INLUC
Agenda Item No. 2G

MEMORANDUM

TO:	Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners	**DATE:**	**July 13, 2011**
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution approving agreements related to grant in amount of $5,000,000 for District 10 to Vanguardian Village, LLP. for development of one-hundred and twenty elderly, affordable rental mid-rise apartment units from Building Better Communities General Obligation Bond Program Project Number 249

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

RESO\2078

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: September 1, 2011

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No.
9-1-11

RESOLUTION NO. _____

RESOLUTION APPROVING AGREEMENTS RELATED TO GRANT IN AMOUNT OF $5,000,000 FOR DISTRICT 10 TO VANGUARDIAN VILLAGE, LLP. FOR DEVELOPMENT OF ONE-HUNDRED AND TWENTY ELDERLY, AFFORDABLE RENTAL MID-RISE APARTMENT UNITS FROM BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM PROJECT NUMBER 249 – "PRESERVATION OF AFFORDABLE HOUSING UNITS AND EXPANSION OF HOME OWNERSHIP"; AND PROVIDING THAT SUCH GRANT SHALL BE FUNDED OVER FORTY-FIVE MONTHS FROM NEXT BUILDING BETTER COMMUNITIES BOND SALE AS CASH FLOWS REQUIRE

WHEREAS, pursuant to Resolution No. R-763-10 adopted on July 8, 2010, this Board approved a District 10 allocation of $5,000,000 from Project No. 249–"Preservation of Affordable Housing Units and Expansion of Home Ownership" of the Building Better Communities General Obligation Bond Program (the "BBC Program") to the Vanguardian Village project to fund the development of affordable housing units for the elderly, located at the NE corner of SW 127th Avenue and 104th Street in unincorporated Miami-Dade County ("Project Location"); and

WHEREAS, Vanguardian Village, LLP (the "Developer") will develop and construct one-hundred and twenty (120) elderly, affordable rental units consisting of one bedroom and one bathroom units at the Project Location ("Vanguardian Village Project"); and

WHEREAS, there is a need to provide affordable multi-family housing in District 10 as soon as it is practicable; and

WHEREAS, the Vanguardian Village Project will fill that need since it will be ready to commence construction once a favorable underwriting report is received by Miami-Dade County and the plans and specifications are completed; and

WHEREAS, the construction period is estimated to take no longer than 36 months; and

WHEREAS, there are no operating costs to the County associated with the Vanguardian Village Project since it will be owned and operated by the Developer; and

WHEREAS, it is anticipated that the County shall have sufficient Building Better Communities General Obligation Bond proceeds (the "Bond Proceeds") available during the forty-five month period following the issuance of the next series of Building Better Communities General Obligation Bonds (the "Bonds") which were sold in May of 2011 to complete the Vanguardian Village Project in accordance with its cash flow needs; and

WHEREAS, this Board wishes to approve the necessary documents for the Vanguardian Village Project,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The foregoing recitals are incorporated in this Resolution and are approved.

Section 2. The Board approves the Development and Grant Agreement between the County and Vanguardian Village, LLP in substantially the form attached as Exhibit "A" to this Resolution (the "Grant Agreement") and the County Mayor or County Mayor's designee is authorized to execute the Grant Agreement on behalf of the County, subject to the County receiving a favorable underwriting report and any adjustments that need to be made in Grant

Agreement to reflect the findings of the report, after consultation with the Office of the County Attorney.

Section 3. The Board approves the Rental Regulatory Agreement to be delivered by the Developer and recorded in the public records in substantially the form attached as Exhibit "B" to this Resolution (the "Regulatory Agreement") and the County Mayor or County Mayor's designee is authorized to execute the Regulatory Agreement on behalf of the County with any revisions that may be necessary to assure the Project is affordable and to comply with the underwriting report after consultation with the Office of the County Attorney. Pursuant to the Regulatory Agreement, the Developer shall, among other provisions, develop one-hundred and twenty (120) elderly, affordable rental units to be leased to a mix of individuals and/or families with 48 units reserved for those with incomes equal to or less than 60% of the then current area median income and 72 units reserved for those with incomes equal to or less than 140% of the then current area median income all adjusted for family size established annually by the United States Department of Housing and Urban Development (the "Area Median Income"). The initial rental rate is anticipated to be between $690 and $1,725 per month for the one-bedroom units.

Section 4. Any grant proceeds that are reimbursed to the County pursuant to the Grant Agreement or the Regulatory Agreement shall be used solely for affordable housing in District 10.

Section 5. The grant in the amount of $5,000,000 to Vanguardian Village, LLP. shall be funded from Bond Proceeds to meet cash flow needs over the forty-five month period following the issuance of the Bonds which occurred in May of 2011.

The Prime Sponsor of the foregoing resolution is Senator Javier D. Souto. It was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman
Audrey M. Edmonson, Vice Chairwoman

Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of September, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall becom e effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Monica Rizo

EXHIBIT A
GENERAL OBLIGATION BOND (GOB)
BUILDING BETTER COMMUNITIES (BBC)
AFFORDABLE HOUSING
DEVELOPMENT AND GRANT AGREEMENT

BETWEEN
MIAMI-DADE COUNTY
and
VANGUARDIAN VILLAGE, LLP

This Development/Grant Agreement (the "Agreement"), by and between Miami-Dade County, a political subdivision of the State of Florida (the "County" or "Miami-Dade County"), through its Board of County Commissioners (the "Board") and Vanguardian Village, LLP. (the "Developer/Grantee" or "Grantee"), a Florida limited partnership or limited liability partnership with offices at 3470 NW 82nd Ave., Suite 660, Doral, FL 33122, is entered into this day of , 2011.

WHEREAS, pursuant to Resolution No. 763-10 adopted on July 8, 2010 (the "Allocation Resolution"), this Board approved a District 10 grant/allocation of $5,000,000 from Project No. 249 – "Preservation of Affordable Housing Units and Expansion of Home Ownership" (the "Total Funding Cycle Allocation") of the Building Better Communities General Obligation Bond Program (the "BBC GOB Program") to the Grantee for the construction of one-hundred and twenty (120) elderly, affordable rental low-rise apartment units known as the Vanguardian Village (the "Vanguardian Village Project") on real property located at the north-east corner of SW 127th Avenue and 104th Street in unincorporated Miami-Dade County (the "Property") which will be leased to certain individuals and/or families described in Section 3 below at certain rents based on a percentage of the annual area median income adjusted for family size established by HUD in accordance with Rental Regulatory Agreement ("Regulatory Agreement") attached to, and incorporated in, this Agreement as Exhibit 2; and

WHEREAS, Vanguardian Village Project is estimated to cost $10,683,500.00 (the "Total Project Cost") and will be funded in accordance with the sources and uses and the budget (the "Budget"), both of which are set forth in Exhibit 1 to this Agreement; and

WHEREAS, it is anticipated that the Total Funding Cycle Allocation shall be available on or before February of 2015 solely from funds allocated from the BBC GOB program and the timing of such funding availability shall depend on the cash flow needs of the Vanguardian Village Project ; and

WHEREAS, it is anticipated that $357,278 ("Funding Allocation") will be available from the series of BBC GOB Bonds issued in May of 2011 ("Series 2011 Bonds") for Vanguardian Village Project for disbursement pursuant to the terms of this Agreement; and

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WHEREAS, the County pursuant to Resolution R- -11 adopted by the Board on , 2011, and the Board of Directors of the Developer/Grantee through a corporate resolution, have authorized their respective representatives to enter into this Agreement,

NOW, therefore, in consideration of the mutual covenants recorded in this Agreement and in consideration of the mutual promises and covenants contained and the mutual benefits to be derived from this Agreement, the parties agree as follows:

Section 1. Parties; Effective Date; and Term. The parties to this Agreement are the Grantee and the County. The County has delegated the responsibility of administering this Agreement to the General Services Administration.

