recurring basis include the Authority's FNMA and GNMA Certificates. There were no liabilities measured at fair value on a recurring basis at September 30, 2019. The fair value of the Authority's FNMA and GNMA Certificates at September 30, 2019 and 2018 were all considered to be Level 2 assets.

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## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE C - NOTES RECEIVABLE

Changes in notes receivable for the years ended September 30, 2019 and 2018 consisted of the following:

September 30, 2019	Balance at Beginning of Year	Advances	Repayments	Balance at End of Year	Current Portion
Community Land Trust of Palm Beach County - DLW	\$ 2,387,946	\$ -	\$ (1,910,395)	\$ 477,551	\$ 477,551
Community Land Trust of Palm Beach County - Kirk Road	227,138	974,376	(1,201,514)	-	-
West Palm Beach Housing Authority	-	274,627	(232,294)	42,333	42,333
Palm Beach Habilitation Center	395,000	491,513	(390,000)	496,513	496,513
Delray Beach Housing Authority	-	229,904	-	229,904	-
	<u>3,010,084</u>	<u>\$ 1,970,420</u>	<u>\$ (3,734,203)</u>	1,246,301	<u>\$1,016,397</u>
Current portion	<u>2,782,946</u>			<u>(1,016,397)</u>	
Noncurrent portion	<u>\$ 227,138</u>			<u>\$ 229,904</u>	
September 30, 2018	Balance at Beginning of Year	Advances	Repayments	Balance at End of Year	Current Portion
Community Land Trust of Palm Beach County - DLW	\$ 2,894,026	\$ 457,708	\$ (963,788)	\$ 2,387,946	\$ 2,387,946
Community Land Trust of Palm Beach County - Kirk Road	-	465,007	(237,869)	227,138	-
Palm Beach Habilitation Center	-	395,000	-	395,000	-
	<u>2,894,026</u>	<u>\$ 1,317,715</u>	<u>\$ (1,201,657)</u>	3,010,084	<u>395,000</u>
Current portion	<u>(2,894,026)</u>			<u>(2,782,946)</u>	<u>\$ 2,782,946</u>
Noncurrent portion	<u>\$ -</u>			<u>\$ 227,138</u>	

During the year ended September 30, 2016, the Authority approved a \$1,500,000 revolving loan agreement, which was increased to \$3,400,000 during the year ended September 30, 2017, with Community Land Trust of Palm Beach County - DLW to construct 24 deed-restricted, low to moderate income single-family residences and townhomes located in the City of Lake Worth, Florida. The loan is secured by a first mortgage lien on the site, an assignment of all sales agreements, leases, grants, profits, contracts, plans and specifications related to the project. The loan's original maturity date of June 30, 2019



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## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE C - NOTES RECEIVABLE (Continued)

was extended to September 30, 2020, and it bears interest at 2% per annum through March 31, 2018, at 3% per annum from April 1, 2018 through September 30, 2018, and no interest is due from October 1, 2018 through maturity. Payments of interest only were payable the first day of each month from May 1, 2016 through September 30, 2018. No further draws are permitted under the loan.

During the year ended September 30, 2017, the Authority approved a \$1,000,000, (\$800,000 if only 6 homes are built), revolving loan agreement with Community Land Trust of Palm Beach County - Kirk Road, for the Kirk Road project, to construct 8 deed-restricted, low to moderate income single-family residences and duplexes located in the Village of Palm Springs, Florida. The loan is due no later than October 31, 2019 and bears interest at 2% per annum. Payments of interest only are payable the first day of each month from December 1, 2017 through maturity. The loan is secured by a mortgage lien on the properties and was paid in full in July 2019.

During the year ended September 30, 2017, the Authority approved a \$250,000 revolving loan agreement with West Palm Beach Housing Authority to acquire, construct, renovate and equip single or multifamily residential housing units in the City of West Palm Beach, Florida. Each advance will be supported by a separate note with one of three repayment options. Notes maturing in one year or less, more than one year but not more than two years, and more than two years but not more than three years, will bear interest at 1%, 2% and 3% per annum, respectively. The amounts advanced in 2019 and outstanding at September 30, 2019 mature on November 1, 2019. Payments of interest only are due monthly. The notes are secured by a lien on the projects for which the loan proceeds are used. The amount available at September 30, 2019 was \$207,667.

