

## Tab 2

### V. Old Business - attachments

- a. Habitat for Humanity of South Palm Beach County
  - i. Resolution No. R-2017-02 with exhibits

RESOLUTION NO. 2017-02

A RESOLUTION OF THE HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA; APPROVING A LOAN TO HABITAT FOR HUMANITY OF SOUTH PALM BEACH COUNTY, INC. IN AN AMOUNT NOT TO EXCEED \$500,000, IN SUBSTANTIAL ACCORDANCE WITH A TERM SHEET RELATING TO SAID LOAN; APPROVING THE FORM OF AND AUTHORIZING ENTERING INTO A MEMORANDUM OF AGREEMENT WITH HABITAT FOR HUMANITY OF SOUTH PALM BEACH COUNTY, INC.; APPROVING THE FORM OF AND AUTHORIZING ENTERING INTO A LOAN AGREEMENT WITH HABITAT FOR HUMANITY OF SOUTH PALM BEACH COUNTY, INC.; AUTHORIZING ENTERING INTO OTHER LOAN DOCUMENTS CONSISTENT WITH THE TERM SHEET, MEMORANDUM OF AGREEMENT AND LOAN 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**, Habitat for Humanity of South Palm Beach County, Inc. (the "Applicant") has submitted an application (the "**Application**") to the Authority for a loan of the Authority's Surplus Funds in an aggregate principal amount of not to exceed \$500,000 (the "**Loan**") to finance a portion of the development of the Project, as described in the Application and in the Term Sheet attached as Exhibit "A" hereto;

**WHEREAS**, based upon the Application and subject to further review and analysis, the Authority has determined that the Project constitutes Eligible Housing within the meaning of the Authority's policies and procedures for the use of surplus funds ("**Surplus Fund Policy**"); and

**WHEREAS**, the Authority, at its regular meeting on February 10, 2017, approved the Application and gave conceptual approval for such Loan, and authorized the preparation of loan terms and documents for presentation to and final approval by the Authority; 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 Project.

**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 Loan.** The Authority hereby approves the making of a loan to Applicant in an aggregate principal amount of not to exceed \$500,000 (the "**Loan**") to finance a portion of the Project, in substantial accordance with the Application and the Term Sheet attached as Exhibit "A" hereto (the "**Term Sheet**").

**Section 3: Approval and Execution of Memorandum Agreement with Applicant.** The Authority is hereby authorized to enter into a Memorandum of Agreement with the Applicant in substantially the form attached as Exhibit "B" hereto (the "**Agreement**"). The Chairperson or, in the Chairperson's absence, any other member of the Authority, is hereby authorized to execute and deliver the Agreement, and the Secretary (or, in his absence, any Assistant Secretary) of the Authority is hereby authorized to affix the Seal of the Authority and attest to the execution of the Agreement, the execution thereof by the Authority being conclusive evidence of the approval of the form of such Agreement.

**Section 4: Approval and Execution of Loan Agreement with Applicant.** The Authority is hereby authorized to enter into a Loan Agreement with the Applicant in substantially the form attached as Exhibit "C" hereto (the "**Loan Agreement**"). The Chairperson or, in the



Chairperson's absence, any other member of the Authority, is hereby authorized to execute and deliver the Loan Agreement, the execution thereof by the Authority being conclusive evidence of the approval of the form of such Loan Agreement.

**Section 5: Authority to Enter into Other Loan Documents.** The Authority is authorized to enter into such other loan documents with the Applicant as are usual and customary for a loan of this type, so long as such documents are consistent with the provisions of the Term Sheet and the Loan Agreement. Such documents shall be in such form as may be approved by the Chairperson or other member of the Authority executing such documents, with the advice of the Executive Director and of the Authority and general counsel to the Authority, such execution and delivery to be conclusive evidence of the approval and authorization thereof by 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, the Authority's general counsel, are hereby authorized and directed to do all acts and things required of them by the provisions of 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 12th day of May, 2017.

(SEAL)

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

ATTEST:

By: \_\_\_\_\_  
Name: Charles V. St. Lawrence  
Title: Chairperson

By: \_\_\_\_\_  
Name: Robin B. Henderson  
Title: Secretary

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

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

EXHIBIT "A"

TERM SHEET



## LOAN TERM SHEET FOR DISCUSSION

- 1) **Borrower/Lender:** Habitat for Humanity of South Palm Beach County, Inc. ("HFH" as borrower)/Housing Finance Authority of Palm Beach County ("HFA" as lender).
- 2) **Purpose:** To pay for all or a portion of the cost of acquiring residential lots in the Pearl City and Lincoln Court communities in the unincorporated area of or within the City of Boca Raton (the "Initial Project"). It is anticipated that the average acquisition price of these lots will be approximately \$60,000 and will be acquired in the name of HFH or HFHSPBC CLT, Inc. HFH will construct homes on these lots that will be sold to individuals and families with incomes at or below 80% of area median income ("Buyers"). In the event HFH is unable to acquire lots in the Initial Project Area, HFH may acquire other residential building lots within its area of operation (the "Expanded Project Area") on which it intends to build homes for sale to qualifying Buyers up to and including May 1, 2018 after which no further draws will be permitted unless an extension is approved by the HFA.
- 3) **Loan amount:** An amount not to exceed \$500,000.00 (five hundred thousand dollars). The Loan will be non-revolving.
- 4) **Loan closing/maturity date/loan term:** The Loan will close on or about June 1, 2017 and will mature on June 1, 2020.
- 5) **Interest rate and interest payments:** 3% simple interest in arrears calculated from the date of a draw to its subsequent repayment based on a 360-day year. Interest shall be payable monthly beginning July 1, 2017.
- 6) **Principal payments:** Any principal amount outstanding under the Loan may be prepaid at any time. There will be quarterly mandatory principal payments beginning March 1, 2018 in an amount equal to the amount of principal outstanding on the Note on such date divided by the number of principal payment dates through and including the maturity date.
- 7) **Late charge:** If more than 15 days past due a charge equal to 5% of the amount of interest due on that payment and if more than 30 days the charge will be 5% of the amount of the total past due payment amount.
- 8) **Loan fee/expenses:** HFH will pay HFA legal fees and reasonable out-of-pocket expenses as well as all other costs in connection with the Loan.
- 9) **Collateral:** A pledge of existing HFHSPBC CLT, Inc. first mortgage loans assigned to the HFA with a current unpaid principal balance at all times in excess of 125% of the maximum Loan amount outstanding and available. All pledged first mortgage loans must have been current in their monthly payments for the preceding 4 months. Any such first mortgage loan that becomes delinquent more than 30 days, or where HFH has provided any form of payment forbearance, must be replaced with another first mortgage loan such that the collateral requirement exceeds 125%. During the term of the Loan HFH will provide a