This Agreement shall take effect as of the date written above upon its execution by the authorized officers of the County and of the Grantee and shall terminate upon the termination of the Regulatory Agreement.

Section 2. Vanguardian Village Project Description; Timetable; and Revisions. Waterford will consist of 120 elderly, affordable, rental low-rise apartment residences. The project is all one bedroom/one bath apartments, which will consist of 560 square feet each. The development will have a community center. There will also be approximately 120 parking spaces.

Grantee will endeavor to construct Vanguardian Village employing green practices, to mitigate the effect on the environment and additionally to mitigate the utility expenses for future residents of Vanguardian Village. Green features will include, but not be limited to: programmable thermostats, showerheads that use less than 1.8 gallons of water per minute, faucets that use less than 2 gallons of water per minute in the kitchens and bathrooms, toilets that have dual flush options which include utilizing 1.6 gallons of water or less, Energy Star qualified lighting in all open and common areas, low VOC paint in all units and common areas, Energy Star rating for all refrigerators, dishwashers and washing machines, Energy Star rating for all windows, Carpet and Rug Institute Green Label certified carpet and pad for all carpeting provided, HVAC with a minimum SEER rating of 15, efficient tankless water heaters, and all windows single-pane with a shading co-efficient of .67 or better. It is projected that the project will achieve a LEED designation.

Grantee agrees that the Vanguardian Village Project shall be completed within thirty-six (36) months from the date of the initial disbursement by the County pursuant to the terms of this Agreement (the "Commencement Date"). If construction is not completed within such period and the County Mayor or County Mayor's designee Mayor or County Mayor's designee has not extended the time for completion pursuant to the terms of this Agreement, it shall be an Event of Default under Section 15 of this Agreement. The thirty-six month (36) period shall be extended for delays caused by casualty, war, terrorism, unavailability of labor or materials through no fault of the Grantee, civil uprising, governmental delays or other matters beyond Grantee's control.

The Grantee may only use the grant funds for the purpose of developing and constructing the Vanguardian Village Project in the manner described above. If the Grantee wishes to revise

the Vanguardian Village Project for the purpose of its completion and such revisions substantially alter it, the Grantee shall submit a request in writing to the County Mayor or County Mayor's designee seeking his or her review and approval of such revisions. Grantee shall provide its request in writing at least sixty (60) days prior to implementation of any revisions. The County Mayor or County Mayor's designee shall make the final determination in writing on revisions within sixty (60) days of the date of receipt of the request in the County Mayor or County Mayor's designee's offices. Grantee shall not proceed with the revisions until the County Mayor or County Mayor's designee has made a determination in writing.

Section 3. Restrictive Covenant. The units shall be set aside for the Elderly or Elderly Households, as that term is defined in the Regulatory Agreement, and 40% of the units shall be set aside for individuals whose income is 60% or less of the area median income and 60% of the units shall be set aside for individuals with incomes equal to or less than 140% of the area median income adjusted for family size established annually by the United States Department of Housing and Urban Development (the "Area Median Income The corresponding monthly rents and rental terms are set forth in the Regulatory Agreement. The Regulatory Agreement shall be recorded by the Grantee at its expense in the public records of Miami-Dade County. County shall have no obligation to disburse any funds pursuant to this Agreement until evidence of such recordation is delivered to the County.

Section 4. Availability and Payment of BBC GOB Funds; Subject to availability of funds as set forth in this Section 4, the County agrees to make disbursements as soon as practicable after receipt of invoices from the Grantee for capital costs incurred in connection with development of the Vanguardian Village Project. The Grantee shall also provide a written statement that (a) the Grantee is not in default pursuant to the provisions of this Agreement and the Regulatory Agreement; (b) the budget has not been materially altered without the County's approval; (c) all quarterly reports have been submitted; and (d) the reimbursement is in compliance with the reimbursement rules set forth in Section 4 of this Agreement. and (e) the Vanguardian Village Project is progressing in accordance with its construction schedule. All grant funds allocated the Vanguardian Village Project shall be disbursed in accordance with the Administrative Rules which are attached as Attachment 1 ("Administrative Rules") and incorporated in this Agreement by this reference. By making this grant, the County assumes no obligation to provide financial support of any type whatever in excess of the Funding Allocation. Cost overruns are the sole responsibility of the Grantee. Grantee understands and agrees that reimbursements to the Grantee shall be made in accordance with federal laws. Subject to certain exceptions, the applicability of which are to be reviewed on a case-by-case basis, the reimbursement allocation shall be made no later than eighteen (18) months after the later of (a) the date the original expenditure is paid, or (b) the date the Vanguardian Village Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid by the Grantee.

The County shall only be obligated to reimburse the Grantee provided the Grantee is not in breach of this Agreement and the Grantee has demonstrated that it has adequate funds to complete the Vanguardian Village Project. The County shall administer, in accordance with the Administrative Rules, the funds available from the BBC GOB Program as authorized by Board Resolutions. Any and all reimbursement obligations of the County pursuant to this Agreement

are limited to, and contingent upon, the availability of funding solely from the BBC GOB Program funds allocated to fund the Vanguardian Village Project. **The Grantee may not require or legally compel the County to use any other source of legally available revenues other than bond proceeds from the sale of BBC GOB bonds to fund the Funding Allocation. This Agreement does not in any manner create a lien in favor of the Grantee on any revenues, including the BBC GOB Program funds allocated to fund the Vanguardian Village Project, of the County.** The Grantee shall be solely responsible for submitting all documentation, as required by this Agreement and by the Administrative Rules, to the County Mayor or County Mayor's designee.

Section 5. Vanguardian Village Project Budget. The Grantee agrees to demonstrate fiscal stability and the ability to administer the Total Funding Allocation responsibly and in accordance with standard accounting practices by developing and adhering to the Budget that is based upon reasonable revenue development and expenditures projected to complete the Vanguardian Village Project within the Total Project Cost. Further, Grantee agrees that all expenditures set forth in the Budget will be subject to the terms of this Agreement. If Grantee wishes to revise the Budget for the purpose of completing the Vanguardian Village Project, including line item changes, and such revisions substantially alter the original Vanguardian Village Project, the Grantee must request in writing that the County Mayor or County Mayor's designee review and approve such revisions. Grantee's request must be given at least sixty (60) days prior to implementation of the revisions. The County Mayor or County Mayor's designee will make the final determination on revisions within sixty (60) days of the date of receipt of the request in the County's Executive offices. Notwithstanding the foregoing, any revision to the budget that changes (i) the number and size of the elderly, affordable rental low-rise apartment residences described in Section 2, (ii) the percentages of Eligible Tenants described in Section 3, and/or (iii) materially, the affordability of the Vanguardian Village Project, shall be approved by the Board.

Section 6. Expenditure Deadline; Remaining Funds. The Grantee shall spend or commit all of the Funding Allocation on or before three (3) years from the Commencement Date (the "Expenditure Deadline"). Any Funding Allocation funds not spent or committed by the Expenditure Deadline or for which a Vanguardian Village Project extension has not been requested shall revert to the County and this Agreement shall be terminated in accordance with the provisions of this Agreement. A Vanguardian Village Project extension may be requested in writing from the County Mayor or County Mayor's designee at least sixty (60) days prior to the Expenditure Deadline. The County Mayor or County Mayor's designee , at his discretion, may grant an extension of up to one (1) year from the Expenditure Deadline so long as such extension will not significantly alter the Vanguardian Village Project including its quality, impact, or benefit to the organization, the County or its citizens. Additional extensions may be authorized by the County Mayor or County Mayor's designee if the Grantee can document in a written request sufficient Vanguardian Village Project progress and cause for such an extension to be warranted. The three year period shall be extended for delays caused by casualty, war, terrorism, unavailability of labor or materials, civil uprising, governmental delays or other matters beyond Developer's control.

