MEMORANDUM Agenda Item No. 11(A)(12)

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

DATE: October 4, 2011

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

SUBJECT: Resolution amending Resolution No. R-84-09 to provide for grant rather than loan in amount of $7,500,000 to transforming Communities Foundation, Inc. rather than Georgia Ayers Development LLC for development of seventy-two affordable rental units in District 1 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 Commissioner Barbara J. Jordan.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

MEMORANDUM

(Revised)

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

DATE: October 4, 2011

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

SUBJECT: Agenda Item No. 11(A)(12)

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**

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Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(12)
10-4-11

RESOLUTION NO. _____

RESOLUTION AMENDING RESOLUTION NO. R-84-09 TO PROVIDE FOR GRANT RATHER THAN LOAN IN AMOUNT OF $7,500,000 TO TRANSFORMING COMMUNITIES FOUNDATION, INC. RATHER THAN GEORGIA AYERS DEVELOPMENT LLC FOR DEVELOPMENT OF SEVENTY-TWO AFFORDABLE RENTAL UNITS IN DISTRICT 1 FROM BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM PROJECT NUMBER 249 – "PRESERVATION OF AFFORDABLE HOUSING UNITS AND EXPANSION OF HOME OWNERSHIP"; AND APPROVING AGREEMENTS RELATED TO GRANT

WHEREAS, pursuant to Resolution No. R-84-09 adopted on January 22, 2009 (the "Allocation Resolution"), this Board approved a District 1 allocation of $7,500,000 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") in the form of a loan to Georgia Ayers Development LLC to fund all or a portion of the construction of seventy-two (72) low and moderate income rental units for the elderly and families at 13280 Port Said Road, Opa-Locka, Florida (the "Project"), subject to Board approval of the necessary documents; and

WHEREAS, this Board wishes to amend the Allocation Resolution to provide that (i) the $7,500,000 allocation be in the form of a grant and not a loan as originally authorized in the Allocation Resolution: and (ii) the recipient of the funds be Transforming Communities Foundation, Inc., a Florida not-for-profit corporation, rather than Georgia Ayers Development LLC; and to approve the necessary documents as required by the Allocation Resolution,

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 Allocation Resolution is amended to provide that the $7,500,000 allocation be made as a grant and not a loan as originally authorized in the Allocation Resolution to Transforming Communities Foundation, Inc. rather than Georgia Ayers Development LLC for the development of the Project.

Section 3. The Board approves the Development and Grant Agreement between the County and Transforming Communities Foundation, Inc. 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.

Section 4. The Board approves the Rental Regulatory Agreement to be delivered by the Transforming Communities Foundation, Inc. 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. Pursuant to the Regulatory Agreement, the Developer shall, among other provisions, develop seventy-two (72) low and moderate income rental units to be leased to elderly individuals and families with rents which are equal to or less than 30% of annual incomes for households at 80% of the area median income adjusted for size established by HUD (the "AMI"). The initial rental rate is anticipated to be $931 per month for two bedroom units and $1077 per month for three bedroom units.

Section 5. 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 1.

Section 6. Pursuant to Resolution No. R-974-09, the Board (i) directs the County Mayor or the County Mayor's designee to record or cause to be recorded the Regulatory Agreement in the Public Records of Miami-Dade County, Florida and to provide a recorded copy of the instrument to the Clerk of the Board within thirty (30) days of execution of said instrument; and (ii) directs the Clerk of the Board to attach and permanently store a recorded copy together with this resolution.

The Prime Sponsor of the foregoing resolution is Commissioner Barbara J. Jordan. 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 4th day of October, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become 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.

Gerald T. Heffernan

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EXHIBIT A

LEGAL DESCRIPTION

6

7

EXHIBIT B

FORM OF INCOME CERTIFICATION

8

EXHIBIT C

FORM OF COMPLIANCE CERTIFICATE

11

Appendix 1

Rents

The initial rent for the two bedroom Units is $931 per month and $1077 per month for the three bedroom Units.

EXHIBIT A

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

BETWEEN
MIAMI-DADE COUNTY
and
TRANSFORMING COMMUNITIES FOUNDATION, INC

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. Transforming Communities Foundation Inc. (the "Developer/Grantee" or "Grantee"), a Florida not-for-for profit corporation with offices at 3301 N.E. 1st Avenue, Suite M-501 Miami, Florida 33137 is entered into this day of , 2011.

