

AGREEMENT

Between

BROWARD COUNTY

and

CITY OF COCONUT CREEK

PROVIDING FOR DISBURSEMENT OF HOME PROGRAM FUNDS FOR  
HOUSING REHABILITATION PROGRAM

FY 2017 - 2018 FUNDING

IN THE AMOUNT OF \$71,529

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AGREEMENT

Between

BROWARD COUNTY

and

CITY OF COCONUT CREEK

PROVIDING FOR DISBURSEMENT OF HOME PROGRAM FUNDS FOR  
HOUSING REHABILITATION PROGRAM

FY 2017 - 2108 FUNDING

IN THE AMOUNT OF \$71,529

This is an Agreement ("Agreement"), made and entered into by and between BROWARD COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY,"

and

CITY OF COCONUT CREEK, a municipal corporation of the State of Florida, hereinafter referred to as "CITY," collectively referred to as the "Parties."

RECITALS

WHEREAS, pursuant to 24 CFR Part 92.101, the Parties entered into a standard form HOME Consortium Cooperation Agreement approved by the Broward County Board of County Commissioners on June 9, 2009, providing for the Parties' inclusion in the Broward County HOME Investment Partnerships Program Consortium ("HOME Consortium"), and providing for COUNTY to be the HOME Consortium's representative member or lead entity to carry out the objectives of the HOME Program on behalf of all of its members; said HOME Consortium Cooperation Agreement is incorporated herein by reference; and

WHEREAS, COUNTY, as the representative member or lead entity for the HOME Consortium is the recipient of HOME Investment Partnerships Program grant funding ("HOME Funds") from the U.S. Department of Housing and Urban Development ("HUD") pursuant to the HOME Investment Partnerships Act ("HOME Act") at Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, with implementing

rules and regulations set forth in 24 CFR Part 92 for all members of the HOME Consortium, and COUNTY desires to allocate a portion of the HOME Funds to CITY; and

WHEREAS, on January 23, 2018, meeting item 16, the Broward County Board of County Commissioners authorized the County Administrator approving FY 2017 - 2018 HOME funding to CITY under COUNTY's HOME Program, for housing rehabilitation activities; and

WHEREAS, COUNTY is required to enter into this Agreement with CITY in order for CITY to perform HOME eligible activities within CITY; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the Parties agree as follows:

### **ARTICLE 1 - DEFINITIONS**

The following definitions apply unless the context in which the word or phrase is used requires a different definition:

- 1.1 **Agreement** - This document, Articles 1 through 12, the exhibits and documents that are expressly incorporated herein by reference.
- 1.2 **Board** - The Board of County Commissioners of Broward County, Florida.
- 1.3 **CFR** - The Code of Federal Regulations is the codification of rules and regulations published in the Federal Register by the executive departments and agencies of the federal government of the United States.
- 1.4 **Committed funds** - The term shall mean "Commitment" as defined under 24 CFR Part 92.2.
- 1.5 **Contract Administrator** - The Contract Administrator for COUNTY is the Director of the Division or the Assistant Director of the Division. The primary responsibilities of the Contract Administrator are to coordinate and communicate with CITY's Designated Representative, and to manage and supervise execution and completion of the Project and the terms and conditions of this Agreement as set forth herein. In the administration of this Agreement, as contrasted with matters of policy, the Parties may rely on the instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Project.
- 1.6 **County Administrator** - The administrative head of COUNTY appointed by the Board.
- 1.7 **County Attorney** - The chief legal counsel for COUNTY appointed by the Board.