Section 7. Reports; and Filing Deadlines. To demonstrate that each disbursement has been used in accordance with the Vanguardian Village Project Description and Vanguardian Village Project Budget and that Grantee has met and fulfilled all requirements as outlined in this Agreement, exhibits, and/or other substantive materials as may be attached or included as a condition to each disbursement , the Grantee must submit to the County Mayor or County Mayor's designee, a written report documenting that the Grantee is meeting or has fulfilled all Vanguardian Village Project and financial requirements. This report is to be received by the County Mayor or County Mayor's designee quarterly. The Grantee shall also submit a written report to the County Mayor or County Mayor's designee on or prior to September 30th of each year from the time of the execution of this Agreement through the termination of this Agreement demonstrating that the Grantee is fulfilling, or has fulfilled, its purpose, and has complied with all applicable municipal, County, state and federal requirements. The County Mayor or County Mayor's designee may also request that a compilation statement or independent financial audit and accounting for the expenditure of Funding Allocation funds be prepared by an independent certified public accountant at the expense of the Grantee. Prior to amending this Agreement to provide for the Second Funding Allocation, all written reports required in this Section 7 shall have been filed timely. In the event any one or more of the written reports are delinquent, the County may withhold the Second Funding Allocation until the Grantee submits such reports to the County Mayor or County Mayor's designee as required in this Section 7.

In the event that the Grantee fails to submit the required reports as required above, the County Mayor or County Mayor's designee may terminate this Agreement in accordance with Section 15 or suspend any further disbursement of Funding Cycle Allocation funds until all reports are current. Further, the County Mayor or County Mayor's designee must approve these reports for the Grantee to be deemed to have met all conditions of the grant award.

Section 8. Project Monitoring and Evaluation. The County's General Services Administration Department (or any successor) shall act as project manager for the County during the construction of Vanguardian Village Project and shall monitor and conduct an evaluation of the Grantee's operations and the Vanguardian Village Project during the construction period. Such project management shall include site visits to observe and discuss the progress of the Vanguardian Village Project with the Grantee's personnel. The Grantee shall pay a fee to the County of no more than $2,000 per month if there are no federal funds used in any phase of this project or no more than $4,000 per month if there are federal funds used in any phase of this project for the services of its General Services Administration Department (or any successor) as project manager. Subject to the limitations set forth herein, the County shall set the final fee. Upon request, the Grantee shall provide the General Services Administration Department (or any successor) with notice of all meetings of its Board of Directors or governing board, general activities and Vanguardian Village Project-related events. In the event the General Services Administration Department (or any successor) concludes, as a result of such monitoring and/or evaluation, that the Grantee is not in compliance with the terms of this Agreement or the Administrative Rules or for other reasons which significantly impact the Grantee's ability to fulfill the conditions of the Total Funding Allocation as set forth in this Agreement, then the General Services Administration Department (or any successor) shall provide in writing to the Grantee, within thirty (30) days of the date of said monitoring/evaluation, notice of the inadequacy or deficiencies noted which may significantly impact the Grantee's ability to

complete the Vanguardian Village Project as described in Section 2 or fulfill the terms of this Agreement within a reasonable time frame. If Grantee refuses or is unable to address the areas of concern within thirty (30) days of receipt of such notice from the General Services Administration Department (or any successor) , then the General Services Administration Department (or any successor) , at its discretion, may take other actions which may include reduction or rescission of Total Funding Allocation, as the case may be, or withholding Total Funding Allocation funds until such time as the Grantee can demonstrate that such issues have been corrected. Further, in the event that the Grantee does not expend the Total Funding Allocation for the Vanguardian Village Project or uses any portion of the Total Funding Allocation for costs not associated with the Vanguardian Village Project and the Grantee refuses or is unable to address the areas of concern, then the General Services Administration Department (or any successor) may request the return of the full or partial Funding Cycle Allocation awards, as the case may be. The General Services Administration Department (or any successor) may also institute a moratorium on applications from the Grantee to County grants programs for a period of up to one (1) year or until the deficient areas have been addressed to the satisfaction of the General Services Administration Department (or any successor) , whichever occurs first.

Section 9. Accounting, Financial Review and Access to Records and Audits. The Grantee shall keep accurate and complete books and records for all receipts and expenditures of each Funding Allocation award in conformance with reasonable general accounting standards. These books and records, as well as all documents pertaining to payments received and made in conjunction with each Funding Allocation, such as vouchers, bills, invoices, receipts and canceled checks, shall be retained in the County in a secure place and in an orderly fashion in a location within the County by the Grantee for at least three (3) years after the later of the Expenditure Deadline specified in Section 6; the extended Expenditure Deadline, as approved by the County Mayor or County Mayor's designee, if any; the completion of a County requested or mandated audit or compliance review; or the conclusion of a legal action involving each or both of the Funding Allocation awards, the Grantee and/or Vanguardian Village Project or activities related to each or both of the Funding Allocation awards.

The County Mayor or County Mayor's designee may examine these books, records and documents at the Grantee's offices or other approved site under the direct control and supervision of the Grantee during regular business hours and upon reasonable notice. Furthermore, the County Mayor or County Mayor's designee may, upon reasonable notice and at the County's expense, audit or have audited all financial records of the Grantee, whether or not purported to be related to this grant.

The Grantee agrees to cooperate with the Miami-Dade Office of Inspector General (IG) which has the authority to investigate County affairs and review past, present and proposed County programs, accounts, records, contracts and transactions. The OIG contract fee shall not apply to this Agreement and the Grantee shall not be responsible for any expense reimbursements or other amounts payable to the IG or its contractors. The IG may, on a random basis, perform audits on this Agreement throughout the duration of said Agreement (hereinafter "random audits"). This random audit is separate and distinct from any other audit by the County.

The IG shall have the power to retain and coordinate the services of an IPSIG who may be engaged to perform said random audits, as well as audit, investigate, monitor, oversee, inspect, and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the Grantee and contractor and their respective officers, agents and employees, lobbyists, subcontractors, materialmen, staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud. The IG shall have the power to subpoena witnesses, administer oaths and require the production of records. Upon ten (10) days written notice to the Grantee (and any affected contractor and materialman) from IG, the Grantee (and any affected contractor and materialman) shall make all requested records and documents available to the IG for inspection and copying.

The IG shall have the power to report and/or recommend to the Board whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Monitoring of an existing project or program may include reporting whether the project is on time, within Budget and in conformity with plans, specifications, and applicable law. The IG shall have the power to analyze the need for, and reasonableness of, proposed change orders.

The IG is authorized to investigate any alleged violation by a contractor of its Code of Business Ethics, pursuant to County Code Section 2-8.1.

The provisions in this section shall apply to the Grantee, its contractors and their respective officers, agents and employees. The Grantee shall incorporate the provisions in this section in all contracts and all other agreements executed by its contractors in connection with the performance of this Agreement. Any rights that the County has under this Section shall not be the basis for any liability to accrue to the County from the Grantee, it contractors or third parties for monitoring or investigation or for the failure to have conducted such monitoring or investigation and the County shall have no obligation to exercise any of its rights for the benefit of the Grantee.

Grantee agrees to cooperate with the Commission auditor who has the right to access all financial and performance related records, property, and equipment purchased in whole or in part with governmental funds pursuant to Section 2-481 of the County Code.

Section 10. Publicity and Credits. The Grantee must include the following credit line in all promotional marketing materials related to this funding including web sites, news and press releases, public service announcements, broadcast media, programs, and publications: "THIS VANGUARDIAN VILLAGE PROJECT IS SUPPORTED BY THE BUILDING BETTER COMMUNITIES BOND PROGRAM AND THE MAYOR AND BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY."