monthly report on the pledged collateral including certification that the then current months' payments have been remitted in full.

- 10) **Draw requests:** Prior to the first draw request for a particular lot HFA shall have received for the pledged collateral i) a recorded assignment of mortgages for the pledged collateral granting the HFA a first lien interest on the subject property, ii) copies of the original mortgagee title insurance policies and iii) evidence of standard homeowners and windstorm insurance all a form acceptable to the HFA. Each draw request shall include a copy of the lot purchase contract and a draft of the settlement statement.
- 11) **Other:** During the term of the Loan HFH will provide the HFA with a quarterly report summarizing the status of i) the purchase of lots (including a copy of the recorded deed and final settlement for each lot purchased during such quarterly period), ii) of construction of the homes, and iii) contracts for the sale of the homes. HFH will also provide HFA with a monthly servicing report on the pledged collateral and copies of their annual audited financial statements and annual IRS Form 990, and shall maintain certain insurance as specified by the HFA.

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Acknowledged and accepted by HFH

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Acknowledged and accepted by HFA



EXHIBIT "B"

MEMORANDUM OF AGREEMENT

## MEMORANDUM OF AGREEMENT

This **Memorandum of Agreement** is dated as of the 18<sup>th</sup> day of APRIL, 2017, 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 Habitat for Humanity of South Palm Beach County, Inc., a Florida not-for-profit corporation (together with its permitted successors or assigns, the "**Applicant**").

WHEREAS, the Authority is authorized and empowered by the provisions of the Constitution and laws of the State of Florida (the "**State**"), including, but not limited to, the Florida Housing Finance Authority Law, Part IV of Chapter 159, Florida Statutes, as amended (the "**Act**") and Sections 2-181 through 2-188, Code of Ordinances of Palm Beach County (the "**Code**") enacted by the Palm Beach County Board of County Commissioners (the "**County**"), to make loans from its surplus funds ("**Surplus Funds**") for the development of affordable housing ("**Eligible Housing**"); and

WHEREAS, the Applicant desires to finance the acquisition of up to ten (10) single family lots either (a) in the Pearl City and Lincoln Court neighborhoods in Boca Raton, Florida (the "Initial Project Area"), or (b) otherwise in the Applicant's area of operation (the "Expanded Project Area"), and to construct thereon homes to be owned by households with incomes not to exceed eighty percent (80%) of the area median income for the County (herein, the "**Project**"); and

WHEREAS, the Applicant has applied to the Authority for a loan of its Surplus Funds in an aggregate principal amount of not to exceed \$500,000 (the "**Loan**") to finance a portion of the cost of the Project; and

WHEREAS, it is anticipated that the Loan will be repaid from the Applicant's traditional sources of revenue; and

WHEREAS, based upon preliminary information made available to it and subject to further review and analysis, the Authority has preliminarily determined that the Project constitutes Eligible Housing within the meaning of the Authority's policies and procedures for the use of surplus funds ("**Surplus Fund Policy**"); and

WHEREAS, the Authority, at its regular meeting on February 10, 2017, approved the application of the Applicant and gave conceptual approval for such Loan, and authorized the preparation of loan terms and documents for presentation to and final approval by the Authority; and

WHEREAS, the Applicant desires the Authority to continue its review and analysis of the Applicant's request for a Loan from the Authority's Surplus Funds for the financing for the Project; 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 Project; and

NOW, THEREFORE, for good and valuable consideration, the parties hereto agree as follows:

1. The Authority agrees that:

(a) It will proceed with its review of the Applicant's application for a Loan and make a determination based on any and all factors it deems relevant, with an emphasis on the following factors:

1. readiness to proceed, including site control, governmental approvals and financial commitments;
2. amount requested;
3. term of Loan requested, which shall be approximately three (3) years;
4. interest rate requested for Loan, which shall not exceed a fixed rate of three percent (3%) per annum;
5. repayment structure, which shall be a draw down loan;
6. lien priority, security and source of repayment;
7. leveraging of Authority funds, including other lending sources (such as LISC, CFC, commercial banks) and other soft funding (such as FHFC PLP, SAIL, SHIP, HOME, CWHIP, RRLP, CDBG, county/city/CRA commitments applied for or received);
8. geographic targeting -- such as priority to unincorporated County, County designated target areas, Glades area; and
9. neighborhood impact of proposed Project, including other redevelopment/infrastructure improvements by others.

(b) If it deems necessary, the Authority will submit the Applicant's application for a Loan to a credit underwriter of its choice for a recommendation regarding the economic feasibility of the Project and the Applicant's ability to complete the Project and repay the Loan according to its terms if such Loan is made.

(c) In the event the Authority determines to grant the Applicant's request for a Loan, it will enter into negotiations with the Applicant in good faith for the determination of specific Loan terms and, at or prior to the time of the award of the Loan, the Authority will enter into a loan agreement with the Applicant to provide for the terms and conditions of the Loan.

