

January 22, 2024

VIA UPS

U.S. Citizenship & Immigration Services
California Service Center
24000 Avila Road, Room 2312
Laguna Niguel, CA 92677

RE: Form I-829 - Petition by Entrepreneur to Remove Conditional Basis of Lawful Permanent Resident Status

Petitioner/Investor: Ravi Kumar Patel
Alien Number: A012345678
Conditional Green Card Expiration Date: March 14, 2024
Derivative Beneficiary: Anjali Sunita Patel
Alien Number: A012345679
Conditional Green Card Expiration Date: March 14, 2024
Derivative Beneficiary: Arjun Ravi Patel
Alien Number: A012345670
Conditional Green Card Expiration Date: March 14, 2024

Dear Officer:

The above-named individuals (each a “Petitioner” and collectively, the “Petitioners”) hereby file this Form I-829 Petition by Entrepreneur to Remove Conditional Basis of Lawful Permanent Resident Status pursuant to 8 C.F.R. § 216.6, within the 90-day period preceding the second anniversary of admission to the United States as a conditional permanent resident. The following documents are enclosed to evidence the Petitioners’ ability to remove conditions upon permanent residence (collectively, the “I-829 Petition”):

1. Form G-28, with a filing fee check in the amount of \$3,920 (\$3,750 base fee plus \$85 x 2 for two (2) biometrics fees);
2. Executed, original Form I-829;
3. Copies of each Petitioner’s conditional green card; and
4. Supporting Exhibits, with enclosed Index.

Petitioner’s I-829 Petition is related to the following capital investment:

Regional Center: EB5 Affiliate Network State of Florida Regional Center, LLC (the “**Regional Center**”)
NCE: EB5AN Water Club NPB Fund I, LP (the “**NCE**”)
Borrower: DD Upstream Borrower LLC (the “**Borrower**”)
JCE: Domani Development LLC (the “**JCE**”)
Job-Creating Project: Water Club North Palm Beach Condominiums (the “**Project**”)



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Pursuant to 8 CFR §216.6(a)(4), Petitioner must submit the following evidence to remove the conditional basis of lawful permanent resident status:

- (i) Evidence that a commercial enterprise was established by the alien. Such evidence may include, but is not limited to, Federal income tax returns;
- (ii) Evidence that the alien invested or was actively in the process of investing the requisite capital. Such evidence may include, but is not limited to, an audited financial statement or other probative evidence;
- (iii) Evidence that the alien sustained the actions described in the immediately preceding sections (i) and (ii) throughout the period of the alien's residence in the United States. The alien will be considered to have sustained the actions required for removal of conditions if he or she has, in good faith, substantially met the capital investment requirement of the statute and continuously maintained his or her capital investment over the two years of conditional residence. Such evidence may include, but is not limited to, bank statements, invoices, receipts, contracts, business licenses, Federal or State income tax returns, and Federal or State quarterly tax statements; and
- (iv) Evidence that the alien created, or can be expected to create within a reasonable time, ten full-time jobs for qualifying employees.

The attached evidence establishes Petitioner has met the burden to remove the conditional basis of lawful permanent resident status. The enclosed I-829 Petition is divided into four (4) sections, addressing each of the above requirements outlined in 8 CFR § 216.6(a)(4) as follows:

- (i) EB5AN Water Club NPB Fund I, LP is a new commercial enterprise formed as a Delaware limited partnership on April 6, 2015;
- (ii) Petitioner has invested the requisite capital in EB5AN Water Club NPB Fund I, LP, which made a loan (the “**Loan**”) to DD Upstream Borrower LLC, which subsequently contributed the funds to Domani Development LLC in order to partially finance the development and construction of the Project in North Palm Beach, Florida;
- (iii) Petitioner has continuously maintained the capital investment in the NCE, and the Loan to the Borrower has remained outstanding during the entirety of the Petitioner’s two-year conditional residency period; and
- (iv) An economic impact analysis, based on RIMS II economic multipliers, has determined that the Project has to-date created 821.6 direct and 709.5 indirect jobs derived from construction expenditures on Phase I of the Project, as defined herein. Therefore, total job creation for the Project stands at 1,531.1, which provides each of the 49 EB-5 investors with 31.2 jobs.