- 1.8 **Division** - The Housing Finance and Community Redevelopment Division.
- 1.9 **HOME or HOME Program** - The HOME Investment Partnerships Program pursuant to Title II of the Cranston National Affordable Housing Act (42 U.S.C. 1271 et seq.), with implementing rules and regulations set forth in 24 CFR Part 92.
- 1.10 **HOME Funds** - The HOME Investment Partnerships grant funding provided to CITY under this Agreement.
- 1.11 **HUD** - The United States Department of Housing and Urban Development.
- 1.12 **Income Eligible Household** - Low-income and very low-income households described in 24 CFR Part 92.2, consisting of families as defined in 24 CFR Part 5.403, with an annual anticipated gross income that does not exceed eighty percent (80%) and fifty percent (50%) respectively, of the median annual income for the area, as determined by HUD, with adjustments for family size for households within the metropolitan statistical area for Broward County, or the non-metropolitan median for the State, whichever is greater.
- 1.13 **Project** - The Project consists of the services described in Article 3.
- 1.14 **Project Completion** - A project is considered complete when it meets certain conditions, including: construction completion, title transfer, property standards met, funds disbursed and final draw down, completion information entered into IDIS (homebuyer projects require beneficiary data), all required reports, and documentation required by COUNTY.
- 1.15 **Property** - The property(ies) assisted with HOME Funds under this Agreement for the Project.
- 1.16 **Quarterly Progress Report** - The report utilizing Exhibit "D," attached hereto, describing how much progress CITY has made towards completion of the Project.
- 1.17 **Rules and Regulations of HUD** - The rules and regulations of HUD including, but not limited to, 24 CFR Part 92, "HOME Investment Partnerships Program"; Fair Housing Act, 42 U.S.C. 3601 et seq.; Section 301 of the Housing and Urban-Rural Recovery Act of 1983; Pub. Law No. 98-181, 97 Stat. 1155, CPD Notice 92-18, Procedures for the Cash and Management Information (CMI) System for the HOME Program, the applicable provisions of 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards"; 24 CFR Part 91 "Consolidated Submissions for Community Planning and Development Programs" and any Executive Orders issued by the Federal Government, or any final rule changes set forth in the Federal Register,

impacting the HOME Program; as amended from time to time, and which are incorporated herein by reference.

- 1.18 **Subconsultant** or **Subcontractor** - A firm, partnership, corporation, independent contractor (including 1099 individuals), or combination thereof providing services under this Agreement through CITY for all or any portion of the work or activities. The term "Subconsultant" shall include all "Subcontractors" and the term "Subcontractor" shall include all "Subconsultants."

## ARTICLE 2 - PREAMBLE

- 2.1 Pursuant to 24 CFR Part 92, HUD allocates HOME funds by formula among eligible State and local governments to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income families.
- 2.2 Pursuant to 24 CFR Part 92.105, COUNTY has been designated by HUD as a participating jurisdiction, and receives its HOME funding allocation pursuant to the Consolidated Plan submitted to and approved by HUD in accordance with 24 CFR Part 91. COUNTY may use HOME funding to carry out multi-year housing strategies through acquisition (including homebuyer activities and purchase assistance), rehabilitation, new housing construction, and tenant-based rental assistance.
- 2.3 Under the Rules and Regulations of HUD, COUNTY is the administrator for the Program and is mandated to comply with all applicable statutes, codes, rules, and regulations of the United States as to the allocation and expenditure of HOME Funds as well as protecting the interests of certain classes of individuals who reside in COUNTY.
- 2.4 COUNTY desires to disburse HOME Funds to CITY and has obtained assurances from CITY that it will comply with all applicable statutes, codes, rules, and regulations of the United States, the Rules and Regulations of HUD, the State of Florida, and COUNTY relating to the Project and the Program, as a condition precedent to the release of such HOME Funds to CITY.
- 2.5 COUNTY shall conduct all programs and activities relating to housing and community development in a manner that affirmatively furthers fair housing. COUNTY shall fund only subrecipients who have taken steps to promote fair housing.
- 2.6 In the event CITY is found to be taking actions designed to discourage affordable housing for sale or rent within the boundaries of COUNTY, CITY shall not be eligible to receive HOME Funds under this Agreement.

- 2.7 In accordance with 2 CFR Part 2400.101, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth in 2 CFR Part 200 are applicable to the HOME Funds provided by COUNTY under this Agreement. In accordance with 2 CFR Part 200.101(b)(3), with the exception of the requirements set forth in 2 CFR Part 200, Subpart F, Audit Requirements, in the event any of the provisions of Federal statutes or regulations relating to the HOME Program differ from the provisions set forth in 2 CFR Part 200, the provision of the Federal statutes or regulations shall govern.
- 2.8 This Agreement is subject to the availability of funds as more specifically described in Articles 4 and Article 10.

