



# ULDC REVISIONS STAFF REPORT

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LDRAB/LDRC, OCTOBER 11, 2023

## I. General Data

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**Project Name:** Workforce Housing Program Compliance Monitoring and Updates, and Transfer of Development Rights Class A Modification

**ULDC Articles:** 5

**Project Manager:** Maria Bello, Principal Planner, Planning Division

**Agency Manager:** Kevin Fischer, Planning Director

**Staff Recommendation:** Staff recommends *approval* based on the findings and conclusions presented in this report.

## II. Item Summary

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**Summary:** The item before the Board is a request for permission to advertise for proposed revisions to the Workforce Housing Program (WHP) and the Transfer of Development Rights (TDR) in the Unified Land Development Code (ULDC). Specifically, the revisions addressed in this report:

- Replace the annual report process with real-time compliance determination process, and establish a compliance threshold;
- Replace the outdated utility allowance concept with a fee structure wherein non-metered utilities and fees outside the control of the tenant cannot be charged above the WHP rent;
- Clarify existing aspects of the WHP, update terms, relocate provisions to reflect order of steps, and remove obsolete text; and
- Exempt TDR requests that are concurrent with requests for future land use amendments from a separate Class A approval.

**Assessment:** The proposed revisions will help address compliance monitoring issues experienced in the WHP, and make other needed updates and clarifications. The proposed changes to the WHP have been the subject of two Interested Party meetings, and have been evaluated for financial impacts. Based on these reviews, it is anticipated that some projects will experience a slightly beneficial financial impact, while others will experience neutral or negative impacts, depending on the manner in which utilities are billed currently and in the future. The results of these reviews are provided in Exhibits 3 and 4 of this report. The revisions will also eliminate the requirement for a separate Class A – Conditional Use approval for TDRs where there is a concurrent future land use amendment application, as the density transfer should be reviewed with the amendment and zoning applications.

### III. Hearing History

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**LDRAB Recommendation:** *Scheduled for October 11, 2023*

**LDRC Determination:** *Scheduled for October 11, 2023*

**Board of County Commissioners Permission to Advertise:** On October 28, 2023, the BCC approved the Request for Permission to Advertise for Adoption Hearing on October 26, 2023, with a vote of 7-0.

**Board of County Commissioners Adoption:** *Scheduled for October 26, 2023*

### IV. Intent

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The revisions proposed in this report are intended to improve compliance monitoring of rental units in the WHP, and eliminate unnecessary steps in project approvals using TDRs. The proposed revisions:

- Replace the annual report process with real-time compliance determination process, and establish a compliance threshold;
- Replace the outdated utility allowance concept with a fee structure wherein non-metered utilities and fees outside the control of the tenant cannot be charged above the WHP rent;
- Clarify existing aspects of the WHP, update terms, relocate provisions to reflect order of steps, and remove obsolete text; and
- Exempt TDR requests that are concurrent with requests for future land use amendments from a separate Class A approval.

### V. Data and Analysis

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#### A. Proposed Amendment:

This amendment comprises several components, each of which is discussed separately below and corresponds with the specific strike out and underline changes to the Code shown in Exhibits 1 and 5.

#### Item 1: Workforce Housing Program

**Background - Workforce Housing Program:** The County's WHP was established in 2006, to increase the supply of units affordable to the workforce. The WHP creates a workforce housing obligation for developments of 10+ units in the unincorporated urban are, which can be met by providing income-restricted rental or for sale units on-site or off-site, or through a fee in lieu. For rental projects, the intent was to secure the required units with minimal impact on the rental property operations. Accordingly, compliance monitoring was to be accomplished through submittal of a lease addendum by the property manager to the County at the time of lease execution for each WHP rental unit, demonstrating that the correct income category and rents were applied. An annual report was also required, to demonstrate compliance with the project's overall obligation.

In recent years, as the number of workforce housing units has increased and market pressures have pushed market rental prices well beyond WHP rent ranges, ensuring compliance with

workforce housing requirements has become increasingly difficult. Recurring problems include not receiving timely or accurate lease addenda from property managers, such that new tenants are not discovered until the next annual report. It has also become evident that some properties have revised their pricing structures, with tenants now required to pay “extra” charges above workforce housing rent. These actions make it extremely challenging to ensure in a timely manner that the correct rent is being charged, which results in overcharges to tenants that can be extremely difficult to address retroactively.

**Staff Analysis - Workforce Housing Program:** To address these issues, the proposed revisions will address several aspects of the program. The proposed changes are shown in **Exhibit 1**. The table provided in **Exhibit 2** details the reason for each change.

Compliance and Enforcement – The proposed revisions replace the “reporting after the fact” approach of the annual report with a real-time accounting method, where units will not be considered compliant until all required information is provided and verified as correct. This incentivizes the property manager to submit the required documentation as early and accurately as possible. The proposed changes also establish a specific compliance threshold, triggering enforcement action if projects fall below 90% of their overall WHP obligation for periods exceeding 60 days. This permits the County, through code enforcement or court proceeding, to require the projects to make up the non-compliant period by extending the required affordability period or other means. Changes are also proposed to enhance transparency, requiring posting of WHP information at rental projects and websites, as is done for for-sale WHP units, and also requiring that WHP tenants receive copies of the required lease addenda and rent calculations.

Utilities and Fees - The current WHP requires that properties provide a utility allowance (\$50 or \$75) to tenants if no utilities are included in the rent. If one or more utilities are included in the rent, the difference between the utility cost and utility allowance is credited/charged to the tenant. This provision has proven difficult to implement in recent years, as the concept of “utilities” has been expanded by some property managers to include a large variety of services, including traditional operating costs for the project (e.g., parking lot lighting). This has resulted in additional costs passed on to tenants, as either excess utility charges or as formula-based fees, above the WHP rent. The proposed revisions eliminate the utility allowance concept for new projects, and restructure all utilities and fees as follows, based on tenant control:

- Optional services selected by the tenant, and utilities for which usage is controlled by the tenant (metered or sub-metered water, sewer, gas or electric), can be charged above WHP rent;
- Mandatory fees that apply to all tenants, and over which the tenant exercises no control (including ratio-billed utilities and services) are capped by the WHP rent.

Under this proposed change, tenants will not receive a utility allowance, but will no longer be subject to mandatory fees and ratio-billed utilities as these will be capped by WHP rent. Rental property owners will no longer need to provide the utility allowance, but will need to cover the cost of the mandatory fees and ratio-billed utilities; rental property owners also have the option to install meters or sub-meters, and to make certain services optional, as these can be charged above the rent if selected by the tenant. For existing projects currently subject to both the annual report and utility allowance, an opportunity to opt-in to the new code provisions will be provided.

Other Clarifications and Updates – Changes are also proposed to update terms, clarify timeframes and provisions, remove obsolete text, and relocate provisions to reflect the order of steps. These changes include clarifying the calculation of household income for eligibility determination, and clarifying that eligibility recertification is at the option of the property manager, and are intended to facilitate the implementation of the program.

Impact of Proposed Changes - The proposed changes have been coordinated with the County Attorney's office and the Code Enforcement Division, and have been reviewed against recent State legislation affecting affordable and workforce housing. The proposed changes to the WHP have also been the subject of two Interested Party meetings, held on March 30 and August 16, 2023. More than 200 interested parties were notified. Comments received are attached in **Exhibit 3**. In addition, the County's economic consultant, BAE Urban Economics, evaluated the proposed WHP changes for financial impacts. The evaluation concluded that it is likely that the proposed changes will have a slightly beneficial impact for properties where tenants pay for their utility use, either directly or through sub-metering billed by the landlord. Properties where the tenants do not have separate metered accounts, or where tenants are billed via unmetered/ratio methods, will likely experience limited financial impacts. These impacts will be neutral or negative, depending on how the actual cost of the utility compares to the currently applicable utility allowance. The consultant's report is attached in **Exhibit 4**.

## **Item 2: TDR Program**

**TDR – Background:** The TDR program allows for development rights to be purchased from the County's TDR Bank or from an eligible private seller, and transferred to an eligible area in order to increase density. Per the County's Comprehensive Plan, TDRs are the required method to increase density, unless certain criteria are met. As a result, many future land use amendments adopted by the Board of County Commissioners (BCC) include a condition of approval requiring the purchase of TDRs.

The ULDC also requires Class A Conditional Use Approval of TDRs under certain circumstances, including when the number of TDRs will exceed 2 per acre, or when the TDRs are to be used in a planned development. A separate Class A approval in the zoning process is duplicative and unnecessary in situations when the TDR request is concurrent with the request for a future land use amendment.

**TDR – Staff Assessment:** The proposed revision as shown in **Exhibit 5** will exempt these situations from the Class A Conditional Use Approval requirement for the TDR request. For projects that include a request for the transfer of density concurrent with a request for a Future Land Use Amendment, these should be reviewed and analyzed with the Future Land Use Amendment and Zoning Applications, and not be subject to a separate request for a Class A Conditional Use.

## **B. Consistency with the Comprehensive Plan**

A preliminary review by the Planning Division indicates that the proposed amendments will not result in inconsistencies with the Comprehensive Plan.

## **VI. Assessment and Conclusions**

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As demonstrated in this report, this proposed amendment will implement Board's direction to enhance compliance monitoring of WHP rental units, and will streamline the TDR approval process for projects with amendment conditions of approval requiring the purchase of TDRs. Staff recommends ***approval*** of this amendment.

## Attachments

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Exhibit 1 – Proposed WHP Changes in Strike Out and Underline Format	E - 1
Exhibit 2 – Table of Proposed WHP Changes in Strike Out and Underline Format, with Reason for the Proposed Change	E - 18
Exhibit 3 – Interested Party Comments Received on Proposed WHP Changes	E - 37
Exhibit 4 – BAE Urban Economics, <i>Evaluation of Financial Impacts from Proposed WHP Administrative Revisions</i> , August 14, 2023	E - 38
Exhibit 5 – Proposed TDR changes in Strike Out and Underline Format, with Reason for the Proposed Change	E - 46

**EXHIBIT 1**  
**WORKFORCE HOUSING PROGRAM COMPLIANCE MONITORING AND UPDATES**

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This exhibit revises the following Article(s):

**ARTICLE 5 – SUPPLEMENTARY STANDARDS**

**Revision Key:** Proposed revisions are shown with new text as underlined, deleted text in strike-out, and relocated text italicized. ~~Stricken and italicized~~ means text to be totally or partially relocated. Relocation notes are shown in brackets as **[Relocated to: ]** or **[Relocated from: ]**. Unaltered text omitted for brevity is indicated by a series of four bolded ellipses....

**Part 1. ULDC Art. 5.G.1, Supplementary Standards, Density Bonus Programs, Workforce Housing Program (WHP), is hereby amended as follows:**

1 **CHAPTER G DENSITY BONUS PROGRAMS**

2 **Section 1 Workforce Housing Program (WHP)**

3 **A. General**

4 **1. Purpose and Intent**

5 The WHP is intended to increase the supply of housing opportunities for persons  
6 employed in PBC in jobs that residents rely upon to make the community viable. The  
7 WHP implements Policies 1.1-o and 1.5-g of the Housing Element of the  
8 Comprehensive Plan, among others, by establishing an inclusionary WHP to provide  
9 Low, Moderate 1, Moderate 2, and Middle-Income housing. The program mandates  
10 the provision of workforce housing for all new developments in the Urban/Suburban  
11 Tier with a residential component of ten or more dwelling units; encourages the  
12 development of additional workforce housing through a density bonus and other  
13 incentives; encourages the equitable geographic distribution of workforce housing  
14 units; and, ensures a minimum affordability period. The WHP is implemented by the  
15 Planning Division of the Planning, Zoning and Building Department, and the  
16 Department of Housing and Economic ~~Development (HED) Sustainability~~. **[Ord. 2019-**  
17 **033]**

18 **2. Applicability**

19 ....

20 **c. Prior Approvals**

21 For existing projects proposing ten or more additional dwelling units, the program  
22 shall apply to those units being added. ~~For projects approved under versions of~~  
23 ~~the Section in effect prior to October 26, 2023 and having rental WHP units subject~~  
24 ~~to the requirement for either an annual report or Utility Allowance, or both, the~~  
25 ~~Property Owner may request an amendment to the Master Restrictive Covenant~~  
26 ~~in order to forgo either the annual report or Utility Allowance requirement, or both.~~  
27 **[Ord. 2019-033]**

28 ....

29 **f. Developments with Both WHP and AHP**

30 If a development includes both WHP and AHP units ~~or units restricted to~~  
31 ~~occupancy by households with Annual Household Incomes below 60 percent of~~  
32 ~~Median Family Income~~, the Planning Director or designee shall make a  
33 determination as to ~~the applicability of the WHP to the development which program~~

1 ~~shall be followed~~, considering the affordable housing programmatic requirements  
2 of the governmental or other agency providing affordable housing funding. [Ord.  
3 2019-033]

4 **3. Program Standards**

5 **a. Definitions**

6 ....

7 **5) Annual Household Income**

8 For WHP rental units, documentable gross income before taxes received  
9 annually by income earners residing in the WHP tenant's household only. At  
10 least one income earner must be employed in Palm Beach County. Annual  
11 Household Income is used to determine the income category, and subcategory  
12 if applicable. Annual Household Income does not include investment,  
13 retirement, or checking/savings account balances, but may include  
14 distributions to the WHP tenant from retirement accounts, and periodic  
15 determinable allowances such as alimony and child support. Irregular income  
16 such as overtime and bonus payments may be considered income at the  
17 discretion of the WHP rental unit owner or designee.

18 **6) Maximum WHP Rent**

19 The maximum price published and updated annually by the Planning Director,  
20 or designee, for each income category, and subcategory if applicable, by the  
21 number of bedrooms, based on the monthly rent limits published annually for  
22 the Florida Housing Finance Corporation Multifamily Rental Programs.

23 **7) WHP Rent**

24 The amount that is charged to the WHP tenant that includes all Mandatory  
25 Fees, and reflects the Utility Allowance if applicable.

26 **8) Mandatory Fees**

27 Fees required to be paid by all tenants in a rental development that includes  
28 WHP rental units. These fees include but are not limited to charges assigned  
29 by virtue of ratio utility billing or similar unmetered allocation arrangements. For  
30 projects subject to a Utility Allowance pursuant to a Master Restrictive  
31 Covenant, Mandatory Fees shall not include charges assigned by virtue of ratio  
32 utility billing or similar unmetered allocation arrangements for water, sewer,  
33 gas, or electric service provided directly to the unit and not to common areas.

34 **9) Voluntary Fees**

35 Fees for optional services or features offered to and selected by the WHP  
36 tenant, and not mandatory for all units in the development.

37 **10) Utility Allowance**

38 A monthly rent reduction to help offset WHP tenant-paid costs of water, sewer,  
39 gas, and/or electric service provided directly to the unit and not to common  
40 areas, that are billed to the WHP tenant by the WHP rental unit owner or  
41 designee, the utility, or a third party. If the cost of one or more of these utilities  
42 is borne by the WHP rental unit owner and not billed to the WHP tenant by the  
43 WHP rental unit owner or designee, the utility, or a third party, the Utility  
44 Allowance is applied against such cost and any difference is credited or  
45 charged to the WHP tenant.

46 ....

47 **c. Pricing**

48 The Planning Director or designee shall annually set and publish WHP sale *prices*  
49 and rent *ranges prices* for all income categories and *subcategories*. [Ord. 2019-  
50 033]

51 1) *For-sale* WHP *for-sale* units shall target the Low, Moderate 1, and Moderate 2  
52 categories. The sale prices shall be derived as follows: Median Family Income

1 for Palm Beach County (West Palm Beach/Boca Raton Metropolitan Statistical  
2 Area) published annually by the U.S. Department of Housing and Urban  
3 Development, multiplied by three, and adjusted to the midpoint of each of the  
4 income categories: Low (70 percent), Moderate 1 (90 percent), and Moderate  
5 2 (110 percent). [Ord. 2019-033]

6 2) ~~Rental~~ WHP ~~rental~~ units shall target all four WHP income categories, unless  
7 otherwise specified by the project's development approval. Rent ranges shall  
8 be ~~based on the monthly rent ranges~~ published annually by the Planning  
9 Director or designee, Palm Beach County based on the Florida Housing  
10 Finance Corporation Multif-Family Rental Programs Rent Limits, by number of  
11 bedrooms, ~~for the following income ranges: > 60 to 70 percent; > 70 to 80~~  
12 ~~percent; > 80 to 90 percent; > 90 to 100 percent; > 100 to 110 percent; > 110~~  
13 ~~to 120 percent; > 120 to 130 percent; and, > 130 to 140 percent of MFI.~~ [Ord.  
14 2019-033]

15 3) For the purposes of annual price updates, the WHP prices initially established  
16 for the for-sale unit's income category at the time of approval of the Ssubject  
17 Development shall be the sales floor throughout the affordability period. No  
18 WHP for-sale unit is required to be sold at a price below the sales floor, though  
19 a seller may opt to do so. The WHP rent range price initially established for the  
20 rental unit's income category at the time of approval of the Ssubject  
21 Development shall be the rental floor throughout the affordability period. No  
22 WHP rental unit is required to be rented at a price below the rental floor, though  
23 an rental unit owner may opt to do so. [Ord. 2019-033]

24 **d. Assignment of the Required WHP Units**

25 WHP required units are intended to be distributed equally among all required  
26 income categories pursuant to Art. 5.G.1.B, Program Options or Conditions of  
27 Approval. When assigning units to income categories, units shall be assigned first  
28 to the highest income category, proceeding downward to low income. This does  
29 not prohibit a Developer or rental unit owner from providing higher numbers of  
30 lower-income units. [Ord. 2019-033]

31 **e. Calculations**

32 Calculations ~~of the WHP density bonus and WHP obligation~~ shall be performed  
33 using two decimal places, and standard rounding applied for density and WHP  
34 density bonus calculations; standard rounding is applied at the end for the WHP  
35 obligation calculation. [Ord. 2019-033]

36 **f. Unencumbered Units**

37 *WHP units shall not be subject to restrictions beyond WHP income qualifications.*  
38 ~~Unless otherwise indicated, units used to meet a WHP obligation shall not be units,~~  
39 ~~which are~~ income restricted as a result of funding or other requirements of any  
40 other program, unless: WHP units shall not be subject to restrictions beyond WHP  
41 income qualifications. [Ord. 2019-033]

42 1) The workforce housing units result from the Off-Site Construction/Exchange  
43 Builder Option of the Workforce Housing Program, and the Board of County  
44 Commissioners approves the income restriction to be applied due to another  
45 program; or

46 2) The restrictions result from funding sources used to provide purchase  
47 assistance to qualified buyers of a for-sale workforce housing unit with terms  
48 that are consistent with or equal to County terms.

49 **g. Affordability Periods**

50 1) **For-Sale Units**

51 All for-sale WHP for-sale units shall be income restricted for a period of 15  
52 years (recurring), from the date of sale the Certificate of Occupancy (CO) for



1 ~~each unit~~. In the event a unit is resold before the 15-year period concludes, a  
2 new 15-year period shall take effect on the date of resale. [Ord. 2019-033]

3 **2) Rental Units**

4 All ~~rental~~ WHP ~~rental~~ units shall be income restricted for a period of 30 years  
5 (non-recurring), from the date of occupancy of the first WHP unit. [Ord. 2019-  
6 033]

7 **h. Design Standards**

8 **1) Compatible Design and Unit Features for All WHP Units**

9 ....

10 **2) Requirements for WHP For-Sale Units**

11 a e)At minimum, all ~~for-sale~~ WHP ~~for-sale~~ units shall include a refrigerator,  
12 range, built-in microwave, dishwasher, washer, and dryer. [Ord. 2019-033]

13 ~~2) Number of Bedrooms~~

14 ~~a) For-Sale WHP Units~~

15 b (1)All ~~for-sale~~ WHP ~~for-sale~~ units shall have a minimum of two bedrooms,  
16 and 25 percent of the ~~for-sale~~ WHP ~~for-sale~~ units shall have a minimum of  
17 three bedrooms. ~~All WHP for-sale units shall have a minimum bedroom~~  
18 ~~size of 100 square feet.~~ [Ord. 2019-033]

19 ~~(2) All for-sale WHP units shall have a minimum bedroom size of 100~~  
20 ~~square feet.~~ [Ord. 2019-033]

21 **3 b) Rental Requirements for WHP Rental Units**

22 ~~(1)~~No minimum number or size of bedrooms applies to ~~rental~~ WHP ~~rental~~  
23 units. [Ord. 2019-033]

24 **B. Program Options**

25 The WHP offers the choice of either a “limited” or a “full” program option, which determines  
26 the amount of required workforce housing and the availability of other incentives. These  
27 options are not available to Subject Developments that are subject to FLUA amendment  
28 Conditions of Approval establishing a specific percentage of required workforce housing.  
29 [Ord. 2019-033]

30 ....

31 **2. Full Incentive Option**

32 ....