2. The Applicant agrees that:

(a) It will provide all information and documentation requested by the Authority and its professionals in connection with the Authority's review and consideration of the Loan request; and

(b) If the Authority grants the Applicant's request for a Loan, it will enter into a loan agreement with the Authority, under the terms of which, among other things, the



Applicant may be obligated to pay to the Authority installments of principal and interest on the Loan; and

(c) It will assign to the Authority the Applicant's interest in certain first mortgages held by the Applicant, and provide such other security for the Loan as may be determined appropriate by the Authority; and

(d) It will, if required by the Authority, execute a promissory note in favor of the Authority for the full amount of the Loan; and

(e) It will execute such other documents as determined necessary by the Authority in connection with the making of the Loan and the use of the proceeds thereof; and

(f) If the net proceeds of the Loan shall be less than the cost of the Project, the Applicant agrees to complete the Project at the Applicant's expense; and

(g) As a condition to the making of the Loan, the use of the Project will be subject to certain limitations and restrictions relating to the requirements for Eligible Housing pursuant to the Authority's Surplus Fund Policy; and

(h) It will pay all costs and expenses incurred by the Authority in connection with the grant of the Loan, including, but not limited to, credit underwriting costs (which costs, or a portion thereof, the Applicant shall pay directly to the credit underwriter prior to commencement of the credit underwriting process) and attorneys' fees and costs.

3. It is the intent of the parties hereto that the Loan shall be subject to such terms and conditions all as may be mutually agreed upon by the parties in accordance with the requirements and provisions of the Constitution of the State, the Act, the Code and the Authority's Surplus Fund Policy.

4. The grant of a Loan by the Authority shall be subject to an adequate amount of Surplus Funds being available. The Authority makes no representation as to the amount of Surplus Funds available during the time the Applicant's application is considered and makes no representation that Applicant's request shall have priority over any other application for a Loan from the Authority's Surplus Funds.

5. The Applicant agrees to indemnify, defend and hold harmless the Authority, its members and its agents against any and all liability, loss, costs (including credit underwriting and market study), cost overruns, 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 Applicant with respect to the execution and delivery of this Memorandum of Agreement, the consideration of the Applicant's request for a Loan from the Authority's Surplus Funds, or the making of such Loan. The Applicant 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 grant the Loan regardless of the reason therefor.

6. The Applicant will, within five (5) days from the date of execution of this Memorandum of Agreement, deliver to the Authority a good faith deposit payable to the



Authority in the amount of \$10,000 (the "**Good Faith Deposit**") to cover expenses of the Authority related to the determination of whether to make the Loan and the preparation and finalization of a loan agreement, mortgage, promissory note and any other documents required by the Authority in connection with the Loan and the use of the proceeds thereof. The Good Faith Deposit will be held in escrow by the Authority until either (i) Loan closing at which time it will, at the Applicant's option, be returned to the Applicant or applied to the Authority's costs, (ii) there has been an abandonment/withdrawal by the Applicant of its application for the Loan or (iii) the Applicant and the Authority have determined that they cannot agree on mutually acceptable terms governing the Loan. If any of the events in (ii) or (iii) shall have occurred, the Authority shall be entitled to the Good Faith Deposit to pay actual expenses incurred by the Authority, which shall be allocated to the providers of such services on a pro rata basis based on total amount of fees incurred with respect to each service provider as of the date the Authority makes such allocation. Any amount of the Good Faith Deposit remaining after the payment of these costs will then be returned to the Applicant; provided, however, that if the actual expenses incurred by the Authority exceed the amount of the Good Faith Deposit, the Applicant will be responsible for payment to the Authority of the excess.

7. 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 making of the Loan or the construction of the Project; and the Authority shall not be responsible nor held liable for any costs or damages incurred by any party as a result thereof.

8. At or prior to the time of making of the Loan and the disbursement of Loan proceeds, the following conditions precedent shall have been satisfied:

(a) The Applicant shall have satisfactorily completed all procedures established by the Authority for the review and approval of a Surplus Fund Loan for Eligible Housing and shall have provided for the payment of all costs associated with the making of the Loan, including, but not limited to, the fees and expenses of the Authority, its General Counsel, underwriting fees and expenses, recording costs and other Loan closing costs; and

(b) The Authority shall have duly passed and adopted resolutions authorizing the making of the Loan and the execution, delivery and performance of the loan agreement and such other agreements, instruments and documents as may be required; and

(c) The Applicant shall have provided a satisfactory certificate or opinion of its counsel, as determined by the Authority, with respect to the due authorization, execution and delivery of the loan agreement, mortgage, promissory note and related agreements, instruments and documents, their legality, validity, binding effect and enforceability in accordance with their respective terms, and the absence of any violation of law, rule, regulation, judgment, decree or order of any court or other agency of government and agreements, indentures or other instruments to which the Applicant is a party or by which it or any of its property, is or may be bound and to such other matters as may be reasonably requested; and

(d) The Applicant shall have provided such other or additional representations, warranties, covenants, agreements, certificates, financial statements, and other proofs as may be required by the Authority or by Greenspoon Marder, P.A., as General Counsel to the Authority.



9. This Memorandum of Agreement shall terminate if for any reason the Authority shall determine not to make the Loan or if the Applicant shall provide written notice to the Authority of its desire to terminate this Memorandum of Agreement. Nothing contained herein, however, shall release the Applicant from its obligations to indemnify the Authority or pay the fees and costs incurred by the Authority in accordance with the terms of this Memorandum of Agreement.

10. 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 Applicant, upon the execution thereof, to the extent the terms thereof conflict with the terms contained herein.

11. Notwithstanding any other provision of this Memorandum of Agreement, as a matter of general assurance by the Applicant to the Authority, the Applicant hereby covenants and agrees that it will pay the fees of the Authority and all reasonable expenses, costs and obligations incurred by the Authority, including but not limited to the fees and expenses of General Counsel to the Authority and of any credit underwriter retained by the Authority in connection with the consideration of the Loan 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. Nothing contained in this Memorandum of Agreement shall ever be construed to constitute a personal or pecuniary liability or charge against the Authority of any member or officer or employee 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.