During the year ended September 30, 2018, the Authority approved a \$1,000,000 revolving loan agreement with Palm Beach Habilitation Center to finance a portion of the cost of connecting JB Ranch Facility to the Palm Beach County water and sewer system and the cost of acquiring, constructing and equipping a new six unit group home in Wellington, Florida. The note initially bore interest at 1% per annum through the maturity date of April 30, 2019. Effective April 1, 2019, the maturity date was extended to April 30, 2020 and the interest rate was increased to 2% per annum, retroactive to the date of the initial advance. Payments of interest only are payable the first day of each month from May 1, 2018 through maturity. The loan is secured by a lien on, and security interest in, the borrower's investment account at its bank and any grants or donations received for the project. The loan also requires repayment of amounts equal to the amount of grants/donations received from certain entities as defined in the loan agreement. The amount available at September 30, 2019 was \$503,487.

During the year ended September 30, 2019, the Authority approved a \$2,450,000 loan agreement with Delray Beach Housing Authority to fund pre-construction and construction costs of a 54-unit townhome subdivision known as Island Cove in Delray Beach, Florida. Amounts loaned to fund pre-construction costs may not exceed \$750,000 and the outstanding loan balance to fund all costs may not exceed \$2,450,000. The portion of the loan which funds pre-construction costs is not revolving and the portion of the loan which funds construction costs is revolving. The note bears interest at 1% per annum and matures three years from date of the initial advance. Payments of interest only are payable the first day of each month from August 1, 2019 through maturity. The loan is secured by a mortgage lien on the properties. The amount available for pre-construction costs at September 30, 2019 was \$520,096. The total amount available under the loan at September 30, 2019 was \$2,220,096.



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## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE D - DOWN PAYMENT SECOND MORTGAGE ASSISTANCE - LOANS RECEIVABLE

During the year ended September 30, 2013, the Authority entered into an interlocal agreement with the Lee County Housing Finance Authority ("Lee HFA") to originate first mortgage loans in Palm Beach County (the "Single Family Loan Program"). Lee HFA entered into first mortgage origination agreements with participating lenders to make 30-year fixed rate loans to homebuyers in their respective county. The Authority received income from its participation in the Lee HFA program in the amount of \$300,531 and \$165,565 during the years ended September 30, 2019 and 2018, respectively. During the years ended September 30, 2019 and 2018, the Authority disbursed \$510,000 and \$200,000, respectively, to fund second mortgages under its second mortgage loans (down payment assistance loans) program and received repayments of \$150,000 and \$93,718, respectively.

Management of the Authority believes that substantial uncertainty exists regarding the timing and the ultimate collectability of all of its down payment second mortgage assistance loans. The Authority treats the funding of the loans as a current expense and future repayments, if any, will be recorded as revenue when received. At September 30, 2019 and 2018 the outstanding balance of the down payment second mortgage assistance program loans totaled \$1,744,374 and \$1,384,374, respectively.

#### NOTE E - ESCROW DEPOSITS

Escrow deposits relating to Village of Valor and Brenton at Abbey Park consist of "good faith" deposits received from developers. These deposits are received at such time as a developer enters into a Memorandum of Agreement with the Authority in connection with the proposed issuance of bonds or a development loan. The amount of a good faith deposit is determined by the Authority's Board and is held in escrow to be returned in whole, without interest, to the developer at bond or loan closing, or under certain circumstances used to pay the Authority's and/or staff's costs and expenses if the bond or loan financing is not completed.

Escrow deposits at September 30, 2019 and 2018 are as follows:

	<u>2019</u>	<u>2018</u>
Good faith deposits:		
Village of Valor	\$ 55,000	\$ 55,000
Brenton at Abbey Park	<u>55,000</u>	<u>-</u>
Total	<u>\$ 110,000</u>	<u>\$ 55,000</u>

During the year ended September 30, 2019, the Authority received \$55,000 of deposits from developers and there were no refunds to developers. During the year ended September 30, 2018, the Authority received \$65,000 of deposits from developers and refunded \$115,000 to developers.