### **ARTICLE 3 - PROJECT**

- 3.1 CITY shall provide housing rehabilitation activities for Income Eligible Households as outlined in Exhibit "A," Project Description.
- 3.2 CITY shall comply with Exhibit "B," Costs/Budget for Project, and Exhibit "C," Timetable/Schedule for Project. Failure to maintain the implementation schedule within sixty (60) days of the deadlines set forth in Exhibit "C" may warrant a full review by the Division to meet HUD's required expenditure rates for the Program year. In the event CITY fails to maintain the implementation schedule within ninety (90) days of the deadlines identified in Exhibit "C," COUNTY may terminate this Agreement in accordance with Article 10, and may transfer all uncommitted and unexpended funds to the contingency account or be reprogrammed by COUNTY consistent with the Rules and Regulations of HUD for the HOME Program.
- 3.3 The Division may issue a Stop Order to CITY which shall halt all work on the Project in the event the work is not being performed according to the terms of this Agreement or when, in the Division Director's judgment, CITY, or any of its Subcontractors, have violated federal guidelines and regulations, or the terms of this Agreement.
- 3.4 The Division will carry out periodic monitoring and evaluation activities as determined necessary by the Division. The continuation of this Agreement is dependent upon satisfactory evaluations by the Division. Such evaluation will be based on the terms of this Agreement, comparisons of planned versus actual progress relating to the Project's scheduling, budget, in-kind contributions, and output measures. Upon request, CITY shall furnish to the Division Director, COUNTY, or their designees, such records and information related to the Project as is determined necessary by the Division Director or COUNTY. CITY shall submit on a quarterly basis, and at other times upon the request of the Division Director, information and status reports required by the Division, COUNTY, or HUD on forms approved by the Division Director.

- 3.5 CITY shall meet with COUNTY at reasonable times and with reasonable notice to discuss the Project.
- 3.6 CITY shall provide COUNTY with Quarterly Progress Reports which will be due on the 10<sup>th</sup> of the month following the third month of the prior quarter. The first quarter will begin on October 1 of each year. The first Quarterly Progress Report shall be due at the end of the subsequent quarter following the execution of this Agreement. Quarterly Reports will utilize the Direct Benefit Report Form provided in Exhibit "D" which shall indicate the completed activity authorized by COUNTY. Any Quarterly Progress Reports that are not submitted to the Division by the due date described above using the required forms may result in reimbursements to CITY under this Agreement being withheld. The final quarterly report will serve as a Final Report and should be indicated as "Final." COUNTY reserves the right to request additional beneficiary reporting information and/or modify the reporting form as needed.
- 3.7 The Parties shall cooperate in the preparation of any and all reports required under this Agreement. CITY shall furnish to COUNTY any information COUNTY requests for preparation of reports required under the Rules and Regulations of HUD, specifically 2 CFR Part 200 and 24 CFR Part 92 including, but not limited to, the Consolidated Plan and the Annual Performance Report.
- 3.8 CITY shall use its own procurement procedures for the procurement of property and services, which shall reflect applicable state and local laws and regulations; and all procurement shall conform to applicable federal law and the applicable Procurement Standards set forth in 2 CFR Part 200, Subpart D.
- 3.9 CITY shall not charge any servicing, origination, or other fees for the costs of administering the Project, except as permitted under 24 CFR Part 92.214(b)(1).
- 3.10 CITY shall ensure that the recapture and affordability restrictions set forth in 24 CFR Part 92.254 are enforced by requiring each Income Eligible Household to execute a Mortgage and Promissory Note in favor of COUNTY. All mortgages and notes must be executed on the forms attached hereto as Exhibit "G," regardless of the HOME allocation year. The affordability period must be consistent with the requirements set forth in 24 CFR Part 92.254 and as further described in Exhibit "A" Project Description.
- 3.11 No extension of time shall be granted for delays resulting from normal weather conditions prevailing in the area as defined by the average of the last ten (10) years of weather data recorded in the Fort Lauderdale/Hollywood International Airport Weather Station.



**ARTICLE 4 - FUNDING AND METHOD OF PAYMENT AND  
PROVISIONS RELATING TO THE USE OF THE FUNDS**

- 4.1 The maximum amount of HOME Funds payable by COUNTY under this Agreement shall be set forth in the applicable category(ies) below:

**Check applicable category(ies):**  Regular HOME Dollars - \$71,529  
 CHDO Dollars - 15% Community Housing  
Development Organization (CHDO) set-aside