WHEREAS, pursuant to Resolution No. R-84-09 adopted on January 22, 2009, as amended by Resolution No. R- -11, adopted on , 2011 (collectively, the "Allocation Resolution"), the Board of Commissioners for the Grantor (the "Board") approved a District 1 grant/allocation of $7,500,000 (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 seventy-two (72) low and moderate income multi-family rental units for the elderly and families known as the Georgia Ayers Apartments and related improvements and amenities on real property located on the Property (the "Project") which will be leased to certain individuals and/or families describe 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 1; and

WHEREAS, the Project is estimated to cost $14,330,000 (the "Total Project Cost") and will be funded in accordance with the sources and uses and the budget (the "Budget") set forth in Exhibit 2 and 3, respectively, to this Agreement; and

WHEREAS, it is anticipated that the Total Funding Allocation shall be available for reimbursement pursuant to the terms of this Agreement solely from funds allocated from the BBC GOB program over the forty-five month period from May 26, 2011 (the "2011 Bonds") and the timing of such reimbursements shall depend on the cash flow needs of the Project and the availability of BBC GOB bond proceeds; and

WHEREAS, it is anticipated that $1,001,000 will be available from the Series 2011 Bonds for the Project for disbursement pursuant to the terms of this Agreement; and

WHEREAS, the County pursuant to the Allocation Resolution 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. Terms; Parties; Effective Date; and Term. All capitalized terms not defined in the context of this Agreement shall have the meanings ascribed to them in the Regulatory Agreement.

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 Department.

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. Project Description; Timetable; and Revisions. The Project will consist of 72 multi-family rental units. The two bedroom/two bath apartments and three bedroom/two bath apartments will consist of 859 square feet, and 1,105 square feet, respectively. The development will have a community room, library, computer lab and an exercise room. There will also be approximately 126parking spaces.

Grantee agrees that the 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 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) 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 Project in the manner described above. If the Grantee wishes to revise the 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 Eligible Tenants with incomes equal to or less than eighty percent (80%) 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 Rental Regulatory Agreement. The Regulatory Agreement shall be recorded by the Grantee at its expense. 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 it's practicable after receipt of invoices from the Grantee for capital costs incurred in connection with development of the 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; (d) the reimbursement is in compliance with the reimbursement rules set forth in Section 4 of this Agreement; (e) the Project is progressing in accordance with its construction schedule. All grant funds allocated to the 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 Total Funding Cycle 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 is 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 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 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 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 Total 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 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. 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 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 Project, including line item changes, and such revisions substantially alter the original 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 Units; and/or (ii) materially, the affordability of the Project, shall be approved by the Board.

Section 6. Expenditure Deadline; Remaining Funds. The Grantee shall spend or commit all of the Total Funding Cycle Allocation on or before three (3) years from the Commencement Date (the "Expenditure Deadline"). Any Total Funding Cycle Allocation funds not spent or committed by the Expenditure Deadline or for which a 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 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 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 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 Project Description and 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 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 Cycle 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 Cycle 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 Cycle 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 the Project and shall monitor and conduct an evaluation of the Grantee's operations and the Project durin g the construction period. Such project management shall include site visits to observe and discuss the progress of the 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 the Project or no more than $4,000 per month if there are federal funds used in any phase of the Project for the services of its General Services Administration Department (or any successor) as project manager. Subject to the limitations set forth above, 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 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 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 Project or uses any portion of the Total Funding Allocation for costs not associated with the 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 Cycle 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 Cycle 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 Cycle Allocation awards, the Grantee and/or Project or activities related to each or both of the Funding Cycle 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 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 Cycle 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 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 Project. The Grantee may subcontract as necessary to complete the 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 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 Cycle 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 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 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 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 fails to complete the 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 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 ©(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 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 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:

County Executive Office
Miami-Dade County
111 N.W. 1st Street (29th Floor)
Miami, Fl. 33128

Grantee:

Attention:

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 Project by the County through the Total Funding Allocation and the development of the 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/Laws/Venue. In the event that the Grantee or the County institutes any action or suit to enforce the provisions of this Agreement, each 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_____, (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 Total Funding Allocation to the Grantee for the purpose of developing and improving the Project in accordance with terms of this Agreement, including its incorporated Attachments and Exhibits. The County shall only disburse the Total 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 Total 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 Total 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 Project. Use of the Total Funding Allocation for any purpose other than for the 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 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 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 Project.