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## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE F - LOAN PROGRAM ASSISTANCE

During the year ended September 30, 2003, the Authority provided for the extension of the loan origination period of the 2001 Series A Single Family Mortgage Bond Program funds for a second mortgage program in an amount up to \$7,500 to assist mortgagors with the closing costs and down payment requirements for the purchase of their home. The loans bear interest at 1% which is due at the time the mortgagors' first mortgage loan is satisfied. Because of the speculative nature of this loan program, the Authority treats the funding of such loans as a current expense and the future repayments, if any, as revenue when received. The Authority contributed \$103,315 to establish this second mortgage program in fiscal 2002. The balance due under these loans as of September 30, 2019 and 2018 was \$11,365 and \$11,365, respectively. No payments were received on these loans during the year ended September 30, 2019 or 2018.

#### NOTE G - UNRESTRICTED NET POSITION

At September 30, 2019 and 2018, unrestricted net position includes amounts approved by the Board of the Authority for the following purposes:

	<u>2019</u>	<u>2018</u>
Down Payment Second Mortgage Assistance Program - Single Family Loan Program	\$ 1,066,473	\$ 1,415,626
Purchase of Single Family Program Mortgage Backed Securities	1,650,000	1,491,148
Construction Loan Programs:		
Community Land Trust of Palm Beach County - DLW	-	1,012,054
Habitat for Humanity of South Palm Beach County, Inc.	500,000	500,000
West Palm Beach Housing Authority	207,667	250,000
Community Land Trust of Palm Beach County - Kirk Road	-	772,862
Palm Beach Habilitation Center	503,487	605,000
Delray Beach Housing Authority	2,220,096	-
Additional surplus loans	<u>1,572,449</u>	<u>100,000</u>
Total Construction Loan Programs	7,720,172	6,146,690
Undesignated	<u>4,503,369</u>	<u>5,745,702</u>
Total Net Position	<u>\$ 12,223,541</u>	<u>\$ 11,892,392</u>

In 2011, 2012 and 2013 the Authority Board approved various down payment second mortgage assistance programs which are ongoing at September 30, 2019 (see Note D).

The Authority Board approved \$1,650,000 for a single family loan purchase fund. At September 30, 2019 and 2018, \$1,650,000 and \$1,491,148, respectively, remained available for use. Of the \$1,650,000 available at September 30, 2019, the Board approved \$158,852 for a 2006-1 Bond purchase and \$1,430,000 for the Brooks Subdivision project.

# DRAFT

## HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

### NOTES TO FINANCIAL STATEMENTS

September 30, 2019 and 2018

#### NOTE G - UNRESTRICTED NET POSITION (Continued)

During the year ended September 30, 2015, the Authority approved a revolving construction loan for Palm Beach County Community Land Trust - DLW for \$3,400,000. At September 30, 2019 and 2018, \$0 and \$1,012,054, respectively, was available for Community Land Trust of Palm Beach County - DLW.

On May 12, 2017, the Authority approved a revolving construction loan for Habitat for Humanity of South Palm Beach County, Inc. in the amount of \$500,000 to finance the construction of homes by Habitat for Humanity of South Palm Beach County, Inc. The loan was issued on October 5, 2017 but no draws were made as of September 30, 2019 and 2018.

On November 18, 2016, the Authority approved a \$250,000 loan to the West Palm Beach Housing Authority. The loan was issued on September 29, 2017, and the amount available as of September 30, 2019 and 2018, was \$207,667 and \$250,000, respectively.

During the year ended September 30, 2017, the Authority approved a \$1,000,000 (\$800,000 if only 6 homes are built) revolving loan agreement with Community Land Trust of Palm Beach County - Kirk Road to construct 8 deed-restricted, low to moderate income single-family residences and duplexes located in the Village of Palm Springs, Florida. The amount available at September 30, 2019 and 2018 was \$0 and \$772,862, respectively.

During the year ended September 30, 2018, the Authority approved a revolving construction loan for Palm Beach Habilitation Center in the amount of \$1,000,000. At September 30, 2019 and 2018, \$503,487 and \$605,000, respectively, remains available under this loan.

During the year ended September 30, 2019, the Authority approved a \$2,450,000 loan agreement with Delray Beach Housing Authority to fund pre-construction and construction costs of a 54-unit townhome subdivision known as Island Cove in Delray Beach, Florida. The amount available at September 30, 2019 was \$2,220,096.

Prior to the year ended September 30, 2016, the Authority approved \$1,100,000 for additional surplus loans. At September 30, 2019 and 2018, \$1,572,449 and \$100,000, respectively, remains available for additional surplus loans.