I. Executive Summary of the Project

A. Regional Center Approval

EB5 Affiliate Network State of Florida Regional Center, LLC was approved for designation as a USCIS Regional Center on June 27, 2014. *See Exhibit 1: USCIS Regional Center Designation Letter.* The Regional Center is designated for all counties and cities in the State of Florida, which includes Palm Beach County where the Project is located. The Regional Center approval for specific industry codes is used for informational purposes only when estimating job creation and does not limit the economic or job



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creating activity of an approved regional center or its investors. Accordingly, the Project and Investor may take credit for jobs created in industries not previously identified in the Regional Center approval letter, so long as the evidence in the record establishes that it is probably true that the requisite jobs are estimated to be created, or have been created, in those additional industries.¹

In accordance with 8 U.S.C. § 1186b(d) and 8 C.F.R. § 216.6(a)-(c) and the Policy Manual, "...even in the event of a change in course, an immigrant investor must always be able to demonstrate: the required funds were placed at risk throughout the period of the petitioner's conditional permanent residence in the United States; the required amount of capital was made available to the business or businesses most closely responsible for creating jobs; this at risk investment was sustained throughout the period of the petitioner's conditional permanent residence in the United States; and the investor created (or maintained, if applicable), or can be expected to create within a reasonable period of time, the requisite number of jobs."² See Policy Manual at Vol. 6, Chapter 5, Section C. The foregoing cover letter and exhibits has demonstrated that (1) the Petitioner's funds were placed "at risk" and released to the NCE prior to the commencement of conditional permanent residency, (2) the Petitioner's capital was made available to the JCE and used to further the development, construction and operation of the Project, (3) the Petitioner has not received a return of Petitioner's \$500,000 investment during the period of conditional permanent residency, and (4) the Petitioner has created the requisite number of jobs.

Accordingly, Petitioner has met the requirements of 8 U.S.C. § 1186b(d) and 8 C.F.R. § 216.6(a)-(c), which are laid out in the Policy Manual at Vol. 6, Chapter 5, Section C.

B. Project Overview

The NCE was formed to provide financing to the JCE, through the Loan to the Borrower, in order to partially finance the construction of a dual-phase condominium and villa development in North Palm Beach, Florida. The Project consists of a first phase, which includes twin 22-story waterfront condominium towers featuring 142 condo units and 20 villas respectively, with direct water views and designer finishes ("Phase I"), and a second phase, which will consist of a third additional high-rise tower featuring 30 condo units ("Phase II"). Phase I will be built on a 7.0-acre site and will include 676,626 gross square feet, and Phase II will be constructed on an adjacent 1.2-acre property. See **Exhibit 22: Current Project Photos**. The Project, once fully completed, will feature a variety of shared amenities such as a residents-only club room, fitness center with yoga and Pilates studio, sparkling pools, outdoor kitchens, fire pits and social areas. See *Id.*

C. Project Updates

The Project is located at 1280 U.S. Highway 1, North Palm Beach, FL 33408, which is within census tract 5.05. In accordance with, and as determined at the time of, Petitioner's I-526 Petition, Petitioner invested

¹ See USCIS Policy Manual, Volume 6, Part G, Chapter 5, Section C.

² Investor acknowledges that, pursuant to the Policy Manual, Investor cannot receive deference to the prior filed I-526 Petition because, as stated in the Policy Manual, "An immigrant investor may proceed with the petition to remove conditions and present documentary evidence demonstrating that, notwithstanding the business plan contained in the initial Form I-526 immigrant petition, the requirements for the removal of conditions have been satisfied. USCIS does not deny petitions to remove conditions based solely on the failure to adhere to the business plan contained in the Form I-526 immigrant petition."