33 **c. Amount of WHP Required**

34 For ~~for-sale~~ WHP ~~for-sale~~ units, the required percentage of WHP units shall be  
35 four and three-eighths percent of standard density; 14 percent of maximum  
36 density; and, 29.75 percent of any WHP density bonus used. For ~~rental~~ WHP ~~rental~~  
37 units or in-lieu fee purposes, the required percentage of WHP units shall be five  
38 percent of standard density; 16 percent of maximum density; and, 34 percent of  
39 any WHP density bonus used. The WHP obligation may be further modified by the  
40 disposition option selected, per Art. 5.G.1.C.4, Methods Available. The number of  
41 WHP units required shall be identified by the Planning Director or designee in a  
42 WHP Letter of Determination, pursuant to the Density Bonus process in Art.  
43 5.G.1.B.2.e, Density Bonus Determination for Full Incentive Developments below.  
44 [Ord. 2019-033]

45 ....

46 **C. Disposition of WHP Obligation**

47 ....

48 **2. Change of Declared Method**

49 A change to the selected method cannot be requested after Building Permits have  
50 been issued for more than 25 percent of the units in the Ssubject Ddevelopment. A  
51 change to the declared method shall be subject to the same approval process through  
52 which the Ssubject Ddevelopment received approval. For developments subject to

1 public hearing, approval of a change in declared method shall be at the discretion of  
2 the Board of County Commissioners. The Ddeveloper may request Expedited  
3 Application Consideration for a Development Order Amendment pursuant to Art. 2,  
4 Application Processes and Procedures. Any necessary amendments to the recorded  
5 Master Restrictive Covenant for the Ssubject Ddevelopment as a result of the change  
6 of declared method shall be recorded by the Ddeveloper no later than 60 days  
7 following the approval of the change. **[Ord. 2019-033]**

### 8 **3. Recalculation**

9 A change to a Ssubject Ddevelopment's unit total, unit type, unit tenure, or declared  
10 method or WHP unit location shall require a recalculation of the workforce housing  
11 obligation, and shall include reassessment of the density bonus pursuant to the  
12 process outlined in Art. 5.G.1.B.2.e, Density Bonus Determination for Full Incentive  
13 Developments. Any recalculation that reduces the number of units approved on the  
14 Ssubject Ddevelopment's Final Site Plan may require that the Final Site Plan be  
15 amended to reflect the reduced unit count, or the purchase of Transfer of Development  
16 Rights in the amount of the reduction. **[Ord. 2019-033]**

### 17 **4. Methods Available**

18 ....

#### 19 **b. WHP Off-Site Options**

20 ....

##### 21 **1) Off-Site Option 1 – Off-Site Construction/Same Developer**

22 Prior to issuance of the first residential Building Permit or Final DRO approval  
23 for the Ssubject Ddevelopment, whichever comes first, all contracts or related  
24 agreements for any off-site option evidencing site control and necessary  
25 approvals shall be approved by the County Administrator, or designee.  
26 Certificates of Occupancy shall be issued for a minimum of 50 percent of the  
27 required WHP units to be constructed off-site prior to the issuance of no more  
28 than 50 percent of the Building Permits in the Ssubject Ddevelopment. All off-  
29 site WHP units must receive Certificates of Occupancy prior to issuance of no  
30 more than 85 percent of the Building Permits in the Ssubject Ddevelopment.  
31 The Site Plan, the Master Restrictive Covenant, or other appropriate document  
32 shall be amended to reflect the number of WHP units, including the number in  
33 each applicable WHP income category, to be located on the receiving site(s).  
34 The Planning Director or designee shall determine the appropriate document  
35 and the timeframe for the modification, which shall be no later than the 85  
36 percent threshold identified in this paragraph. **[Ord. 2019-033]**

##### 37 **2) Off-Site Option 2 – Off-Site Construction/Exchange Builder**

38 ~~The Off-Site Construction/Exchange Builder Option shall be evaluated and a~~  
39 ~~report provided to the Board of County Commissioners no later than three~~  
40 ~~years from the effective date of this Ordinance.~~ Provision of required WHP units  
41 may be arranged by the Ddeveloper of the Ssubject Ddevelopment through an  
42 Exchange Builder who will provide them off site, subject to the following: **[Ord.**  
43 **2019-033]**

44 ....

45 ~~b) A subject development which received a Development Order prior to the~~  
46 ~~effective date of Ordinance No. 2019-033 may select the Exchange Builder~~  
47 ~~Option as the subject development's disposition option, provided that:~~  
48 ~~**[Ord. 2020-021]**~~

49 ~~(1) No residential Building Permits have been issued for the subject~~  
50 ~~development; **[Ord. 2020-021]**~~

51 ~~(2) The Development Order for the subject development shall be revised~~  
52 ~~through the Zoning Agency Review process to reflect the change in~~

1 disposition, and shall include any necessary notes, condition changes,  
2 and amendments to previously approved plans; **[Ord. 2020-021]**  
3 ~~(3) The exchange price shall be 80 percent of the applicable in-lieu fee in~~  
4 ~~effect at the time of the Development Order for subject development;~~  
5 ~~and, **[Ord. 2020-021]**~~  
6 ~~(4) All other provisions of Art. 5.G.1.C.4.b, WHP Off-Site Options and Art.~~  
7 ~~5.G.1.C.4.b.2), Off-Site Option 2 — Off-Site Construction/Exchange~~  
8 ~~Builder shall apply. **[Ord. 2020-021]**~~

9 **b e)** All Exchange Projects that propose to utilize other programs in addition  
10 to WHP exchange payments that will result in income restrictions on WHP  
11 units will require the approval of the Board of County Commissioners. This  
12 approval is required prior to the earlier of Final DRO or first Building Permit.  
13 **[Ord. 2019-033]**

14 **c d)** Prior to issuance of the first residential Building Permit for the Subject  
15 Development, the Developer of the Subject Development shall record  
16 a Notice of Disposition for the Subject Development indicating that the  
17 Exchange Builder Option has been selected to meet some or all of the WHP  
18 obligation, and shall select one of the following two options: **[Ord. 2019-**  
19 **033]**

20 (1) Demonstrate engagement of an Exchange Builder, who shall provide:  
21 **[Ord. 2019-033]**

22 ....

23 (d) A recorded Master Restrictive Covenant, or deed restriction if a  
24 Master Restrictive Covenant is not practical, for the Exchange  
25 Projects site; and, **[Ord. 2019-033]**

26 ....

27 **d e)** Prior to the end of the 36th month of the guarantee, all WHP units shall be  
28 issued COs or a renewed guarantee shall be delivered by the Exchange  
29 Builder to Palm Beach County. The terms of the renewed guarantee shall  
30 be at the discretion of Palm Beach County, but in no case shall exceed an  
31 additional three months beyond the term of the original guarantee. The  
32 amount of the renewed guarantee shall be prorated to reflect any WHP  
33 units already issued Certificates of Occupancy. The Exchange Builder may  
34 request additional time beyond the three-month extension; approval of  
35 such a request will be at the discretion of the Board of County  
36 Commissioners and will require a renewed guarantee for the extension  
37 approved by the Board. If neither the required WHP units nor an acceptable  
38 renewed guarantee is delivered, Palm Beach County shall collect the  
39 guarantee. **[Ord. 2019-033]**

40 ~~f) During the three-year evaluation period for the Off-Site~~  
41 ~~Construction/Exchange Builder Option, County Administration shall~~  
42 ~~provide the Board of County Commissioners with status reports annually~~  
43 ~~or more frequently as needed, identifying the progress made by the~~  
44 ~~Exchange Builders engaged under this option. **[Ord. 2019-033]**~~

45 **e g)** The Site Plan, the Master Restrictive Covenant, or other appropriate  
46 document shall be amended to reflect the number of WHP units, including  
47 the number in each applicable WHP income category, to be located on the  
48 Exchange Project(s). The Planning Director or designee shall  
49 determine the appropriate document and the timeframe for the  
50 modification, which shall be no later than the 85 percent threshold identified  
51 in Art. 5.G.1.C.4.b.2) cd) above. **[Ord. 2019-033]**

1                   **3) Off-Site Option 3 – Purchase of Market Rate Units**

2                   Purchase of existing market rate units to be deeded to the County, sold to  
3                   eligible households and deed restricted, or retained by the Ddeveloper subject  
4                   to recordation of a deed restriction that meets the intent of this provision and  
5                   subject to the conversion factor pursuant to Art. 5.G.1.C.4.b, WHP Off-Site  
6                   Options if applicable. Prior to issuance of the first residential Building Permit or  
7                   Final DRO approval for the Ssubject Ddevelopment, whichever comes first, all  
8                   contracts or related agreements for any off-site option evidencing site control  
9                   and necessary approvals shall be approved by the County Administrator, or  
10                  designee. A minimum of 50 percent of the units must be purchased and deeded  
11                  to the County or deed restricted prior to the issuance of no more than 50  
12                  percent of the residential Building Permits in the Ssubject Ddevelopment. All  
13                  market rate units shall be purchased and deeded to the County or deed  
14                  restricted prior to issuance of no more than 85 percent of the COs in the  
15                  Ssubject Ddevelopment. The market rate units shall be approved by the  
16                  Department of Housing and Economic Development Sustainability, and must  
17                  meet housing quality standards and criteria established by PBC. The Site Plan,  
18                  the Master Restrictive Covenant, or other appropriate document shall be  
19                  amended to reflect the number of WHP units, including the number in each  
20                  applicable WHP income category, to be located on the receiving site(s). The  
21                  Planning Director or designee shall determine the appropriate document and  
22                  the timeframe for the modification, which shall be no later than the 85 percent  
23                  threshold identified in this paragraph. **[Ord. 2019-033]**

24                  **c. Donation of Buildable Land Option**

25                  Donation of developable land acceptable to the County in an amount equal to the  
26                  buyout costs of the affected units. Donated land must be approved by the Property  
27                  and Real Estate Management Division prior to submittal of the Subject  
28                  Development's application in the Zoning process. The donated land must be and  
29                  deeded to the County prior to issuance of 50 percent of the residential Building  
30                  Permits in the Ssubject Ddevelopment. **[Ord. 2019-033]**

31                  **d. In-Lieu Fee Option**

32                  1) In-lieu fees shall be published by the Palm Beach County Planning, Zoning and  
33                  Building Department: 120,000 dollars for Single Family units, 100,000 dollars  
34                  for Townhouse units, and 75,000 dollars for Multifamily units, as defined by Art.  
35                  4, Use Regulations of the ULDC. Beginning on September 29, 2021 the in-lieu  
36                  fee amounts shall be adjusted annually in accordance with the annual All Items  
37                  Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City  
38                  Average, not seasonally adjusted, as published by the U.S. Bureau of Labor  
39                  Statistics. **[Ord. 2019-033]**

40                  ....

41                  3) Fees shall be paid prior to the issuance of 50 percent of residential unit Building  
42                  Permits for the Ssubject Ddevelopment. Fees shall be made payable to the  
43                  Palm Beach County Board of County Commissioners and submitted to the  
44                  Department of Housing and Economic Development Sustainability. The  
45                  payment shall be deposited in the WHP Trust Fund maintained by the PBC  
46                  Department of Housing and Economic Development Sustainability. **[Ord.**  
47                  **2019-033]**

48                  **5. Banking of WHP Units**

49                  A Developer may opt to bank or restrict WHP units for the purpose of applying those  
50                  units toward the obligation of a future development subject to the WHP. The Developer  
51                  shall record, in a form provided by the County, a Master Restrictive Covenant or deed  
52                  restriction for the banked unit site which shall include the applicable restriction for WHP

1 for-sale or WHP rental units, pursuant to Art. 5.G.1.D, Delivery of WHP Units below.  
2 The affordability period for the banked units shall begin upon the effective date  
3 established by the Master Restrictive Covenant or deed restriction recorded for the  
4 banked unit site. The Developer may claim a banked unit for a future Subject  
5 Development through the Master Restrictive Covenant or deed restriction for the  
6 Subject Development, provided that the income category of the banked units is  
7 consistent with or lower than the income category of the WHP units required for the  
8 Subject Development.

#### 9 ~~5. Developments with Outstanding Obligations~~

10 ~~Developments approved prior to September 29, 2019, which by that date have~~  
11 ~~recorded a Master Covenant indicating that the WHP obligation will be met on-site,~~  
12 ~~received Certificates of Occupancy for at least 85 percent of approved units, and have~~  
13 ~~an approved Master Plan reflecting the required WHP units on-site, may request~~  
14 ~~approval of the Board of County Commissioners to pay the in-lieu fee for a portion of~~  
15 ~~the obligation. This option is available only for units that have not been previously~~  
16 ~~offered for rent or sale as WHP units. The in-lieu amount shall be based on the~~  
17 ~~applicable in-lieu fee in effect at the time of the issuance of the first residential Building~~  
18 ~~Permit for the subject development, and shall include interest, calculated from the date~~  
19 ~~of the first residential Building Permit, using the rate in effect at the time of election, as~~  
20 ~~set by the Florida Chief Financial Officer pursuant to F.S. § 55.03(1) (2018). Upon~~  
21 ~~approval by the Board and payment of the required amount, the County shall schedule~~  
22 ~~BCC consideration of amendments to the Master Covenant to reflect the revised~~  
23 ~~disposition of workforce obligation for the subject development. This provision shall~~  
24 ~~sunset 90 days following the effective date. [Ord. 2019-033]~~

#### 25 D. Delivery of WHP Units

26 ....

#### 27 1. For-Sale Units

##### 28 a. Master **Restrictive** Covenant

- 29 1) ~~Except for Subject Developments using Off-Site Construction/Exchange~~  
30 ~~Builder Option for the Subject Development's entire WHP obligation, pPrior to~~  
31 ~~first Building Permit on the Ssubject Ddevelopment, the Ddeveloper of the~~  
32 ~~Ssubject Ddevelopment shall record in the Public Records of Palm Beach~~  
33 ~~County a Master Restrictive Covenant binding the entire Ssubject~~  
34 ~~Development property, in a form provided by the County, which identifies the~~  
35 ~~WHP unit requirement for the subject development and addresses the~~  
36 ~~requirements of this Subsection. Subject Developments that use the Exchange~~  
37 ~~Builder Option to meet some or all of the WHP obligation may record a Notice~~  
38 ~~of Disposition instead of a Master Restrictive Covenant for that portion of the~~  
39 ~~obligation met through the Exchange Builder Option Developments for which~~  
40 ~~the in-lieu fee has subsequently been paid to Palm Beach County as a result~~  
41 ~~of the guarantee provided in the Exchange Builder Option, pursuant to Art.~~  
42 ~~5.G.1.C.4.b.2), Off-Site Option 2 — Off-Site Construction/Exchange Builder,~~  
43 ~~and no units subject to WHP were provided prior to the County receiving~~  
44 ~~payment pursuant to the guarantee, many request that the Master Covenant~~  
45 ~~be released. [Ord. 2019-033]~~
- 46 2) The ~~Restrictive~~ Master **Restrictive** Covenant shall include but not be limited to  
47 restrictions requiring: that all identified WHP units shall be sold or resold only  
48 to a purchaser certified by the Department of Housing and Economic  
49 **Development Sustainability**, at or below the price established annually by Palm  
50 Beach County for the income category of the WHP **for-sale** unit, subject to the  
51 affordability requirements and provisions of this Article; that the County shall  
52 have the exclusive option to purchase WHP units that are unsold at day 150 of

1 the required marketing period; that rental of units is permitted only under  
2 specific circumstances, for limited periods of time, and with prior approval by  
3 the Director of the Department of Housing and Economic Development  
4 Sustainability; that these restrictions remain in effect for 15 years recurring from  
5 the date of sale ~~the GO for each unit; and,~~ that in the event a unit is resold  
6 before the 15-year period concludes, a new 15-year period shall take effect on  
7 the date of resale; ~~and, that the 15-year period shall be extended by the amount~~  
8 ~~of time a Code Enforcement magistrate or a judge finds the Developer or unit~~  
9 ~~owner out of compliance with the WHP.~~ The Master Restrictive Covenant shall  
10 further provide monitoring and compliance requirements including but not  
11 limited to those set forth below to ensure compliance with the WHP, and  
12 provide that every deed for sale of a WHP housing unit shall include: a  
13 statement that the units are subject to covenants, conditions, and restrictions  
14 including the Master Restrictive Covenant; the date and the Book and Page of  
15 the Official Record of recordation of the Master Restrictive Covenant; and,  
16 ~~incorporate by reference the Master Covenant and shall specify~~ the income  
17 category associated with the unit. **[Ord. 2019-033]**

18 **b. Process for Initial Sale of WHP Units**

19 **1) Pricing/Affordability**

- 20 ....
- 21 c) The price of a ~~for-sale~~ WHP-~~for-sale~~ unit shall not be raised once a unit is  
22 under contract to a purchaser. Purchase price of the WHP unit, including  
23 all charges imposed by the seller, cannot exceed the maximum WHP price  
24 for the income category. Options selected by the purchaser, including but  
25 not limited to upgraded finishes or premium lots, shall not be reflected in  
26 the sales price of WHP units, but may be paid by the purchaser at the time  
27 of contract execution, or included as a line item on the closing/settlement  
28 statement. Earnest money deposit required of purchasers shall not exceed  
29 two percent of the sales price. **[Ord. 2019-033]**
  - 30 d) Affordability restrictions remain in effect for 15 years recurring from the date  
31 of sale of the ~~GO for each~~ unit; in the event a unit is resold before the 15-  
32 year period concludes, a new 15-year period shall take effect on the date  
33 of resale. **[Ord. 2019-033]**
  - 34 e) Rental of WHP for-sale units is permitted only under specific  
35 circumstances, for limited periods of time, to income-qualified renters, at or  
36 below the Maximum WHP Rents prices established annually by Palm  
37 Beach County for the unit's designated income categories, and with prior  
38 approval by the Director of the Department of Housing and Economic  
39 Development Sustainability based on criteria established by the  
40 Department. **[Ord. 2019-033]**

41 **2) Qualification and Certification for For-Sale Purchasers**

42 WHP units shall be sold only to a purchaser certified by the Department of  
43 Housing and Economic Development Sustainability. HEDS shall qualify  
44 prospective purchases and issue a certification letter confirming eligibility to  
45 purchase the WHP unit. Palm Beach County retains the right to qualify  
46 purchasers for units in categories above or below their income category. When  
47 available, down payment assistance may be offered for all workforce housing  
48 purchasers; Palm Beach County shall not be obligated to provide down  
49 payment assistance to any purchaser. The amount of financial assistance, if  
50 any, that is available for purchase of the WHP unit shall be identified in the  
51 certification letter. The HEDS certification process shall be implemented  
52 according to procedures established and published by the Department. **[Ord.**

1           **2019-033]**

2           **3) Closing**

3           ....

4           b) Every warranty deed documenting a sale of a WHP unit shall include a  
5           statement that a unit is subject to covenants, conditions, and restrictions  
6           including the Master Restrictive Covenant, and shall include the date of  
7           recordation of the Master Restrictive Covenant, and the Book and Page of  
8           the Official Record. **[Ord. 2019-033]**

9           ....

10          **5) Marketing of WHP For-Sale Units**

11          ....

12          **b) WHP Units Delivered through the On-Site Construction or Off-  
13          Site/Same Developer Options**

14          ....

15          (3) Prior to commencement of sales, the Ddeveloper shall obtain from the  
16          Director of HEDS or designee a list of interested parties, WHP  
17          brochures, and informational packets which provide the qualification  
18          standards, terms of the Restrictive Master Restrictive Covenant, where  
19          to go to get qualified, and other relevant information regarding the WHP  
20          units. **[Ord. 2019-033]**

21          (4) The Ddeveloper shall provide notice of commencement of sales to the  
22          Planning Director or designee, the Director of HEDS, and the list of  
23          interested parties. The notice shall include the address where the WHP  
24          units are located, the address of the sales office, the hours of the sales  
25          office, the floor plan and construction specifications for the WHP units,  
26          and the pricing of the WHP units. The Ddeveloper shall provide to the  
27          Planning Director or designee proof of notice to the interested parties  
28          list, in the form of a copy of the email or letter sent, and a copy of the  
29          distribution list. **[Ord. 2019-033]**

30          (5) Within ten days of receipt, the County shall provide written  
31          acknowledgement of the notice of commencement of sales. **[Ord.  
32          2019-033]**

33          (6) The Ddeveloper shall maintain in the sales office and ~~in the~~ sales office  
34          of the subject development if the WHP units are located off site, hard  
35          physical copies of the informational packets obtained from HEDS,  
36          available to any and all potential buyers. The Ddeveloper shall also  
37          maintain hard physical copies of the County's WHP brochure and  
38          prominent displays indicating ~~that~~ certain units are available for  
39          purchase for qualified households subject to the WHP provisions, and  
40          shall identify the location and availability timeframe for ~~the~~ WHP units.  
41          **[Ord. 2019-033]**

42          (7) The Ddeveloper shall attend all housing workshops, fairs, orientations,  
43          and other WHP events requested by HEDS during the marketing  
44          period, and shall present information about the WHP units and  
45          purchase options. **[Ord. 2019-033]**

46          ....  
47          **6) Release of Obligation**

48          It is the County's intent that each subject development fulfill its obligation  
49          pursuant to this Chapter. Release of obligation is available only for subject  
50          developments delivering WHP required units as for-sale units through the WHP  
51          On-Site Construction or the Off-Site Construction by Same Developer  
52          disposition options. It is not the intent of the WHP provisions to require a

1 ~~De~~veloper to commence construction on any WHP for-sale unit for which a  
2 valid and binding contract for purchase between ~~De~~veloper and purchaser  
3 has not been executed. In the event WHP units have been marketed according  
4 to the requirements of this Article, then the WHP units are eligible to be  
5 released from the WHP obligations indicated in the Master Restrictive  
6 Covenant pursuant to the process below. [Ord. 2019-033]

7 ....