Section 11. Naming Rights and Advertisements. It is understood and agreed between the parties hereto that the Grantee is funded by Miami-Dade County. Further, by acceptance of these funds, the Grantee agrees that Project(s) funded by this Agreement shall recognize and

adequately reference the County as a funding source. In the event that any naming rights or advertisement space is offered on a facility constructed or improved with BBC GOB Program funds, then Miami-Dade County's name, logo, and slogan shall appear on the facility not less than once and equal to half the number of times the most frequent sponsor or advertiser is named, whichever is greater. Lettering used for Miami-Dade County will be no less than 75% of the size of the largest lettering used for any sponsor or advertiser unless waived by the Board. Grantee shall ensure that all publicity, public relations, advertisements and signs recognize and reference the County for the support of all Project(s). This is to include, but is not limited to, all posted signs, pamphlets, wall plaques, cornerstones, dedications, notices, flyers, brochures, news releases, media packages, promotions and stationery. The use of the official County logo is permissible for the publicity purposes stated herein. The Grantee shall submit sample of mock up of such publicity or materials to the County for review and approval. The Grantee shall ensure that all media representatives, when inquiring about the Project(s) funded by the Agreement, are informed that the County is its funding source.

Section 12. Liability and Indemnification. It is expressly understood and intended that the Grantee, as the recipient of BBC GOB Program funds, is not an officer, employee or agent of the County, its Board of County Commissioners, its Mayor, nor the County department administering the Funding Allocation awards. Further, for purposes of this Agreement, the parties agree that the Grantee, its officers, agents and employees are independent contractors and solely responsible for the Vanguardian Village Project.

The Grantee shall take all actions as may be necessary to ensure that its officers, agents, employees, assignees and/or subcontractors shall not act as nor give the appearance of that of an agent, servant, joint venture partner, collaborator or partner of the department administering these grants, the County Mayor, the Miami-Dade County Board of County Commissioners, or its employees. No party or its officers, elected or appointed officials, employees, agents, independent contractors or consultants shall be considered employees or agents of any other party, nor to have been authorized to incur any expense on behalf of any other party, nor to act for or to bind any other party, nor shall an employee claim any right in or entitlement to any pension, workers' compensation benefit, unemployment compensation, civil service or other employee rights or privileges granted by operation of law or otherwise, except through and against the entity by whom they are employed.

The Grantee agrees to be responsible for all work performed and all expenses incurred in connection with the Vanguardian Village Project. The Grantee may subcontract as necessary to complete the Vanguardian Village Project, including entering into subcontracts with vendors for services and commodities, provided that it is understood by the Grantee that the County shall not be liable to the subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.

The Grantee shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or

nature arising out of, relating to or resulting from the performance of this Agreement and/or the development of the Vanguardian Village Project by the Grantee or its employees, agents, servants, partners, principals, subconsultants or subcontractors (collectively, "Adverse Proceedings"). Grantee shall pay all claims and losses in connection with such Adverse Proceedings and shall investigate and defend all Adverse Proceedings in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may result from such Adverse Proceedings. Grantee expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Grantee shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as provided in this Section 12.

Section 13. Assignment. The Grantee is not permitted to assign this Agreement or any portion of it. Any purported assignment will render this Agreement null and void and subject to immediate rescission of the full amount of each or both of the Funding Allocation awards and immediate reimbursement by the Grantee of the full amount of the Total Funding Cycle Allocation disbursed to the Grantee.

Section 14. Compliance with Laws. The Grantee is obligated and agrees to abide by and be governed by all Applicable Laws necessary for the development and completion of the Vanguardian Village Project. "Applicable Law" means any applicable law (including, without limitation, any environmental law), enactment, statute, code, ordinance, administrative order, charter, tariff, resolution, order, rule, regulation, guideline, judgment, decree, writ, injunction, franchise, permit, certificate, license, authorization, or other direction or requirement of any governmental authority, political subdivision, or any division or department thereof, now existing or hereinafter enacted, adopted, promulgated, entered, or issued. Notwithstanding the foregoing, "Applicable Laws" and "applicable laws" shall expressly include, without limitation, all applicable zoning, land use, DRI and Florida Building Code requirements and regulations, all applicable impact fee requirements, all requirements of Florida Statutes, specifically including, but not limited to, Chapter 11-A of the County Code (nondiscrimination in employment, housing and public accommodations); all disclosure requirements imposed by Section 2-8.1 of the Miami-Dade County Code; County Resolution No R-754-93 (Insurance Affidavit); County Ordinance No. 92-15 (Drug-Free Workplace); County Ordinance No. 91-142 (Family Leave Affidavit); execution and delivery of public entity crimes disclosure statement, Miami-Dade County disability non-discrimination affidavit, and Miami-Dade County criminal record affidavit; all applicable requirements of Miami-Dade County Ordinance No. 90-90 as amended by Ordinance 90-133 (Fair Wage Ordinance); the requirements of Section 2-1701 of the Code and all other applicable requirements contained in this Agreement.

The Grantee shall comply with the Miami-Dade County Resolution No. R-385-98 which creates a policy of prohibiting contracts with firms violating the Americans with Disabilities Act of 1990 and other laws prohibiting discrimination on the basis of disability and shall execute a Miami-Dade County Disability Non-Discrimination Affidavit confirming such compliance.

The Grantee covenants and agrees with the County to comply with Miami-Dade County Ordinance No. 72-82 (conflict of Interest), Resolution No. R-1049-93 (Affirmative Action Plan Furtherance and Compliance), and Resolution No. R-185-00 (Domestic Leave Ordinance).

All records of the Grantee and its contractors pertaining to Vanguardian Village Project shall be maintained in Miami-Dade County and, upon reasonable notice, shall be made available to representatives of the County. In addition, the Office of Inspector General of Miami-Dade County shall have access thereto for any of the purposes provided in Sec. 2-1076 of the Code of Miami-Dade County.

The Grantee shall submit to the department administering this Agreement, all affidavits required in this Section 14 prior to, or at the time, this Agreement is delivered by the Grantee to the County fully executed by an authorized officer.

Section 15. Default; Remedies and Termination.

(a) Each of the following shall constitute a default by the Grantee:

(1) If the Grantee uses any portion of the Total Funding Cycle Allocation for costs not associated with the Vanguardian Village Project (i.e. ineligible costs), and the Grantee fails to cure its default within thirty (30) days after written notice of the default is given to the Grantee by the County; provided, however, that if not reasonably possible to cure such default within the thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the Grantee commences diligently and thereafter continues to cure.

(2) If the Grantee shall breach any of the other covenants or provisions in this Agreement other than as referred to in Section 16(a)(1) and the Grantee fails to cure its default within thirty (30) days after written notice of the default is given to the Grantee by the County; provided, however, that if not reasonably possible to cure such default within the thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the Grantee commences diligently and thereafter continues to cure.

(3) If the Grantee fails to complete the Vanguardian Village Project within three (3) years of the Commencement Date of this Agreement subject to extension as provided above.

(b) The following shall constitute a default by the County:

(1) If the County shall breach any of the covenants or provisions in this Agreement and the County fails to cure its default within thirty (30) days after written notice of the default is given to the County by the Grantee; provided, however, that if not reasonably possible to cure

such default within the thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the County commences diligently and thereafter continues to cure.

(c) Remedies:

(1) Upon the occurrence of a default as provided in Section 15(a) and such default is not cured within the applicable grace period, in addition to all other remedies conferred by this Agreement, the Grantee shall reimburse the County, in whole or in part as the County shall determine, all funds provided to the Grantee by the County pursuant to the terms of this Agreement and this Agreement shall be terminated.

(2) Either party may institute litigation to recover damages for any default or to obtain any other remedy at law or in equity (including specific performance, permanent, preliminary or temporary injunctive relief, and any other kind of equitable remedy), provided, however, any damages sought by the Grantee shall be limited solely to legally available BBC G0B funds allocated to the Vanguardian Village Project and no other revenues of the County.

(3) Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default.

(4) Any failure of a party to exercise any right or remedy as provided in this Agreement shall not be deemed a waiver by that party of any claim for damages it may have by reason of the default.

(d) Termination:

(1) Notwithstanding anything herein to the contrary, either party shall have the right to terminate this Agreement, by giving written notice of termination to the other party, in the event that the other party is in material breach of this Agreement, provided, however, such termination shall not be effective until all payments are made by Grantee to the County pursuant to (c) (1) of this Section 15 above.

