

**INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF
COCONUT CREEK FOR PREPARATION, IMPLEMENTATION,
AND ADMINISTRATION BY BROWARD COUNTY OF THE CITY'S
STATE HOUSING INITIATIVES PARTNERSHIP PROGRAMS**

This Interlocal Agreement ("Agreement") is made and entered into by and between Broward County ("County"), a political subdivision of the State of Florida, and the City of Coconut Creek, a municipal corporation of the State of Florida ("City"). City and County are collectively referred to as the "Parties."

RECITALS

- A. The State Housing Initiatives Partnership ("SHIP") Act, Section 420.907-420.9079, Florida Statutes, provides funds to qualifying local government entities to create partnerships that produce and preserve affordable homeownership and multifamily housing for very low, low, and moderate income families.
- B. City and County are both eligible local government entities under the SHIP Act, entitling the Parties to each receive an allocation of SHIP funds.
- C. The Parties currently each separately administer SHIP programs.
- D. The SHIP Act encourages the establishment of joint local housing assistance programs and authorizes local governments to enter into interlocal agreements to establish and implement such programs.
- E. The Parties desire to establish and implement a joint local housing assistance plan to address the needs of their respective residents and promote affordable housing in accordance with the requirements of the SHIP Rules and Regulations (as defined below) and the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1 **Board** means the Board of County Commissioners of Broward County, Florida.
- 1.2 **Contract Administrator** means the Director of the Housing Finance and Community Redevelopment Division, or designee.
- 1.3 **Corporation** means the Florida Housing Finance Corporation.
- 1.4 **Designated Representative** means the City Manager for City, or designee.

- 1.5 **Division** means the Housing Finance and Community Redevelopment Division.
- 1.6 **LHAP** means Broward County's SHIP Local Housing Assistance Plan adopted by resolution of the Board which describes the local housing assistance strategies and local housing incentive strategies and explains how such strategies meet the requirements under the SHIP Rules and Regulations.
- 1.7 **Program** means the joint local housing assistance program created by the Parties which shall be incorporated in the LHAP County submits to the Corporation.
- 1.8 **SHIP** means the State Housing Initiatives Program pursuant to the State Housing Initiatives Partnership Act set forth in Sections 420.908-420-9079, Florida Statutes.
- 1.9 **SHIP Rules and Regulations** means the applicable rules and regulations set forth in Sections 420.908-420-9079, Florida Statutes, Chapter 67-37, Florida Administrative Code, and the LHAP, which are incorporated herein by reference.

ARTICLE 2. ADMINISTRATION AND IMPLEMENTATION OF THE PROGRAM

- 2.1 The Parties agree to establish the Program, which shall outline the joint local housing assistance activities to be performed in City for State fiscal years: 2017-2018, 2018-2019, 2019-2020, 2020-2021, and 2021-2022 ("Program Years"). The Program will be incorporated in the LHAP and submitted to the Corporation for its review and approval.
- 2.2 County, through the Division, will administer the Program in accordance with the SHIP Rules and Regulations.
- 2.3 County, with input from City, will establish the administrative criteria or requirements necessary and desirable to implement the Program including, but not limited to, the maximum award schedule for each strategy, eligibility criteria for the Program participants, and advertising requirements for the availability of City's SHIP funds.
- 2.4 County will provide City access to client lists relating to this Agreement and County's administration of the Program.
- 2.5 Annual Reports. In accordance with Rule 67-37.011, Florida Administrative Code, and Section 420.9075(10), Florida Statutes, the Parties hereby specify that a single annual report for the Parties shall be submitted to the Corporation. County will provide City's Designated Representative a copy of the annual report.