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in a targeted employment area (a “TEA”) and, therefore, the minimum investment amount is \$500,000. The TEA designation letter was executed and provided by the Florida Department of Economic Opportunity on May 2, 2016. *See Exhibit 8 of the Petitioner’s I-526 Petition: Targeted Employment Area Designation Letter.* The Project has received an updated market study for the Project’s Phase-II condominium building, which was conducted by Valbridge Property Advisors dated September 26, 2019 (the “Phase II Market Study”). *See Exhibit 24: Updated Project Appraisal.* The Phase II Market Study confirms that there is significant demand for housing, and in particular, the specific type of housing offered by the Project in Palm Beach County, Florida. This is evidenced by increasing levels of household income spurred by the growth of professional industries such as manufacturing and medical development, which now represent a major component of Palm Beach County’s surrounding economy. The Phase II Market Study further estimates that since the supply of buildable land in the area is decreasing while the demand for housing due to population growth is increasing, property values in the Project’s surrounding area (including for the Project itself) will continue to increase. Lastly, the Phase II Market Study estimates that upon completion, the prospective market value of the Project’s Phase-II condominium building will be \$55.0 million. *Id.* Please also note that at this stage, 161 total Phase-I units (consisting of 141 condo units and 20 villas) have been sold for a total market value of \$210.3 million. Upon sale of the Project’s single remaining Phase-I condo unit, the total sales value of all Phase I units will be \$211.2 million. *See Exhibit 25: Water Club North Palm Beach – Phase I Sales Grid.*

The Project started construction on Phase I in July 2014 and completed construction in November 2016. Subsequently, construction on Phase II began in September 2018 and is scheduled to be completed in November 2020. All intermediate milestones are presented in the provided construction schedules for Phases I and II. *See Exhibit 20: Updated Construction Budget; Exhibit 12 of the Petitioner’s I-526 Petition: Detailed Construction Schedule; Exhibit 23: Updated Construction Timeline for Phase II; Exhibit 21: Copies of Secured Permits and Licenses; Exhibit 22: Current Project Photos; and Exhibit 24: Updated Project Appraisal.* Construction crews are making substantial headway on the vertical construction of the Project’s Phase II building. Ongoing activities include further development of the building’s exterior shell, masonry, framing, and mechanical, electrical, and plumbing installation. Domani Development LLC (the “Developer”) is targeting a temporary certificate of occupancy-filing date in the latter half of 2020. Presale efforts continue for units in the Project’s Phase II structure and are progressing very well.

D. Project Financing

The Project secured the financing necessary to develop the Project through the following sources of capital: (i) the \$24.5 million EB-5 Loan from the NCE to JCE; (ii) a senior construction loan (the “Senior Loan”) from Regions Bank, an Alabama banking corporation (the “Senior Lender”) in the principal amount of \$96.0 million, as evidenced by the Construction Loan Agreement dated July 23, 2015; (iii) \$25.2 million in non-refundable buyer deposits derived from the Project’s presold units (the “Presale Deposits”), of which approximately \$14.0 million has been used to pay down a portion of the senior loan; and (iv) the remaining necessary capital in equity contributions from the Developer (the “Developer Equity”). *See Exhibit 29: Executed EB-5 Loan Agreement; Exhibit 27: Executed Regions Bank Senior Construction Loan Agreement; and Exhibit 28: Executed Developer Equity Confirmation Letter.* The foregoing sources of financing secured to develop the Project were secured in a timely manner for the development of the Project.



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As it currently stands, the Project is expected to cost approximately \$134.3 million. *See Exhibit 20: Updated Construction Budget.* This figure is based predominantly on verifiable construction expenditures incurred during the development of Phase I. Nevertheless, please note that the exact final cost of the Project has yet to be determined, as construction on Phase II of the Project is still ongoing and some variability regarding exact expenditures is consistent with industry norms. Information regarding the total cost of the Project financed by the JCE will be forthcoming in subsequent I-829 Petitions for the Project.

II. A New Commercial Enterprise Was Established and Sustained

Pursuant to 8 CFR § 204.6(e), a commercial enterprise is defined as any for-profit activity formed for the ongoing conduct of lawful business including, but not limited to, a partnership (whether limited or general). Moreover, pursuant to 6 CFR § 204.6(h)(1), a new commercial enterprise may consist of the creation of an original business.