(2) Termination of this Agreement by any Party is not effective until five (5) business days following receipt of the written notice of termination.

(3) Upon termination of this Agreement pursuant to Section 15(d)(1) above, no party shall have any further liability or obligation to the other party except as expressly set forth in this Agreement; provided that no party shall be relieved of any liability for breach of this Agreement for events or obligations arising prior to such termination.

In the event this grant is canceled or the Grantee is requested to repay all or a portion of the Total Funding Cycle Allocation because of a breach of this Agreement, the Grantee will not be eligible to apply to the County for another grant or contract with the County for a period of one (1) year, commencing on the date the Grantee receives the notice in writing of the breach of this Agreement. Further, the Grantee will be liable to reimburse Miami-Dade County for all unauthorized expenditures discovered after the expiration or termination of this Agreement. The Grantee will also be liable to reimburse the County for all lost or stolen Total Funding Cycle Allocation funds.

Any funds, which are to be repaid to the County pursuant to this Section or other sections in this Agreement, are to be repaid by delivering to the County Mayor or County Mayor's designee a certified check for the total amount due payable to Miami-Dade County Board of County Commissioners.

These provisions do not waive or preclude the County from pursuing any other remedy, which may be available to it under the law.

Section 16. Waiver. There shall be no waiver of any right related to this Agreement unless in writing and signed by the party waiving such right. No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular right so waived and shall not be deemed a waiver of the same right at a later time or of any other right under this Agreement. Waiver by any party of any breach of any provision of this Agreement shall not be considered as or constitute a continuing waiver or a waiver of any other breach of the same or any other provision of this Agreement.

Section 17. Written Notices. Any notice, consent or other communication required to be given under this Agreement shall be in writing, and shall be considered given when delivered in person or sent by facsimile or electronic mail (provided that any notice sent by facsimile or electronic mail shall simultaneously be sent personal delivery, overnight courier or certified mail as provided herein), one business day after being sent by reputable overnight carrier or 3 business days after being mailed by certified mail, return receipt requested, to the parties at the addresses set forth below (or at such other address as a party may specify by notice given pursuant to this Section to the other party):

The County:	Grantee:
County Executive Office Miami-Dade County 111 N.W. 1st Street (29th Floor) Miami, Fl. 33128	Attention: Felix Lasarte Vanguardian Village, LLP 3470 NW 82nd Ave., Suite 600 Doral , Florida, 33122

Section 18. Captions. Captions as used in this Agreement are for convenience of reference only and do not constitute a part of this Agreement and shall not affect the meaning or interpretation of any provisions in this Agreement.

Section 19. Agreement Represents Total Agreement; Amendments. This Agreement, and its attachments, which are incorporated in this Agreement, incorporate and include all prior

negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters pertaining to the partial funding of the Vanguardian Village Project by the County through the Funding Allocation and the development of the Vanguardian Village Project by the Grantee. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect.

This Agreement may be modified, altered or amended only by a written amendment duly executed by the County and the Grantee or their authorized representatives.

Section 20. Litigation Costs/Venue. In the event that the Grantee or the County institutes any action or suit to enforce the provisions of this Agreement, the prevailing party in such litigation shall be entitled to reasonable costs and attorney's fees at the trial, appellate and post-judgment levels. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The County and the Grantee agree to submit to service of process and jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement or a breach of this Agreement. Venue for any court action between the parties for any such controversy arising from or related to this Agreement shall be in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or in the United States District Court for the Southern District of Florida, in Miami-Dade County, Florida.

Section 21. Representations of the Grantee. The Grantee represents that this Agreement has been duly authorized by the governing body of the Grantee and that the governing body has granted Lenny Wolfe, (the "Authorized Officer"), the required power and authority to execute this Agreement on behalf of Grantee. The Grantee represents that it is a validly existing limited liability company in good standing under the laws of the State of Florida.

Once this Agreement is properly and legally executed by its Authorized Officer, the governing body of the Grantee agrees to a). comply with the terms of this Agreement; b) comply with the terms of the Developer's Restrictive Covenant, c) comply with all applicable laws, including, without limitation, the County's policy against discrimination; d) comply with the Administrative Rules; and e) submit all written documentation required by the Administrative Rules and this Agreement to the County Mayor or County Mayor's designee or his designee.

Section 22. Representation of the County. The County represents that this Agreement has been duly approved by the Board, as the governing body of the County, and the Board has granted the County Mayor or County Mayor's designee the required power and authority to execute this Agreement. The County agrees to provide the Funding Allocation to the Grantee for the purpose of developing and improving the Vanguardian Village Project in accordance with terms of this Agreement, including its incorporated Attachments and Exhibits. The County shall only disburse the Funding Allocation if the Grantee is not in breach of this Agreement. Any and all reimbursement obligations of the County shall be fully subject to and

contingent upon the availability of the Funding Allocation within the time periods set forth in this Agreement.

Section 23. Invalidity of Provisions, Severability. Wherever possible, each provision of the Agreement shall be interpreted in such manner as to be effective and valid under Applicable Law, but if any provision of this Agreement shall be prohibited or invalid under Applicable Law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement, provided that the material purposes of this Agreement can be determined and effectuated.

Section 24. Insurance. The vendor must maintain and shall furnish, upon request, to the County Mayor or County Mayor's designee, certificate(s) of insurance indicating that insurance has been obtained which meets the requirements as outlined below:

A. Worker's Compensation Insurance for all employees of the vendor as required Section 440 of the Florida Statutes.

B. Public Liability Insurance on a comprehensive basis in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County's General Services Administration Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

Modification or waiver of any of the insurance requirements identified in this Section 24 is subject to the approval of the County's General Services Administration Risk Management Division. The Grantee shall notify the County of any intended changes in insurance coverage, including any renewals of existing policies.

Section 25. Special Conditions. The Funding Allocation is awarded to the Grantee with the understanding that the Grantee is performing a public purpose by providing affordable multi-family rental units through the development of the Vanguardian Village Project. Use of the Funding Allocation for any purpose other than for the Vanguardian Village Project will be

considered a material breach of the terms of this Agreement and will allow Miami-Dade County to seek remedies including, but not limited to, those outlined in Section 15 of this Agreement.

Section 26. Miami-Dade County's Rights As Sovereign. Notwithstanding any provision of this Development and Grant Agreement,

(a) Miami-Dade County retains all of its sovereign prerogatives and rights as a county under Florida laws (other than its contractual duties under this Agreement) and shall not be estopped by virtue of this Agreement from withholding or refusing to issue any zoning approvals and/or building permits; from exercising its planning or regulatory duties and authority; and from requiring the Vanguardian Village Project to comply with all development requirements under present or future laws and ordinances applicable to its design, construction and development; and

(b) Miami-Dade County shall not by virtue of this Agreement be obligated to grant the Grantee or the Vanguardian Village Project or any portion of it, any approvals of applications for building, zoning, planning or development under present or future laws and ordinances applicable to the design, construction and development of the Vanguardian Village Project.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above:

ATTEST: MIAMI-DADE COUNTY, FLORIDA

By: _____ By: _____
Deputy Clerk Miami-Dade County Mayor

Approved by County Attorney as
to form and legal sufficiency.

By:_____

(SEAL) VANGUARDIAN VILLAGE, LLP.