8 c) Upon payment of the required In-Lieu cash payment, the WHP unit shall  
9 thereafter be released from any and all obligations of the WHP  
10 requirements of ~~this Code the ULDC~~ and the County shall provide written  
11 confirmation that the unit has been released, inclusive of release from the  
12 Master Restrictive Covenant. [Ord. 2019-033]

13 ....

14 **c. Process for Subsequent Sales**

15 **1) Pricing/Affordability**

16 a) Affordability restrictions remain in effect for 15 years recurring from the date  
17 of ~~sale the CO for each unit~~; in the event a unit is resold before the 15-year  
18 period concludes, a new 15-year period shall take effect on the date of  
19 resale. [Ord. 2019-033]

20 ....

21 **2) HEDS Review**

22 **a) Qualification and Certification of For-Sale Purchasers**

23 WHP units shall be sold only to a purchaser certified by the Department of  
24 Housing and Economic Development Sustainability. Unit owners shall refer  
25 prospective purchasers to HEDS, who shall qualify prospective purchasers  
26 and issue a certification letter confirming eligibility to purchase the WHP  
27 unit. Palm Beach County retains the right to qualify purchasers for units  
28 above or below their income category. When available, down payment  
29 assistance may be offered for all workforce housing buyers; Palm Beach  
30 County shall not be obligated to provide down payment assistance to any  
31 purchaser. The amount of financial assistance, if any, that is available for  
32 purchase of the WHP unit shall be identified in the certification letter. The  
33 HEDS certification process shall be implemented according to procedures  
34 established and published by the Department. [Ord. 2019-033]

35 **3) Closing**

36 ....

37 b) Every warranty deed documenting a sale of a WHP unit shall include a  
38 statement that a unit is subject to covenants, conditions, and restrictions  
39 including the Master Restrictive Covenant, and shall include the date of  
40 recordation of the Master Restrictive Covenant, and the Book and Page of  
41 the Official Record. [Ord. 2019-033]

42 **d. Annual Compliance Reporting**

43 The owner of the WHP unit shall submit to the Planning Director or designee, on  
44 a form provided by the County, an annual report containing information and  
45 documentation to demonstrate continued compliance with the WHP. The County  
46 may conduct site visits at reasonable times, or perform other independent  
47 investigation to verify continued compliance with the WHP. [Ord. 2019-033]

48 **2. Rental Units**

49 **a. Master Restrictive Covenant**

50 1) Except for Subject Developments using Off-Site Construction/Exchange  
51 Builder Option for the Subject Development's entire WHP obligation, pPrior to  
52 first Building Permit on the subject development, the ~~D~~eveloper of the



1 ~~Subject Development shall record in the Public Records of Palm Beach~~  
2 ~~County a Master Restrictive Covenant binding the entire project, in a form~~  
3 ~~provided by the County, which identifies the WHP unit requirement for the~~  
4 ~~subject development and addresses the requirements of this Subsection.~~  
5 ~~Subject Developments that use the Exchange Builder Option to meet some or~~  
6 ~~all of the WHP obligation may record a Notice of Disposition instead of a Master~~  
7 ~~Restrictive Covenant for that portion of the obligation met through the~~  
8 ~~Exchange Builder Option Subject developments for which the in-lieu fee has~~  
9 ~~subsequently been paid to Palm Beach County as a result of the guarantee~~  
10 ~~provided in the Exchange Builder Option, pursuant to Art. 5.G.1.C.4.b.2), Off-~~  
11 ~~Site Option 2— Off Site Construction/Exchange Builder, and no units subject~~  
12 ~~to the WHP program were provided prior to the County receiving payment~~  
13 ~~pursuant to the guarantee, may request that the Master Covenant be released.~~  
14 **[Ord. 2019-033]**

15 2) The Master Restrictive Covenant shall include but not be limited to restrictions  
16 requiring: that all required WHP units shall be rented only to an income-  
17 qualified household, in an income category corresponding to the WHP  
18 obligation of the subject development, at or below the Maximum WHP Rents  
19 prices established for the income category annually by Palm Beach County,  
20 subject to the affordability requirements and provisions of this Article; that  
21 these restrictions remain in effect for a period of 30 years (non-recurring) for  
22 each unit, from the date of occupancy of the first WHP unit; that the 30-year  
23 period will be extended by the amount of time a Code Enforcement magistrate  
24 or judge finds that the Subject Development is out of compliance with the WHP;  
25 and that in the event a rental complex is resold before the 30-year period  
26 concludes, the new owner assumes the requirement for the number of  
27 remaining years; and the number of years remaining shall be determined by  
28 the Planning Director or designee; and shall take effect on the date of resale.  
29 The Master Restrictive Covenant shall further provide monitoring and  
30 compliance requirements including but not limited to those set forth below to  
31 ensure compliance with the WHP. Every deed for a rental development with  
32 WHP housing units and every rental agreement for each WHP unit shall  
33 incorporate by reference the Master Restrictive Covenant. **[Ord. 2019-033]**

34 **b. Marketing of WHP Rental Units**  
35 *Marketing of WHP rental units is the responsibility of the WHP rental unit owner or*  
36 *designee. Information regarding the WHP, including eligible income ranges and*  
37 *the availability of workforce housing units, shall be posted in the leasing office and*  
38 *website for the rental project, if any. The WHP rental unit owner or designee shall*  
39 *also maintain current the information provided to the County regarding the rental*  
40 *project. [Ord. 2019-033] [Relocated from: Art. 5.B.1.D.2.d, Marketing of WHP*  
41 *Rental Units]*

42 **c. Notifications to Palm Beach County**  
43 *The WHP rental unit owner or designee shall notify the Planning Director, or*  
44 *designee, in writing prior to the commencement of leasing, to obtain the current*  
45 *income and rent ranges. The WHP rental unit owner or designee shall provide the*  
46 *Planning Director, or designee, with written notice of the date of occupancy of the*  
47 *first WHP unit no later than five days after occupancy. The WHP rental unit owner*  
48 *or designee shall also provide written notice to the Planning Director or designee*  
49 *of a change in WHP rental unit owner or designee no later than 30-calendar days*  
50 *after the change occurs. [Ord. 2019-033] [Relocated from: Art. 5.B.1.D.2.e,*  
51 *Commencement of Rentals]*

1 **d b. Rents Pricing/Affordability**

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3) The rent ~~ranges~~ ~~prices~~ shall be updated annually by the Planning Director, or designee, based on the monthly rent ~~limits~~ ~~ranges~~ published annually for the Florida Housing Finance Corporation Multif-Family Rental Programs, by number of bedrooms, ~~for~~. The rent ranges shall address the following income subcategories ranges: > 60 to 70 percent; > 70 to 80 percent; > 80 to 90 percent; > 90 to 100 percent; > 100 to 110 percent; > 110 to 120 percent; > 120 to 130 percent; and, > 130 to 140 percent of MFI. The maximum rent established by Palm Beach County for each income category and subcategory, by number of bedrooms, constitutes the Maximum WHP Rent for that category or subcategory. The WHP price initially established for the rental unit's income category at the time of approval of the subject development shall be the rental floor throughout the affordability period. No WHP unit is required to be rented at a price below the rental floor, though an owner may opt to do so. [Ord. 2019-033] [Relocated to: Art. 5.G.1.D.2.d.7]

4) WHP Rents for required WHP rental units are set by the rental unit owner or designee, and shall:

- a) include any Mandatory Fees required to be paid by all tenants. Mandatory Fees cannot be charged in addition to the Maximum WHP Rent, even if such charges are designated as "Additional Rent" per the lease.
- b) reflect the Utility Allowance if applicable.
- c) not exceed the Maximum WHP Rent minus any applicable Utility Allowance.

Voluntary Fees may be charged in addition to the WHP Rent, even if these cause the Maximum WHP Rent to be exceeded.

~~Owners of WHP rental units may choose to include one or more utilities for the unit in the base rental price. Units that do not include utilities must provide a utility allowance in the form of a rent reduction based on the number of bedrooms, according to a schedule established by the Planning Division. Utilities shall include, but not be limited to, water, sewer, gas, and electric. When one or more utility cost(s) are included within the WHP unit rent price, and reasonable, reliable, and verifiable documentation is provided that indicates the total utility cost included within the WHP unit rent price meets or exceeds the stated utility allowance cost, then the utility allowance requirement would be waived. If the utility costs are less than the prescribed utility allowance, the difference shall be credited to the WHP resident's rent cost. [Ord. 2019-033]~~

5) **Utility Allowance**

A Utility Allowance is required to be applied if the WHP rental units are subject to a Utility Allowance pursuant to the Master Restrictive Covenant governing the WHP rental units. The amount of the Utility Allowance shall be as established by the Master Restrictive Covenant. For the purposes of this provision, utilities are limited to water, sewer, gas, or electric service provided directly to the unit, and not for common areas. Owners of WHP rental units subject to a Utility Allowance must either:

- a) reduce the rent by the amount of the Utility Allowance, if the cost of all the identified utilities is billed to the WHP tenant by the WHP rental unit owner or designee, the utility, or a third party; or
- b) apply the Utility Allowance amount against the actual cost of the utilities provided to the unit, if the cost of any of the identified utilities are borne by

1 the WHP unit owner and not billed to the WHP tenant by the WHP rental  
2 unit owner or designee, the utility, or a third party. If the utility costs are less  
3 than the prescribed Utility Allowance, the difference shall be credited to the  
4 WHP resident's rent cost. If the cost of the utilities exceeds the Utility  
5 Allowance, the excess cost may be charged to the WHP tenant, even if it  
6 exceeds the Maximum WHP Rent for the WHP tenant's income category  
7 or subcategory. Reasonable, reliable, and verifiable documentation is  
8 required to confirm utility costs.

9 **6) Rentals Below Low-Income Category**

10 *The owner of a WHP unit may request approval from the Executive Director of*  
11 *the Planning, Zoning and Building Department, or designee to rent the unit to*  
12 *a household having an income below 60 percent of Area Median Income, at a*  
13 *rent below the minimum rent for the Low-Income category, but not to exceed*  
14 *33 percent of the WHP tenant's monthly household income. The Executive*  
15 *Director of the Planning, Zoning and Building Department, or designee, in*  
16 *consultation with the Department of Housing and Economic Development,*  
17 *shall consider the income characteristics of the census block(s) or tract(s)*  
18 *where the development is located and any other relevant information in*  
19 *determining whether to grant the request. [Ord. 2019-033] [Relocated from:*  
20 **Art. 5.G.1.D.2.f, Compliance Reporting]**

21 7) The rent ranges initially established for the rental unit's income category at the  
22 time of approval of the Subject Development shall be the rental floor throughout  
23 the affordability period. No WHP unit is required to be rented below the rental  
24 floor, though a rental unit owner or designee may opt to do so. [Ord. 2019-033]  
25 **[Relocated from: Art. 5.G.1.D.2.b.3)]**

26 **e e. Income Qualification of WHP Tenants**

27 WHP units shall be rented only to an income-qualified household. The verification  
28 of prospective WHP tenants as income qualified for the income rental unit  
29 category or subcategory, pursuant to the requirements of this Article and procedures  
30 established by the Department of Planning, Zoning and Building, is the  
31 responsibility of the rental unit owner or designee designated management  
32 company. [Ord. 2019-033]

33 **1) At Initial Lease Execution**

34 The household's income eligibility must be verified through completion of the  
35 County's WHP lease addendum and WHP Rent calculation worksheet, which  
36 are available on the County's website or from the Planning Director or  
37 designee. The WHP rental unit owner or designee may request financial  
38 documents it deems reasonably necessary to ensure the household is eligible  
39 pursuant to the WHP. The WHP lease addendum and WHP Rent calculation  
40 worksheet are submitted by the WHP rental unit owner or designee to the  
41 Planning Director or designee for compliance review prior to or at the time of  
42 lease execution, but no later than the timeframe specified in the Master  
43 Restrictive Covenant for submittal of the lease addendum, or no later than ten  
44 days after lease execution if no timeframe is specified.

45 **2) At Lease Renewal or at Income Reverification**

46 At renewals of the lease, the WHP rental unit owner or designee may choose  
47 to reverify the Annual Household Income and assigned income category, but  
48 is not required to do so. If the WHP tenant's income is to be reverified at lease  
49 renewal, the WHP rental unit owner shall provide the tenant a minimum of 60  
50 days' notice prior to renewal date of the intent to reverify. If no new income  
51 reverification is completed at lease renewal, no new WHP lease addendum is  
52 required, but the WHP rental unit owner or designee is required to provide the

1 WHP Rent calculation worksheet within ten days of lease renewal, indicating  
2 the WHP Rent amount pursuant to the renewed lease, to the Planning Director  
3 or designee for compliance review.

4  
5 The WHP rental unit owner or designee may also reverify the income, adjust  
6 the income category or subcategory, and adjust the WHP Rent of the WHP  
7 rental unit during the course of the lease if requested by the WHP tenant due  
8 to changed household circumstances, but is not required to do so.

9  
10 In considering any income category reassignment as a result of the income  
11 reverification, the required number of WHP rental units in each category shall  
12 not be exceeded, except when opting to shift a WHP rental unit to a lesser  
13 income category.

14  
15 In the event of any reverification of Annual Household Income, a new  
16 completed WHP lease addendum and WHP Rent calculation worksheet must  
17 be provided to the Planning Director or designee for compliance review prior  
18 to or at the time of lease execution, but no later than the timeframe specified  
19 in the Master Restrictive Covenant for submittal of the initial WHP lease  
20 addendum, or no later than ten days after lease execution if no timeframe is  
21 specified in the Master Restrictive Covenant.

22 **d. Marketing of WHP Rental Units**

23 ~~Marketing of WHP rental units is the responsibility of the rental unit owner or~~  
24 ~~designated management company. [Ord. 2019-033] [Relocated to: Art.~~  
25 **5.G.1.D.2.b, Marketing of WHP Rental Units]**

26 **e. Commencement of Rentals**

27 ~~The owner of the rental WHP unit(s) shall provide the Planning Director, or~~  
28 ~~designee, with notice of the date of occupancy of the first WHP unit. [Ord. 2019-~~  
29 **033] [Relocated to: Art. 5.G.1.D.2.c, Notifications to Palm Beach County]**

30 **f. Compliance Review and Compliance Determination Reporting**

31 It is the County's intent that each Subject Development fulfill 100 percent of its  
32 workforce housing obligation pursuant to its Development Order and this Chapter.  
33 For each WHP rental unit, the Planning Director or designee shall review the WHP  
34 lease addendum and/or WHP Rent calculation worksheet documenting the Annual  
35 Household Income verified by the WHP rental unit owner or designee, the  
36 household's WHP category and subcategory if applicable, and the WHP Rent to  
37 be charged.

38  
39 A WHP rental unit shall only be considered compliant once an accurate, complete,  
40 and fully notarized WHP lease addendum and/or WHP Rent calculation worksheet  
41 are provided to the Planning Director or designee, and the Planning Director or  
42 designee verifies that the correct income category, income subcategory if  
43 applicable, and rent are applied.

44  
45 The Planning Director or designee shall notify the WHP rental unit owner or  
46 designee of the result of the review of the submitted documents within three  
47 business days of receipt.

48  
49 If compliance issues are identified, the WHP rental unit owner or designee shall  
50 address the issues identified by the Planning Director or designee to the Planning  
51 Director or designee's reasonable satisfaction and resubmit the required

1 documentation for review within ten business days of the Planning Director or  
2 designee's request.

3  
4 A copy of the completed WHP lease addendum and WHP Rent calculation  
5 worksheet shall be provided to the WHP tenant by the WHP rental unit owner or  
6 designee within three business days of verification of compliance by the County.

7  
8 If the documents are deemed compliant, the WHP rental unit shall be considered  
9 compliant from the date of the event (lease start, lease renewal, or income  
10 reverification), or the date the compliant documents were submitted to the County,  
11 whichever is later.

12  
13 The Planning Director or designee shall maintain a record of the project's WHP  
14 unit compliance using the WHP lease addenda form and WHP Rent calculation  
15 worksheets and other documentation provided by the WHP rental unit owner or  
16 designee.

17  
18 The Planning Director or designee may conduct site visits at reasonable times,  
19 request rent rolls, unit ledgers, or other documentation, and/or perform other  
20 independent investigation to verify compliance with the WHP. [Ord. 2019-033]

21  
22 It is a violation of this Code if the project has failed to maintain a minimum of 90  
23 percent of its WHP unit obligation for more than 60 consecutive days, has failed to  
24 make a non-compliant WHP rental unit compliant within ten business days of  
25 written notice provided by the Planning Director or designee, or has failed to  
26 provide additional compliance documentation requested by the Planning Director  
27 or designee within ten business days of the written request provided by the  
28 Planning Director. In the event of a violation of this part or any other part of this  
29 Section, the 30-year period will be extended by the amount of time a Code  
30 Enforcement magistrate or judge finds that the Subject Development was out of  
31 compliance.

32 ~~The owner of the WHP unit shall submit to the Planning Director, or designee, on~~  
33 ~~a form provided by the County, an annual report containing information and~~  
34 ~~documentation to demonstrate continued compliance with the WHP. The County~~  
35 ~~may conduct site visits at reasonable times, or perform other independent~~  
36 ~~investigation to verify continued compliance with the WHP. The owner of the WHP~~  
37 ~~units shall also provide notice to the Planning Director or designee of a change in~~  
38 ~~management company no later than 30 days after the change occurs. The owner~~  
39 ~~of a WHP unit may request approval from the Executive Director of the Planning,~~  
40 ~~Zoning and Building Department, or designee to rent the unit to a household having~~  
41 ~~an income below 60 percent of Area Median Income, at a price below the minimum~~  
42 ~~rent for the Low-Income category. The request is to include documentation of the~~  
43 ~~owner's efforts to market the unit in the WHP income categories and other~~  
44 ~~information demonstrating that current area market conditions do not support the~~  
45 ~~rental of the unit to households in the 60 to 80 percent Low-Income category. The~~  
46 ~~Executive Director of the Planning, Zoning and Building Department, or designee,~~  
47 ~~in consultation with the Department of Housing and Economic Sustainability, shall~~  
48 ~~consider the documentation provided, the income characteristics of the census~~  
49 ~~block(s) or tract(s) where the development is located, and any other relevant~~  
50 ~~information in determining whether to grant the request. [Ord. 2019-033] [Ord.~~  
51 ~~2020-020] [Relocated to: above, Art. 5.G.1.D.2.c, Notifications to Palm Beach~~  
52 ~~County, and Art. 5.G.1.D.2.d.6), Rentals Below Low-Income Category]~~

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**E. Enforcement**

The County may enforce the requirements of the WHP through the County's Code Enforcement process or by bringing an action in the 15th Judicial Circuit Court in and for Palm Beach County, Florida, by any cause of action available at law or equity, and seek remedies including but not limited to, seeking specific performance, injunctive relief, rescission of any unauthorized sale or lease, reclassification of a market rate unit to a WHP unit, reclassification of the WHP unit income categories to lower categories lesser unit to another income category, and extensions tolling of the 15-year recurring term of for-sale units or the 30-year non-recurring term for rental units of the WHP. These remedies are not exclusive and may be awarded in combination with each other and in addition to any other remedy available to the County. [Ord. 2019-033]

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## EXHIBIT 2

### Table of Proposed WHP Changes in Strike-out and Underline format, With Reasons for the Proposed Change LDRAB/LDRC October 11, 2023

The attached document contains the entire Article 5.G.1 of the Palm Beach County Unified Land Development Code, the Workforce Housing Program. The proposed code changes are depicted in underlined text (additions) and ~~struck-through text~~ (deletions). The proposed changes have been reviewed by Palm Beach County Administration, the County Attorney's office, the Department of Housing and Economic Development, and the Code Enforcement Division of the County's Planning, Zoning, and Building Department. The proposed changes have also been the subject of two interested party meetings, held on March 30 and August 16, 2023.