DRAFT

**COMPLIANCE REPORT AND  
MANAGEMENT LETTER**

# DRAFT

## Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance With *Government Auditing Standards*

To the Honorable Chair and Members of the Board  
Housing Finance Authority of Palm Beach County  
West Palm Beach, Florida

We have audited, in accordance with U.S. generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the Housing Finance Authority of Palm Beach County, Florida (the "Authority"), a component unit of Palm Beach County, Florida, as of and for the year ended September 30, 2019, and the related notes to the financial statements, and have issued our report thereon dated February 4, 2020.

### **Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statements, we considered the Authority's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Authority's internal control. Accordingly, we do not express an opinion on the effectiveness of the Authority's internal control.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

# DRAFT

## **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the Authority's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

## **Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

West Palm Beach, Florida  
February 4, 2020

# DRAFT

## Management Letter

To the Honorable Chair and Members of the Board  
Housing Finance Authority of Palm Beach County  
West Palm Beach, Florida

### **Report on the Financial Statements**

We have audited the financial statements of the Housing Finance Authority of Palm Beach County, Florida, a component unit of Palm Beach County, Florida, as of and for the fiscal year ended September 30, 2019, and have issued our report thereon dated February 4, 2020.

### **Auditor's Responsibility**

We conducted our audit in accordance with U.S. generally accepted auditing standards; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Chapter 10.550, Rules of the Auditor General.

### **Other Reporting Requirements**

We have issued our Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards* and Independent Accountant's Report on an examination conducted in accordance with *AICPA Professional Standards*, AT-C Section 315, regarding compliance requirements in accordance with Chapter 10.550, Rules of the Auditor General. Disclosures in those reports, which are dated February 4, 2020, should be considered in conjunction with this management letter.

### **Prior Audit Findings**

Section 10.554(1)(i)1., Rules of the Auditor General, requires that we determine whether or not corrective actions have been taken to address findings and recommendations made in the preceding financial audit report. There were no findings or recommendations made in the preceding financial audit report.

### **Official Title and Legal Authority**

Section 10.554(1)(i)4., Rules of the Auditor General, requires that the name or official title and legal authority for the primary government and each component unit of the reporting entity be disclosed in this management letter, unless disclosed in the notes to the financial statements. This information is disclosed in Note A to the financial statements. There were no component units related to the Authority.

### **Management**

# DRAFT

Section 10.554(1)(i)2., Rules of the Auditor General, requires that we communicate any recommendations to improve financial management. In connection with our audit, we did not have any such recommendations.

## **Additional Matters**

Section 10.554(1)(i)3., Rules of the Auditor General, requires us to communicate noncompliance with provisions of contracts or grant agreements, or abuse, that have occurred, or are likely to have occurred, that have an effect on the financial statements that is less than material but warrants the attention of those charged with governance. In connection with our audit, we did not note any such findings.

## **Purpose of this Letter**

Our management letter is intended solely for the information and use of the Legislative Auditing Committee, members of the Florida Senate and the Florida House of Representatives, the Florida Auditor General, Palm Beach County, and the Governing Board, Audit Committee and management of the Housing Finance Authority of Palm Beach County, Florida, and is not intended to be and should not be used by anyone other than these specified parties.

West Palm Beach, Florida

February 4, 2020



# DRAFT

## Independent Accountant's Report on Investment Compliance

To the Honorable Chair and Members of the Board  
Housing Finance Authority of Palm Beach County  
West Palm Beach, Florida

We have examined the Housing Finance Authority of Palm Beach County, Florida's (the "Authority", a component unit of Palm Beach County, Florida) compliance with Section 218.415, Florida Statutes, during the year ended September 30, 2019. Management of the Authority is responsible for the Authority's compliance with the specified requirements. Our responsibility is to express an opinion on the Authority's compliance with the specified requirements based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Authority complied, in all material respects, with the specified requirements referenced above. An examination involves performing procedures to obtain evidence about whether the Authority complied with the specified requirements. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material noncompliance, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

Our examination does not provide a legal determination on the Authority's compliance with the specified requirements.

In our opinion, the Authority complied, in all material respects, with Section 218.415, Florida Statutes, during the year ended September 30, 2019.

This report is intended to describe our testing of compliance with Section 218.415, Florida Statutes, and is not suitable for any other purpose.