- 4.2 COUNTY shall reimburse CITY for the Project expenses incurred as provided in Exhibit "B," Costs/Budget for Project, provided a suspension of payment as provided in this Agreement has not occurred, and provided further that CITY complies with the procedures for invoices and payments as set forth in this Article. At no time shall COUNTY distribute HOME Funds to CITY if it has not provided the required deliverables. In the event HUD reduces the HOME funding allocation to the HOME Consortium, COUNTY shall reduce CITY's allocation proportionately.
- 4.3 Regular HOME Dollars. Regular HOME Dollars means HOME Funds allocated by COUNTY to CITY under this Agreement in accordance with 24 CFR Part 92 and that are not designated as a fifteen percent (15%) CHDO set-aside, as described in Section 4.4.
- 4.4 CHDO Dollars. COUNTY, as the participating jurisdiction pursuant to 24 CFR Part 92.300, is required to set-aside fifteen percent (15%) of HUD's annual fiscal year HOME funding allocation to COUNTY specifically for CHDO development-related activities. CHDOs are established pursuant to 24 CFR Part 92, Subpart G, Community Housing Development Organization, to receive the set-aside HOME Program funding, and must be approved by COUNTY for the primary purpose of developing affordable housing for CITY. CITY shall administer the fifteen percent (15%) CHDO set-aside in accordance with 24 CFR Part 92.300, and shall enter into an agreement with a COUNTY-approved CHDO to provide the HOME eligible activities under this Agreement.
- 4.5 CITY shall invoice COUNTY monthly, if eligible Projects expenditures have been made, utilizing the form provided in Exhibit "F," Request for Payment, for eligible Project costs described in Exhibit "A," Project Description, and 24 CFR Part 92.206, on the following basis:
- 4.5.1 CITY shall provide COUNTY with documentation of costs associated with any CITY personnel providing services for the Project.

- 4.5.2 CITY shall provide COUNTY with an executed original of any contracts with Subcontractors authorizing services, work, or activities to be performed for the Project.
- 4.5.3 CITY shall submit a certified copy of the purchase order authorizing the work or activities for which it is invoicing.
- 4.5.4 CITY shall submit to COUNTY a certified copy of all Subcontractor invoices for the Project indicating the services, work, activities, or materials for which it is invoicing.
- 4.5.5 CITY's administrator or the administrator's authorized representative shall certify that the services, work, activities, or materials being invoiced has been received or completed.
- 4.5.6 Upon submittal of the final invoice for reimbursement of eligible Project expenditures made during the term of this Agreement, CITY shall provide COUNTY with a final and complete Quarterly Progress Report, utilizing the form provided in Exhibit "D."
- 4.6 Following receipt of invoices and supporting documentation, as described in Section 4.5, the Division shall review the invoices and supporting documentation to determine whether the items invoiced have been received or completed and that the invoiced items are proper for payment. A failure by CITY to provide all invoices and supporting documentation necessary to process payment requests within a reasonable time may result in COUNTY denying payment of such request. Upon determination by the Division that the items invoiced have been received or completed, the Division shall make payment to CITY the amount it determines to be payable. Payment for travel expenses, if any, shall be made in accordance with COUNTY guidelines for travel reimbursement.
- 4.7 CITY shall not be entitled to payment by COUNTY for any invoices if received by COUNTY later than sixty (60) days after expiration or earlier termination of this Agreement; however, invoices for impact fees, if applicable, will be honored by COUNTY for up to twelve (12) months after expiration or earlier termination of this Agreement.
- 4.8 COUNTY shall pay CITY within thirty (30) calendar days from receipt of CITY's Request for Payment for reimbursement of eligible Project expenses, in accordance with COUNTY's Prompt Payment Ordinance, Section 1-51.6, Broward County Code of Ordinances. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the Request for Payment form provided in Exhibit "F." Payment may be withheld for failure of CITY to comply with any term, condition, or requirement of this Agreement.

- 4.9 CITY shall expend the HOME Funds allocated to the Project by the end of the term of this Agreement. All HOME Funds not expended within the term of this Agreement shall remain in the custody and control of COUNTY. CITY shall ensure there is an expenditure of HOME Funds within twelve (12) months of execution of this Agreement by the Parties, and thereafter, every ninety (90) days, wherever possible.
- 4.10 COUNTY may suspend payment under this Agreement for any of the following events:
- 4.10.1 Ineligible use of HOME Funds;
  - 4.10.2 Failure to comply with the terms of this Agreement;
  - 4.10.3 Failure to submit reports as required, including a favorable audit report;
  - 4.10.4 Submittal of incorrect or incomplete reports in any material respect; and
  - 4.10.5 Failure to comply with the indemnification obligations under this Agreement.

In the event COUNTY elects to withhold payment to CITY pursuant to this Section 4.10, COUNTY shall specify the action(s) that must be taken by CITY as a condition precedent to resumption of payments, and should specify a reasonable date for compliance.