12. 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.

13. No covenant or agreement contained in this Memorandum of Agreement, the loan agreement, or in any other instrument relating to the Loan or the Project, shall be deemed to be a covenant or agreement of any member, officer, employee or agent of the Authority in an individual capacity, and neither the members nor any other officer of the Authority executing the any such agreements or instruments shall be liable personally thereon or be subject to any personal liability or accountability by reason thereof.

[Signature Page Follows]



IN WITNESS WHEREOF, the parties to the Memorandum of Agreement have set their hands and seal as of the day and year first above written.

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

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

(SEAL)

ATTEST:

\_\_\_\_\_  
Secretary

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

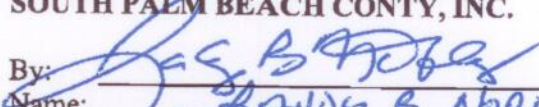
By:   
Name: RANDY B NOBLES  
Title: PRES & CEO

EXHIBIT "C"

FORM OF LOAN AGREEMENT

## LOAN AGREEMENT

**THIS LOAN AGREEMENT**, dated as of the \_\_\_\_ day of June, 2017 (the "Agreement"), is made by and between **HABITAT FOR HUMANITY OF SOUTH PALM BEACH COUNTY, INC.**, a Florida non profit corporation (the "Borrower") with its principal place of business located at 181 SE 5<sup>th</sup> Avenue, Delray Beach, Florida 33483 and **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 non-revolving loan in the principal amount of up to \$500,000 (the "Loan") to be advanced by the Lender pursuant to the terms hereof.

B. The Borrower will use the proceeds of the Loan to finance the acquisition of up to ten (10) single family lots either (a) in the Pearl City and Lincoln Court neighborhoods in Boca Raton, Florida (the "Initial Project Area"), or (b) otherwise in the Borrower's area of operation (the "Expanded Project Area"), upon which the Borrower shall construct homes to be owned by "Qualified Buyers" (i.e., households with incomes not to exceed eighty percent (80%) of the area median income for Palm Beach County) (herein, the "**Project**").

C. Borrower has made, executed and delivered to Lender that certain promissory note of even date herewith, in the principal sum of \$ 500,000.00 (the "**Note**");

D. The Borrower will, prior to the Lender making any advances under the Note, assign to Lender Borrower's interest in certain first mortgages owned by the Borrower on improvements to real property in Palm Beach County, Florida (the "**Mortgages**") and the Mortgage Notes related thereto (the "**Mortgage Notes**"), pursuant to a Collateral Assignment of Notes and Mortgages dated the date hereof, to be recorded in the Public Records of Palm Beach County, Florida (the "**Assignment of Mortgages**"), said Assignment of Mortgages being given to secure the payment of the sums to be advanced under the Note, and said Note and said Assignment of Mortgages having been given intending to serve as evidence of and to secure the repayment of the aforesaid Loan; and

E. The Lender is willing to make the Loan described hereinabove based on the terms and conditions set forth in this Agreement.

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) "Assignment" means the Collateral Assignment of Notes and Mortgages from the Borrower to the Lender, as the same may be amended or supplemented from time to time.

(b) "Closing Date" means the date hereof;

(c) "Collateral Requirement" means the requirement that the aggregate unpaid principal balance of the Mortgages and Mortgage Notes assigned to Lender and in good standing must be equal to at least 125% of the maximum amount that is at the time outstanding or available to be advanced to the Borrower hereunder. Initially, the Collateral Requirement is \$625,000, which is 125% of \$500,000.

(d) "Cost Breakdown" means the detailed itemization of Costs as approved by the Lender from time to time; the initial Cost Breakdown is attached as Exhibit B;

(e) "Costs" means the costs of the Project, as shown in Exhibit B;

(f) "County" means Palm Beach County, Florida;

(g) "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;

(h) "Draw Request" means a written request for any advance of Loan proceeds, which shall be submitted for each requested advance as set forth in Section 2.3 hereof;

(i) "Event of Default" means an Event of Default as defined in Section 7.1 hereof;

(j) "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 on a lot or to the operation and occupancy of the Premises or to the performance of any act or obligation or the observance of any agreement, provision or condition of whatsoever nature herein contained;

(k) "Improvement" mean any improvement constructed on any lot purchased hereunder;

(l) "Land" means the respective lots located in Palm Beach County, Florida and purchased hereunder;

(m) "Loan Documents" means this Agreement, the Note, the Assignment, the Mortgage Servicing Agreement and all other documents executed in connection herewith;

(n) "Note" means that certain Promissory Note (Non-Revolving) of the Borrower dated as of the Closing Date in favor of the Lender in the amount of \$500,000 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;

(o) "Permitted Exceptions" mean the encumbrances to title listed on Schedule "B" to the title insurance policy for each lot;

(p) "Premises" means the collective reference to the Land, the Improvements and the Tangible Personalty;

(q) "Project" shall have the meaning set forth in the Recitals hereto;

(r) "Servicer" shall mean the Borrower or any other individual or entity becoming Servicer pursuant to the terms of this Agreement or the Servicing Agreement acceptable to Lender in its sole discretion;

(s) "Servicing Agreement" means the Loan Servicing Agreement dated as of the date hereof, between the Lender and the Borrower, as Servicer, and any other agreement entered into by the Lender for the servicing of the Mortgages and Mortgage Notes;

(t) "Tangible Personalty" means all fixtures, equipment, furnishings and other articles of personal property now or hereafter owned by the Borrower and attached to or contained in and used in connection with the Land and Improvements and all renewals or replacements thereof or articles in substitution thereof, whether or not the same are or shall be attached to the Land and Improvements in any manner; and

## ARTICLE II

### The Loan

2.1 Loan Terms. (a) Subject to the terms and conditions of this Agreement, the Lender may lend and the Borrower may borrow up to a principal sum of \$500,000, such borrowing to be evidenced by the Note. Amounts borrowed hereunder and repaid may not be re-borrowed.