West Palm Beach, Florida  
February 4, 2020

## Tab 5

### VIII. Other Matters - attachments

- a. Matters of Executive Director
  - i. Memorandum
  - ii. News articles

To: Housing Finance Authority

From: Executive Director

Date: March 5, 2020

RE: Matters of Executive Director

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### **NALFHA and FL ALHFA annual conferences**

The NALHFA conference in New York City is May 6-9 at the New York Hilton Midtown. Hotel reservations require conference registration, so if you plan on attending please let me know and I will handle the conference registration.

The FL ALHFA conference is in Sarasota at The Westin on July 8-11.

### **Matters of board members discussion from the last meeting**

Under “Matters of Authority Members” at the February 14 meeting, there was discussion of both the Glades Glen/Grand Lake Apartments in Belle Glade and Stonybrook in Riviera Beach. While the last 80 occupied units at Grand Lake were vacated in the fall of 2018, HES has advised me that a new owner purchased the property last fall and that they have begun rehabbing units. I have included two news articles on Stonybrook as well as made inquiry with John Hurt at the RBHA.

### **Florida legislative update**

There will be a Florida Housing Coalition webinar on March 6 updating the legislative budget process. The previous webinar on February 20 showed a House proposal to sweep of \$200M of SHIP funds to general revenue with the Governor and Senate supporting full funding. The 2020 Regular Session is scheduled to end March 13, however with the Senate and House far apart the news earlier this week from leadership suggests they may be heading for a special session to resolve the budget.

# The Palm Beach Post

REAL NEWS STARTS HERE

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## Tenants protesting rats, mold at Stonybrook Apartments get eviction notices

By Julius Whigham II

Posted Nov 27, 2019 at 7:31 AM

Updated Nov 27, 2019 at 1:43 PM

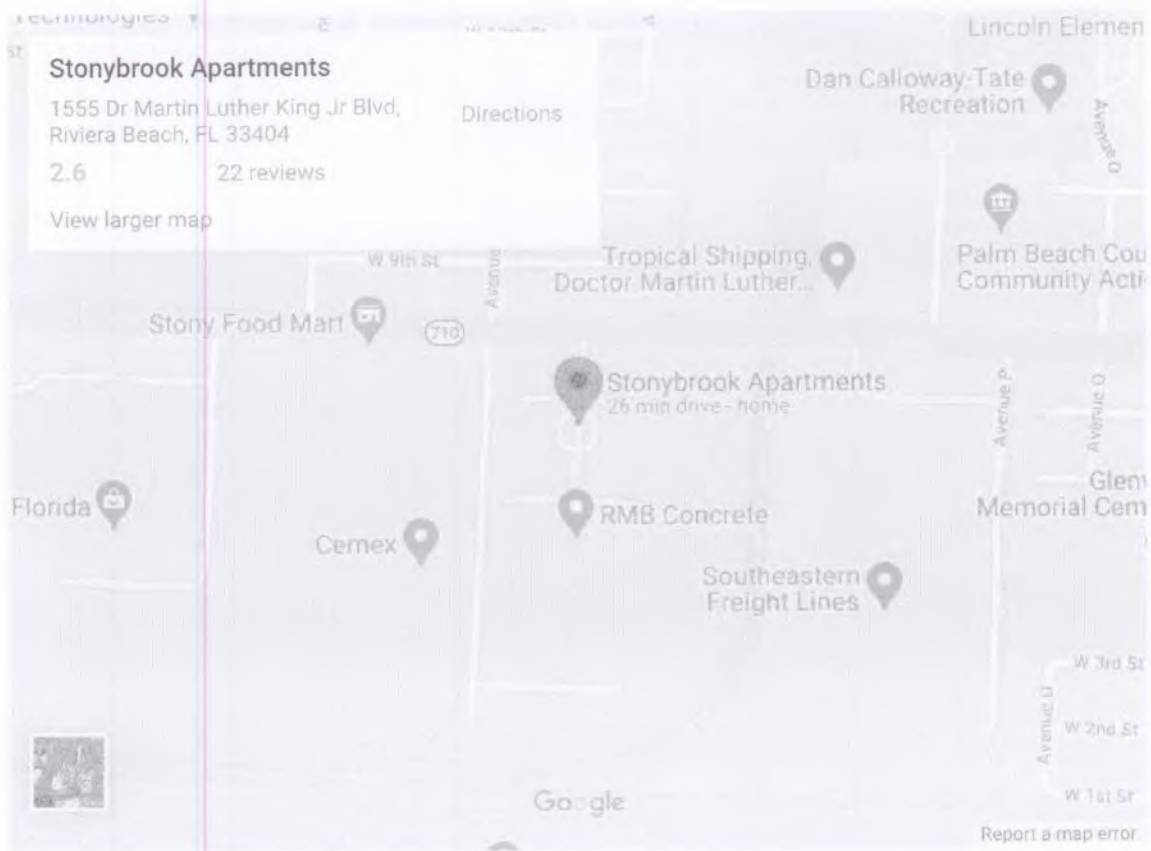
A tenants union says the owners of the Stonybrook Apartments sent the eviction notices in retaliation for the tenants withholding their rent payments.