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

ATTEST:

By: _____
_____, Deputy Clerk

MIAMI-DADE COUNTY, FLORIDA

By: _____
_____, (title)

Approved by County Attorney's Office
as to form and legal sufficiency.

By:_____
Print Name:

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(SEAL)

TRANSFORMING COMMUNITIES FOUNDATION, INC

Attest:

By:_____
Print Name:

By_____
Print Name and Title:

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Exhibit 1

Regulatory Agreement

Exhibit 2

Sources and Uses of Funds

Uses:

$8.4 million –Hard Construction Cost Iincluding 5 contingency)

$600,000—Fiinaning and Application Costs

$2,500,000—Soft Costs (inlducing $100,000 contingency

$705,000—Land cost

$2,000,000 Developer Fees

Sources:

$7,500,000—Building Better Communities GOB funds

$2,400,000—NSP funds

$4,100,000—Equity

$200,000—Deferred Developer Fees

Exhibit 3

Budget

EXHIBIT B

This Instrument Was Prepared By:

_____

Record and Return to:

Miami, Florida 33136
Attention: _____

MIAMI-DADE COUNTY
RENTAL REGULATORY AGREEMENT

GRANTEE'S NAME	Transforming Communities Foundation, Inc.
PROPERTY ADDRESS:	13280 Port Said Road, Opa-Locka, Florida (the "Property")
LEGAL DESCRIPTION OF PROPERTY:	The legal description of the Property is attached as Exhibit A
NAME OF PROJECT	Georgia Ayers Apartments
DWELLING UNITS:	Seventy-two low and moderate income multi-family rental units consisting of thirty-six (36) two bedroom units with two bath(s) and thirty-six(36) three bedroom units with two 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 Transforming Communities Foundation, Inc., a Florida not-for-profit corporation (the "Grantee").

Preamble

WHEREAS, pursuant to Resolution No. R-84-09 adopted on January 22, 2009, as amended by Resolution No. R- -11, adopted on , 2011 (collectively, the "Allocation Resolution"), the Board of Commissioners for the Grantor (the "Board") approved a District 1 grant/allocation of $7,500,000 (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 seventy-two (72) low and moderate income multi-family rental units for the elderly and families known as the Georgia Ayers Apartments and related improvements and amenities on real property located on the Property (the "Project")which will be leased to certain Eligible Tenants; 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 30 percent of that amount which represents the percentage of the median annual gross income for the households.

"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.

"Eligible Tenant" means a person(s) or family whose total gross income Adjusted for Family Size, as set forth in Section 2 of the Income Certification, does not exceed 80% 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 $_____.

"Grant" means the grant from the County to the Grantee in the amount of $7,500,000 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.

"Project" means the Georgia Ayers Apartments to be located at 13280 Port Said Road, Opa-Locka, Florida consisting of the Units defined above and related amenities including a community room, library, computer lab and an exercise room and 125parking 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.

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

"State" means 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.

"Unit" means any one of the Units.

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 Units will be similarly constructed and each such 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 Units shall at any time be utilized on a transient basis; and (ii) none of the Units 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 Units shall be leased and rented or made available for rental on a continuous basis to members of the general public who qualify as Eligible Tenants;

(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 the Grantee shall not discriminate on the basis of race, creed, religion, color, age, sex, marital status, family status, handicapped status 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 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 represents, covenants and agrees that, during the Term of this Agreement,

(a) the Grantee shall lease all of the Units to Eligible Tenants; and

(b) the Grantee shall obtain and maintain on file an Income Certification from each Eligible Tenant leasing a Unit 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; and

(c) the Grantee shall maintain complete and accurate records pertaining to the 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; and

(d) the Grantee shall immediately notify the County if at any time the Units 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, a Compliance Certificate, initially in the form attached as Exhibit C, executed by the Grantee, stating among other matters, the number of Units which, as of the first day of such month, in each case, were occupied by Eligible Tenants and/or were deemed to be occupied by Eligible Tenants, as provided in subparagraph (a) above, and stating that all Units are occupied by or held available for rental to only Eligible Tenants; and

(e) prior to execution of the Grantee's Statement portion of the Income Certification, the Grantee shall verify the income of each Eligible Tenant; and

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

(1) List of all occupied Units, 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 Unit.

(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 Units, 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 energy efficient appliances, central air conditioning and hear, pantry, ceiling fans in bedrooms and wireless connections.

(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.

(e) 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.

(f) 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 six percent (6%) 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.

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 Countyarising 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.

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.

SIGNATURE BLOCKS AND NOTARY