The NCE was formed to meet the requirements of the EB-5 Program. The NCE was formed on April 6, 2015, as a Delaware limited partnership. *See Exhibit 8: Certificate of Formation of EB5AN Water Club NPB Fund I, LP; and Exhibit 9: EIN Letter from IRS for EB5AN Water Club NPB Fund I, LP.* The NCE includes 49 limited partners, including the Petitioner, each seeking classification as an alien entrepreneur under Section 203(b)(5) of the Immigration & Nationality Act. The NCE, and all limited partners including the Petitioner, are governed by the Limited Partnership Agreement. *See Exhibit 21: of the Petitioner's I-526 Petition: Limited Partnership Agreement.* Additionally, the NCE has prepared and filed its required tax returns. Accordingly, Petitioner has met the requirement set forth in 8 CFR §216.4(a)(4)(i).

III. Petitioner Invested in the New Commercial Enterprise

A. Petitioner's Investment in the NCE

On August 8, 2016, Petitioner contributed \$500,000 in funds to the NCE's escrow account (the "Escrow Account") at Signature Bank (the "Escrow Agent"). *See Exhibit 10: Bank Statements of EB5AN Water Club NPB Fund I, LP Accounts.* On August 21, 2016, Petitioner's funds were released from the Escrow Account, and transferred to the NCE's operating account at Signature Bank (Account No.: 0123456789) in accordance with the conditions presented in the executed escrow agreement between the NCE and the Escrow Agent. *See Exhibit 30: Executed Signature Bank Escrow Agreement; and Exhibit 10: Bank Statements of EB5AN Water Club NPB Fund I, LP Accounts.* After release from the Escrow Account, the NCE loaned the Petitioner's funds to DD Upstream Borrower LLC pursuant to the loan agreement between the NCE and the Borrower. *See Exhibit 29: Executed EB-5 Loan Agreement.* These funds were deposited into the Borrower's account at Regions Bank (A/C No.: 9876543210) on September 29, 2016; *see Exhibit 14: Bank Statements of DD Upstream Borrower LLC Account at Regions Bank.* Finally, on September 30, 2016, the Borrower contributed Petitioner's funds to the JCE at the JCE's bank account at Regions Bank (A/C No.: 9876543211). *See Exhibit 17: Bank Statements of Domani Development LLC Account at Regions Bank.*



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B. Deployment of Petitioner's Capital into the Project and Use of Funds

The original business plan submitted with Petitioner's I-526 Petition stated that the EB-5 loan will be used to develop and construct the Project. *See Exhibit 4 of the Petitioner's I-526 Petition: Comprehensive Business Plan.* This business plan was approved as part of the Investor's I-526 Petition. *Id.*

Consistent with the EB-5 loan agreement, the \$24.5 million in EB-5 capital from the NCE that was loaned to the Borrower was contributed to the JCE and used to pay construction and development expenses of the Project. *See Exhibit 29: Executed EB-5 Loan Agreement.* The JCE has an executed a construction agreement with Kast Construction III, LLC. *See Exhibit 26: Executed General Contractor Construction Agreement.* The JCE has also executed an agreement with BC Architects AIA, Inc. as the principal architect of the Project. *Id.* It has been validated through expenditure receipts that approximately \$90.0 million was expended on construction costs by the JCE during the Phase I development of the Project. *See Exhibit 18: Proof of JCE Project Expenditures.*

Accordingly, the indicated evidence demonstrates that Petitioner has invested or was actively in the process of investing the requisite capital pursuant to 8 CFR §216.4(a)(4)(ii).

IV. **Petitioner Sustained the Investment in the New Commercial Enterprise**

A. Petitioner Sustained the At-Risk Capital Investment

During the two years of the Petitioner's conditional residence, the Petitioner's capital investment has been invested in the NCE. At no time has the NCE distributed a return of the Petitioner's investment capital prior to or during the two-year conditional residency period. *See Exhibit 7: Petitioner's Schedules K-1.*

Additionally, in compliance with federal, state and municipal tax laws, tax returns were filed for the NCE. As part of each tax return, the Petitioner's filed IRS Form 1065 (Schedule K-1) was included to evidence the Petitioner's interest income. *See Exhibit 7: Petitioner's Schedules K-1.* Petitioner's Schedules K-1 demonstrate that Petitioner did not received a return of the capital investment in the NCE prior to or during the two-year conditional residency period. *Id.* Accordingly, the Petitioner has sustained the requisite capital investment and other requisite actions through the period of Petitioner's conditional residence pursuant to 8 CFR §216.6(a)(4)(iii).