RIVIERA BEACH - Eight residents involved in recent protests against the owners of the Stonybrook Apartments in Riviera Beach were served eviction notices during the past week, an act that a local tenants' union says is retaliation for residents speaking out about poor living conditions at the property.

About 20 people gathered outside the Palm Beach County State Attorney's Office last week to ask for better living conditions at Stonybrook, and to ask that prosecutors file criminal charges against Jeff Gagnon, Riviera Beach's acting director of development.

4 Article(s)  
Remaining

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A complaint filed against Gagnon with the State Attorney's Office alleges several transgressions, including the claim that he intimidated a former building department employee into removing red tags from condemned residences at Stonybrook, off Martin Luther King Jr. Boulevard east of Congress Avenue.

"Since that protest, a lot of the people who participated have received eviction notices," Adam Wasserman, co-founder of the Palm Beach County Tenants Union, said Tuesday. "Seven of the key tenant leaders have received (the notices). . . . In general, it's just landlord retaliation for residents speaking out."

Lawsuits were filed against the city and the owners in 2018 and then again in 2019 on behalf of residents "regarding the inhumane and demonstratively environmentally unsafe housing conditions at Stonybrook apartments." The two lawsuits were consolidated into one, and the case remains open, according to court records.

**MORE** **4** **Articles** you want better conditions at Stonybrook, criminal charges for Riviera official  
4 Remaining

A spokeswoman for Millennia Housing Management, the company that manages Stonybrook, said Tuesday she was unable to comment due to the pending litigation. Millennia, also known as Azure Estates, is based in Cleveland and manages more than



30,000 apartment units across the country, according to the company's website.

The company alleges that those facing eviction have gone several months without paying rent. Wasserman said the residents have legally withheld rent until their concerns are addressed.

Among various complaints, residents of the privately owned low-income community, which receives financial assistance from U.S. Department of Housing and Urban Development, have said their apartments are covered in mold, have roaches and rats and are in complete disrepair.

Crystal Lewis, a Stonybrook resident and a co-founder of the tenants union, said in a response posted on Facebook that she is one of the residents facing eviction.

"Now that we have a strong tenant leader that's not giving up, their plan is to throw us all out on our face," Lewis wrote in the Facebook post Tuesday. "Everyone who stood up is working class people. No. we don't wanna live like this, we're forced to live like this. Not anymore!"

[jwhigham@pbpost.com](mailto:jwhigham@pbpost.com)

[@JuliusWhigham](#)

4 Article(s)  
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RIVIERA BEACH



# Stonybrook tenants say they are filing a lawsuit

Posted: 6:45 PM, Jan 28, 2019 Updated: 6:45 PM, Jan 28, 2019



By: Tania Rogers



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RIVIERA BEACH, Fla. — Crystal Lewis says the remaining tenants at the Stonybrook Apartments in Riviera Beach are fed up with the deplorable conditions.

Tenants are complaining for almost two years of holes in the walls and rat and roach infestations.

"Our lawyer is filing a petition today a lawsuit against the city of Riviera Beach, Millennia and GMF." "Renovations was supposed to take place November 1st, they haven't done nothing yet."

Global Ministries owned the apartments when tenants first complained. But Millennia Housing Management acquired the property this month.

"I feel as if nothing is going to change", said Lewis.

Millennia went before the city council last year proposing a 13 million dollar renovation plan. Today, Valerie Jerome, the spokesperson for Millennia shared this statement:

"We have not been served with a complaint, but it is our policy not to comment on pending litigation."