The key changes are to enhance compliance monitoring, but additional changes are also proposed to clarify existing aspects of the program, update terms, relocate provisions to reflect the order of steps, and remove obsolete text. The right hand column includes a brief description of the reason for the proposed change. Text in this column is shown in **red** if the change relates to compliance monitoring.

The main proposed change to enhance compliance monitoring is to replace the current annual reporting process, which attempts to look back over the past year, with a real-time compliance determination process at or before lease execution. The proposed changes also include elimination of the current utility allowance provision, replacing it with a more clearly defined structure for assessment of fees relative to the stipulated Workforce Housing rent. These changes would apply to new projects, and to existing projects that chose to opt-in through an amendment to the project's restrictive covenant. Under the proposed code changes, the compliance process would be as follows:

#### Unit Compliance:

- 1) Property Manager notifies County of lease commencement, to obtain current rent schedule, etc.
- 2) Property manager markets the workforce housing units, to include posting information at project office and website.
- 3) At or before lease execution:
  - a. Property manager and prospective tenant complete Rent Calculation Worksheet and Lease Addendum
  - b. Property manager provides completed forms to County prior to or at lease execution, but no later than within 10 days (as required by Restrictive Covenant)
  - c. County reviews and verifies or identifies issues within 3 days
  - d. If issues are identified, property manager corrects within 10 days and resubmits
  - e. Property manager provides copy of verified forms to tenant within 3 days of County verification
- 4) Unit is considered compliant at later of: date compliant documents were submitted to County, or event date (lease start, lease renewal, or recertification).

#### Project Compliance:

Once a unit is determined to be compliant through the above process, it is tracked by the County along with the project's other workforce housing units, to determine the overall project compliance. If the project fails to meet at least 90% of its obligation for more than 60 consecutive days, the property is considered not in compliance and is subject to enforcement. In addition, for any of the workforce housing units (in the 90% OR the 10%), the property manager is expected to comply with all code requirements regarding notification, timeframes, and marketing. Failure to do so also subjects the project to enforcement actions through the code enforcement or judicial processes.

Workforce Housing Code, ULDC Article 5, with proposed deletions indicated in <del>Struck-through</del> text, and additions indicated in <u>Underlined</u> text	Reason for change – Compliance changes in <b>Red</b>
<p><b>CHAPTER G DENSITY BONUS PROGRAMS</b> Section 1 Workforce Housing Program (WHP)</p> <p>The WHP, AHP, or the TDR Programs are the required methods for increasing density above the maximum density permitted by a property's FLUA designation within unincorporated PBC, unless a Site Specific FLUA Amendment is adopted pursuant to <u>Art. 2.H, FLU Plan Amendments</u>.</p> <p>A. General</p> <p>1. Purpose and Intent The WHP is intended to increase the supply of housing opportunities for persons employed in PBC in jobs that residents rely upon to make the community viable. The WHP implements Policies 1.1-o and 1.5-g of the Housing Element of the Comprehensive Plan, among others, by establishing an inclusionary WHP to provide Low, Moderate 1, Moderate 2, and Middle-Income housing. The program mandates the provision of workforce housing for all new developments in the Urban/Suburban Tier with a residential component of ten or more dwelling units; encourages the development of additional workforce housing through a density bonus and other incentives; encourages the equitable geographic distribution of workforce housing units; and, ensures a minimum affordability period. The WHP is implemented by the Planning Division of the Planning, Zoning and Building Department, and the Department of Housing and Economic <u>Development Sustainability</u>.</p>	<ul style="list-style-type: none"> <li>• To update Department name</li> </ul>
<p>2. Applicability</p> <p>a. Conflicts In cases of conflict between this Chapter and other Articles of this Code, the provisions of this Chapter shall apply. In cases of conflict between this Chapter and Conditions of Approval imposed by the Board of County Commissioners, the more restrictive shall apply.</p> <p>b. Thresholds The WHP shall apply to all new developments with a residential component of ten or more dwelling units.</p> <p>c. Prior Approvals For existing projects proposing ten or more additional dwelling units, the program shall apply to those units being added. <u>For projects approved under versions of Article 5.G.1 in effect prior to October 26, 2023 and having rental WHP units subject to the requirement for either an annual report or utility allowance, or both, the property owner may request an amendment to the Master Restrictive Covenant in order to forgo either the annual report or utility allowance requirement, or both.</u></p> <p>d. Location</p> <p>1) Urban/Suburban Tier The WHP applies for all new developments with a residential component in the Urban/Suburban Tier, except as follows:</p> <p>a) URA Priority Redevelopment Areas The WHP obligation for developments with a UC or UI FLU shall be met through the provision of a minimum of 15 percent of all new units, pursuant to Policy 1.2.2-b of the Future Land Use Element of the Comprehensive Plan. The Limited Incentive Option shall not be available to these developments, nor any incentives offered through the WHP. All other applicable provisions of the WHP shall apply.</p> <p>b) WCRAO Developments of ten or more units in the WCRAO shall not be subject to the WHP if Density Bonus Pool Units are used pursuant to <u>Art. 3.B.14.H.1, Density Bonus Pool</u>.</p> <p>2) Other Tiers The WHP may be required by the Board of County Commissioners in developments in other Tiers through Conditions of Approval.</p> <p>e. Exemptions</p> <p>1) Developments utilizing the AHP.</p> <p>2) Congregate Living Facilities (CLFs).</p>	<ul style="list-style-type: none"> <li>• To establish an opt-in for already approved projects that choose to replace the utility allowance and annual report requirements with the approach established with this code revision.</li> </ul>



Workforce Housing Code, ULDC Article 5, with proposed deletions indicated in <del>Struck-through</del> text, and additions indicated in <u>Underlined</u> text	Reason for change – Compliance changes in Red
<p>f. Developments with Both WHP and AHP If a development includes both WHP and AHP units <del>or units restricted to occupancy by households with Annual Household Incomes below 60% of Median Family Income</del>, the Planning Director or designee shall make a determination as to the applicability of the <u>WHP to the development</u> <del>which program shall be followed</del>, considering the affordable housing programmatic requirements of the governmental or other agency providing affordable housing funding.</p>	<ul style="list-style-type: none"> <li>To reflect that restricted units may result from other programs beyond the County's AHP</li> </ul>
<p>3. Program Standards a. Definitions 1) Subject Development For the purposes of the WHP, the subject development is the boundaries of the overall project generating the WHP obligation, regardless of whether the required WHP units will be provided on that site. 2) Developer The developer of the subject development. 3) Exchange Builder The builder of the Exchange Project. 4) Exchange Project The development where the WHP units will be delivered through the Off-Site Construction/Exchange Builder Option.</p>	<p>No changes</p>
<p>5) <u>Annual Household Income</u> For WHP rental units, <u>documentable gross income before taxes received annually by income earners residing in the WHP tenant's household only. At least one income earner must be employed in Palm Beach County. Annual Household Income is used to determine the income category, and subcategory if applicable. Annual Household Income does not include investment, retirement, or checking/savings account balances, but may include distributions to the WHP tenant from retirement accounts, and periodic determinable allowances such as alimony and child support. Irregular income such as overtime and bonus payments may be considered income at the discretion of the WHP rental unit owner or designee.</u></p> <p>6) <u>Maximum WHP Rent</u> <u>The maximum price published and updated annually by the Planning Director, or designee, for each income category, and subcategory if applicable, by the number of bedrooms, based on the monthly rent limits published annually for the Florida Housing Finance Corporation Multifamily Rental Programs.</u></p> <p>7) <u>WHP Rent</u> <u>The amount that is charged to the WHP tenant that includes all Mandatory Fees, and reflects the Utility Allowance if applicable.</u></p> <p>8) <u>Mandatory Fees</u> <u>Fees required to be paid by all tenants in a rental development that includes WHP rental units. These fees include but are not limited to charges assigned by virtue of ratio utility billing or similar unmetered allocation arrangements. For projects subject to a Utility Allowance pursuant to a Master Restrictive Covenant, Mandatory Fees shall not include charges assigned by virtue of ratio utility billing or similar unmetered allocation arrangements for water, sewer, gas, or electric service provided directly to the unit and not to common areas.</u></p> <p>9) <u>Voluntary Fees</u> <u>Fees for optional services or features offered to and selected by the WHP tenant, and not mandatory for all units in the development.</u></p> <p>10) <u>Utility Allowance</u> <u>A monthly rent reduction to help offset WHP tenant-paid costs of water, sewer, gas and/or electric service provided directly to the unit and not to common areas, that are billed to the WHP tenant by the WHP rental unit owner or designee, the utility, or a third party. If the cost of one or more of these utilities is borne by the WHP rental unit owner and not billed to the WHP tenant by the WHP rental unit owner or designee, the utility, or a third party, the utility allowance is applied against such cost and any difference is credited or charged to the WHP tenant.</u></p> <p>b. Income Categories There are four targeted income categories in the WHP. Income categories are derived from the Median Family Income (MFI), also known as the Area Median Income (AMI), published annually for Palm Beach County by the U.S. Department of Housing and Urban Development, as follows: 1) Low-Income (&gt; 60 to 80 percent MFI); 2) Moderate 1 Income (&gt; 80 to 100 percent of MFI); 3) Moderate 2 Income (&gt; 100 to 120 percent of MFI); and, 4) Middle-Income (&gt; 120 to 140 percent of MFI).</p>	<ul style="list-style-type: none"> <li>To add definitions used in determining household income, addressing some FAQs</li> <li>To add definitions used to determine compliant rent in later section</li> <li>To create an exception for those projects retaining the utility allowance</li> </ul>

Workforce Housing Code, ULDC Article 5, with proposed deletions indicated in <del>Struck-through</del> text, and additions indicated in <u>Underlined</u> text	Reason for change – Compliance changes in <b>Red</b>
<p>c. Pricing The Planning Director or designee shall annually set and publish WHP sale <u>prices</u> and rent <u>ranges</u> prices for all income categories <u>and subcategories</u>.</p> <p>1) <del>For-sale</del> WHP <u>For-sale</u> units shall target the Low, Moderate 1, and Moderate 2 categories. The sale prices shall be derived as follows: Median Family Income for Palm Beach County (West Palm Beach/Boca Raton Metropolitan Statistical Area) published annually by the U.S. Department of Housing and Urban Development, multiplied by three, and adjusted to the midpoint of each of the income categories: Low (70 percent), Moderate 1 (90 percent), and Moderate 2 (110 percent).</p> <p>2) <del>Rental</del> WHP <u>rental</u> units shall target all four WHP income categories, <del>unless otherwise specified by the project's development approval</del>. Rent ranges shall be <del>based on the monthly rent ranges</del> published annually by <del>the Planning Director or designee Palm Beach County</del>, based on the Florida Housing Finance Corporation Multi-Family Rental Programs <u>Rent Limits</u>, by number of bedrooms, for the following income ranges: <u>&gt; 60 to 70 percent; &gt; 70 to 80 percent; &gt; 80 to 90 percent; &gt; 90 to 100 percent; &gt; 100 to 110 percent; &gt; 110 to 120 percent; &gt; 120 to 130 percent; and, &gt; 130 to 140 percent of MFI.</u></p> <p>3) For the purposes of annual price updates, the WHP prices initially established for the for-sale unit's income category at the time of approval of the subject development shall be the sales floor throughout the affordability period. No WHP <u>for-sale</u> unit is required to be sold at a price below the sales floor, though a seller may opt to do so. The WHP <del>price</del> <u>rent range</u> initially established for the rental unit's income category at the time of approval of the subject development shall be the rental floor throughout the affordability period. No WHP <u>rental</u> unit is required to be rented at a price below the rental floor, though an <u>rental unit</u> owner may opt to do so.</p> <p>d. Assignment of the Required WHP Units WHP required units are intended to be distributed equally among all required income categories pursuant to <u>Art. 5.G.1.B, Program Options</u> or Conditions of Approval. When assigning units to income categories, units shall be assigned first to the highest income category, proceeding downward to low income. This does not prohibit a developer <u>or rental unit owner</u> from providing higher numbers of lower-income units.</p> <p>e. Calculations Calculations of <del>the WHP density bonus and WHP obligation</del> shall be performed using two decimal places, and standard rounding applied <u>for density and WHP Density Bonus calculations; standard rounding is applied at the end for the WHP obligation calculation.</u></p> <p>f. Unencumbered Units WHP units shall not be subject to restrictions beyond WHP income qualifications. <del>Unless otherwise indicated, uUnits used to meet a WHP obligation shall not be units, which are income restricted as a result of funding or other requirements of any other program, unless: WHP units shall not be subject to restrictions beyond WHP income qualifications.</del></p> <p>1) <u>The workforce housing units result from the Offsite Construction/Exchange Builder Option of the Workforce Housing Program, and the Board of County Commissioners approves the income restriction to be applied due to another program; or</u></p> <p>2) <u>The restrictions result from funding sources used to provide purchase assistance to qualified buyers of a for-sale workforce housing unit with terms that are consistent with or equal to County terms.</u></p>	<ul style="list-style-type: none"> <li>• <b>THROUGHOUT:</b> to standardize terms, such as “rent” for rentals, and “price” with for sale; and to reference subcategory rent structure adopted in 2019</li> <li>• To reflect that Limited Incentive projects are only Low and Mod 1, and BCC may impose conditions regarding categories; and to relocate specific subcategories to later section</li>   <li>• To clarify calculation method</li>   <li>• To acknowledge existing Exchange Builder exception</li> <li>• To allow other funding sources (e.g. municipal CRA) for down payment assistance, to conserve County resources.</li> </ul>
<p>g. Affordability Periods</p> <p>1) For-Sale Units All <del>for-sale</del> WHP <u>for-sale</u> units shall be income restricted for a period of 15 years (recurring), from the date of <u>sale</u> <del>the Certificate of Occupancy (CO)</del> for each unit. In the event a unit is resold before the 15-year period concludes, a new 15-year period shall take effect on the date of resale.</p> <p>2) Rental Units All <del>rental</del> WHP <u>rental</u> units shall be income restricted for a period of 30 years (non-recurring), from the date of occupancy of the first WHP unit.</p> <p>h. Design Standards</p> <p>1) Compatible Design and Unit Features <u>for All WHP Units</u></p> <p>a) The exteriors of WHP units shall be designed compatible with market rate units in the development.</p> <p>b) One of more of the following shall be provided:</p> <p>(1) a representative WHP model at the WHP site;</p> <p>(2) a representative WHP model at a different location in Palm Beach County; or,</p> <p>(3) a market rate model with information delineating the differences between the market rate model and the WHP units.</p>	<ul style="list-style-type: none"> <li>• Change to sale date, which is easier for homeowner</li>   <li>• To standardize terms</li>   <li>• To group existing requirements by tenure type (for sale and/or for rent)</li> </ul>

Workforce Housing Code, ULDC Article 5, with proposed deletions indicated in <del>Struck-through</del> text, and additions indicated in <u>Underlined</u> text	Reason for change – Compliance changes in <b>Red</b>
<p><u>2) Requirements for WHP for-sale units</u></p> <p>a) At minimum, all <del>for-sale</del> WHP <u>for-sale</u> units shall include a refrigerator, range, built-in microwave, dishwasher, washer, and dryer.</p> <p><del>2) Number of Bedrooms</del></p> <p>a) <del>For Sale WHP Units</del></p> <p>(1) b) All <del>for-sale</del> WHP <u>for-sale</u> units shall have a minimum of two bedrooms, and 25 percent of the <del>for-sale</del> WHP <u>for-sale</u> units shall have a minimum of three bedrooms.</p> <p>(2) All <del>for-sale</del> WHP <u>for-sale</u> units shall have a minimum bedroom size of 100 square feet.</p> <p><del>3) b) Rental Requirements for WHP Rental Units</del></p> <p>(1) a) No minimum number or size of bedrooms applies to <del>rental</del> WHP <u>rental</u> units.</p>	<ul style="list-style-type: none"> <li>• To group existing requirements by tenure type (for sale and/or for rent)</li> <li>• To standardize terms</li> </ul>
<p>B. Program Options</p> <p>The WHP offers the choice of either a “limited” or a “full” program option, which determines the amount of required workforce housing and the availability of other incentives. <u>These options are not available to subject developments that are subject to Future Land Use Amendment conditions of approval establishing a specific percentage of required workforce housing.</u></p> <p>1. Limited Incentive Option</p> <p>a. Intent</p> <p>The Limited Incentive Option minimizes the WHP obligation, and allows only a limited density bonus as an incentive.</p> <p>b. Incentives Available</p> <p>The only incentive available through the Limited Incentive Option shall be a density bonus; the density bonus shall not exceed 50 percent of the permitted density.</p> <p>c. Amount of WHP Required</p> <p>The required percentage of WHP units shall be two and one-half percent of standard density; eight percent of maximum density; and, 17 percent of any WHP density bonus. The WHP obligation may be further modified by the disposition option selected, per <u>Art. 5.G.1.C.4, Methods Available</u>. The number of WHP units required shall be identified by the Planning Director or designee in a WHP Letter of Determination.</p> <p>d. Pricing of Workforce Housing Units</p> <p>50 percent of the required WHP units shall be provided in the Low-Income category and 50 percent of the required WHP units shall be provided in the Moderate 1 Income category.</p> <p>e. WHP Letter of Determination for Limited Incentive Developments</p> <p>Developments opting for the Limited Incentive Option are eligible for a maximum density bonus of 50 percent of the permitted density. No additional incentives are available for the developments using the Limited Incentive Option. For the purposes of this Subsection, permitted density shall be the number of units allowed by the standard and maximum density pursuant to the Comprehensive Plan; TDR units or any other density bonus shall not be included as part of the permitted density for purposes of calculating the WHP density bonus.</p> <p>Upon request, the Planning Director or designee shall provide a WHP Determination Letter identifying the density bonus requested, and the total number of WHP units required. This WHP Determination Letter is to be submitted by the developer with the Zoning or Building Permit application.</p> <p>2. Full Incentive Option</p> <p>a. Intent</p> <p>The Full Incentive Option offers several incentives, including a density bonus, and requires an increased amount of workforce housing.</p> <p>b. Incentives Available</p> <p>A development selecting the Full Incentive Option shall have available all applicable WHP incentives provided in this Section below, including a density bonus of up to 100 percent of the permitted density, pursuant to the Density Bonus process in <u>Art. 5.G.1.B.2.e, Density Bonus Determination for Full Incentive Developments</u>.</p>	<ul style="list-style-type: none"> <li>• To clarify that specific percentages imposed by BCC amendment conditions cannot be reduced through Limited Incentive option.</li> </ul>

Workforce Housing Code, ULDC Article 5, with proposed deletions indicated in <del>Struck-through</del> text, and additions indicated in <u>Underlined</u> text	Reason for change – Compliance changes in <b>Red</b>
<p>c. Amount of WHP Required  For <del>for-sale</del> <u>for-sale</u> WHP <del>for-sale</del> <u>for-sale</u> units, the required percentage of WHP units shall be four and three-eighths percent of standard density; 14 percent of maximum density; and, 29.75 percent of any WHP density bonus used. For <del>rental</del> <u>rental</u>-WHP <del>rental</del> <u>rental</u> units or in-lieu fee purposes, the required percentage of WHP units shall be five percent of standard density; 16 percent of maximum density; and, 34 percent of any WHP density bonus used. The WHP obligation may be further modified by the disposition option selected, per <u>Art. 5.G.1.C.4, Methods Available</u>. The number of WHP units required shall be identified by the Planning Director or designee in a WHP Letter of Determination, pursuant to the Density Bonus process in <u>Art. 5.G.1.B.2.e, Density Bonus Determination for Full Incentive Developments</u> below.</p> <p>d. Pricing of Workforce Housing Units  Units shall be priced in all applicable income categories, pursuant to <u>Art. 5.G.1.A.3.c, Pricing</u>.</p> <p>e. Density Bonus Determination for Full Incentive Developments  Developments opting for the Full Incentive Option are eligible for a density bonus of up to 100 percent of permitted density. For the purposes of this Subsection, permitted density shall be the number of units allowed by the standard and maximum density pursuant to the Comprehensive Plan; TDR units or any other density bonus shall not be included as part of the permitted density for purposes of calculating the WHP density bonus.</p> <p>1) Full Incentive Developments Requesting a WHP Density Bonus up to and including 50 Percent  For Full Incentive Developments requesting a WHP density bonus of up to and including 50 percent, upon request the Planning Director or designee shall provide a WHP Determination Letter identifying the density bonus requested, and the total number of WHP units required.  This WHP Determination Letter is to be submitted by the developer with the Zoning or Building Permit application.</p> <p>2) Full Incentive Developments Requesting a WHP Density Bonus Greater Than 50 Percent  For developments requesting a WHP density bonus of greater than 50 percent, the Planning Director or designee shall review the request pursuant to the following process:</p> <p>a) Density Bonus Pre-Application Appointment  Requests received for density bonuses greater than 50 percent shall be scheduled for the next available Pre-Application Appointment, which shall be conducted regularly by the Planning Division, according to a schedule published by the PZB Department. Pre-Application Appointments shall include other appropriate County Departments and Agencies, as determined by the PZB Department. The developer shall be required to participate in the Pre-Application Appointment for the proposed development, to discuss the proposed development and unit types, characteristics of the site and surrounding area, and other relevant factors.</p> <p>b) Factors for Consideration  Staff shall consider the following factors in developing a maximum density and density bonus recommendation.  (1) The extent of which the proposed WHP units further County objectives:  (a) The intent to provide the workforce housing units on site;  (b) The intent to provide Single Family and for-sale workforce housing units;  (c) The proximity of the location where the WHP units are to be provided to employment centers;  (d) The concentration of households with incomes in the WHP income categories, in the location where the WHP units are to be provided.  (2) The potential impact of the proposed density bonus:  (a) The total number of units proposed, including any Transfer of Development Rights; and  (b) The compatibility with the character of the adjacent and surrounding area in the location of the subject development.</p> <p>c) Density Bonus Recommendation  Within ten days following the Pre-Application Appointment, the Planning Director or designee shall provide a written WHP Letter of Determination identifying the recommended maximum density bonus and the total number of WHP units required, subject to further limitations due to property development regulations and other factors in the development review process. The Planning Director or designee shall provide the WHP Letter of Determination to the developer, DRO, ZC, or BCC, whichever is appropriate and may include recommended Conditions of Approval for the resulting Development Order.</p>	<ul style="list-style-type: none"> <li>• To standardize terms</li> </ul>