ARTICLE 3. ADMINISTRATION OF CITY'S SHIP FUNDS

- 3.1 Establishment of Trust Fund. County has established an Affordable Housing Assistance Trust Fund ("Trust Fund") in Section 5-556, Broward County Code of Ordinances. All SHIP funds deposited by City or received by County from the Corporation for City's SHIP activities shall be earmarked as City's SHIP funds in the Trust Fund.
- 3.2 Restrictions on City SHIP Funds. City's SHIP funds in the Trust Fund will be utilized solely for the administration of the Program.
- 3.3 SHIP Income Funds. City must establish a mechanism for identifying and transferring City's SHIP income and recaptured funds to County no later than fifteen business (15) days from City's receipt of SHIP income and recapture funds. All of City's SHIP income and recaptured funds shall be immediately transferred to County, identified as City's SHIP income (interest or payments) or recaptured funds, and tracked according to the State fiscal year in which such funds were received.
- 3.4 Any unencumbered City SHIP funds for the Program Years possessed by City must be immediately transferred to County upon execution of this Agreement. Such funds will be deposited in the Trust Fund and earmarked as City's SHIP funds. Any City SHIP funds not deposited with County shall be City's responsibility as state in Section 3.4.
- 3.5 City is solely responsible for all files, monitoring, annual reports, audits, release or satisfaction of liens, and all other requirements under the SHIP Rules and Regulations related to SHIP funding that is (a) received by City in a fiscal year other than the Program Years; (b) not transferred to, or directly deposited with, County, including during a Program Year; or (c) provided by City for funding assistance prior to the transfer to County or prior to the effective date of this Agreement.
- 3.6 County will administer and distribute City's SHIP funds in accordance with the maximum award for each strategy included in the Program. County shall retain the maximum amount allowable for the administrative fee and administrative expense from all SHIP funds received by City, or on behalf of City, related to City's SHIP funding including, but not limited to, City's SHIP income for each fiscal year under this Agreement for administration of the SHIP funds for that year.
- 3.7 Quarterly Reports. The Contract Administrator will provide the Designated Representative with quarterly activity reports, which shall, at a minimum, include expenditures made by County of City's SHIP funds during the preceding quarter and the status of all pending applications received for assistance under the Program.

- 3.8 Audit of Trust Fund. County agrees that the Trust Fund will be separately stated as a special revenue in County's audited financial statements. In accordance with the SHIP Rule and Regulations, copies of such audited financial statements shall be forwarded to the Corporation as soon as such statements are available. County shall provide City with a copy of this audit upon completion.
- 3.9 Notification to Corporation. County will provide written notification to the Corporation of any changes in the Trust Fund, or termination of this Agreement.
- 3.10 State Audit. In the event County expends a total amount of state financial assistance equal to or in excess of \$500,000, in any of County's fiscal years, County must conduct a State single audit or a State project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes, applicable rules of the State Department of Financial Services, and Chapter 10.550, Rules of the Auditor General, pertaining to local governmental entities.
- 3.11 Upon expiration of this Agreement, County will retain City's SHIP funds in the Trust Fund that are earmarked for City and that have not been encumbered or obligated, until such time as County receives written notification from the Corporation as to the disposition of such SHIP funds. Upon approval of the Corporation, County will return any remaining SHIP funds to City. If County retains any funds under its jurisdiction, such funds will be expended within the City.

ARTICLE 4. TERM AND TERMINATION

- 4.1 The term of this Agreement shall commence on the date it is executed by the Parties and shall end on June 30, 2022, unless terminated earlier.
- 4.2 This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within thirty (30) calendar days after receipt of written notice from the aggrieved party identifying the breach.
- 4.3 This Agreement may also be terminated for convenience by either party. Termination for convenience by County shall be by the Board. Termination for convenience by City shall be by City's Commission. Termination shall be effective on the termination date stated in written notice provided by the terminating party, which termination date shall be not less than thirty (30) calendar days after the date of such written notice.
- 4.4 This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances in the event the County Administrator determines that termination is necessary to protect the public health, safety, or welfare.
- 4.5 If either party erroneously, improperly, or unjustifiably terminates for cause, such termination shall, at the other party's sole election, be deemed a termination for

convenience, which shall be effective thirty (30) calendar days after such notice of termination for cause is provided.

- 4.6 In the event this Agreement is terminated for any reason, all City SHIP funds allocated for use in City that have been encumbered or obligated by County prior to the date of termination shall be used in accordance with the terms of such obligation(s). Any unencumbered or unobligated City SHIP funds allocated for use in City shall be returned to City upon approval of the Corporation as stated in Section 3.10. The Parties shall provide the Corporation with written notification of termination of this Agreement.
- 4.7 Notice of termination under this Agreement shall be provided in accordance with the "Notices" article of this Agreement.

ARTICLE 5. GOVERNMENTAL IMMUNITY

Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. The Parties are state agencies or political subdivisions as defined in Section 768.28, Florida Statutes, and each party shall be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law. This section shall survive the termination of all performance or obligations under this Agreement.

ARTICLE 6. INSURANCE

The Parties are entities subject to the limitations of Section 768.28, Florida Statutes. Each party shall maintain a fiscally sound and prudent risk management program with regard to its obligations under this Agreement in accordance with the provisions of Section 768.28, Florida Statutes. Each party shall furnish the other party with written verification of liability protection in accordance with state law prior to execution of this Agreement.