- 4.11 CITY shall not request disbursement of HOME Funds under this Agreement until the HOME Funds are needed for the payment of eligible costs under 24 CFR Part 92.206, as applicable to the Project under this Agreement. Any requests by CITY for disbursement of HOME Funds under this Agreement for the payment of eligible costs shall be requested from COUNTY utilizing the Request for Payment form provided in Exhibit "F."
- 4.12 If applicable, any Program Income, repayments, or recaptured funds, as described in 24 CFR Part 92.503, hereinafter collectively referred to as ("Program Income"), received by CITY derived from the Project, after the effective date of this Agreement, which was generated under this Agreement, or any prior fiscal year HOME funding agreement with COUNTY, shall be returned to COUNTY in accordance with the rules and regulations set forth in 24 CFR Part 92.503 relating to Program Income under the HOME Program. Such Program Income will be reallocated by COUNTY to CITY's home funding award in COUNTY's next HOME funding cycle, minus Ten percent (10%) for HOME Program administration by COUNTY. Program Income, as described in 24 CFR Part 92.503, derived from the Project shall be accounted for by CITY and reported to COUNTY utilizing the Quarterly Progress Report set forth in Exhibit "D."

4.13 Payments to CITY shall be sent to:

City of Coconut Creek  
Attention: City Manager  
4800 West Copans Road  
Coconut Creek, Florida 33063

4.14 Any documentation required under this Agreement shall be furnished to COUNTY at the following address:

Ralph Stone, Director  
Broward County Housing Finance and  
Community Redevelopment Division  
110 N.E. 3rd Street, Third Floor  
Fort Lauderdale, Florida 33301

4.15 At the sole discretion of the Division Director, unexpended HOME Funds not provided to or reimbursed to CITY under the terms of this Agreement may be reallocated by COUNTY to other HOME Program projects approved for funding by the Board.

4.16 Any HOME Funds paid to CITY in excess of the amount to which CITY is finally determined to be entitled to under this Agreement shall be repaid to COUNTY within a reasonable period after demand, and if not paid, COUNTY may reduce the debt by making an administrative offset against other requests for reimbursements.

4.17 Subcontractors. CITY shall invoice all Subcontractor fees, whether paid on a "lump sum" or other basis, to COUNTY with no markup. All Subcontractor fees shall be billed in the actual amount paid by CITY.

4.18 Notwithstanding any provision of this Agreement to the contrary, COUNTY shall not be required to reimburse CITY any HOME Funds under this Agreement, if COUNTY is not able to obtain such funding from HUD for the payment of these costs, and COUNTY may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to the Contract Administrator or failure to comply with this Agreement. The amount withheld shall not be subject to payment of interest by COUNTY.

4.19 Notwithstanding any provision in this Agreement to the contrary, in the event COUNTY is required to repay HUD any HOME funding received from HUD for the Project, pursuant to any repayment requirements set forth in 24 CFR Part 92, or any other applicable Rules and Regulations of HUD, CITY may be required to repay COUNTY such HOME Funds in accordance with the repayment provisions set forth in Section 8.5 of this Agreement.

## **ARTICLE 5 - LIABILITY AND INDEMNIFICATION**

- 5.1 CITY is a state agency under Section 768.28, Florida Statutes, and shall be fully responsible for acts and omissions of its agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement or any other contract.
- 5.2 In the event CITY contracts with a Subcontractor to perform any work or activities for the Project, any contract with such Subcontractor shall include the following provisions, in substantially the form provided below:
- 5.2.1 To the fullest extent permitted by law, Contractor shall at all times hereafter indemnify, hold harmless and defend Broward County and all of Broward County's current and former officers, agents, servants, and employees (collectively "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses (collectively, a "Claim"), raised or asserted by any person or entity not a party to this Agreement, which Claim is caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of, Contractor, its current or former officers, employees, agents, or servants, arising from, resulting to, or in connection with this Agreement. In the event any Claim is brought against an Indemnified Party, Subcontractor shall, upon written notice from Broward County, defend each Indemnified Party against each such Claim by counsel satisfactory to Broward County, or at Broward County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement.

## **ARTICLE 6 - INSURANCE**

- 6.1 CITY is a governmental entity and is fully responsible for the acts and omissions of its agents or employees, subject to any applicable limitations of Section 768.28, Florida Statutes.
- 6.2 Upon request by COUNTY, CITY must provide COUNTY with written verification of liability protection that meets or exceeds any requirements of Florida law. If CITY holds any excess liability coverage, CITY must ensure that Broward County is named as an additional insured and certificate holder under such excess liability policy and provide evidence of same to COUNTY.