Attest:

By:_____ By:_____
Felix Lasarte, (Title)

EXHIBIT 1

Total Project Cost and Budget is Attached

1. GENERAL PROJECT INFORMATION

Project Name	Vanguardian Village
Project County	Miami-Dade
File Name	Vanguardian Village
Directory Location	

2. UNIT BREAKDOWN

	Number	Approx. SF	Total SF
One Bedroom	120	600	72,000
Two Bedroom	0	0	0
Three Bedroom	0	0	0
Four Bedroom	0	0	0
Totals	120	600	72,000

3. DEVELOPMENT COSTS

	$	Per Unit	Per SF
Land (Incl extension fees)	2,100,000	17,500	29.17
Land Interest Carry	0	0	0.00
Construction	5,160,000	43,000	90.21
Const. Cont.(5%)	257,500	2,146	3.58
Lender's Inspector	25,000	208	0.35
Architecture, Engineering, Environmental	200,000	1,667	2.78
Building Permits	50,000	417	0.69
Owner's Items	0	0	0.00
Taxes	80,000	667	1.11
Insurance	75,000	625	1.04
Legal	40,000	333	0.56
Title & Recording (Land, Constr & Perm)	200,000	1,667	2.78
Accounting	5,000	42	0.07
Appraisal/Mkt. Study/Pre-Constr. Analysis	20,000	167	0.28
Marketing/Lease-up Reserve	80,000	667	1.11
Impact Fees/Wtr & Swr	250,000	2,083	3.47
LIHTC U/writing, Appl. (Incl. FHFC extension fees)	0	0	0.00
LIHTC Admin Fee	0	0	0.00
LIHTC Compliance	0	0	0.00
Soft Cost Contingency	100,000	833	1.39
Other	0	0	0.00
Construction Loan Fees	60,000	500	0.83
Permanent Loan Fees	60,000	500	0.83
Constr Interest (Elig.)	146,000	1,217	2.03
Constr. Interest (Non-Elig.)	0	0	0.00
Working Capital Reserve	150,000	1,250	2.08
Sub Total	9,058,500	75,488	144.36
Dev Ovhd/Fee	1,625,000	13,542	22.57
Sub Total	1,625,000	13,542	22.57
Total Development Costs	10,683,500	89,029	166.93

EXHIBIT 2

See Rental Regulatory Agreement Attached as Exhibit B to the Resolution of the Miami-Dade County Board of County Commissioners approving this Grant Agreement.

ATTACHMENT 1

Consists of Building Better Communities General Obligation Bond Program Administrative Rules, as amended by Resolution No. R-668-10, and will be attached in its entirety to this Grant Agreement prior to execution by all parties.

Exhibit B
Rental Regulatory Agreement

This Instrument Was Prepared By:

_____

Record and Return to:

Miami, Florida 33136
Attention: _____

MIAMI-DADE COUNTY
RENTAL REGULATORY AGREEMENT

GRANTEE'S NAME	Vanguardian Village, LLP
PROPERTY ADDRESS:	The NE corner of SW 127th Avenue and 104th Street in unincorporated Miami-Dade County (the "Property")
LEGAL DESCRIPTION OF PROPERTY:	The legal description of the Property is attached as Exhibit A
NAME OF PROJECT	Vanguardian Village
DWELLING UNITS:	One hundred and twenty elderly, affordable multi-family rental units consisting of one hundred and twenty (120) one bedroom units with 1 bath(s) (collectively, the "Units").

This Rental Regulatory Agreement (the "Agreement") is made and entered into as of _____, 2011 between Miami-Dade County, Florida, a political subdivision of the State of Florida (the "Grantor") and Vanguardian Village, LLP a Florida limited partnership or limited liability limited partnership (the "Grantee").

Preamble

WHEREAS, pursuant to Resolution No. R-763-10 adopted on July 8, 2010 (the "Allocation Resolution"), the Board of Commissioners for the Grantor (the "Board") approved a District 10 grant/allocation of $5,000,000 (the "County Grant") from Project No. 249 – "Preservation of Affordable Housing Units and Expansion of Home Granteeship" (the "Total Funding Cycle Allocation") of the

Building Better Communities General Obligation Bond Program (the "BBC GOB Program") to the Grantee for the construction of one hundred and twenty (120) elderly, affordable rental units (the "Units") known as the Vanguardian Village and related improvements and amenities (the "Project") on real property located at the NE corner of SW 127th Avenue and 104th Street in unincorporated Miami-Dade County (the "Property") which will be leased to certain eligible individuals and/or families; and

WHEREAS, the Grantor and the Grantee entered into a Development and Grant Agreement dated the same date as this Agreement in which the terms and conditions of the Grant are set forth; and

WHEREAS, in connection with receipt of the Grant, the Grantee agrees to lease the Units to Eligible Tenants with certain income levels and to maintain rents at certain prescribed rates, as set forth in this Agreement; and

WHEREAS, the Development and Grant Agreement requires, as a condition of making the Grant, the execution, delivery and recording of this Agreement,

NOW, THEREFORE, for and in consideration of Ten dollars ($10.00), the promises and covenants contained in this Agreement and for other good and valuable consideration received and acknowledged, the Grantor and the Grantee agree as follows

AGREEMENT

Section 1. Definitions and Interpretation. Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the following terms shall have the respective meanings set forth below for all purposes of this Agreement. In addition, the capitalized words and terms used herein which are not otherwise defined herein shall have the same meanings ascribed to them in the Development and Grant Agreement.

"Adjusted for family size" means adjusted in a manner that results in an income eligibility level that is lower for households having fewer than four people, or higher for households having more than four people, than the base income eligibility, based upon a formula established by the United States Department of Housing and Urban Development ("HUD").

"Affordable" means that monthly rents or monthly mortgage payments including taxes and insurance do not exceed thirty percent (30%) of that amount which represents the percentage of the median annual gross income for the households.

"Available Units" means residential units in a residential rental project that are actually occupied and residential units in the project that are unoccupied and have been leased at least once after becoming available for occupancy.

"Certificate of Continuing Program Compliance" or "Compliance Certificate" means a Compliance Certificate, initially in the form attached hereto as Exhibit C, as such form may be revised by the County from time to time.

"County" means Miami-Dade County, Florida or "Grantor".

"Development and Grant Agreement" means the Development and Grant Agreement, dated the date of this Agreement, between the County and the Grantee with respect to the Grant, as amended and supplemented from time to time.

"Elderly" or "Elderly Households" means an age-restricted apartment building, which housing is (a) specifically intended for and solely occupied by persons 62 years of age or older, or (b) specifically intended and operated for occupancy by persons 55 years of age or older that meet the income limits for the area, and so long as at least eighty (80%) percent of the occupied units in the building are occupied by at least one person 55 years of age or older and meets all other requirements for housing for older persons as set forth in the Federal, State and local Fair Housing Acts, laws, ordinances and applicable regulations.

"Eligible Tenant" means a person(s) or family whose total adjusted gross income, as set forth in Section 2 of the Income Certification, does not exceed 140% of the then current median family income for Miami-Dade County, Florida established by income statistics reported from time to time by HUD or such other entity which may succeed to perform its duties. On the date of this Agreement, the current median family income is $_____.

"Extremely-low-income persons or extremely low-income household" means one or more natural persons or a family whose total annual household income does not exceed 30 percent of the then current median family income for Miami-Dade County, Florida Adjusted for Family Size established by HUD.

"Grant" means the grant from the County to the Grantee in the amount of $5,000,000 with respect to the Project, made in accordance with the County's program guidelines, this Agreement and the Development and Grant Agreement for the purpose of financing a portion of the cost of the acquisition and construction of the Project.

"Income Certification" means an Income Certification initially in the form of Exhibit B, as such form may be revised by the County.

"Moderate-income person or moderate-income household" means one or more natural persons or a family that has a total annual gross household income that does not exceed 140 percent of the then current median family income for Miami-Dade County, Florida Adjusted for Family Size established by HUD.

"Project" means the Vanguardian Village to be located at the NE corner of SW 127th Avenue and 104th Street in unincorporated Miami-Dade County consisting of one hundred and twenty (120) elderly, affordable low-rise apartment rental units consisting of one hundred and twenty (120) one bedroom units with 1 bath(s), and related amenities including a clubhouse and 120 parking spaces.

"Rent" or "Rents" means the monthly rent permitted to be collected by the Grantee based on household income limitations as set forth in Section 4 of this Agreement.