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<p>f. Incentives Available under Full Incentive Option</p> <ol style="list-style-type: none"> <li>1) Traffic Performance Standards Mitigation <ol style="list-style-type: none"> <li>a) WHP Special Methodologies TPS mitigation shall be permitted for developments where the required WHP units are being provided in accordance with Policy 1.2-d(4) of the Transportation Element of the Comprehensive Plan.</li> <li>b) WHP Traffic Concurrency Hall Pass TPS mitigation shall also include the option of applying for a WHP Traffic Concurrency Hall Pass separate from a Development Order application. The WHP Traffic Concurrency Hall Pass serves as a provisional traffic concurrency approval for a period of not more than 90 days, during which it must be merged into an application submitted for a Concurrency Reservation approval. The WHP Traffic Concurrency Hall Pass is described further in <u>Art. 2.F, Concurrency (Adequate Public Facility Standards)</u>.</li> </ol> </li> <li>2) Expedited Review The following expedited review processes may apply to a development where the required WHP units are being provided: <ol style="list-style-type: none"> <li>a) Design Review Review of Multifamily or Townhouse structures by the Building Division and Fire-Rescue shall be allowed concurrent with Final DRO review, prior to permit application.</li> <li>b) Platting <ol style="list-style-type: none"> <li>(1) If only a boundary plat is required for an existing single lot, Building Permits may be issued after submittal of the Final Plat for recordation.</li> <li>(2) If a subdivision plat is required, permits will be concurrently reviewed, but only issued at recording of the plat.</li> <li>(3) Pursuant to <u>Art. 3.E.1.H.1, Standards</u>, Building Permits may be issued for Sales Offices, Sales Models, gatehouses, entry features, and utilities prior to the recording of the Final Plat.</li> </ol> </li> </ol> </li> <li>3) Flexibility in Property Development Regulations <ol style="list-style-type: none"> <li>a) Purpose and Intent To provide flexibility from property development and other related regulations in order to provide greater opportunity for cost-effective development of WHP units. These provisions are not intended to supersede deviations that are normally addressed through the Variance process. These options shall only be granted at the time of approval for the entire development, and shall not be granted on a lot-by-lot basis.</li> <li>b) Applicability Full Incentive Option developments providing all the required WHP units on site may utilize the flexibility in property development regulations listed herein. This flexibility shall be granted for all units of the same unit type as the WHP units, in all pods where WHP units are being provided.</li> <li>c) Justification Report Use of these provisions shall not be granted by right, and shall require submittal of a justification report that demonstrates that deviations are the minimum needed to allow for the use of density bonus incentives. The report shall include the following: <ol style="list-style-type: none"> <li>(1) The regulations that are proposed to be modified.</li> <li>(2) The amounts and specifics of the requested deviation(s).</li> <li>(3) The areas within the development that the deviation(s) will be applied to.</li> <li>(4) Graphic representations such as, but not limited to, Site Plans, elevations, perspectives, and typical examples, showing how the deviations will meet the intent of the district and WHP with emphasis on open space, privacy, maintenance, and public health, safety, and welfare.</li> </ol> </li> <li>d) Site Plan Approval Any deviations sought pursuant to this Subsection shall be reflected on Site Plans submitted for DRO approval.</li> <li>e) Drainage Any reduction in lot size or open space area, or increase in building coverage shall be subject to approval of a drainage study demonstrating that reduced pervious surface area will not create adverse drainage issues.</li> </ol> </li> </ol>	<p>No changes</p>

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**Reason for change – Compliance changes in Red**

- f) Option 1 – RT District  
 The zoning for parcels electing to use this option must be in compliance with Table 3.A.3.B, Future Land Use (FLU) Designation and Corresponding Standard Zoning Districts.  
 (1) RT PDR Deviations  
 Deviations from the minimum PDRs for the RT district with an LR-2 or LR-3 FLU designation may be in accordance with Table 5.G.1.B, RT Deviations for WHP, only for those developments that exceed the standard density in the footnote in FLUE Table 2.2.1-g.1, Residential Future Land Use Designation Maximum Density, and utilize a minimum density bonus of 20 percent.

No changes

Table 5.G.1.B – RT Deviations for WHP

Zoning District	Applicability	FLU	Lot Dimensions		Setbacks			
			Size	Width and Frontage	Building Coverage	Depth	Side	Rear
RT	TDR, WHP	LR-2	12,000 sq. ft.	85'	35%	100'	ND	ND
RT	TDR, WHP	LR-3	9,000 sq. ft.	65'	40%	80'	1st floor – 10'	1st floor – 15'
[Ord. 2006-055]								
Key:								
ND	No deviation.							

- g) Option 2 – TND Regulations  
 Developments eligible for this option shall be permitted to utilize the PDRs of Table 3.F.3.D, TND Residential Lot Size and Setback Regulations, subject to meeting the requirements of Art. 3.F.3.D.5, Residential Uses and the following limitations:  
 (1) U/S Tier only;  
 (2) Development does not qualify to be a TND or use Option 1 or 3; and,  
 (3) If the development has an LR-1, LR-2, LR-3, or MR-5 FLU designation, the development shall meet all requirements for and be approved as a PDD.
- h) Option 3 – Flexible Regulations  
 Developments with MR-5, HR-8, HR-12, or HR-18 FLU designations, or if approved as a PDD or TDD, may deviate from the residential requirements of Table 3.D.1.A, Property Development Regulations, or Table 3.D.2.B, ZLL Property Development Regulations, as follows:  
 (1) SFD units may be permitted up to a maximum ten percent deviation for the following PDRs: lot size; width and frontage; building coverage; and, side and rear setbacks.  
 (2) SFD units limited to one floor with no loft or other similar feature, may be permitted up to a maximum 20 percent deviation for the following PDRs: building coverage; and front and side street setbacks.  
 (3) ZLL lots may be permitted up to a maximum lot width reduction of five feet, and ten percent deviation from the minimum lot size, building coverage, and front setback for units with front loading garages.
- i) Option 4 – PDD Open Space Reduction  
 Developments which elect to utilize a density bonus of not less than 15 percent, may reduce the 40 percent open space requirement of Table 3.E.2.C, PUD Land Use Mix, to not less than 30 percent open space, provided the development incorporates common usable open space areas as defined in Art. 1.H.2.O.13, Open Space, Usable for WHP.

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<p>j) Option 5 – Internal Incompatibility Buffers Required Incompatibility Buffers between SFD and MF units within a development shall not be required.</p> <p>k) Option 6 – Relocation of Units to Civic Tracts Residential units may be permitted in a Civic Pod subject to PREM approval. This may include collocating residential units with civic uses. The DRO shall have the following authority where PREM approval is obtained after BCC approval of the overall development:</p> <p>(1) In the case of a civic site cash out, the deletion of the Civic Pod and increase in Residential Pod area; or</p> <p>(2) The relocation of residential units to a Civic Pod, or the relocation of residential units where the Civic Pod is deleted.</p> <p>3. Approval Process - Subject developments requesting density bonuses greater than 50 percent are subject to a Class A Conditional Use approval; approval processes for developments with density bonuses up to and including 50 percent are determined by the applicable thresholds in <u>Art. 3, Overlays and Zoning Districts</u> and <u>Art. 4, Use Regulations</u> of the Code.</p>	<p>No changes</p>
<p>C. Disposition of WHP Obligation</p> <p>1. Declaration of Method to Meet WHP Obligation The developer is required to declare the selected method to meet the WHP requirement prior to certification for public hearing for approval of the proposed subject development, or at DRO if the subject development is not subject to public hearing. The declared method shall be included as a Condition of Approval.</p> <p>2. Change of Declared Method. A change to the selected method cannot be requested after Building Permits have been issued for more than 25 percent of the units in the subject development. A change to the declared method shall be subject to the same approval process through which the subject development received approval. For developments subject to public hearing, approval of a change in declared method shall be at the discretion of the Board of County Commissioners. The developer may request Expedited Application Consideration for a Development Order Amendment pursuant to <u>Art. 2, Application Processes and Procedures</u>. Any necessary amendments to the recorded Master <u>Restrictive Covenant</u> for the subject development as a result of the change of declared method shall be recorded by the developer no later than 60 days following the approval of the change.</p>	<ul style="list-style-type: none"> <li>• To standardize terms</li> </ul>
<p>3. Recalculation A change to a subject development’s unit total, unit type, <u>unit tenure</u>, or declared method or WHP unit location shall require a recalculation of the workforce housing obligation, and shall include reassessment of the density bonus pursuant to the process outlined in <u>Art. 5.G.1.B.2.e, Density Bonus Determination for Full Incentive Developments</u>. Any recalculation that reduces the number of units approved on the subject development’s Final Site Plan may require that the Final Site Plan be amended to reflect the reduced unit count, or the purchase of Transfer of Development Rights in the amount of the reduction.</p> <p>4. Methods Available Several alternative methods are available for the disposition of a subject development’s WHP obligation:</p> <p>a. WHP On-Site Construction Option WHP units may be located on site. For Single Family or Townhouse for-sale developments using the Full Incentive Option, the number of required WHP units may be reduced by 20 percent if all required WHP units are to be provided as on-site, for-sale, Single Family units, or reduced by ten percent if provided as on-site, for-sale, Townhouse units. Prior to Final DRO approval, the developer shall identify on the plan the total number of WHP units proposed for the subject development within each pod or phase, as applicable. 50 percent of WHP units must receive Certificates of Occupancy prior to the issuance of 50 percent of market rate unit Building Permits in the subject development. All WHP units must receive Certificates of Occupancy prior to issuance of no more than 85 percent of the residential Building Permits in the subject development.</p>	<ul style="list-style-type: none"> <li>• To recognize that a change of tenure (for-sale/rental) can affect calculation</li> </ul>
<p>b. WHP Off-Site Options WHP units may be located off site using the options listed below. For-sale subject developments that opt to provide the required WHP units as off-site rental units through off-site construction, through the Purchase of Market Rate Units, or through an Exchange Builder, shall have a WHP obligation one and one-half times the number of WHP units required if developed on site not including the on-site reduction. Off-site options may be accommodated in municipalities located within Palm Beach County. When the obligation is to be met in a municipality, the developer shall provide written confirmation to the Planning Director or designee that the administrator or manager of the municipality has been notified that the WHP unit obligation is to be met in the municipality, prior to the issuance of the first WHP Building Permit; or prior to the recordation of a deed restriction or deed transfer to the County for a market rate unit pursuant to <u>Art. 5.G.1.C.4.b.3), Off-Site Option 3 – Purchase of Market Rate Units</u>. The enforcement of any requirements of this Section for units provided in municipalities shall be the responsibility of Palm Beach County. For subject developments outside the Westgate Community Redevelopment Area Overlay that opt to locate WHP units in the WCRAO, no more than ten percent of the development’s WHP units to be located in the WCRAO shall be in the Low-Income category. The developer shall provide written confirmation to the Planning Director or designee that the WCRA has been notified that WHP units will be provided in the WCRAO.</p>	

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<p>1) Off-Site Option 1 – Off-Site Construction/Same Developer Prior to issuance of the first residential Building Permit or Final DRO approval for the subject development, whichever comes first, all contracts or related agreements for any off-site option evidencing site control and necessary approvals shall be approved by the County Administrator, or designee. Certificates of Occupancy shall be issued for a minimum of 50 percent of the required WHP units to be constructed off-site prior to the issuance of no more than 50 percent of the Building Permits in the subject development. All off-site WHP units must receive Certificates of Occupancy prior to issuance of no more than 85 percent of the Building Permits in the subject development. The Site Plan, the Master <u>Restrictive</u> Covenant, or other appropriate document shall be amended to reflect the number of WHP units, including the number in each applicable WHP income category, to be located on the receiving site(s). The Planning Director or designee shall determine the appropriate document and the timeframe for the modification, which shall be no later than the 85 percent threshold identified in this paragraph.</p> <p>2) Off-Site Option 2 – Off-Site Construction/Exchange Builder <del>The Off-Site Construction/Exchange Builder Option shall be evaluated and a report provided to the Board of County Commissioners no later than three years from the effective date of this Ordinance. Provision of required WHP units may be arranged by the developer of the subject development through an Exchange Builder who will provide them off site, subject to the following:</del></p> <p>a) The exchange price shall be set by the County at 80 percent of the in-lieu fee associated with the subject development.</p> <p>b) <del>A subject development which received a Development Order prior to the effective date of Ordinance No. 2019-033 may select the Exchange Builder Option as the subject development's disposition option, provided that:</del></p> <p>(1) <del>No residential Building Permits have been issued for the subject development;</del></p> <p>(2) <del>The Development Order for the subject development shall be revised through the Zoning Agency Review process to reflect the change in disposition, and shall include any necessary notes, condition changes, and amendments to previously approved plans;</del></p> <p>(3) <del>The exchange price shall be 80 percent of the applicable in-lieu fee in effect at the time of the Development Order for subject development; and,</del></p> <p>(4) <del>All other provisions of Art. 5.G.1.C.4.b, WHP Off-Site Options and Art. 5.G.1.C.4.b.2), Off-Site Option 2 – Off-Site Construction/Exchange Builder shall apply.</del></p>	<ul style="list-style-type: none"> <li>• To standardize terms</li> <li>• Completed</li> <li>• This transition provision to bridge projects from pre-2019 code to post-2019 code is no longer needed.</li> </ul>
<p>e) All exchange projects that propose to utilize other programs in addition to WHP exchange payments that will result in income restrictions on WHP units will require the approval of the Board of County Commissioners. This approval is required prior to the earlier of Final DRO or first Building Permit.</p> <p><u>c) d) Prior to issuance of the first residential Building Permit for the subject development, the developer of the subject development shall Record a Notice of Disposition for the Subject development indicating that the Exchange Builder Option has been selected to meet some or all of the WHP obligation, and shall select one of the following two options:</u></p> <p>(1) Demonstrate engagement of an Exchange Builder, who shall provide:</p> <p>(a) Evidence of receipt of payment of the required exchange price;</p> <p>(b) A detailed description of the proposed exchange project, including site location; the site's land use designation, zoning, and density bonus determination if applicable; the total number of proposed units by type, size, and income category; proposed exchange project layout including the number and type of buildings; proposed exchange project schedule; status of any development approvals; pro forma financial statements demonstrating the exchange project's financial viability; and, documentation evidencing availability of all sources of funding required for the exchange project development budget, including documentation from the financing source(s) providing a firm or a conditional commitment to financing and identifying all financing terms and conditions.</p> <p>(c) Evidence of control of the proposed exchange project site, through a recorded deed or title, or an executed purchase agreement or purchase option, approved by the County Attorney for legal sufficiency and by the County Administrator or designee;</p> <p>(d) A recorded <u>Master Restrictive Covenant, or deed restriction if a Master Restrictive Covenant is not practical</u>, for the exchange project site; and,</p> <p>(e) Guarantee acceptable to Palm Beach County and approved by the County Attorney's Office for an amount equal to 80 percent of the full in-lieu fee. The guarantee shall be for a term not to exceed 39 months, and of a type described in <u>Art. 11.B.2.A.6, Guarantees</u>.</p> <p>(2) Provide guarantee acceptable to Palm Beach County and approved by the County Attorney's Office, for an amount equal to 100 percent of the in-lieu fee. The guarantee shall be for a term not to exceed 39 months, and of a type described in <u>Art. 11.B.2.A.6, Guarantees</u>. Prior to issuance of no more than 25 percent of the Building Permits in the subject development, the developer of the subject development shall have the option to replace the guarantee provided at first Building Permit with items meeting the requirements of <u>Art. 5.G.1.C.4.b.2)d)(1)</u> above. If at 25 percent of Building Permits the required information has not been provided or is not approved by the County Administrator or designee, the developer may pay the full in-lieu fees, and if not Palm Beach County shall file a claim against the guarantee for 100 percent of the in-lieu fees. Prepayment of the in-lieu fee by the developer shall not be allowed.</p>	<ul style="list-style-type: none"> <li>• To reflect that market rate projects that dispose of units through the Exchange Option do not require a restrictive covenant on the market rate site for the exchanged units</li> <li>• To reflect that exchange sites may comprise individual lots that are not practically addressed through a Master Restrictive Covenant</li> </ul>



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<p><del>d) e)</del> Prior to the end of the 36th month of the guarantee, all WHP units shall be issued COs or a renewed guarantee shall be delivered by the Exchange Builder to Palm Beach County. The terms of the renewed guarantee shall be at the discretion of Palm Beach County, but in no case shall exceed an additional three months beyond the term of the original guarantee. The amount of the renewed guarantee shall be prorated to reflect any WHP units already issued Certificates of Occupancy. The Exchange Builder may request additional time beyond the three-month extension; approval of such a request will be at the discretion of the Board of County Commissioners and will require a renewed guarantee for the extension approved by the Board. If neither the required WHP units nor an acceptable renewed guarantee is delivered, Palm Beach County shall collect the guarantee.</p>	
<p><del>e) f)</del> During the three-year evaluation period for the Off-Site Construction/Exchange Builder Option, County Administration shall provide the Board of County Commissioners with status reports annually or more frequently as needed, identifying the progress made by the Exchange Builders engaged under this option.</p> <p><del>f) g)</del> The Site Plan, the Master Restrictive Covenant, or other appropriate document shall be amended to reflect the number of WHP units, including the number in each applicable WHP income category, to be located on the exchange project(s). The Planning Director or designee shall determine the appropriate document and the timeframe for the modification, which shall be no later than the 85 percent threshold identified in <u>Art. 5.G.1.C.4.b.2)d)</u> above.</p> <p>3) Off-Site Option 3 – Purchase of Market Rate Units Purchase of existing market rate units to be deeded to the County, sold to eligible households and deed restricted, or retained by the developer subject to recordation of a deed restriction that meets the intent of this provision and subject to the conversion factor pursuant to <u>Art. 5.G.1.C.4.b, WHP Off-Site Options</u> if applicable. Prior to issuance of the first residential Building Permit or Final DRO approval for the subject development, whichever comes first, all contracts or related agreements for any off-site option evidencing site control and necessary approvals shall be approved by the County Administrator, or designee. A minimum of 50 percent of the units must be purchased and deeded to the County or deed restricted prior to the issuance of no more than 50 percent of the residential Building Permits in the subject development. All market rate units shall be purchased and deeded to the County or deed restricted prior to issuance of no more than 85 percent of the COs in the subject development. The market rate units shall be approved by the Department of Housing and Economic <u>Development Sustainability</u>, and must meet housing quality standards and criteria established by PBC. The Site Plan, the Master Restrictive Covenant, or other appropriate document shall be amended to reflect the number of WHP units, including the number in each applicable WHP income category, to be located on the receiving site(s). The Planning Director or designee shall determine the appropriate document and the timeframe for the modification, which shall be no later than the 85 percent threshold identified in this paragraph.</p> <p>c. Donation of Buildable Land Option Donation of developable land acceptable to the County in an amount equal to the buyout costs of the affected units. Donated land must be approved by the Property and Real Estate Management Division <u>prior to submittal of the subject development's application in the zoning process. The donated land must be</u> and deeded to the County prior to issuance of 50 percent of the residential Building Permits in the subject development.</p> <p>d. In-Lieu Fee Option</p> <p>1) In-lieu fees shall be <u>published by the Palm Beach County Planning, Zoning, and Building Department</u>; <del>120,000 dollars for Single Family units, 100,000 dollars for Townhouse units, and 75,000 dollars for Multifamily units, as defined by Art. 4, Use Regulations of the ULDC. Beginning on September 29, 2021</del> the in-lieu fee amounts shall be adjusted annually in accordance with the annual All Items Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average, not seasonally adjusted, as published by the U.S. Bureau of Labor Statistics.</p> <p>2) The in-lieu fees assessed for a subject development shall be based on the unit type of the subject development. For subject developments with a mix of unit types, the in-lieu fees shall be calculated based on the unit type distribution in the subject development.</p> <p>3) Fees shall be paid prior to the issuance of 50 percent of residential unit Building Permits for the subject development. Fees shall be made payable to the Palm Beach County Board of County Commissioners and submitted to the Department of Housing and Economic <u>Development Sustainability</u>. The payment shall be deposited in the WHP Trust Fund maintained by the PBC Department of Housing and Economic <u>Development Sustainability</u>.</p>	<ul style="list-style-type: none"> <li>• Three year period has ended</li> <li>• To standardize terms</li> <li>• To update Department name &amp; standardize terms</li> <li>• To reflect that PREM approval should occur prior to acceptance of this disposition option.</li> <li>• To reflect that annual updates are now addressed each spring with all PZB fee adjustments</li> <li>• To update Department name</li> </ul>
<p>5. <del>Developments with Outstanding Obligations</del> <del>Developments approved prior to September 29, 2019, which by that date have recorded a Master Covenant indicating that the WHP obligation will be met on site, received Certificates of Occupancy for at least 85 percent of approved units, and have an approved Master Plan reflecting the required WHP units on site, may request approval of the Board of County Commissioners to pay the in-lieu fee for a portion of the obligation. This option is available only for units that have not been previously offered for rent or sale as WHP units. The in-lieu amount shall be based on the applicable in-lieu fee in effect at the time of the issuance of the first residential Building Permit for the subject development, and shall include interest, calculated from the date of the first residential Building Permit, using the rate in effect at the time of election, as set by the Florida Chief Financial Officer pursuant to F.S. § 55.03(1) (2018). Upon approval by the Board and payment of the required amount, the County shall schedule BCC consideration of amendments to the Master Covenant to reflect the revised disposition of workforce obligation for the subject development. This provision shall sunset 90 days following the effective date.</del></p>	<ul style="list-style-type: none"> <li>• No additional projects meet these criteria.</li> </ul>