ARTICLE 7. NOTICES

In order for notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via e-mail, to the address listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous e-mail is also sent.) The addresses for notice shall remain as set forth in this section unless and until changed by providing notice of such change in accordance with the provisions of this section. All documentation or payments required to be provided under this Agreement shall also be made at the address provided in this section.

For County:
Ralph Stone, Director
Housing Finance and Community
Redevelopment Division
110 Northeast Third Street, Suite 300
Fort Lauderdale, Florida 33301
E-mail Address: rstone@broward.org

For City:
Scott Stoudenmire, Deputy Director
Department of Sustainable Dev.
City of Coconut Creek
4800 West Copans Road
Coconut Creek, FL 33063
E-mail Address:
sstoudenmire@coconutcreek.net

ARTICLE 8. MISCELLANEOUS

- 8.1 **No Discrimination.** No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement.
- 8.2 **Public Records.** The Parties are public agencies subject to Chapter 119, Florida Statutes, and each party shall comply with its respective obligations as provided by law. The failure of either party to comply with the provisions set forth in this section shall constitute a default and breach of this Agreement and shall entitle the non-defaulting party to enforce the default and breach in accordance with the provisions set forth in Section 4.2.
- 8.3 **Audit Rights and Retention of Records.**
- 8.3.1 County shall have the right to audit the books, records, and accounts of City that are related to this Agreement. City shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement and performance thereunder. All books, records, and accounts of City shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, City shall make same available at no cost to County in written form.
- 8.3.2 City shall preserve and make available, at reasonable times within Broward County for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement until expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. County audits and inspections pursuant to this Section may be performed by any County representative (including any outside representative engaged by County). County reserves the right to conduct such audit or review at City's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice.

- 8.3.3 City shall have the right to audit the books, records, and accounts of County that are related to this Agreement. County shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement and performance thereunder. All books, records, and accounts of County shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, County shall make same available at no cost to City in written form.
- 8.3.4 County shall preserve and make available, at reasonable times within Broward County for examination and audit by City, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement until expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. City audits and inspections pursuant to this Section may be performed by any City representative (including any outside representative engaged by City). City reserves the right to conduct such audit or review at County's place of business, if deemed appropriate by City, with seventy-two (72) hours' advance notice.
- 8.4 Public Entity Crime Act. Each party represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, each party further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether the party has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any party makes a representation as stated in this section that is false, the other party shall have the right to immediately terminate this Agreement.
- 8.5 Independent Contractors. Each party is an independent contractor under this Agreement. In performing its respective obligations and services under this Agreement, neither party nor its agents shall act as officers, employees, or agents of the other party. Neither party shall have the right to bind the other party to any obligation not expressly undertaken by that party under this Agreement.
- 8.6 Third Party Beneficiaries. Neither City nor County intends to benefit a third party directly or substantially by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement. Neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by either party.

- 8.7 Assignment. Neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by either party.
- 8.8 Compliance with Laws. The Parties shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its respective duties, responsibilities, and obligations pursuant to this Agreement.
- 8.9 Severability. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.
- 8.10 Joint Preparation. This Agreement has been jointly prepared by the Parties hereto, and shall not be construed more strictly against either party.
- 8.11 Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.
- 8.12 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached hereto or referenced or incorporated herein and any provision of Articles 1 through 8 of this Agreement, the provisions contained in Articles 1 through 8 shall prevail and be given effect.
- 8.13 Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, CITY AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

- 8.14 Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Board and City or others delegated authority or otherwise authorized to execute same on their behalf.
- 8.15 Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.
- 8.16 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated herein by reference.
- 8.17 Representation of Authority. Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.
- 8.18 Filing of Agreement. Pursuant to Section 163.01(11), Florida Statutes, this Agreement shall be filed by County with the Clerk of the Circuit Court for Broward County, Florida.
- 8.19 Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties have made and executed this Interlocal Agreement on the respective dates under each signature: Broward County, through its Board of County Commissioners, signing by and through Mayor or Vice Mayor, authorized to execute same by Board action of ____ day of _____, 20__, and the City of Coconut Creek, signing through its Mayor, authorized to execute same by action of the City Commission on the _____day of _____, 20__.

County

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

By: _____

____ day of _____, 20__

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: _____

Claudia Capdesuner (Date)
Assistant County Attorney

By: _____

Annika E. Ashton (Date)
Deputy County Attorney

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City

Karen M. Brooks, City Manager

____ day of _____, 20__

ATTEST:

APPROVED AS TO FORM:

Leslie Wallace May, City Clerk

Terrill C. Pyburn, City Attorney

____ day of _____, 20__

____ day of _____, 20__