B. Petitioner Participates in Management of the NCE

The Petitioner has been actively participating in the investment as a limited partner in the NCE consistent with the rights and duties of the Uniform Limited Partnership Act and the NCE's Limited Partnership Agreement, which include the right to vote on any matter requiring consent of the limited partners. *See Exhibit 21: of the Petitioner's I-526 Petition: Limited Partnership Agreement.*



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V. Petitioner's Investment Created 10 Full-Time Jobs

A. I-526 Petition Economic Report

The initial economic impact report prepared by Paul Sommers (Ph.D. in Economics) calculated the economic impact of the construction of the Project, along with the employment impacts of the operations of the Project. USCIS approved the initial economic impact report in connection with the approval of Petitioner's I-526 Petition. *See* **Exhibit 5 of Petitioner's I-526 Petition: Economic Impact Report**.

B. Job Creation Results Based Upon Actual Expenditures

Due to the changes in the Project, an updated economic impact report completed by Erin Osborne of EB5 Economist Consulting, LLC, on November 15, 2019, concludes that the Project has created 821.6 direct jobs and 709.5 indirect jobs from construction activities for an aggregate amount of 1,531.1 total jobs. *See* **Exhibit 19: I-829 Economic Impact Analysis**. Since the documents demonstrating the Project's final construction expenditure for Phase II are still pending with the Developer's accountants, economic impacts derived from construction activities for Phase II will be provided in a supplemental economic impact analysis at a later date and duly noted on subsequent I-829 Petitions regarding the Project.

First, the economic report calculated the jobs created to date during construction of Phase I. To do this, the economic impact report reviews the actual construction expenditures of the Project from July 2014 through November 2016 to determine which costs are eligible to be modeled for the purposes of the EB-5 Program in order to obtain the final job creation result to-date. The costs modeled in the economic report are deemed reasonable based on the construction contract executed with the General Contractor, as well as through expenditure receipts documenting payments made by the JCE to the General Contractor for work on Phase I of the Project. *See* **Exhibit 18: Proof of JCE Project Expenditures and Exhibit 26: Executed General Contractor Construction Agreement**. The report excludes non-eligible EB-5 Program costs.³ Thus, the modeled expenditures are transparent, objective and verifiable because they are supported by the attached verification by the executed construction contract as well as by the applications and certifications for payment provided by the General Contractor. *Id.* The attached evidence is more than sufficient to show that the relevant expenditures have been spent by the JCE on the Project according to a preponderance of the evidence standard. The economic report uses the following inputs for the job creation calculations to date:

Activity (RIMS II)	Jobs Created	Economic Output	Household Earnings
Construction:			
Construction (230000)	1,473.7	\$ 151,841,489	\$ 54,430,876
Wholesale Trade (420000)	52.0	7,440,738	2,356,627
Architectural, Engineering, and Related Services (541300)	5.4	557,740	231,461
TOTAL:	1,531.1	\$ 159,839,967	\$ 57,018,963

Accordingly, the Project created a total of 1,531.1 jobs from its development and construction activities on Phase I. *See* **Exhibit 19: I-829 Economic Impact Analysis**. These 1,531.1 created jobs are already

³ The amounts spent on the Project to-date are higher than the amounts modeled because the amounts modeled excludes expenses which are ineligible for job creation purposes, but allowable Project costs.



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sufficient for all forty-nine individuals (of the total 49 limited partners of the NCE) who filed I-829 Petitions to meet the minimum requirement of 10 jobs per investor. For the avoidance of doubt, it should also be noted that development of the Project's third building for Phase II is expected to generate an additional 90 jobs for all forty-nine limited partners of the NCE, thus increasing the total job creation count for the Project. As discussed previously, subsequent I-829 Petitions will demonstrate the final job impacts of construction activities for Phase II of the Project as well, once a complete budget has been finalized.