(b) Interest. The principal balance outstanding on the Loan from time to time shall bear interest at the rate of three percent (3%) per annum, calculated on the basis of a 360 day year consisting of twelve 30 day months. Principal of and interest on the Loan shall be repayable at the times and in the manner set forth in the Note.

2.2 Advances. The Lender agrees that it will from time to time, so long as there shall exist no Default Condition or Event of Default, subsequent to the first advance as provided for in Article IV hereof, but not more frequently than once a week, advance Loan proceeds to the



Borrower. The Lender shall not be obligated to make any advances after May 1, 2018, unless extended by the Lender in its sole discretion.

2.3 Draw Requests. At least three (3) business days prior to each Loan advance requested by the Borrower, the Borrower must submit to the Lender a Draw Request, which shall include the information required by Section 4.1.

2.4 Advance Amount. Following receipt of a Draw Request, the Lender shall determine the amount of the advance it will make based on the information provided by the Borrower. In no event will such advance exceed \$60,000 per residential unit permitted on a lot without the written consent of the Executive Director of the Lender.

2.5 Deposit of Advances. All Loan advances shall be made by depositing same in the Borrower's account designated to the Lender. Alternatively, at Lender's option, the Lender may make Loan advances directly to seller of the lot or the closing agent handling the closing on the lot. By the execution of this Agreement the Borrower hereby irrevocably directs and authorizes the Lender 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

The Lender shall not be obligated to close the Loan until all of the following conditions have been satisfied by proper evidence, execution and/or delivery to the Lender of the following items, all in form and substance reasonably satisfactory to the Lender and the Lender's counsel:

3.1 Note. The Note.

3.2 Evidence of Title. Evidence of title satisfactory to the Lender, showing either the Borrower or HFHSPBC CLT, Inc. to be the fee simple owner of the property described in each of the Mortgages. Generally, this requirement will be satisfied by providing Lender with a copy of Borrower's loan title insurance commitment.

3.3 Other Loan Documents.

(a) The Assignment, assigning to the Lender the Borrower's interest in Mortgages and Mortgage Notes in good standing, the aggregate unpaid principal balance of which is at least equal to the Collateral Requirement. For purposes of this section a Mortgage and Mortgage Note shall be considered in good standing if (i) the mortgagor thereunder has been current in the making of monthly payments for the preceding four (4) months, and (ii) such mortgagor is not otherwise in default under the terms of such Mortgage and Mortgage Note.

(b) The Servicing Agreement.

3.4 Insurance. (a) For each parcel of real estate described in the Mortgages, evidence satisfactory to the Lender that the mortgagors thereunder have in force the insurance required thereby.



(a) During the term of this Agreement, Borrower shall also maintain the following kinds of insurance: employer's liability and workman's compensation, contractor's public liability, and flood insurance (where applicable).

(b) During construction on each lot purchased by Borrower, Borrower must maintain a "Completed Value" form Builders Risk Insurance Policy in an amount not less than the hard cost contract(s) and evidence of each primary contractor's workmen's compensation and liability insurance.

(c) All general liability insurance policies must be in an amount not less than \$2,000,000.00.

(d) RESERVED.

(e) The form of the policies and the companies issuing such policies must be acceptable to Lender in Lender's sole discretion.

(f) Lender shall not be obligated to release any of its funds until Borrower has delivered or caused to be delivered to Lender the required insurance policies together with paid receipts for the current quarter's premiums due thereon.

3.5 Authority Documents of Borrower.

(a) Formal action of the Borrower authorizing the transaction contemplated herein and approving the form of the Loan Documents and the execution thereof certified by an officer of the Borrower;

(b) Copies of Borrower's (i) audited financial statements for its fiscal year ended \_\_\_\_\_, 2016 and (i) IRS Form 990 for such fiscal year; and

(c) Any other documents as may be requested by Lender.

3.6 Taxes. RESERVED

3.7 Utilities. RESERVED

3.8 Taxpayer Identification Number. The Borrower's federal taxpayer identification number.

3.9 Borrower's Affidavit. RESERVED.

3.10 No Defaults. No Default Condition or Event of Default shall exist.

3.11 Draw Request. RESERVED.

3.12 County Agreement. RESERVED

3.13 Identification of Improvements. RESERVED

3.14 Miscellaneous. All other Loan Documents or items that are customarily provided in loan transactions of this type including, but not limited to, this Agreement have been provided.

3.15 Covenants, Representations and Warranties. The Covenants contained herein and in the Loan Documents have been satisfied and the representations and warranties set forth herein and in the Loan Documents shall remain true and correct in all material respects as of the date of each advance under this Agreement.

## ARTICLE IV

### Conditions Precedent to Advances: Repayment

4.1 Periodic Advances. The Lender shall not be obligated to make the first Loan advance or any subsequent Loan advances until the Lender has been provided with all of the following:

(a) A completed request for advance in the form attached hereto as Exhibit A (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 President or Vice President of the Borrower;

(b) Copies of (i) the lot purchase contract between the Borrower and the seller, (ii) the title commitment showing that either the Borrower or HFHSPBC CLT, Inc. will be the fee simple owner of the lot after closing, and (iii) a draft settlement statement showing the amount due to be paid by the Borrower and the closing date.

(c) At the time of each advance, the Lender is satisfied that no Default Condition or Event of Default exists.