- 6.3 If CITY maintains broader coverage or higher limits than the minimum coverage required under Florida law, COUNTY shall be entitled to such broader coverage and higher limits on a primary and non-contributory basis. COUNTY's insurance requirements shall apply to CITY's self-insurance.
- 6.4 In the event CITY contracts with a Subcontractor to provide any of the services set forth herein, CITY shall require that each Subcontractor procure and maintain insurance coverage that adequately covers each Subcontractor's exposure based on the services provided by that Subcontractor. CITY must ensure that all such Subcontractors name "Broward County" as an additional insured and certificate holder under the applicable insurance policies. CITY shall not permit any Subcontractor to provide services until the insurance requirements of the Subcontractor under this section are met. If requested by COUNTY, CITY shall furnish evidence of insurance of all such Subcontractors.
- 6.5 COUNTY reserves the right, but not the responsibility, to periodically review any and all insurance policies and to reasonably adjust the limits and/or types of coverage required herein, from time to time throughout the term of this Agreement.

#### **ARTICLE 7 - ASSURANCES AND CERTIFICATIONS**

- 7.1 CITY shall comply with all applicable federal, state, and county laws, ordinances, codes, and regulations relating to the use of HOME Funds including, but not limited to, the Rules and Regulations of HUD, and requirements which may be imposed by the HOME Consortium. Any conflict or inconsistency between the any federal, state, or county regulations and this Agreement shall be resolved in favor of the more restrictive regulations.
- 7.2 CITY shall establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other association.
- 7.3 CITY shall comply with the requirements set forth in the Division's "Procedures Manual for Subrecipients," as may be amended from time to time, and incorporated herein by reference. COUNTY will provide CITY with a copy of the manual and any amendments thereto.
- 7.4 CITY shall not use HOME Funds to support or engage in any explicitly religious activities including, but not limited to, activities that involve overt religious content such as worship, religious instruction, or proselytization, as further described in 24 CFR Part 92.257 and 24 CFR Part 5.109.
- 7.5 CITY certifies, to the best of its knowledge and belief, that:

- 7.5.1 No federal appropriated funds have been paid or will be paid, by or on behalf of CITY, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.
- 7.5.2 If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Agreement, CITY shall complete and submit to COUNTY Standard Form - LLL, "Disclosure Form to Report Lobbying," set forth in Appendix B to 24 CFR Part 87, in accordance with its instructions.
- 7.5.3 The language of this Section 7.5 shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all subgrantees shall be required to certify and disclose accordingly.
- 7.6 CITY shall comply with the requirements set forth in 24 CFR Subtitle A, Part 92 and 24 CFR Part 5, as applicable to the Project, including, but not limited to, the following:
- 7.6.1 Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and implementing regulations at 24 CFR Part 1, which prohibit discrimination of persons on the basis of race, color, or national origin, including, but not limited to, exclusion from participation in, being denied the benefits of, or being otherwise subjected to discrimination under any program or activity for which CITY receives federal financial assistance.
- 7.6.2 Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.), and implementing regulations at 24 CFR Part 100 et seq., which prohibits discrimination of persons on the basis of race, color, religion, sex, and national origin in housing practices.
- 7.6.3 Executive Order 11063, as amended by Executive Order 12259 (Equal Opportunity in Housing Programs), and implementing regulations at 24 CFR Part 107.
- 7.6.4 Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), and the implementing regulations set forth in 24 CFR Part 146, which

prohibit discrimination of persons on the basis of age under any program, or activity for which CITY receives federal financial assistance.

- 7.6.5 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations set forth in 24 CFR Part 8, which prohibit discrimination of qualified individuals with disabilities in participating in, or receiving benefits and services under any program or activity for which CITY receives financial federal assistance.
- 7.6.6 Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.), and the implementing regulations set forth in 24 CFR Part 40, which require certain federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped persons, as applicable.
- 7.6.7 Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.), which prohibit discrimination of individuals on the basis of race, color, sex, national origin, religion, or age.
- 7.6.8 Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u, and the implementing regulations set forth in 24 CFR Part 135, as applicable), which provides for training, employment, contracting, and other economic opportunities for low and very low-income persons. [See also Section 7.10 below, if applicable.]
- 7.6.9 24 CFR Part 92.354, Labor, and the Davis-Bacon Act (40 U.S.C. 3141), which relates to all laborers and mechanics employed in the development of any part of the housing, and requires contracts to be subject to the overtime provisions, as applicable, set forth in the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701).
- 7.6.10 The disclosure requirements and prohibitions set forth in 31 U.S.C. 1352 and implementing regulations and restrictions on lobbying set forth in 24 CFR Part 87; and the requirements for funding competitions established by the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3531 et seq.).
- 7.6.11 The prohibitions set forth in 2 CFR Parts 180 and 2424 relating to the use of debarred, suspended, or ineligible contractors and participants.
- 7.6.12 The Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.), and the implementing regulations set forth in 2 CFR Part 2429.
- 7.7 CITY shall comply with the applicable requirements under 24 CFR Part 5, Subpart L, in order to afford persons assisted with HOME Funds the protections