C. Projected Job Creation within one (1) Year of I-829 Petition Filing

In accordance with the USCIS Policy Manual, Vol. 6, Chapter 5, Section B.2. and 8 C.F.R. 216.6(a)(4)(iv), "[a] petitioner may demonstrate that jobs will be created within a reasonable period of time after adjudication of the Form I-829 petition" USCIS has interpreted this "reasonable period of time" to be within one year of the two-year anniversary of the immigrant investor's admission as a conditional permanent resident or adjustment to conditional permanent resident. *See* USCIS Policy Manual, Vol. 6, Chapter 5, Section B.2. As the Petitioner's conditional permanent resident status will expire on March 14, 2024, jobs necessary for Petitioner to remove the conditions on residence must be created by March 14, 2025.

As discussed above, the Project has, to date, created exactly 1,531.1 jobs, which is more than enough for all of the 49 limited partners of the NCE. *See Id.* These 1,531.1 created jobs are sufficient for all individuals who filed I-829 Petitions to meet the minimum requirement of 10 jobs per investor.

As Petitioner's burden under 8 C.F.R. 216.6(a)(4)(iv) is to demonstrate that the Petitioner has created or can be expected to create ten (10) full-time jobs, Petitioner is not legally required to demonstrate job creation for the remaining limited partners of the NCE. Pursuant to 8 CFR § 216.6(a)(4)(iv), the Petitioner's investment in the NCE has created ten qualifying jobs.

VI. Conclusion

The USCIS Field Manual, which outlines the burden of proof and standards of proof for all USCIS officers, states that a petitioner has the initial burden of proving eligibility by presenting facts and evidence that exhibit "*at a bare minimum, and without further inquiry*" that such petitioner has initial eligibility for the benefit sought. After such petitioner has made a prima facie case, USCIS must examine the evidence presented to determine whether the petitioner has shown that it is entitled to the benefit sought by a preponderance of the evidence. *See Field Manual 11.1(c); see also U.S. v. Cardozo-Fonseca, 480 U.S. 421 (1987) (defining "more likely than not" as a probability of greater than 50 percent of something occurring)*. The preponderance of the evidence standard means that if a petitioner submits relevant, probative, and credible evidence that leads the officer to believe that the claim is probably true or more likely than not, petitioner has satisfied the standard of proof. As stated in the Policy Manual:

"As a preliminary matter, it is critical that our adjudication of EB-5 petitions and applications adhere to the correct standard of proof. In the EB-5 program, the petitioner or applicant must establish each element by a preponderance of the evidence. That means that the petitioner or applicant must show that what he or she claims is more likely so than not so. This is a lower standard of proof than both the standard of "clear and convincing," and the standard "beyond a reasonable doubt" that typically applies to



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criminal cases. The petitioner or applicant does not need to remove all doubt from our adjudication. Even if an adjudicator has some doubt as to the truth, if the petitioner or applicant submits relevant, probative, and credible evidence that leads to the conclusion that the claim is 'more likely than not' or 'probably true,' the petitioner or applicant has satisfied the standard of proof."

In accordance with 8 U.S.C. § 1186b(d) and 8 C.F.R. § 216.6(a)-(c) and the Policy Manual, the Petitioner has demonstrated that (1) the Petitioner's funds were placed "at risk" and released to the NCE prior to the commencement of conditional permanent residency, (2) the Petitioner's capital was made available to the JCE and used to further the development, construction and operation of the Project, (3) the Petitioner has sustained, and has not received a return of, Petitioner's \$500,000 investment during the period of conditional permanent residency, and (4) the Petitioner has created the requisite number of jobs. *See* Policy Manual at Vol. 6, Chapter 5, Section C. Accordingly, the Petitioner has fully satisfied each requirement of 8 C.F.R. § 216.6(a)-(c) necessary to remove conditions on Petitioner's conditional permanent residence and, therefore, Petitioner's I-829 Petition should be approved.

Very truly yours,

Anahita George

On behalf of
George & Marzialo, PLLC

Title: Partner



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