(d) Proof satisfactory to the Lender that with respect to each lot for which Borrower has previously received an Advance hereunder, either (i) Borrower or HFHSPBC CLT, Inc. is still the fee owner of such lot, or (ii) the Borrower has built a house on such lot and sold such improved lot to a Qualified Buyer;

(e) A certificate of the Borrower's President or Chief Financial Officer stating (i) the principal amount then outstanding on the Mortgage Notes assigned to the Lender; and (ii) either (y) no default exists under any of the Mortgages or Mortgage Notes assigned to the Lender, payment under none of such Mortgages and Mortgage Notes is more than 30 days past due and the Borrower has not provided any form of forbearance with respect to such Mortgages and Mortgage Notes or (z) if with respect to any of the Mortgages or Mortgage Notes the certification in (y) above cannot be made, the Borrower has assigned to the Lender additional Mortgages and Mortgage Notes in good standing (as described in Section 3.3(a) above) so that the Collateral Requirement is met.

(f) If requested by Lender, evidence that the Project is in compliance with all applicable laws, regulations and ordinances. Such evidence may include letters, licenses, permits, certificates and other correspondence from the appropriate Governmental Authorities, opinions of the Borrower's counsel or other counsel, and opinions or certifications from the Borrower's architect or general contractor, if any. The laws, regulations and ordinances with which compliance should be evidenced include, without limitation, depending on the status of construction, the following: health and environmental protection laws, erosion control ordinances, storm drainage control laws, doing business and/or licensing laws, zoning laws (the



evidence submitted as to zoning should include the zoning designation made for the Land, the permitted uses of the Land under such zoning designation and zoning requirements as to parking, lot size, ingress, egress and building setbacks) and laws regarding access and facilities for disabled persons including, but not limited to, the federal Architectural Barriers Act, the Fair Housing Amendments Act of 1988, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and any similar laws of the State of Florida as amended from time to time.

4.2 Repayment. Each advance by the Lender to the Borrower hereunder shall be repaid as provided in the Note.

## ARTICLE V

### The Borrower's Covenants and Agreements

5.1 Payment. The Borrower will pay when due all sums owing to the Lender under the Note, this Agreement and the other Loan Documents and all sums advanced to Borrower.

5.2 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 the 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 the Note and/or 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.

5.3 Construction. RESERVED.

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

5.5 Fees and Expenses. Whether or not the Loan is made, or all Loan proceeds advanced hereunder, 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 the 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, 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 the 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.

5.6 Preservation of Contracts. RESERVED.



5.7 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 Project, in accordance with the Cost Breakdown.

5.8 Insurance. The Borrower covenants to maintain the insurance required by Section 3.4 hereof.

5.9 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.

5.10 Availability of Utilities. All utility services necessary for the construction on the lots 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 at the boundaries of such lot, including but not limited to, water supply, storm and sanitary sewer, gas, electric and telephone facilities, and all such utilities are non-interruptible.

5.11 Hazardous Substances. The Borrower warrants and represents to the Lender that to the best of the Borrower's knowledge, that (i) the real property described in the Mortgages and all other real property now or previously owned by the Borrower or HFHSPBC, CLT, Inc. have not been, and are not now being 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) the real property described in the Mortgages and all other real property now or previously owned by the Borrower or HFHSPBC, CLT, Inc. are 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 normal routine maintenance, 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 the real property described in the Mortgages or any other real property now or hereafter owned by the Borrower or HFHSPBC, CLT, Inc., 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 the real property described in the Mortgages. Borrower agrees to permit Lender, its agents, contractors and employees to enter and inspect any of Borrower's places of business or any other property of Borrower or HFHSPBC, CLT, Inc. 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 the real property described in the Mortgages or any other real property now or hereafter owned by the Borrower or HFHSPBC, CLT, Inc., (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 real property described in the Mortgages or any other real property now or hereafter owned by the Borrower or HFHSPBC, CLT, Inc. 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 real property described in the Mortgages or any other real property now or hereafter owned by the Borrower or HFHSPBC, CLT, Inc. 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 the real property described in the Mortgages or any other real property now or hereafter owned by the Borrower or HFHSPBC, CLT, Inc. ("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 the real property described in the Mortgages or any other real property now or hereafter owned by the Borrower or HFHSPBC, CLT, Inc. 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.

5.12 Indebtedness. The Borrower shall not contract, create, incur, assume or permit to exist any indebtedness secured by the property described in the Mortgages or purchased with advances made to the Borrower hereunder unless said indebtedness is approved by Lender in writing.

5.13 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.

5.14 Liens. The Borrower shall not grant, suffer or permit any contractual or non-contractual lien, on or security interest (other than Permitted Exceptions) 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.



5.15 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.

5.16 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.

5.17 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.

5.18 Reports. The Borrower shall provide the Lender (a) within ten (10) days of the end of each calendar quarter, a quarterly report summarizing the status of (i) the purchase of lots (including a copy of the recorded deed and final settlement statement for each lot purchased during such quarter, (ii) the construction of homes on each lot, and (iii) contracts for the sale of such homes, (b) within one hundred eighty (180) days of the end of each fiscal year of the Borrower, the Borrower's audited financial statements for such fiscal year, (c) within thirty (30) days of filing, the Borrower's IRS Form 990 for such fiscal year of the Borrower, and (d) the reports required by the Servicing Agreement.

5.19 Servicing. The Borrower, as Servicer, shall promptly provide the Lender with true and complete copies of all notices sent or received by Borrower under the Servicing Agreement. Borrower shall service all of the Mortgages and Mortgage Notes in accordance with the terms of the Servicing Agreement. Borrower shall comply with all provisions, terms and conditions set forth in the Servicing Agreement. Upon the occurrence of an Event of Default, Lender shall have the right to terminate the Servicing Agreement and/or substitute a third party for the Borrower to service, administer or collect the and maintain the Mortgages and Mortgage Notes and any other Collateral.