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<p><u>5. Banking of WHP Units</u>  A developer may opt to bank or restrict WHP units for the purpose of applying those units toward the obligation of a future development subject to the WHP. The developer shall record, in a form provided by the County, a Master Restrictive Covenant or deed restriction for the banked unit site which shall include the applicable restriction for WHP for-sale or WHP rental units, pursuant to Section D below. The affordability period for the banked units shall begin upon the effective date established by the Master Restrictive Covenant or deed restriction recorded for the banked unit site. The developer may claim a banked unit for a future subject development through the Master Restrictive Covenant or deed restriction for the subject development, provided that the income category of the banked units is consistent with or lower than the income category of the WHP units required for the subject development.</p>	<ul style="list-style-type: none"> <li>• To establish concept and process for banking of units</li> </ul>
<p>D. Delivery of WHP Units  Except as noted, the following Section applies to subject developments that opt to dispose of the WHP obligation through the following methods: On-Site Construction, Off-Site Construction/Same Developer, Off-Site Construction/Exchange Builder, or Purchase of Market Rate Units. Required WHP units may be delivered as for-sale or for-rent units.</p> <p>1. For-Sale Units</p> <p>a. Master <u>Restrictive</u> Covenant</p> <p>1) <u>Except for subject developments using Offsite Construction/Exchange Builder Option for the subject development's entire WHP obligation, p</u>rior to first Building Permit on the subject development, the developer of the subject development shall record in the Public Records of Palm Beach County a Master <u>Restrictive</u> Covenant binding the entire subject <u>development</u> <del>property</del>, in a form provided by the County, which identifies the WHP unit requirement for the subject development and addresses the requirements of this Subsection. <del>Developments for which the in-lieu fee has subsequently been paid to Palm Beach County as a result of the guarantee provided in the Exchange Builder Option, pursuant to Art. 5.G.1.C.4.b.2), Off-Site Option 2—Off-Site Construction/Exchange Builder, and no units subject to WHP were provided prior to the County receiving payment pursuant to the guarantee, many request that the Master Restrictive Covenant be released.</del> Subject developments that use the Exchange Builder Option to meet some or all of the WHP obligation may record a Notice of Disposition instead of a Covenant for that portion of the obligation met through the Exchange Builder Option.</p> <p>2) The Restrictive Master <u>Restrictive</u> Covenant shall include but not be limited to restrictions requiring: that all identified WHP units shall be sold or resold only to a purchaser certified by the Department of Housing and Economic <u>Development Sustainability</u>, at or below the price established annually by Palm Beach County for the income category of the WHP <u>for-sale</u> unit, subject to the affordability requirements and provisions of this Article; that the County shall have the exclusive option to purchase WHP units that are unsold at day 150 of the required marketing period; that rental of units is permitted only under specific circumstances, for limited periods of time, and with prior approval by the Director of the Department of Housing and Economic <u>Development Sustainability</u>; that these restrictions remain in effect for 15 years recurring from the date of the <u>date of sale CO for each unit</u>; and, that in the event a unit is resold before the 15-year period concludes, a new 15-year period shall take effect on the date of resale; <del>and that the 15-year period shall be extended by the amount of time a code enforcement magistrate or a judge finds the developer or unit owner out of compliance with the WHP.</del> The Master <u>Restrictive</u> Covenant shall further provide monitoring and compliance requirements including but not limited to those set forth below to ensure compliance with the WHP, and provide that every deed for sale of a WHP housing unit shall include: a statement that the units are subject to covenants, conditions, and restrictions including the Master <u>Restrictive</u> Covenant; the date and the Book and Page of the Official Record of recordation of the Master <u>Restrictive</u> Covenant; <del>and incorporate by reference the Master Covenant and shall specify the income category associated with the unit.</del></p>	<ul style="list-style-type: none"> <li>• To recognize that a Restrictive Covenant is not required when entire WHP obligation is disposed of through an Exchange</li> <li>• To standardize terms and update Department name</li> <li>• To change to sale date, which is easier for homeowner</li> <li>• To implement existing tolling text from "Enforcement" paragraph.</li> <li>• For consistency with existing text from the "Deed Restriction" paragraph</li> </ul>
<p>b. Process for Initial Sale of WHP Units</p> <p>1) Pricing/Affordability</p> <p>a) WHP units shall be sold at or below the current designated price for the unit's income category. In the even that an income-certified purchaser seeks to purchase a WHP unit whose price has increased through annual price adjustments pursuant to this Article, the developer of that WHP unit shall honor the price in effect at the time of the purchaser's income certification, provided that the purchaser enters into a purchase contract within one year of the date of income certification.</p> <p>b) Developers shall not be required to provide units in an income category when the category price is greater than the median sales price for the County. These units are eligible for the In-Lieu payment pursuant to Art. 5.G.1.C.4.d, <u>In-Lieu Fee Option</u>, or can be distributed equally among the remaining income categories.</p> <p>c) The price of a <del>for-sale</del> WHP <u>for-sale</u> unit shall not be raised once a unit is under contract to a purchaser. Purchase price of the WHP unit, including all charges imposed by the seller, cannot exceed the maximum WHP price for the income category. Options selected by the purchaser, including but not limited to upgraded finishes or premium lots, shall not be reflected in the sales price of WHP units, but may be paid by the purchaser at the time of contract execution, or included as a line item on the closing/settlement statement. Earnest money deposit required of purchasers shall not exceed two percent of the sales price.</p> <p>d) Affordability restrictions remain in effect for 15 years recurring from the date of <u>sale of the CO for each unit</u>; in the event a unit is resold before the 15-year period concludes, a new 15-year period shall take effect on the date of resale.</p>	<ul style="list-style-type: none"> <li>• To change to sale date, which is easier for homeowner</li> </ul>

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<p>e) Rental of <u>WHP</u> for-sale units is permitted only under specific circumstances, for limited periods of time, to income-qualified renters, at or below the <u>Maximum WHP Rents</u> prices established annually by Palm Beach County for the unit's designated income categories, and with prior approval by the Director of the Department of Housing and Economic <u>Development Sustainability</u> based on criteria established by the Department.</p> <p>2) Qualification and Certification for For-Sale Purchasers  WHP units shall be sold only to a purchaser certified by the Department of Housing and Economic <u>Development Sustainability</u>. HESD shall qualify prospective purchases and issue a certification letter confirming eligibility to purchase the WHP unit. Palm Beach County retains the right to qualify purchasers for units in categories above or below their income category. When available, down payment assistance may be offered for all workforce housing purchasers; Palm Beach County shall not be obligated to provide down payment assistance to any purchaser. The amount of financial assistance, if any, that is available for purchase of the WHP unit shall be identified in the certification letter. The HESD certification process shall be implemented according to procedures established and published by the Department.</p>	<ul style="list-style-type: none"> <li>• To standardize terms and update Department name</li> </ul>
<p>3) Closing  a) The process and requirements for closing of sales of WHP units shall be as set forth in County procedures.  b) Every warranty deed documenting a sale of a WHP unit shall include a statement that a unit is subject to covenants, conditions, and restrictions including the Master <u>Restrictive</u> Covenant, and shall include the date of recordation of the Master <u>Restrictive</u> Covenant, and the Book and Page of the Official Record.</p> <p>4) Compliance Reporting during Initial Sales Period  Beginning with the commencement of sales of WHP units, until such time as all WHP units have been sold, the developer or Exchange Builder will provide to the County monthly reports detailing the number of WHP and market rate units built, the number under contract, and the number sold. The developer shall also provide notice to the Planning Director or designee if ownership of the subject development, or exchange project, has been transferred.</p> <p>5) Marketing of WHP <u>For-Sale</u> Units  a) WHP Units Delivered through the Exchange Builder or Purchase of Market Rate Options  The marketing of WHP units delivered through an Exchange Builder, and the marketing of Purchase of Market Rate WHP Units which are intended to be sold by the developer, shall be the responsibility of the developer or Exchange Builder. If requested, the County may provide, at the County's sole discretion, a list of interested parties, WHP brochures, informational packets, or other information or assistance for the marketing of for-sale WHP units delivered through these options.  b) WHP Units Delivered through the On-Site Construction or Off-Site/Same Developer Options  The County shall prepare and publish minimum marketing requirements applicable to WHP units provided through the WHP On-Site Construction Option or Off-Site Construction by Same Developer Option. The marketing requirements shall address the following, at minimum:  (1) The intent that the developer will act in good faith to market and sell the WHP units in the same manner as the market rate units and for the same period of time.  (2) The marketing of WHP units shall commence concurrent with the marketing of market rate units, and shall continue until at least 75 percent of the for-sale market rate units have been issued Certificates of Occupancy, but not less than 180 days.  (3) Prior to commencement of sales, the developer shall obtain from the Director of HESD or designee a list of interested parties, WHP brochures, and informational packets which provide the qualification standards, terms of the <del>Restrictive</del> Master <u>Restrictive</u> Covenant, where to go to get qualified, and other relevant information regarding the WHP units.  (4) The developer shall provide notice of commencement of sales to the Planning Director or designee, the Director of HESD, and the list of interested parties. The notice shall include the address where the WHP units are located, the address of the sales office, the hours of the sales office, the floor plan and construction specifications for the WHP units, and the pricing of the WHP units. The developer shall provide to the Planning Director or designee proof of notice to the interested parties list, in the form of a copy of the email or letter sent, and a copy of the distribution list.</p>	<ul style="list-style-type: none"> <li>• To standardize terms</li> <li>• To standardize terms</li> </ul>
<p>(5) Within ten days of receipt, the County shall provide written acknowledgement of the notice of commencement of sales.  (6) The developer shall maintain in the sales office and sales office of the subject development if the WHP units are located off site, hard physical copies of informational packets obtained from HESD, available to any and all potential buyers. The developer shall also maintain hard physical copies of the County's WHP brochure and prominent displays indicating certain units are available for purchase for qualified households subject to the WHP provisions, and shall identify the location and availability timeframe for WHP units.  (7) The developer shall attend all housing workshops, fairs, orientations, and other WHP events requested by HESD during the marketing period, and shall present information about the WHP units and purchase options.  (8) The developer shall maintain publicly accessible website landing pages for the WHP units that are prominently displayed on the subject development's primary webpage, starting at the time of commencement of sales of the market rate units.</p>	<ul style="list-style-type: none"> <li>• To update Department name</li> </ul>

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<p>(9) The developer shall provide monthly documentation to the Planning Director or designee demonstrating that the required materials are available in the sales office and prominently displayed, that the developer is participating in County WHP events, that the website for the WHP units is active and easily accessed, and that marketing efforts for the WHP units are consistent with the marketing efforts for the market rate units. Documentation shall include photographs of the required materials and displays demonstrating a prominent location in the sales office, screenshots of webpages, copies of mailers, photos of billboards, proof of television, radio, newspaper, or online advertisements, for both market rate and WHP units, and shall include a log of visitors and callers interested in the WHP units.</p> <p>c) The County may conduct site visits and inspections to verify compliance with the requirements of this Section.</p>	<p><i>No changes</i></p>
<p>6) Release of Obligation</p> <p><u>It is the County's intent that each subject development fulfill its obligation pursuant to this Chapter.</u> Release of obligation is available only for subject developments delivering WHP required units as for-sale units through the WHP On-Site Construction or the Off-Site Construction by Same Developer disposition options. It is not the intent of the WHP provisions to require a developer to commence construction on any WHP for-sale unit for which a valid and binding contract for purchase between developer and purchaser has not been executed. In the event WHP units have been marketed according to the requirements of this Article, then the WHP units are eligible to be released from the WHP obligations indicated in the Master <u>Restrictive</u> Covenant pursuant to the process below.</p> <p>a) The developer shall provide a written notice to the Planning Director or designee requesting release of obligation and confirmation of the In-Lieu cash payment amount. The request shall include documentation demonstrating that at least 75 percent of the for-sale market rate units in the subject development have received Certificates of Occupancy.</p> <p>b) The County shall provide a written response to the developer, within ten business days of receipt, indicating the County's agreement/disagreement with request for release of obligation and confirming the amount of the required In-Lieu cash payment.</p> <p>c) Upon payment of the required In-Lieu cash payment, the WHP unit shall thereafter be released from any and all obligations of the WHP requirements of the ULDC and the County shall provide written confirmation that the unit has been released, inclusive of release from the Master <u>Restrictive</u> Covenant.</p> <p>d) Should a developer wish to appeal the Planning Director's determination that a subject development has not met the requirements for a release of obligation; the appeal shall be pursuant to <u>Art. 2.A.14.C.2.d, Interpretations of the ULDC.</u></p>	<ul style="list-style-type: none"> <li>• To add statement of intent</li> <li>• To standardize terms</li> </ul>
<p>c. Process for Subsequent Sales</p> <p>1) Pricing/Affordability</p> <p>a) Affordability restrictions remain in effect for 15 years recurring from the date of <u>sale</u> <del>the CO for each unit</del>; in the event a unit is resold before the 15-year period concludes, a new 15-year period shall take effect on the date of resale.</p> <p>b) An owner intending to sell a WHP unit during the affordability period must notify the Planning Director or designee in writing of the intent to sell, and request a resale price determination. The Planning Director or designee will determine the current maximum resale price based on the income category of the WHP unit and the current sales price for that category. The WHP price initially established for the for-sale unit's income category at the time of approval of the subject development shall be the sales floor throughout the affordability period. No WHP unit is required to be sold at a price below the sales floor, though a seller may opt to do so.</p> <p>2) <u>HESD</u> Review</p> <p>a) Qualification and Certification of For-Sale Purchasers</p> <p>WHP units shall be sold only to a purchaser certified by the Department of Housing and Economic <u>Development Sustainability</u>. Unit owners shall refer prospective purchasers to HES, who shall qualify prospective purchasers and issue a certification letter confirming eligibility to purchase the WHP unit. Palm Beach County retains the right to qualify purchasers for units above or below their income category. When available, down payment assistance may be offered for all workforce housing buyers; Palm Beach County shall not be obligated to provide down payment assistance to any purchaser. The amount of financial assistance, if any, that is available for purchase of the WHP unit shall be identified in the certification letter. The <u>HESD</u> certification process shall be implemented according to procedures established and published by the Department.</p> <p>3) Closing</p> <p>a) The process and requirements for closing of sales of WHP units shall be as set forth in County procedures.</p> <p>b) Every warranty deed documenting a sale of a WHP unit shall include a statement that a unit is subject to covenants, conditions, and restrictions including the Master <u>Restrictive</u> Covenant, and shall include the date of recordation of the Master <u>Restrictive</u> Covenant, and the Book and Page of the Official Record.</p> <p>d. Annual Compliance Reporting</p> <p>The owner of the WHP unit shall submit to the Planning Director or designee, on a form provided by the County, an annual report containing information and documentation to demonstrate continued compliance with the WHP. The County may conduct site visits at reasonable times, or perform other independent investigation to verify continued compliance with the WHP.</p>	<ul style="list-style-type: none"> <li>• To change to sale date, which is easier for homeowner</li> <li>• To update Department name</li> <li>• To standardize terms</li> </ul>

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<p>2. Rental Units</p> <p>a. Master <u>Restrictive</u> Covenant</p> <p>1) <del>Except for subject developments using Offsite Construction/Exchange Builder Option for the subject development's entire WHP obligation, p</del>rior to first Building Permit on the subject development, the developer of the subject development shall record in the Public Records of Palm Beach County a Master <u>Restrictive</u> Covenant binding the entire project, in a form provided by the County, which identifies the WHP unit requirement for the subject development and addresses the requirements of this Subsection. <del>Subject developments for which the in-lieu fee has subsequently been paid to Palm Beach County as a result of the guarantee provided in the Exchange Builder Option, pursuant to Art. 5.G.1.C.4.b.2), Off Site Option 2—Off Site Construction/Exchange Builder, and no units subject to the WHP program were provided prior to the County receiving payment pursuant to the guarantee, may request that the Master Restrictive Covenant be released. Subject developments that use the Exchange Builder Option to meet some or all of the WHP obligation may record a Notice of Disposition instead of a Covenant for that portion of the obligation met through the Exchange Builder Option.</del></p> <p>2) The Master <u>Restrictive</u> Covenant shall include but not be limited to restrictions requiring: that all required WHP units shall be rented only to an income-qualified household, in an income category corresponding to the WHP obligation of the subject development, at or below the <u>Maximum WHP Rents</u> prices established for the income category annually by Palm Beach County, subject to the affordability requirements and provisions of this Article; that these restrictions remain in effect for a period of 30 years (non-recurring) for each unit, from the date of occupancy of the first WHP unit; <del>that the 30-year period will be extended by the amount of time a code enforcement magistrate or judge finds that the subject development is out of compliance with the WHP;</del> and that in the event a rental complex is resold before the 30-year period concludes, the new owner assumes the requirement for the number of remaining years; and the number of years remaining shall be determined by the Planning Director or designee; and shall take effect on the date of resale. The Master <u>Restrictive</u> Covenant shall further provide monitoring and compliance requirements including but not limited to those set forth below to ensure compliance with the WHP. Every deed for a rental development with WHP housing units and every rental agreement for each WHP unit shall incorporate by reference the Master <u>Restrictive</u> Covenant.</p> <p>b. <u>Marketing of WHP Rental Units</u>  <u>Marketing of WHP rental units is the responsibility of the WHP rental unit owner or designee. Information regarding the WHP, including eligible income ranges and the availability of workforce housing units, shall be posted in the leasing office and website for the rental project, if any. The WHP rental unit owner or designee shall also maintain current the information provided to the County regarding the rental project.</u></p> <p>c. <u>Notifications to Palm Beach County</u>  <u>The WHP rental unit owner or designee shall notify the Planning Director, or designee, in writing prior to the commencement of leasing, to obtain the current income and rent ranges. The WHP rental unit owner or designee shall provide the Planning Director, or designee, with written notice of the date of occupancy of the first WHP unit no later than 5 days after occupancy. The WHP rental unit owner or designee shall also provide written notice to the Planning Director or designee of a change in WHP rental unit owner or designee no later than 30 calendar days after the change occurs.</u></p>	<ul style="list-style-type: none"> <li>• To recognize that a Restrictive Covenant is not required when entire WHP obligation is disposed of through an Exchange</li> <li>• To standardize terms</li> <li>• To implement existing tolling text from “Enforcement” paragraph.</li> <li>• To relocate existing requirement (marketing) from below, to better reflect sequence of steps, <b>and adding posting requirements</b></li> <li>• To relocate existing requirements (notice of commencement of sales, notice of management/ownership change), from below, <b>and specific timeframe added.</b></li> </ul>
<p><del>d.b</del> <u>Pricing Rents/Affordability</u></p> <p>1) All required WHP units shall be rented only in the designated income categories corresponding to the WHP obligation of the subject development, at or below the prices established by Palm Beach County</p> <p>2) Affordability restrictions remain in effect for a period of 30 years (non-recurring) for each rental unit, from the date of occupancy of the first WHP unit; in the event a rental complex is resold before the 30 year period concludes for all units, the new owner assumes the requirement for the remaining number of years; as shall be determined by the Planning Director or designee based on the date of resale.</p> <p>3) The rent <del>prices</del> <u>ranges</u> shall be updated annually by the Planning Director, or designee, based on the monthly rent <u>limits</u> ranges published annually for the Florida Housing Finance Corporation Multifamily Rental Programs, by number of bedrooms, <del>for</del>. <u>The rent ranges shall address the following income subcategories ranges: &gt; 60 to 70 percent; &gt; 70 to 80 percent; &gt; 80 to 90 percent; &gt; 90 to 100 percent; &gt; 100 to 110 percent; &gt; 110 to 120 percent; &gt; 120 to 130 percent; and, &gt; 130 to 140 percent of MFI. The WHP price initially established for the rental unit's income category at the time of approval of the subject development shall be the rental floor throughout the affordability period. No WHP unit is required to be rented below the rental floor, though an owner may opt to do so. The maximum rent established by Palm Beach County for each income category and subcategory, by number of bedrooms, constitutes the Maximum WHP Rent for that category or subcategory.</u></p> <p>4) <u>WHP Rents for required WHP rental units are set by the rental unit owner or designee, and shall:</u></p> <p>a) <u>include any Mandatory Fees required to be paid by all tenants. Mandatory Fees cannot be charged in addition to the Maximum WHP Rent, even if such charges are designated as “Additional Rent” per the lease.</u></p> <p>b) <u>reflect the Utility Allowance if applicable.</u></p> <p>c) <u>not exceed the Maximum WHP Rent minus any applicable Utility Allowance.</u></p> <p><u>Voluntary Fees may be charged in addition to the WHP Rent, even if these cause the Maximum WHP Rent to be exceeded.</u></p>	<ul style="list-style-type: none"> <li>• To standardize terms</li> <li>• To delete “rental floor,” relocated below.</li> <li>• <b>To restate Maximum WHP Rent, per definition, to be used in determining compliant rent</b></li> <li>• <b>To establish the method for calculation of rent, per definition</b></li> </ul>