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candidate in the District 3 race said, "The residents and the people of Stonybrook deserve better."

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# Commissioner: Let's double bond issue to include homeless

Environmental bond focuses on water issues; Bernard's proposal brings in housing situation



*Bernard*

BY HANNAH MORSE  
THE PALM BEACH POST

WEST PALM BEACH - Initially dismissive of a potential ballot initiative for a \$150 million bond for environmental projects, Palm Beach County Commissioner Mack Bernard on Tuesday suggested asking voters for more money and added another cause — addressing homelessness.

The commissioner offered the idea following a heated and emotional discussion sparked by recent reporting by The Palm Beach Post on a burgeoning “tent city” within John Prince Memorial Park. Bernard's suggestion effectively would double the proposed bond to \$300 million in order to support projects for housing and homelessness.

The Post reported Tuesday that Palm Beach County officials planned to start clearing homeless people out of the park west of Lake Worth Beach, starting with a “mass assessment” today.

That elicited an at times emotional discussion during Tuesday's commission meeting, with County Administrator Verdenia Baker visibly distraught at the notion that the county was just trying to clear out the park.

“Your administrator believes that it is our responsibility to help the people



that are voiceless and to help those (who are) the least among us. That's my personal charge," Baker said, fighting to hold back tears. "I want this board to know that it is my intent to move forward with this project in a humane way and not go in and just move people out. That is not my intent."

In Bernard's proposal, the additional \$150 million would be split three ways. One-third would be allocated for homelessness prevention and housing, another third would go toward affordable housing for seniors and families, and the last third would be designated for workforce housing.

But Bernard said he wasn't trying to steal the spotlight from county Mayor Dave Kerner, who said he worked on his environmental bond issue for 18 months. Kerner's proposal would deal largely with restoration of critical water ways, water supply storage and improving water quality.

When Kerner presented the environmental bond in November, Bernard said he thought it would give the appearance that the county prioritizes the environment over all else.

"My comments (are) not to create a fight between water and housing," Bernard said Tuesday. "My comments are for us to address both issues and tackle both issues at the same time."

Commissioners on Tuesday offered advice about how to move forward. Vice-Mayor Robert Weinroth suggested that the two bond proposals remain separate on the ballot.

"I think that we have two fundamentally different issues in front of us, and I think it's important that we give our constituents an opportunity to weigh in on each on an individual basis," he said.

Commissioner Hal Valeche said he wasn't necessarily opposed to Bernard's idea, but had pause about putting another tax on residents, suggesting instead a revenue bond or more incentives for developers.

"One thing I'm concerned about is we're trying to address problems that we typically address through the budget process, through a bond issue," Valeche said, adding that Kerner's bond proposal "put the idea in people's heads we really can finance a lot of what we we're trying to do, and what we should be doing as a commission, through a bond issue."



Commissioner Mary Lou Berger urged that the county is specific about how the money would be used.

"If you tell the voters exactly what you're going to do with the money, they're more than likely to come back and say yes that's a good idea, sounds great," she said.

If either bond proposal moves forward, commissioners generally agreed it would be best to present them to voters in November, meaning ballot language will have to be finalized in July.

"We're facing a crisis in Palm Beach County," Bernard said. "There's a shortage of affordable housing and workforce housing and now we're dealing with this increase in homeless housing situation that we really need to create a solution for our residents and for us to make a decision as soon as possible to address the need of our residents immediately."

The discussion came after a particularly passionate back-and-forth, punctuated by Baker's poignant statement, about the county's more immediate plan to conduct a "mass assessment" today of the nearly 140 people living in the park.

Emails between Palm Beach County Sheriff's Office officials say that county social workers will conduct a "mass assessment" to assist those in need of housing or services to help with mental health or substance abuse. The plan also includes offering Traveler's Aid to help people reunite with friends and family from where they came.

Bernard said he was surprised to learn about the plan in a Post story, and demanded that he and his fellow commissioners receive it in writing.

"As a commissioner, I haven't been presented this plan at all and I don't know if the other commissioners have been presented this plan," he said. "I believe for us to be commissioners and for the county to have this plan, I believe it's so important for us to have it."

County Administrator Baker said staff would be working on a longer term plan to present to commissioners by the end of February, but the 39 municipalities within Palm Beach County's borders would have to be part of

THE SOLUTION.

hmorse@pbpost.com @mannahorse