required under the Violence Against Women Reauthorization Act of 2013 ("VAWA") (Public Law 113-4, originally codified in part at 42 U.S.C. Sections 13701 through 14040), which provides, in part the following: Notification of Occupancy Rights to applicants for housing and tenants, in accordance with 24 CFR Part 5.2005(a); construction of lease terms and terms of assistance to avoid unwarranted determinations that a lease has been violated or needs to be terminated, in accordance with 24 CFR Part 5.2005(c); and adoption of an Emergency Transfer Plan to enable appropriate tenant transfers to other units without undue procedural constraints, in accordance with 24 CFR Part 5.2005(e) and 24 CFR Part 92, Subpart H, 92.359, as applicable.

- 7.8 CITY shall comply with the recordkeeping and reporting requirements under this Agreement and 24 CFR Parts 5.168, 91.520(e), and 92.508, as applicable, to enable COUNTY to comply with its recordkeeping and reporting requirements set forth in 24 CFR Parts 92.508 and 2 CFR Part 200.
- 7.9 In addition to the audit rights, and retention of records requirements set forth in Section 12.4, CITY shall provide COUNTY, HUD, and the United States Comptroller General, through any of their duly authorized representatives, access to any books, documents, papers, and records of CITY, or its Subcontractors providing Project services under this Agreement, which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions. The rights of access granted under this Section 7.9 shall not be limited to the required retention of records period set forth in Section 12.4, and shall remain in effect for as long as the records are retained.
- 7.10 CITY shall comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. CITY shall comply with 24 CFR Part 135.34, relating to preferences for Section 3 residents in training and employment opportunities, 24 CFR Part 135.3(a)(3)(ii), relating to applicability and thresholds for Section 3 covered housing and community development assistance, 24 CFR 135.34(2), relating to preference for Section 3 residents in training and employment opportunities, and 24 CFR 135.36(a)(2), relating to preferences for Section 3 business concerns in contracting opportunities, as applicable. In the event CITY enters into an agreement with a Subcontractor to perform any services under this Agreement in excess of \$100,000, CITY must include the Section 3 clause found at 24 CFR Part 135.38 verbatim in all Section 3 covered contracts, requests for proposals, and any other solicitations.

## **ARTICLE 8 - FINANCIAL RESPONSIBILITY**

- 8.1 CITY shall comply with the requirements, standards, and the applicable provisions set forth in 2 CFR Part 200, "Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards."
  - 8.2 CITY shall comply with the audit requirements set forth in 2 CFR Part 200, Subpart F, "Audit Requirements," and any revisions, as applicable. The audit required under 2 CFR Part 200 must be filed with COUNTY within one hundred twenty (120) days after the close of the fiscal year of CITY. All HOME Funds provided by COUNTY should be shown via explicit disclosure in the annual financial statements or the accompanying notes to the financial statements.
  - 8.3 CITY shall use HOME Funds provided by COUNTY only for eligible Project activities specifically outlined in this Agreement.
  - 8.4 CITY shall budget and expend all HOME Funds provided by COUNTY under this Agreement in accordance with the Division's "Procedures Manual for Subrecipients," described in Section 7.3.
  - 8.5 In addition to COUNTY's right to terminate this Agreement in accordance with Article 10, CITY shall be required to repay to COUNTY, in COUNTY's sole discretion, any HOME Funds determined by COUNTY to be ineligible for reimbursement under the terms of this Agreement including, but not limited to, in the following events:
    - 8.5.1 Use of any HOME Funds for ineligible Project expenses or activities, including any over payments by COUNTY.
    - 8.5.2 Any HOME Funds expended by CITY, or any of its Subcontractors, in violation of this Agreement.
- In the event CITY is required to repay COUNTY any HOME Funds pursuant to this Section 8.5, CITY shall repay such funds from nonfederal resources within thirty (30) days of notice provided by COUNTY, and if not paid, COUNTY may, in its sole discretion, elect to withhold payment on any subsequent request for payment by CITY, or reduce CITY's obligation to repay COUNTY by making an administrative offset against any request for payment. COUNTY, in its sole discretion, may reallocate any funds CITY repays to COUNTY pursuant to the terms of this Agreement to other eligible HOME projects. This provision shall survive the expiration or earlier termination of this Agreement.
- 8.6 CITY shall disclose to COUNTY any and all third party funding, whether public or private, for the Project. No COUNTY funding shall be used to supplant existing third party funding.
  - 8.7 Reversion of Assets. Upon expiration or earlier termination of this Agreement,

CITY shall transfer to COUNTY any HOME Funds, Program Income, repayments, and recaptured funds on hand at the time of expiration or earlier termination, and any accounts receivable attributable to the use of HOME Funds.