Workforce Housing Code, ULDC Article 5, with proposed deletions indicated in <b>Struck-through</b> text, and additions indicated in <b>Underlined</b> text	Reason for change – Compliance changes in <b>Red</b>
<p>4) <del>Owners of WHP rental units may choose to include one or more utilities for the unit in the base rental price. Units that do not include utilities must provide a utility allowance in the form of a rent reduction based on the number of bedrooms, according to a schedule established by the Planning Division. Utilities shall include, but not be limited to, water, sewer, gas, and electric. When one or more utility cost(s) are included within the WHP unit rent price, and reasonable, reliable, and verifiable documentation is provided that indicates the total utility cost included within the WHP unit rent price meets or exceeds the stated utility allowance cost, then the utility allowance requirement would be waived. If the utility costs are less than the prescribed utility allowance, the difference shall be credited to the WHP resident's rent cost.</del></p> <p>5) <u>Utility Allowance</u>  <u>A utility allowance is required to be applied if the WHP rental units are subject to a utility allowance pursuant to the Master Restrictive Covenant governing the WHP rental units. The amount of the utility allowance shall be as established by the Master Restrictive Covenant. For the purposes of this provision, utilities are limited to water, sewer, gas or electric service provided directly to the unit, and not for common areas. Owners of WHP Rental Units subject to a utility allowance must either:</u></p> <p>a) <u>reduce the rent by the amount of the utility allowance, if the cost of all the identified utilities is billed to the WHP tenant by the WHP rental unit owner or designee, the utility, or a third party; or,</u></p> <p>b) <u>apply the utility allowance amount against the actual cost of the utilities provided to the unit, if the cost of any of the identified utilities are borne by the WHP unit owner and not billed to the WHP tenant by the WHP rental unit owner or designee, the utility, or a third party. If the utility costs are less than the prescribed utility allowance, the difference shall be credited to the WHP resident's rent cost. If the cost of the utilities exceeds the utility allowance, the excess cost may be charged to the WHP tenant, even if it exceeds the Maximum WHP rent for the WHP tenant's income category or subcategory. Reasonable, reliable, and verifiable documentation is required to confirm utility costs.</u></p> <p>6) <u>Rentals Below Low-Income Category</u>  <u>The owner of a WHP unit may request approval from the Executive Director of the Planning, Zoning and Building Department, or designee to rent the unit to a household having an income below 60 percent of Area Median Income, at a rent below the minimum rent for the Low-Income category, but not to exceed 33% of the WHP tenant's monthly household income. The Executive Director of the Planning, Zoning and Building Department, or designee, in consultation with the Department of Housing and Economic Development, shall consider the income characteristics of the census block(s) or tract(s) where the development is located and any other relevant information in determining whether to grant the request.</u></p> <p>7) <u>The rent ranges initially established for the rental unit's income category at the time of approval of the subject development shall be the rental floor throughout the affordability period. No WHP unit is required to be rented below the rental floor, though a rental unit owner or designee may opt to do so.</u></p>	<ul style="list-style-type: none"> <li>• Replaced with simplified approach, below</li> <li>• To make Utility Allowance applicable only to projects whose Restrictive Covenant requires it. (An opt-out provision will be provided these projects, to discontinue Utility Allowance if desired. For those that continue, the concept is simplified and clarified that it's limited to water, sewer, gas and electric service only.)</li> <li>• To relocate from below, to group with other rent provisions, and revised to align rent to income for any units under "Low" category</li> <li>• To relocate from above.</li> </ul>
<p>e-e. <u>Income Qualification of WHP Tenants</u></p> <p>WHP units shall be rented only to an income-qualified household. The verification of prospective <u>WHP</u> tenants as income qualified for the <u>rental unit income category or subcategory</u>, pursuant to the requirements of this Article and procedures established by the Department of Planning, Zoning and Building, is the responsibility of the rental unit owner or <u>designee</u> <del>designated management company</del>.</p> <p>1) <u>At Initial Lease Execution</u>  <u>The household's income eligibility must be verified through completion of the County's WHP lease addendum and WHP rent calculation worksheet, which are available on the County's website or from the Planning Director or designee. The WHP rental unit owner or designee may request financial documents it deems reasonably necessary to ensure the household is eligible pursuant to the WHP. The WHP lease addendum and WHP rent calculation worksheet are submitted by the WHP rental unit owner or designee to the Planning Director or designee for compliance review prior to or at the time of lease execution, but no later than the timeframe specified in the Master Restrictive Covenant for submittal of the lease addendum, or no later than 10 days after lease execution if no timeframe is specified.</u></p> <p>2) <u>At Lease Renewal or at Income Re-verification</u>  <u>At renewals of the lease, the WHP rental unit owner or designee may choose to re-verify the Annual Household Income and assigned income category, but is not required to do so. If the WHP tenant's income is to be re-verified at lease renewal, the WHP rental unit owner shall provide the tenant a minimum of 60 days' notice prior to renewal date of the intent to re-verify. If</u></p>	<ul style="list-style-type: none"> <li>• To standardize terms</li> <li>• To reference the steps/forms required in current process at initial lease execution, and to specify timeframe.</li> <li>• To acknowledge discretion of property owner/designee, to reference the steps/forms required at lease renewal and/or recertification of existing tenant, and to specify timeframes.</li> </ul>

Workforce Housing Code, ULDC Article 5, with proposed deletions indicated in <del>Struck-through text</del> , and additions indicated in <u>Underlined text</u>	Reason for change – Compliance changes in <b>Red</b>
<p><u>no new income re-verification is completed at lease renewal, no new WHP lease addendum is required, but the WHP rental unit owner or designee is required to provide the WHP rent calculation worksheet within 10 days of lease renewal, indicating the WHP Rent amount pursuant to the renewed lease, to the Planning Director or designee for compliance review.</u></p> <p><u>The WHP rental unit owner or designee may also re-verify the income, adjust the income category or subcategory, and adjust the WHP Rent of the WHP rental unit during the course of the lease if requested by the WHP tenant due to changed household circumstances, but is not required to do so.</u></p> <p><u>In considering any income category reassignment as a result of the income re-verification, the required number of WHP rental units in each category shall not be exceeded, except when opting to shift a WHP rental unit to a lesser income category.</u></p> <p><u>In the event of any re-verification of Annual Household Income, a new completed WHP lease addendum and WHP rent calculation worksheet must be provided to the Planning Director or designee for compliance review prior to or at the time of lease execution, but no later than the timeframe specified in the Master Restrictive Covenant for submittal of the initial WHP lease addendum, or no later than 10 days after lease execution if no timeframe is specified the Master Restrictive Covenant.</u></p> <p>d. <del>Marketing of WHP Rental Units</del>  <del>Marketing of WHP rental units is the responsibility of the rental unit owner or designated management company.</del></p> <p>e. <del>Commencement of Rentals</del>  <del>The owner of the rental WHP unit(s) shall provide the Planning Director, or designee, with notice of the date of occupancy of the first WHP unit.</del></p>	<ul style="list-style-type: none"> <li>• To acknowledge the discretion of the property owner/designee</li> <li>• To restate existing requirement to meet income categories.</li> <li>• To reference steps/forms required for any income reverification, and to specify timeframes.</li> <li>• Relocated above</li> </ul>
<p>f. <u>Compliance Review and Compliance Determination</u></p> <p><u>It is the County's intent that each subject development fulfill 100% of its workforce housing obligation pursuant to its development order and this Chapter. For each WHP rental unit, the Planning Director or designee shall review the WHP lease addendum and/or WHP rent calculation worksheet documenting the Annual Household Income verified by the WHP rental unit owner or designee, the household's WHP category and subcategory if applicable, and the WHP Rent to be charged.</u></p> <p><u>A WHP rental unit shall only be considered compliant once an accurate, complete, and fully notarized WHP lease addendum and/or WHP rent calculation worksheet are provided to the Planning Director or designee, and the Planning Director or designee verifies that the correct income category, income subcategory if applicable, and rent are applied.</u></p>	<ul style="list-style-type: none"> <li>• New section establishes that the property owner/designee bears responsibility for providing complete, accurate, and notarized forms in order to be deemed compliant.</li> </ul>
<p><u>The Planning Director or designee shall notify the WHP rental unit owner or designee of the result of the review of the submitted documents within three (3) business days of receipt.</u></p> <p><u>If compliance issues are identified, the WHP rental unit owner or designee shall address the issues identified by the Planning Director or designee to the Planning Director's or designee's reasonable satisfaction and resubmit the required documentation for review within ten (10) business days of the Planning Director or designee's request.</u></p> <p><u>A copy of the completed WHP lease addendum and WHP rent calculation worksheet shall be provided to the WHP tenant by the WHP rental unit owner or designee within three (3) business days of verification of compliance by the County.</u></p> <p><u>If the documents are deemed compliant, the WHP rental unit shall be considered compliant from the date of the event (lease start, lease renewal, or income re-verification), or the date the compliant documents were submitted to the County, whichever is later.</u></p> <p><u>The Planning Director or designee shall maintain a record of the project's WHP unit compliance using the WHP lease addenda form and WHP rent calculation worksheets and other documentation provided by the WHP rental unit owner or designee.</u></p> <p><u>The Planning Director or designee may conduct site visits at reasonable times, request rent rolls, unit ledgers, or other documentation, and/or perform other independent investigation to verify compliance with the WHP.</u></p>	<ul style="list-style-type: none"> <li>• To establish timeframe for County review of submittals</li> <li>• To establish timeframe for owner/manager to address issues, provide additional requested documentation, and provide approved forms to tenant</li> <li>• To establish compliance start date</li> <li>• To relocate from below</li> </ul>

Workforce Housing Code, ULDC Article 5, with proposed deletions indicated in <del>Struck-through</del> text, and additions indicated in <u>Underlined</u> text	Reason for change – Compliance changes in Red
<p><u>It is a violation of this code if the project has failed to maintain a minimum of 90% of its WHP unit obligation for more than sixty (60) consecutive days, has failed to make a non-compliant WHP rental unit compliant within ten (10) business days of written notice provided by the Planning Director or designee, or has failed to provide additional compliance documentation requested by the Planning Director or designee within ten (10) business days of the written request provided by the Planning Director. In the event of a violation of this part or any other part of the WHP code, the 30-year period will be extended by the amount of time a code enforcement magistrate or judge finds that the subject development was out of compliance.</u></p>	<ul style="list-style-type: none"> <li>• To establish specific thresholds and timeframes for compliance, as basis for code enforcement action if warranted, and reflect existing tolling text in Enforcement paragraph</li> </ul>
<p><del>The owner of the WHP units shall submit to the Planning Director, or designee, on a form provided by the County, an annual report containing information and documentation to demonstrate continued compliance with the WHP. The County may conduct site visits at reasonable times, or perform other independent investigation to verify continued compliance with the WHP. The owner of the WHP units shall also provide notice to the Planning Director or designee of a change in management company no later than 30 days after the change occurs.</del></p> <p><del>The owner of a WHP unit may request approval from the Executive Director of the Planning, Zoning and Building Department, or designee to rent the unit to a household having an income below 60 percent of Area Median Income, at a price below the minimum rent for the Low Income category. The request is to include documentation of the owner's efforts to market the unit in the WHP income categories and other information demonstrating that current area market conditions do not support the rental of the unit to households in the 60 to 80 percent Low Income category. The Executive Director of the Planning, Zoning and Building Department, or designee, in consultation with the Department of Housing and Economic Sustainability, shall consider the documentation provided, the income characteristics of the census block(s) or tract(s) where the development is located, and any other relevant information in determining whether to grant the request.</del></p> <p>g. Deed Restriction The warranty deed documenting a sale of WHP rental units shall include a statement that the units are subject to covenants, conditions, and restrictions including the Master Covenant, and shall include the date of recordation of the Master Covenant, and the Book and Page of the Official Record.</p> <p>E. Enforcement The County may enforce the requirements of the WHP through <u>the County's code enforcement process or by bringing an action in the 15<sup>th</sup> Judicial Circuit Court in and for Palm Beach County, Florida, by any cause of action available at law or equity, and seek remedies including but not limited to, seeking specific performance, injunctive relief, rescission of any unauthorized lease or sale, reclassification of a lesser unit into another income category market rate unit to a WHP unit, reclassification of the WHP unit income categories to lower categories, and tolling extensions of the 15-year recurring term of for-sale units or the 30-year non-recurring term for rental units of the WHP. These remedies are not exclusive and may be awarded in combination with each other and in addition to any other remedy available to the County.</u></p>	<ul style="list-style-type: none"> <li>• To delete the annual reporting process, replaced by the ongoing compliance monitoring in the prior section</li> <li>• To provide additional specificity regarding code enforcement and judicial processes available to the County for compliance enforcement</li> </ul>



### EXHIBIT 3

## Interested Party Comments on Proposed Workforce Housing Program Code Changes

Two interested party meetings were held, on March 30 and August 16, 2023. Questions and comments received are listed below, and staff review is provided.

Interested Party Questions and Comments Received	Staff Review
Under the proposed changes, can recertification of income at renewal be applied only to certain income categories?	<i>Yes, provided that the practice does not target a protected fair housing class, or, though neutral on its face, as applied the practice has a disparate impact on a protected class.</i>
Can the County assist with filling vacant WHP units, especially at the highest WHP income category?	<i>Projects are listed on the County WHP website, and property managers can provide information about vacant units to HED, who can share it with prospective WHP purchasers who may need to rent WHP units in the interim..</i>
What is the impact of eliminating the utility allowance as proposed?	<i>New projects, and projects that opt in, would be required to cap any formula-billed utilities or services (where usage is not controlled by the tenant) by the WHP rent, which increases costs for landlords. However, the proposed changes also eliminate the utility allowance that was previously required to be provided to tenants, which can offset the cost. Utilities which are metered or sub-metered can be charged above the rent.</i>
Can the County create a portal for submittal of the required documentation for WHP units, to facilitate quick turn-around?	<i>Yes. WHP staff propose to create a portal once the code revisions are completed. In the interim, a dedicated email address will be provided.</i>
The proposed code changes should be reviewed by representatives of the Economic Council, the Associated General Contractors, and the Gold Coast Builders Association.	<i>All are included in the Interested Party mailing list.</i>
Under the current code, if a for-sale Developer is entering into an exchange with a for-rent developer, the exchange builder must build 1.5x of the for-sale developer's workforce requirement. Since the code was enacted construction costs have increased dramatically, Interest rates have tripled and operating expenses, specifically insurance have doubled and, in many instances, tripled. The cost of producing and operating a workforce unit has greatly outpaced the annual rental increases and the exchange price has not kept up with inflation. I would propose removing the 1.5x requirement. A workforce rental unit produces the same benefit as a for-sale unit.	<i>Any change to this provision would be a policy change that would be considered as part of a separate effort to address policy foundations of the program.</i>
The WHP income restrictions go a step further from what is required by most workforce and affordable housing programs and requires set-asides with-in each income tier. It can be challenging to identify a tenant that earns precisely what is required in each tier, especially in the 130%-140% AMI tier. To mandate the tenant lives in Palm Beach County does not seem reasonable. Additionally, requiring the owner to keep a unit empty because they cannot locate a tenant in an upper income tier does not seem appropriate, especially if all other WHP units in the building are occupied. Income minimums for the highest tiered units should be revisited.	<i>The proposed requirement is for employment in PBC, not current residency. Income subcategories are only for the purpose of aligning the rent to the income; there is no requirement to fill units in each subcategory. The property owner can always opt to 'downgrade' a unit to a lower category, to avoid a vacancy. Any change to the 4 required categories for rentals would be a policy issue to be addressed separately.</i>
Retirement distributions can be variable in nature, may be used to cover costly medical expenses, and the distribution amounts are not always controlled by the retiree. Additionally leasing agents are not experts in reviewing tax returns, which is where retirement income would be identified.	<i>This clarification, proposed to address prior questions from property managers, precludes including the account balance as income, but the distributions may be included at the manager's discretion.</i>
Requiring the WHP lease addendum and WHP rent calculation to be notarized is unreasonable given leasing agents are typically not notaries, so a prospective tenant must look elsewhere to get the documentation notarized. It can be challenging to procure all the required paperwork from tenants, and this presents an additional cost and hurdle for prospective tenants. Tenants (and leasing staff) can instead sign an acknowledgement that all information provided was done so truthfully and in good faith. We currently utilize DocuSign and signatures are timestamped.	<i>The requirement to notarize the lease addendum has been in effect since at least 2012; typically, leasing offices have at least one notary on staff. The new requirement for a rent calculation worksheet (not notarized) is to help ensure that rents are properly determined and avoid credits and adjustments.</i>
Is the purpose of the proposed new income qualification of WHP tenants at lease execution for staff to qualify individual tenants before the unit can be occupied? When a prospective tenant submits all required information and executes a lease, they should not have to wait for staff approval. Onsite staff's job is to approve tenants within the confines of the program and provide evidence to staff that the tenant is qualified for the unit and the building remains in compliance with WHP. There are very prescriptive rules in the code for qualifying tenants. It would also seem like a tremendous amount of additional work for staff to do this.	<i>The purpose is to ensure that the income category and rent identified by the property manager are correct; staff does not qualify the tenant. This approximates the approach adopted in 2006, which required information be submitted "prior to" rental of a unit. In 2010, this was changed to "prior to or at the time of" and restrictive covenants allowed 10 days for submittal; this 10 day requirement is routinely ignored, and is unenforceable as the County has no knowledge of a new tenancy. As a result, issues are not identified until the forms or annual report are eventually received, and retroactive adjustments and credits become necessary to address overcharges.</i>

<p>We don't believe it's appropriate for the WHP to dictate marketing strategy. All projects have their own unique marketing strategy and there are already strict guidelines in place on ensuring the tenants are income qualified. Marketing should not be in the purview of the county. The project is already listed on the county website and the last thing an owner wants is a vacant unit.</p>	<p><i>The marketing of the workforce units remains the responsibility of the property manager; no change to this is proposed. The requirement that information regarding the WHP be available in project leasing offices and project websites is consistent with what is required for for-sale projects with WHP units. The intent is to increase transparency, and address ongoing complaints from tenants that information about the WHP at the projects is not forthcoming or is unclear.</i></p>
<p>Enforcement: Can you please address the ability of the county to reclassify a market rate unit to a WHP unit or reclassify WHP unit income categories to a lower category? I would like to better understand under what circumstances the County could do this. Lenders may take issue with this and there will already be a recorded deed restriction with prescriptive set-asides.</p>	<p><i>The intent is to address noncompliance, rebalancing units to ensure that the WH obligation to the County was met. For example, if it is found that a project has rented some Low income units in a Mod 2 category, exceeding the prescribed set-asides, a corrective action could reclassify some higher-category units, or market rate units, to the Low category. This would be applied for a specified period in order to compensate for the non-compliant period. This corrective action would come about only through a code enforcement or court proceeding, and as such is likely to be rare.</i></p>
<p>The proposed policy changes allow for 100% of a tenant's water/sewer usage to be billed back to the tenant if the unit is sub-metered, but if the unit is on a RUBS system the landlord must cover 100% of the utility costs. Sub-metering each unit is not always feasible when constructing a multifamily project. Ratio billing or RUBS is a very common utility billing system. Regardless of what utility system the property has, the tenant is still using water and sewer services (which will fluctuate each month with usage) and there is cost associated with the utility usage. Additionally, whether through RUBS or sub-meter a tenant's water and sewer utility billing are involuntary, in other words utility billing is a mandatory charge. If a tenant does not pay the utility bill the utility is shut off and the unit is not habitable. It does not seem appropriate to penalize property owners based upon their utility billing system. I respectfully request that you review this proposed change to the WHP.</p>	<p><i>The intent of the WHP is for rents to be affordable and predictable for workforce households. The proposed code change requires RUBS charges (where usage is not controlled by the tenant) to be capped by the WHP rent, which increases costs for landlords. However, the proposed changes also eliminate the utility allowance that was previously required to be provided to tenants, which can offset the cost. Utilities which are metered or sub-metered can be charged above the rent, as the tenant is in control of usage.</i></p>

Memorandum

**To:** Patrick Rutter, Assistant County Administrator, Palm Beach County

**From:** Matt Kowta, MCP, Managing Principal

**Date:** August 14, 2023

**Re:** Evaluation of Financial Impacts from Proposed WHP Administrative Revisions

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**Introduction**

The purpose of this memo is to evaluate proposed revisions to components of the Palm Beach County Workforce Housing Program (WHP) regulations that prescribe how owners and managers of properties subject to WHP covenants manage the leases for the WHP units once they are built. Specifically, this memo evaluates changes relating to how the property manager (PM) administers leases, sets rental rates, and reports to Palm Beach County (the County) on the status of the WHP unit leases.