5.20 Indemnification; Reimbursement of Expenses of Collection. Borrower hereby agrees that, whether or not any of the transactions contemplated by this Agreement or the other Loan Documents are consummated, Borrower will indemnify, defend and hold harmless (on an after-tax basis) the Lender, and its successors and assigns and its directors, officers, agents, employees, advisors, shareholders and attorneys (each, an "Indemnified Party") from and against any and all losses, claims, damages, liabilities, deficiencies, obligations, fines, penalties, actions (whether threatened or existing), judgments, suits (whether threatened or existing) or expenses (including, without limitation, reasonable fees and disbursements of counsel, experts, consultants and other professionals) incurred by any of them (collectively, "Claims") (except, in the case of each Indemnified Party, to the extent that any Claim is determined in a final and non-appealable



judgment by a court of competent jurisdiction to have directly resulted from such Indemnified Party's gross negligence or willful misconduct) arising out of or by reason of (i) any litigation, investigation, claim or proceeding related to (A) this Agreement, any other Loan Document or the transactions contemplated hereby or thereby, (B) any actual or proposed use by Borrower of the proceeds of the Loan, or (C) the Lender's entering into this Agreement, the other Loan Documents or any other agreements and documents relating hereto (other than consequential damages and loss of anticipated profits or earnings), including, without limitation, amounts paid in settlement, court costs and the fees and disbursements of counsel incurred in connection with any such litigation, investigation, claim or proceeding, (ii) any remedial or other action taken or required to be taken by Borrower in connection with compliance by Borrower, or any of its properties, as described in Section 5.11 hereof, (iii) any change in control of the Borrower, and (iv) any pending, threatened or actual action, claim, proceeding or suit by any shareholder or director of Borrower or any actual or purported violation of Borrower's articles of incorporation or bylaws or any other agreement or instrument to which Borrower is a party or by which any of its properties is bound. In addition, Borrower shall, upon demand, pay to the Lender all costs and expenses incurred by the Lender (including the fees and disbursements of counsel and other professionals) in connection with the preparation, execution, delivery, administration, modification and amendment of the Loan Documents, and pay to the Lender all costs and expenses (including the fees and disbursements of counsel and other professionals) paid or incurred by the Lender in (A) enforcing or defending its rights under or in respect of this Agreement, the other Loan Documents or any other document or instrument now or hereafter executed and delivered in connection herewith, (B) collecting the payments due to Lender, whether as assignee of the Mortgage Notes or otherwise, or otherwise administering this Agreement and (C) foreclosing or otherwise realizing upon the Collateral or any part thereof. If and to the extent that the obligations of Borrower hereunder are unenforceable for any reason, Borrower hereby agrees to make the maximum contribution to the payment and satisfaction of such obligations that is permissible under applicable law.

Borrower's obligations under this Section shall survive any termination of this Agreement and the other Loan Documents and the payment in full of the Note, and are in addition to, and not in substitution of, any of the other obligations of Borrower hereunder and thereunder.

5.21 Collateral Requirement; Addition and Substitution of Mortgages and Mortgage Notes. The Borrower shall at all times have assigned to the Lender, pursuant to the Assignment, Mortgages and Mortgage Notes in an amount at least equal to the Collateral Requirement. If the Borrower fails to meet the Collateral Requirement at any time for any reason, Borrower shall, within twenty (20) days of such failure, either (a) subject additional Mortgages and Mortgage Notes that are in good standing to the Assignment, and/or (b) partially prepay the Note, as may be necessary for Borrower to meet the Collateral Requirement.

## ARTICLE VI

### Representations and Warranties

6.1 By accepting and executing the Note, and upon execution and delivery of any Loan Documents, the 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 the 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.

(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 181 SE 5<sup>th</sup> Avenue, Delray Beach, Florida 33483.

(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) Leases. RESERVED

(k) 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 the any Loan or the issuance of any letter of credit or any advance under any Loan.

(l) Compliance with Declaration of Restrictions. RESERVED

## ARTICLE VII

### Events of Default

7.1 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 the Note when 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 Note, 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.

(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 the Mortgages, 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 the 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 the property described in the Mortgages 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. RESERVED

(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 any lot purchased with proceeds of an advance, other than to a purchaser in accordance with Borrower's policies.

(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 the Loan are discovered to have been false or incorrect or incomplete in any material respect.

## ARTICLE VIII

### The Lender's Rights and Remedies

The following rights and remedies are available to the Lender:

8.1 Acceleration. Upon the occurrence of an Event of Default, the entire unpaid principal balance of the Loan 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.

8.2 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.

8.3 Disputes. Where disputes have arisen which, in the opinion of the Lender, may endanger timely completion of the Project or fulfillment of any condition precedent or covenant herein, 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.

8.4 Payments made on Mortgage Notes. Upon the occurrence of an Event of Default, Lender shall be entitled to all payments made on the Mortgage Notes by the mortgagors thereto, and upon demand by Lender Borrower shall transmit to Lender all such payments immediately upon Borrower's receipt thereof.

8.5 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.

8.6 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 any lot or any property described in the Mortgages 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 house on any lot or for the performance or nonperformance of any other obligation of the Borrower.

8.7 Security Interest.

(a) General. To secure the prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of all of the Borrower's obligations under the Loan Documents, Borrower hereby grants to the Lender a lien on and security interest in all of its right, title and interest in and to the following property of Borrower, wherever located, whether now owned or hereafter acquired, and all additions and accessions thereto and substitutions and replacements therefor and improvements thereon, and all proceeds (whether in the form of cash or other property) and products thereof including, without limitation, all proceeds of insurance covering the same and all tort claims in connection therewith (collectively, the "Collateral");

- (i) the Mortgages and the Mortgage Notes;
- (ii) the proceeds of any advance made hereunder, until used by the Borrower to purchase a lot;
- (iii) the Borrower's rights to collect mortgage payments and impounds pursuant to the Servicing Agreement;

Provided, that unless an Event of Default has occurred and is continuing hereunder, Borrower may retain possession of the Mortgages and Mortgage Notes, and all moneys received by it under the Servicing Agreement.

As further security for the Borrower's obligations under the Loan Documents, and to provide other assurances to the Lender, the Lender shall receive, among other things, the Loan Documents.

This Agreement shall constitute a security agreement for purposes of the Uniform Commercial Code as in effect in the State of Florida.