"Very-low-income person or very-low-income household" means one or more natural persons or a family that has a total annual gross household income that does not exceed 60 percent of the then current median family income for Miami-Dade County, Florida Adjusted for Family Size established by HUD.

" Residential Rental Housing" means residential rental units to be used other than on a transient basis which are rented or available for rental on a continuous basis to members of the general public in accordance with the requirements of this Agreement.

"Rental Regulatory Agreement" or "Agreement" shall mean this Rental Regulatory Agreement, as amended or supplemented from time to time.

"State" shall mean the State of Florida.

"Term of this Agreement" means from the date of the recordation of this Rental Regulatory Agreement, and ending on the last day of the thirtieth (30th) year after the year in which the Project is completed and a certificate of occupancy is issued

Unless the context clearly requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Agreement and all of its terms and provisions shall be construed to effectuate its stated purposes and to sustain its validity.

The terms and phrases used in the recitals of this Agreement have been included for convenience of reference only and the meaning, construction and interpretation of all such terms and phrases for purposes of this Agreement shall be determined by references to this Section 1. The titles and headings of the sections of this Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Agreement or any provision hereof or in ascertaining intent, if any question of intent shall arise.

Section 2. Residential Rental Project. The County and the Grantee declare their understanding and intent that, during the Term of this Agreement, the Project is to be owned, managed and operated, as Residential Rental Property. To that end, the Grantee hereby represents, covenants and agrees as follows:

(a) that the Project will be acquired and constructed for the purpose of providing multifamily Residential Rental Housing, and the Grantee shall own, manage and operate the Project during the Term of this Agreement;

(b) that all of the dwelling units in the Project will be similarly constructed and each such dwelling unit shall contain complete facilities for living, sleeping, eating, cooking and sanitation for a single person or a family;

(c) that during the Term of this Agreement (i) none of the dwelling units in the Project shall at any time be utilized on a transient basis; and (ii) none of the dwelling units in the Project shall ever be leased or rented for a period of less than six (6) months plus one (1) day;

(d) that during the Term of this Agreement the dwelling units in the Project shall be leased and rented or made available for rental on a continuous basis to members of the general public;

(e) that during the Term of this Agreement no part of the Project will at any time be owned or used by a cooperative housing corporation;

(f) that, unless otherwise permitted by applicable law, the Grantee shall not discriminate on the basis of race, creed, religion, color, ancestry, age, sex, marital status, pregnancy, sexual orientation, source of income, family status, disability or national origin in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project, nor shall the Grantee discriminate against any tenant or potential tenant on the basis that such tenant offers a housing voucher as partial or full payment of any rent obligation and the Grantee shall not refuse to rent any unit to such tenant solely on the basis that such tenant is the recipient of a housing voucher; and

(g) that, unless otherwise permitted by applicable law, the Grantee will not refuse or deny rental occupancy in the Project to persons whose family includes minor dependents (those under eighteen years of age) who will occupy such unit, unless such refusal is based upon factors not related to the presence of such minors in the family.

Unless amended by mutual agreement of the Grantor and Grantee, the provisions of this Section shall remain in effect during the Term of this Agreement.

Section 3. Tenants. The Grantee hereby represents, covenants and agrees that, during the Term of this Agreement:

(a) Commencing with the later of the date on which at least 10% of the units in the Project are occupied, the Grantee shall rent all of its units to Eligible Tenants as defined above. ***Provisions pertaining to adjustments for tenant incomes during rental term to be developed.***

(b) The Grantee shall obtain and maintain on file an Income Certification from each person'(s) household, dated immediately prior to the initial occupancy of such tenant in the Project (with notification to the Grantee of any material change of information in the Income Certification and initial occupancy of such tenant in the Project) in the form attached as Exhibit B. The Grantee shall remit copies of the Income Certification to the County upon request and on each anniversary date of the completion of the Project throughout the Term.

(c) The Grantee shall maintain complete and accurate records pertaining to the dwelling units and to permit any duly authorized representative of the County to inspect the

books and records of the Grantee pertaining to the income and Income Certifications of all the tenants residing in the Project.

(d) The Grantee shall immediately notify the County if at any time the dwelling units in the Project are not occupied or available for occupancy as provided in subparagraph (a) above, and the Grantee shall prepare and submit to the County, not later than the tenth (10th) day of each month following the initial occupancy of any of the units in the Project, a Compliance Certificate, initially in the form attached as Exhibit C, executed by the Grantee, stating among other matters, the number of dwelling units of the Project which, as of the first day of such month, in each case, were occupied by Eligible Tenants, as provided in subparagraph (a) above, and stating that all units in the Project are occupied by or held available for rental to only Eligible Tenants.

(e) Prior to execution of the Grantee/Grantee's Statement portion of the Income Certification, the Grantee shall verify the income of each Eligible Tenant whether person or family.

(f) The Grantee shall provide the County with occupancy reports on an annual basis that include the following:

(1) List of all occupied apartments, indicating composition of each resident family, as of the end date of the reporting period. Composition includes, but is not limited to:

(i) Number of residents per units.

(ii) Area median Income by HUD (AMI) per unit.

(iii) Race, Ethnicity and age per unit (Head of Household).

(iv) Number of units serving special need clients.

(v) Gross Household Rent

(vi) Maximum rent per unit.

(2) A list of all vacant apartments, as of the end date of the reporting period.

(3) The total number of vacancies that occurred during the reporting period.

(4) The total number of units that were re-rented during the reporting period, stating family size and income.

(5) The Grantee shall upon written request of the County allow representatives of the County to review and copy any and all of its executed leases with tenant residing on the Property.

Section 4. Rents. The Grantee hereby represents, covenants and agrees, during the Term of this Agreement, that:

(a) The maximum initial approved rental rates for this Project are set forth in the attached Appendix 1.

(b) The parties agree that once recorded, this Agreement shall be a restrictive covenant on the Project that shall run with the Property since the subject matter of this Agreement and its covenants touch and concern the Property. This Agreement shall be binding on the Property, the Project, and all portions of each, and upon any purchaser, transferee, Grantee or lessee or any combination of each, and on their heirs, executors, administrators, devisees, successors and assigns and on any other person or entity having any right, title or interest in the Property, the Project, or any portion of each, for the length of time that this Agreement shall be in force. Grantee hereby makes and declares these restrictive covenants which shall run with the title to said Property and be binding on the Grantee and its successors in interest, if any, for the Term of this Agreement, without regard to payment or satisfaction of any debt owed by Grantee to the County or the expiration of any agreement between the Grantee and the County regarding the Property, Project or both.

(c) The above rentals will include the following services to each unit: **[INSERT TERMS]**

(d) Grantee further agrees that it will, during the term of this Agreement: furnish each resident at the time of initial occupancy, a written notice that the rents to be charged for the purposes and services included in the rents are approved by the County pursuant to this Agreement; that they will maintain a file copy of such notice with a signed acknowledgment of receipt by each resident; and, that such notices will be made available for inspection by the County during regular business hours.

(f) Grantee agrees that the unit shall meet the energy efficiency standards promulgated by the Secretary of the HUD, the Florida Housing Finance Corporation (hereafter "FHFC"), and/or Miami-Dade County, as applicable.

(g) County and Grantee agree that rents may increase as median income increases as published by HUD with the prior approval of County, provided, that at no time shall the Grantee's management fee and expenses attributed to the Grantee for managing the Project exceed _____ percent (____%) of the cash flow. Any other adjustments to rents will be made only if County (and HUD if applicable), in its sole and absolute discretion, find any adjustments necessary to support the continued financial viability of the Project and only by an amount that the County (and HUD if applicable) determine is necessary to maintain continued financial viability of the Project.

Grantee will provide documentation to justify a rental increase request not attributable to increases in median income but attributable to an increase in operating expenses of the Project, excluding the management fee attributed to the Grantee for managing the Project. Within sixty (60) days of receipt of such documentation, the County will approve or deny, as the case may be, in its sole and absolute discretion, all or a portion of the rental increase in excess of the amount that is directly proportional to the most recent increase in median annual income. In no event, however, will any increase directly proportional to an increase in median annual income be denied.