The objective of this memo is to evaluate whether various elements of the proposed changes would create financial benefits for affected property owners (i.e., increases in revenues or decreases in costs) or financial costs to property owners (i.e., decreases in revenues or increases in costs), and to provide an assessment as to the likely overall financial impact, positive or negative, to property owners from the suite of proposed changes.

For this evaluation, BAE reviewed the proposed WHP changes, discussed the proposed changes with County staff to better understand how the proposed changes would represent changes from current practices under existing regulations, and then categorized the changes as either positive financial impacts, negative financial impacts, or neutral financial impacts, on a scale of Low, Medium, and High. Then, BAE sought to holistically evaluate whether taken as a whole, the suite of proposed WHP program changes would have a positive or negative financial impact on property owners.

**Overview of Proposed Workforce Housing Program Changes**

The proposed changes to the WHP regulations are included as Attachment A to this memo. Attachment A shows the existing WHP program guidelines with a “redline” mark-up to show the proposed changes. All of the proposed changes would be applicable to new projects that include below market rate housing units pursuant to the WHP. As detailed below, some of the changes will also be applicable to existing WHP projects, due to clarifications of existing policy.

Attachment B lists the proposed WHP changes for lease administration procedures (see under Header A.) and for rent calculation procedures (see under Header B.) and categorizes them in terms of whether the changes would represent a financial benefit or a financial cost to the property Owner, or would have an essentially neutral effect compared to the existing regulations and operation of the WHP. Financial benefits and costs are also characterized in terms of the relative order of magnitude of their impacts – as low, medium, or high. The column furthest to the right includes comments to articulate the rationale for categorizing each proposed change.

#### ***A. Changes in Procedures for Lease Administration***

The proposed changes in lease administration procedures would be applicable to both existing projects with WHP housing components and future projects with WHP housing components.

As shown under the Section A header on Attachment B, there are a handful of revisions that have the potential to create minor new costs for Owners, including items A.6 and A.10.c.i. through iii. However, these are items that should be handled with relatively little effort in the normal course of operation for a rental housing complex. There are also a number of revisions that could be expected to have a relatively neutral effect on Owner finances, as they either represent codification of existing requirements that are incorporated into projects' restrictive covenants, they codify existing practices; they are new requirements which will create long-term savings of time and effort for the Owners; or they provide clarity and predictability by eliminating ambiguity in the existing code (see items A.3, A.5, A.7, A.9, A.10.a, A.10.b). These cost items will likely be offset by a limited benefit from the quicker County review of RCW/LA documents (item A.4) and by the more significant benefit of eliminating the annual report requirement (item A.8).<sup>1</sup>

#### ***B. Changes in Procedures for Calculating Allowable WHP Rents***

The proposed changes in procedures for calculating allowable WHP rents would only apply to new projects with a WHP housing component unless a project with existing WHP units opts into the new regulations.

To assist in understanding the potential impacts of the changes in procedures for calculating allowable WHP rents, BAE prepared Attachment C to compare how the proposed revisions to the regulations would apply to a hypothetical WHP rental unit. The maximum rent that can be charged for a given WHP rental unit depends on whether utilities (Water, Sewer, Electric, Gas) are billed directly to the tenant by the utility companies or whether utilities are billed on a pro-rata basis by the property owner or third-party billing service by either unmetered/ratio billing methods or via sub-metering.

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<sup>1</sup> Note that the Annual Report will still be required of existing projects whose recorded covenants require the to submit an annual report, unless the project opts-in to the revised regulations.

To assess the potential impacts of the proposed changes in regulations, Attachment C defines three hypothetical scenarios to compare the net income that an owner would receive under the existing WHP regulations and the net income that the owner would receive under the proposed revisions. The three scenarios are as follows:

- WHP units for which the Owner pays utilities (water, sewer, electric, gas) and then passes the costs through to Tenants where the individual Tenants' consumption is unmetered and the billing is via a "ratio" method.
  - Scenarios A1 and B1 illustrate the net monthly income to the Owner under the existing regulations and under the proposed regulations, respectively.
- WHP units for which the Owner pays the utilities and then passes the costs through to Tenants where the individual Tenants' consumption is submetered.
  - Scenarios A2 and B2 illustrate the net monthly income to the Owner under the existing regulations and proposed regulations, respectively.
- WHP units for which the Tenants' utility consumption is separately metered and the tenants pay the utility costs directly to the service providers.
  - Scenarios A3 and B3 illustrate the net monthly income to the Owner under the existing regulations and proposed regulations, respectively.

### **Impacts to New Projects**

*Note that the dollar figures shown in Attachment C are not meant to portray the actual dollar amounts associated with any specific WHP unit, but are intended to be roughly illustrative and to provide the ability to compare impacts on net income under the proposed regulations versus under existing regulations.*

Comparing the Net Owner Income figure from Scenario A1 on Attachment C to the Net Owner Income figure for Scenario B1 illustrates that for new projects subject to the WHP regulations where the Owner pays the utility companies and passes the costs through to Tenants with unmetered consumption via a "ratio" type of billing method, the Owner of the project would receive slightly less Net Income per unit under the proposed regulations (\$1,125 per unit per month in the illustrative example for Scenario B1) versus under existing regulations (\$1,150 in the illustrative example for Scenario A1). This occurs in this example because the proposed change would eliminate the utility allowance (\$50 per month increase in rent that can be collected) but would also require that the Owner treat the full amount of the utility charges passed on to the tenant as a "Mandatory Fee", which reduces the amount of base rent that can be collected for the unit by an equal amount. In this example, this yields a net \$25 monthly reduction of Net Income per WHP unit.

Comparing the Net Owner Income figure from Scenario A2 to the Net Owner Income figure for Scenario B2 illustrates that for new projects subject to the WHP regulations where the Owner

pays the utility companies and passes the costs through to Tenants via submetered accounts, the Owner of the project would receive slightly more Net Income per unit under the proposed regulations (\$1,200 per unit per month) versus under existing regulations (\$1,150 per unit per month). This is due to the elimination of the utility allowance from the maximum allowable WHP rent (\$50 per month increase in rent that can be collected) but in this case, the Owner is allowed to collect the full cost of the utilities used by the tenant (\$75 per month) as a separate monthly charge in addition to the maximum allowable WHP rent, to offset the actual cost of the utilities that the tenant utilizes (\$75 per month), generating a \$50 per month increase in Net Income per unit.

The comparison between Scenarios A3 and B3 shows the same results as for Scenario A2 vs. Scenario B2, above, with the property owner receiving a \$50 increase in Net Income per month, per WHP unit.

### **Impacts to Existing Projects From Proposed Changes in Procedures For Calculating WHP Rents**

As mentioned previously, existing housing projects subject to WHP covenants would not be subject to the new rent calculation procedures unless the property wishes to opt into the new regulations. Property Owners may therefore decide whether they wish to operate under their existing WHP covenants or switch to operating under the new rent calculation requirements. Presumably, owners of such properties will only opt into the new requirements if they view the new requirements as more desirable or beneficial as compared to their existing covenants. Thus, providing owners of existing properties with WHP covenants the option to switch to the new regulations should be viewed as a neutral to beneficial effect of the proposed changes.

### **Conclusion**

Based on the evaluation above, it is likely that certain elements of the proposed changes to lease administration procedures will create only small cost increases, if any, for owners of properties with WHP units subject to the revised regulations as compared to if they were subject to the existing regulations. Any such cost increases would likely be offset by cost savings created by other elements of the proposed revisions to lease administration procedures.

Based on the evaluation above, the proposed changes in rent calculations for WHP units will have a beneficial effect on Owners of properties where tenants' use of utilities (water, sewer, electric, and gas) is charged to them either directly by the utility companies or passed through to them by the property Owner via sub-metered accounts. The amount of the benefit will vary depending on whether the WHP unit is subject to a \$50 per month utility allowance (units up to 2-bedrooms in size, as illustrated in Attachment C), or a \$75 per month utility allowance (units with 3 or more bedrooms). For the former, the increase in net Income will be \$50 per unit per month and for the latter, the increase in Net Income will be \$75 per month, because the actual rent collected per unit could equal the maximum allowable WHP rent (unless other Mandatory charges are applicable) with the removal of the utility allowance, yet the Owner

could collect the full cost of the utilities if they are being passed through and the costs are assigned via submetering or the tenant would pay for the utilities directly via their separately metered accounts with the utility providers.

For the properties with WHP units where the Owner passes the costs of utilities through to the tenants who have unmetered utility connections, via a “ratio” billing method, the cost impact to the Owners from the proposed WHP updates will vary depending on the relationship between actual utility costs and the amount of the standard utility allowance. For properties where the actual utility cost is less than or equal to the amount of the applicable utility allowance, the proposed program changes would have a neutral effect on Net Income to the Owner. To the extent that the actual utility cost is more than the applicable utility allowance for a given WHP unit, the proposed change will generate a commensurate decrease in Net Income to the Owner. For example, in the comparison between Scenarios A1 and B1, the utility allowance was \$50, the actual utility cost was \$75 dollars, and the result was a \$25 reduction in the Net Income to the owner, per unit, per month. Under the proposed code changes, if the actual utility cost was \$100 per month and the utility allowance was previously \$50 per month, Net Income to the Owner would be reduced by \$50 per month and so forth. This is due to the fact that the Owners would not be able to bill for the Tenant’s utility use that is in excess of the applicable utility allowance without reducing the base rent that the Owner can collect to stay within the maximum allowable WHP rent amount.

Overall, considering the proposed changes to lease administration procedures and the proposed changes to rent calculation procedures together, it is likely that the proposed changes would have a slightly beneficial financial impact on Owners of properties where tenants pay for their utilities directly to utility providers or where the Property owner pays the utility companies and bills tenants for their actual utility use via submetering. For Owners of properties where the tenants do not have separate metered accounts with utility companies or where tenants are billed by the property Owners for utility usage via unmetered/“ratio” methods, the proposed WHP revisions will likely generate limited financial impacts. These financial impacts will be neutral or negative, to the extent that the actual cost of utilities used by tenants is equal to or less than, or greater than the currently applicable utility allowances, respectively.

**Attachment A: Proposed Workforce Housing Program Revisions**  
*(refer to Exhibit 1 of the Staff Report)*



**Attachment B: Overview of Proposed Administrative Changes and Potential Financial Impacts**

A. Changes in procedures for lease administration	Benefit			Cost			Neutral	Comments
	Low	Medium	High	Low	Medium	High		
1. Post WHP housing openings onsite				x				New requirement
2. Post WHP housing openings on County WHP Dashboard.				x				New requirement
3. Fill out Rent Calculation Worksheet (RCW) to accompany WHP Lease Addendum (LA) submittal to County							x	New requirement formalizing current practice, but intended to eliminate errors and eliminate need for retroactive adjustments.
4. County reviews RCW and LA for accuracy and responds to PM within three (3) days.	x							Currently done in 10 days.
5. If needed, make any corrections to RCW and LA and submit to County within ten (10) days.							x	PMs already obligated to make corrections. New procedure seeks to eliminate need to make retroactive adjustments.
6. Provide copies of verified RCW and LA forms to tenant within three (3) days of County sign-off.				x				New requirement
7. WHP units considered compliant at later of: date compliant documents were submitted to PBC, or effective date of lease start/renewal/income re-verification							x	Establishing a clear definition.
8. No longer required to submit annual reports on WHP leases		x						
9. Respond as necessary to County inquiries about status of expired leases, etc.							x	PMs must already frequently respond to County inquiries
10. Establish definition of trigger for finding of non-compliance:								
a. Not meeting at least 90% of WHP unit obligation for more than 60 days, or							x	Establishing a clear standard for enforcement trigger.
b. Do not provide requested documentation or correct compliance issues within 10 days							x	Not a change from restrictive covenants for existing projects.
c. Additional defaults include failure to:								
i. Notify PBC of lease commencement; failure to market/post WHP units availability				x				Only posting in office and county dashboard are new requirements
ii. Provide a copy of final RCW or LA to tenant				x				New requirement
iii. Notify tenant of income re-verification 60 days prior				x				New requirement
iv. Notify PBC of change of ownership or property manager within 30 days.							x	Not a change from restrictive covenants for existing projects for providing requested documentation. Establishing a clear standard for corrections and enforcement trigger.

**B. Changes in procedures for calculating allowable WHP rents**

1. Elimination of required \$50 or \$75 monthly utility allowance (deduction) from maximum allowable WHP rents for studio to 2-bedroom units and 3-bedroom units and larger, respectively.		x*	x**					Allows property owner to charge higher WHP rent.
2. Revised definition of what ongoing fees and charges can be charged in addition to maximum allowable WHP rents:								
a. Complex-wide utilities, fees, or services that are passed through and billed directly to tenants via a property management company or third-party billing service and are "Mandatory" for all tenants within the complex are capped by (i.e., must be included in) the maximum WHP rents.							x	Formalizing current practices. County is currently enforcing program intent to keep costs to tenants, including Mandatory fees capped by the published WHP rent schedule.
b. Voluntary Fees or "Optional" services selected by the tenant and are not mandatory for all units in the complex are not capped by (i.e., do not have to be deducted from) maximum WHP rents.							x	No change from how program is currently administered.
c. Utilities or Services for which tenant has a separate, individual account are not capped by maximum WHP rents.							x	Formalizing current practices.

Notes:

\* Benefit is medium for complexes that pay complex-wide utilities and bill tenants for their share; with loss of utility allowance, they will also lose ability to recoup "true up" amount if actual utility cost exceeds utility allowance.

\*\* Benefit is high for complexes that have separate utility metering/sub-metering for tenants to pay utilities directly or to compensate owner for the full cost of their usage

Sources: Palm Beach County, BAE, 2023.

**Attachment C: Illustrative Rent Impact Scenarios**

*Note: The examples on this page are not meant to portray the actual dollar impacts to any particular WHP rental housing unit, but to illustrate the differences in net income to a property owner under existing regulations versus the proposed regulations.*

Building Operating Assumptions for All Scenarios  
 Actual Monthly Utility Cost (Water, Sewer, Gas, Electric) is \$75  
 All tenants are required to pay monthly security fee and pest control fee.  
 Building pays Cable TV/Internet company and bills tenants who opt in to service.

Scenarios	Existing Regulations <i>Existing Regulations Will Continue to Apply to Existing Projects That Do Not Opt-In to Code Changes</i>			Proposed Regulations <i>New Projects, Existing Projects that Opt-In to Code Changes</i>		
	Existing Projects			New Projects, Existing Projects that Opt-In to Code Changes		
	Owner Paid Utilities Passed Through		Tenant Pays Utilities Separately Metered	Owner Paid Utilities Passed Through		Tenant Pays Utilities Separately Metered
	(Unmetered/Ratio) A1	(Submetered) A2	A3	(Unmetered/Ratio) B1	(Submetered) B2	B3
Maximum WHP Rent (per unit per month)	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200
Utility allowance Deducted from Max WHP Rent	\$50	\$50	\$50	\$0	\$0	\$0
Mandatory Charges Deducted from Max WHP Rent	\$30	\$30	\$30	\$105	\$30	\$30
<b>Adjusted Maximum Rent After Utility Allowance and Mandatory Charges (Monthly Rent/WHP Unit)</b>	<b>\$1,120</b>	<b>\$1,120</b>	<b>\$1,120</b>	<b>\$1,095</b>	<b>\$1,170</b>	<b>\$1,170</b>
<b>Tenant Pays Mandatory Charges to Owner Capped by Max WHP Rent (a)</b>						
Pest Control	\$5	\$5	\$5	\$5	\$5	\$5
Security	\$25	\$25	\$25	\$25	\$25	\$25
<b>Tenant Pays Voluntary Charges to Owner in Addition to Max WHP Rent (b)</b>						
Cable TV/Internet (optional)	\$50	\$50	\$50	\$50	\$50	\$50
<b>Total Utility Cost (Water, Sewer, Gas, Electric)</b>	<b>\$75</b>	<b>\$75</b>	<b>\$75</b>	<b>\$75</b>	<b>\$75</b>	<b>\$75</b>
Utility Cost Paid by Owner	\$75	\$75	\$0	\$75	\$75	\$0
Utility Cost Paid by Renter to Owner	\$75	\$75	\$0	\$75	\$75	\$0
Utility Cost Paid by Renter to Utility Company	\$0	\$0	\$75	\$0	\$0	\$75
<b>Total Rent, Mandatory Charges, Voluntary Charges, Utility Cost Collected by Owner</b>	<b>\$1,275</b>	<b>\$1,275</b>	<b>\$1,200</b>	<b>\$1,250</b>	<b>\$1,325</b>	<b>\$1,250</b>
Minus Utility Cost Paid by Owner	(\$75)	(\$75)	\$0	(\$75)	(\$75)	\$0
Minus Cost of Voluntary Services to Owner (b)	(\$50)	(\$50)	(\$50)	(\$50)	(\$50)	(\$50)
<b>Net Income to Owner</b>	<b>\$1,150</b>	<b>\$1,150</b>	<b>\$1,150</b>	<b>\$1,125</b>	<b>\$1,200</b>	<b>\$1,200</b>
<b>Total Costs Paid by Tenant</b>	<b>\$1,275</b>	<b>\$1,275</b>	<b>\$1,275</b>	<b>\$1,250</b>	<b>\$1,325</b>	<b>\$1,325</b>

Notes:  
 Yellow shaded cells represent changes from status quo.  
 (a) Owner incurs costs for entire complex whether they recoup from tenants as mandatory charge or not.  
 (b) Assumes cost to Owner to provide Cable TV/Internet is equal to charge to Tenant and owner can avoid cost if tenant does not opt in to service.

Sources: Palm Beach County, BAE, 2023.

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## EXHIBIT 5

### TRANSFER OF DEVELOPMENT RIGHTS CLASS A MODIFICAITON

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This exhibit revises the following Article(s):

#### ARTICLE 5 – SUPPLEMENTARY STANDARDS

**Revision Key:** Proposed revisions are shown with new text as underlined, deleted text in strike-out, and relocated text italicized. ~~Stricken and italicized~~ means text to be totally or partially relocated. Relocation notes are shown in brackets as **[Relocated to: ]** or **[Relocated from: ]**. Unaltered text omitted for brevity is indicated by a series of four bolded ellipses....

**Part 1. ULDC Art. 5.G.3.K.3, Supplementary Standards, Density Bonus Programs, Transfer of Development Rights (TDRs) – Special Density Program, TDR – Receiving Area Procedure, Review Process, is hereby amended as follows:**

2 **CHAPTER G DENSITY BONUS PROGRAMS**

3 ....

4 **Section 3 Transfer of Development Rights (TDRs) – Special Density Program**

5 ....

6 **K. TDR – Receiving Area Procedure**

7 ....

8 **3. Review Process**

9 The review process for TDR applications is based upon the density and type of  
10 residential development proposed.

11 ....

12 e. The transfer of any density that is requested concurrent with a FLUA amendment,  
13 shall be reviewed and analyzed with the Planning and Zoning applications, and  
14 shall not be subject to a Class A Conditional Use as described in this Section.

15 ....