(b) Endorsement of Pledged Notes Receivable; Assignment and Delivery. Each of the Mortgages and Mortgage Notes that are being assigned to the Lender pursuant to the Assignment of Mortgages shall be endorsed to Lender in a form satisfactory to Lender. The Assignment of Mortgages, and each amendment or supplement thereto, shall be in a form which is properly recordable in the public records of Palm Beach County, Florida, and the Borrower shall record or cause to be recorded in such public records the Assignment of Mortgages, and each amendment or supplement thereto.

(c) Continuation of Liens, Etc. Borrower shall defend the Collateral against all claims and demands of anyone at any time claiming any interest therein, other than claims relating to Permitted Liens. Borrower agrees to comply with Applicable Laws to grant to the Lender valid and perfected first priority security interests in the Collateral. The Lender is hereby



authorized by Borrower to sign Borrower's name on any document or instrument as may be necessary or desirable to establish and maintain the liens covering the Collateral and the priority and continued perfection thereof or file any financing or continuation statements or similar documents or instruments covering the Collateral whether or not Borrower's signature appears thereon. Borrower agrees, from time to time, at the Lender's request, to file notices of Liens, financing statements, similar documents or instruments, and amendments, renewals and continuations thereof, and cooperate with the Lender's representatives, in connection with the continued perfection (and the priority status thereof) and protection of the Collateral and the Lender's liens thereon. Borrower agrees that the Agent may file a carbon, photographic or other reproduction of this Agreement (or any financing statement related hereto) as a financing statement.

## ARTICLE IX

### General Conditions

The following conditions shall be applicable throughout the term of this Agreement:

9.1 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.

9.2 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 on any lot purchased with the proceeds of an advance made hereunder, 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.

9.3 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 of its rights, interests, duties or obligations hereunder or any Loan proceeds or other moneys to be advanced hereunder 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, the 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 the Note and secured by this Agreement and any other Loan Documents.

9.4 Amendments. This Agreement shall not be amended except by a written instrument signed by all parties hereto.

9.5 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.

9.6 Governing Law and Jurisdiction. This Agreement and the other Loan Documents and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of Florida. The Borrower hereby submits to the jurisdiction of the State and Federal courts located in Florida and agrees that the Lender may, at its option, enforce its rights under the Loan Documents in such courts.

9.7 Savings Clause. Invalidation of any one or more of the provisions of this Agreement shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

9.8 Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument, and in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

9.9 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement nor the intent of any provision hereof.

9.10 Notices. All notices, consents, rejections, requests and other communications required to be given hereunder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes (i) when delivered in person, (ii) upon receipt after being sent by express mail or delivery service guaranteeing overnight delivery, or (iii) by registered or certified mail, postage prepaid, with return receipt requested, (in which case notice shall be deemed effectively made when the receipt is signed or when the attempted initial delivery is refused or cannot be made because of a change of address of which the sending party has not been notified) to any party hereto at its address listed below or at such other address of which written notification has been given to the other party, as provided herein:

If to Borrower:	Habitat for Humanity of South Palm Beach County, Inc. 181 SE 5 <sup>th</sup> Avenue Delray Beach, Florida 33483 Attn: President
With a copy to:	
If to Lender:	Housing Finance Authority of Palm Beach County, Florida 100 Australian Avenue, Suite 410 West Palm Beach, Florida 33406 Attn: Executive Director
With a copy to:	Greenspoon Marder, P.A. 525 Okeechobee Blvd., 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.

9.11 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:**

HABITAT FOR HUMANITY OF SOUTH PALM  
BEACH COUNTY, INC., a Florida  
non profit corporation

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

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

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

**LENDER:**

HOUSING FINANCE AUTHORITY OF PALM  
BEACH COUNTY, FLORIDA

By: \_\_\_\_\_  
Charles V. St. Lawrence, Chairperson

## EXHIBITS

- A Draw Request Form
- B Project Budget



### Draw Request Form

From: Habitat for Humanity of South Palm Beach County, Inc.				To: Housing Finance Authority of Palm Beach County			
Date:	Requisition No.			Project: Phase			
Description	Total Loan Cost	Adjustment to Total Loan Cost	Revised Loan Cost	Previous Requisition Amount	Current Requisition Amount	Total Amount to Date	Balance to be Advanced
TOTALS							

The Representations and Warranties set forth in the Loan Agreement dated as of June \_\_, 2017 (the "Loan Agreement"), between Habitat for Humanity of South Palm Beach County, Inc. ("Habitat SPBC") and the Housing Finance Authority of Palm Beach County (the "Authority") and in the other Loan Documents executed in connection therewith are true and correct in all material respects.

The principal amount then outstanding on the Mortgage Notes assigned to the Authority is \$\_\_\_\_\_; and (ii) either

(a) no default exists under any of the Mortgages or Mortgage Notes assigned to the Authority, payment under none of such Mortgages and Mortgage Notes is more than 30 days past due and Habitat SPBC has not provided any form of forbearance with respect to such Mortgages and Mortgage Notes or

(b) if with respect to any of the Mortgages or Mortgage Notes the certification in (a) above cannot be made, Habitat SPBC has assigned to the Authority additional Mortgages and Mortgage Notes in good standing (as described in Section 3.3(a) of the Loan Agreement) so that the Collateral Requirement required by Section 3.3(a) of the Loan Agreement is met.

No Default Condition or Event of Default exists, and Habitat SPBC in full compliance in all material respects with the terms of the Loan Agreement.

Approved:

Owner \_\_\_\_\_

Date \_\_\_\_\_

Owner \_\_\_\_\_

Date \_\_\_\_\_



## EXHIBIT "B"

### Project Budget

The estimated Cost of the Project is \$50,000 per lot for 10 lots. Provided, that this Agreement permits an advance of not to exceed \$60,000 per residential unit permitted on a lot, or more than \$60,000 with the written consent of the Executive Director of the Lender.