(h) The County shall have the right to review the Grantee's reports and conduct any further reasonable inspection of Grantee's records to confirm the information as being correct and that the Grantee is acting according to all of the terms and conditions of this Agreement. Additionally, the Grantee shall be subject to a fee equal to 1.5% of the County Grant, payable to the County, for the time required by the County to perform this (these) reviews and inspections. This fee can either be paid in full at closing of the Funding Agreement or annually over the 30-year term of this Rental Regulatory Agreement.

Section 5. Indemnification. The Grantee hereby covenants and agrees that the provisions of Section 12 of the Development and Grant Agreement relating to the Grantee's indemnity obligations apply to any violations by the Grantee of this Agreement and to any suites, claims etc. by third parties against the County arising out of this Agreement and/or the Project.

Section 6. Reliance. The County and the Grantee hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons interested in the legality and validity of the Grant and the completion of the Project as affordable residential rental housing. In performing their duties and obligations under this Agreement, the County may rely upon statements and certificates of the Grantee and tenants believed to be genuine and to have been executed by the proper purported person or persons, and upon audits of the books and records of the Grantee pertaining to occupancy of the Project. In addition, the County may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection with respect to any action taken or suffered by the County in good faith and in conformity with the opinion of such counsel.

Section 7. Project Within the County Limits. The Grantee hereby represents and warrants that the Project is located entirely within the limits of the County.

Section 8. Sale and Conveyance of Project. (a) The Grantee shall not sell, transfer or encumber the Project, in whole or in part, without the prior written consent of the County, which consent shall be given promptly provided that (i) the Grantee shall not be in Default hereunder, (ii) the continued operation of the Project as Residential Rental Housing, (iii) the subsequent purchaser or assignee shall execute any document requested by the County, to acknowledge that it holds title to the Project subject to the covenants and obligations contained in this Agreement, (iv) the purchaser and assignee shall have first executed a document in recordable form addressed to the County to the effect that such purchaser or assignee will comply with the terms and conditions of this Agreement, and (v) such other conditions as

may be reasonable under the circumstances. In the event that the purchaser or assignee shall assume the obligations of the Grantee under this Rental Regulatory Agreement to the satisfaction of the County, Grantee may be released from its obligations under this Agreement.

Notwithstanding anything contained herein, the consent of the County shall not be required for (i) the removal of the general partner of the Grantee and the replacement thereof pursuant to Grantee's governing documents (as amended), (ii) the transfer by any limited partner of the Grantee of a partnership interest in Grantee, or (iii) easements necessary for the construction or operation of the Project and granted in the ordinary course of business.

Section 9. Enforcement. If the Grantee Defaults in the performance of its obligations under this Agreement or breaches any covenant, agreement or warranty of the Grantee set forth in this Agreement, and if such Default remains uncured for a Period of 30 days after notice shall have been given by the County to the Grantee (or for an extended period, if such Default stated in such notice can be corrected, but not within such 30-day period, and if the Grantee commences such correction within such 30-day period, and thereafter diligently pursues the same to completion within such extended period), then the County may take such action at law or in equity, as is necessary in order to obtain specific performance of any covenant or other obligation of the Grantee in this Agreement in addition to the remedies afforded the County in the Development and Grant Agreement including the recoupment of all or a portion of the Grant.

Section 10. Recording and Filing; Covenants to Run With the Land. Upon execution and delivery by the parties to this Agreement, the Grantee shall cause this Agreement and all amendments and supplements to be recorded and filed in the official public deed records of the County and in such manner and in such other places as the County may reasonably request, and shall pay all fees and charges incurred in connection with such recording. This Agreement and its covenants shall run with the land and shall bind, and the benefits shall inure to, respectively, the Grantee and the County and their respective successors and assigns during the Term of this Agreement.

Section 11. Governing Law. This Agreement shall be governed by the laws of the State of Florida, both substantive and relating to remedies.

Section 12. Assignments and Amendments. The Grantee shall not assign its interest under this Agreement, except by writing and in accordance with the provisions of Section 8 of this Agreement. The County and the Grantee may from time to time enter into one or more amendments or supplements to this Agreement.

Section 13. Notice. Any notice required to be given shall be given by personal delivery, by registered U.S. mail or by registered expedited service at the addresses specified below or at such other addresses as may be specified in writing by the parties hereto, and any such notice shall be deemed received on the date of delivery if by personal delivery or expedited delivery service, or upon actual receipt if sent by registered U.S. mail.

County:

Grantee:

Section 14. Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired.

Section 15. Multiple Counterparts. This Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument and each of which shall be deemed to be an original.

[Remainder of page left intentionally blank]

IN WITNESS WHEREOF, the County and the Grantee have caused this Agreement to be signed, sealed and attested on their behalf by duly authorized representatives, all as of the date first written hereinabove.

ATTEST:

MIAMI-DADE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Miami-Dade County Mayor

Approved by County Attorney as
to form and legal sufficiency.

By:_____

(SEAL)

VANGUARDIAN VILLAGE, LLP.

Attest:

By:_____

By:_____
Felix Lasarte, (Title)

EXHIBIT "A"
Legal Description

That portion of the Southwest ¼ of Section 1, Township 55 South, Range 39 East, Miami-Dade County, Florida, more particularly described as follows: Commence at the Southwest corner of said Section 1, thence North 02° 07' 31" West along the West line of said Section 1 a distance of 55 feet; thence North 87° 41' 32" East a distance of 35 feet to the Point of Beginning of the herein described parcel, said point also being the intersection of North Right of Way Line of SW. 104th Street and the East Right-of-Way Line of SW. 127th Avenue, thence North 02° 07' 31" West, a distance of 311.87 feet along said East Right-of-Way line of SW. 127th Avenue; thence leaving said Right-of-Way North 87° 41' 32" East a distance of 296.07 feet; thence South 02° 08' 19" East, a distance of 311.87 feet to a point on the North Right-of-Way line of SW. 104th Street; thence South 87° 42' 32" West a distance of 296.14 feet along said North Right-of-Way line of SW. 104th Street, to the Point of Beginning.

AND

That portion of the Southwest ¼ of Section 1, Township 55 South, Range 39 East, Miami-Dade County, Florida, more particularly described as follows: Commence at the Southwest corner of said Section 1, thence North 02° 07' 31" West along the West line of said Section 1 a distance of 55 feet; thence North 87° 41' 32" East a distance of 35 feet to a point of intersection of North Right-of-Way Line of SW. 104th Street and East Right-of-Way line of SW. 127th Avenue; thence North 02° 07' 31" West, along said East Right-of-Way line of SW. 127th Avenue a distance of 311.87 feet to the Point of Beginning of the herein described parcel; thence North 02° 07' 31" West along said East Right-of-Way Line of SW. 127th Avenue a distance of 294.31 feet; thence leaving said Right-of-Way line of SW. 127th Avenue North 87° 41' 32" East, a distance of 295.00 feet; thence South 02° 07' 30" East, a distance of 3.34 feet; thence North 87° 39' 52" East a distance of 1.0 foot; thence South 02° 08' 19" East a distance of 290.97 feet; thence South 87° 41' 32" West a distance of 296.07 feet to the Point of Beginning.

Less lands conveyed to the County of Miami-Dade by Special Warranty Deed dated January 31, 1996, recorded in Official Records Book 17090, Page 2704.

EXHIBIT B

FORM OF INCOME CERTIFICATION

EXHIBIT C

FORM OF COMPLIANCE CERTIFICATE

Appendix 1

Rents

The initial rental rates for persons or households at or below 60% of AMI is: $690.00 per month*

The initial rental rates for persons or households at or below 140% of AMI is: $1,725.00 per month*

*The aforementioned rents are the approved rent limits from the published Florida Housing Finance Corporation, 2011 Rent Limits Schedule, for one (1) bedroom apartments (published May 2011).