8.8 Withdrawal from the HOME Consortium.

8.8.1 In the event CITY elects to withdraw from the HOME Consortium in subsequent three (3) year consortia qualifications periods, and CITY is designated by HUD to be a HOME Participating Jurisdiction pursuant to 24 CFR Part 92, Subpart C, and receive HOME Funds to operate its own HOME Program, COUNTY shall transfer to CITY on the effective date of CITY's withdrawal from the HOME Consortium any recapture monies in its possession, as provided in Section 4.11, that are attributable to CITY's HOME funding allocation. In this event, upon transfer of the HOME Funds to CITY, CITY shall assume all obligations and responsibilities attributable to such HOME Funds.

8.8.2 In the event CITY elects to withdraw from the HOME Consortium in subsequent three (3) year consortia qualifications periods, and CITY is not designated by HUD as a HOME Participating Jurisdiction pursuant to 24 CFR Part 92, Subpart C, CITY shall transfer to COUNTY, within sixty (60) days of the effective date of CITY's withdrawal from the HOME Consortium, any recapture monies in its possession, as provided in Section 4.11, that are attributable to CITY's HOME funding allocation during the period of time CITY was a HOME Consortium member. In this event, COUNTY shall retain all obligations and responsibilities attributable to such HOME Funds.

8.8.3 In the event CITY elects to withdraw from the HOME Consortium as provided in this section, and if the applicable three (3) year consortia qualification period overlaps with the term of this Agreement, CITY shall provide COUNTY with notice of termination of this Agreement for convenience as provided in Article 10, and CITY shall transfer to COUNTY any recapture monies in its possession, as provided in Section 4.11, that are attributable to CITY's HOME funding allocation during the period of time CITY was a member of the HOME Consortium within sixty (60) days of termination of this Agreement.

8.9 Affirmative Marketing Policy. CITY shall comply with 24 CFR Part 92.351, Affirmative marketing; minority outreach program, and the Affirmative Marketing Policy, set forth in Exhibit "E," as it relates to marketing the Project to Income Eligible Households.

## **ARTICLE 9 - TERM OF AGREEMENT**

The term of this Agreement shall commence retroactively to October 1, 2017, and shall end September 30, 2020, as further described in Exhibit "C," Timetable/Schedule for Project, unless terminated earlier or extended pursuant to the terms of this Agreement. According to the HUD 2013 Final HOME Rule, CITY must have committed funds by September 1, 2019. CITY shall expend the HOME Funds allocated to the Project within the term of this Agreement. CITY may submit a written request for an extension to the term of this Agreement to the Division Director no less than one hundred twenty (120) days prior to the expiration date. In the event the Division Director approves an extension to the term of this Agreement, the Parties shall enter into an amendment as provided in Section 12.18.

## **ARTICLE 10 - TERMINATION**

10.1 This Agreement is subject to the availability of HOME funding from HUD. In the event HUD terminates, suspends, discontinues, or substantially reduces the HOME funding for the Project activity under this Agreement, COUNTY may terminate this Agreement upon CITY's receipt from COUNTY of no less than Twenty-four (24) hours' notice. COUNTY shall be the final authority as to the availability of HOME Funds.

### 10.2 Termination for Cause.

10.2.1 This Agreement may be terminated for cause by COUNTY, at the discretion of and through the County Administrator, if CITY fails to comply with any terms under this Agreement and has not corrected the breach within five (5) days after receipt of written notice from COUNTY identifying the breach. Any notice of termination provided by COUNTY pursuant to this Section 10.2.1 shall also provide CITY with an opportunity to appeal the action, and a copy of the appeal process shall be attached to the notice. CITY shall file an appeal within five (5) days of receipt of COUNTY's notice of termination.

10.2.2 Termination for cause by COUNTY may include, but is not limited to, CITY's failure to commence work on the Project, as set forth in Exhibit "C," Timetable/Schedule for Project, within ninety (90) days from the date of complete execution of this Agreement by the Parties, repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives under this Agreement, failure to repay COUNTY as provided in Section 8.5, or contracting with a Subcontractor to provide any Project services under this Agreement who has been debarred, suspended, or is otherwise excluded from, or ineligible for participation in, any federal assistance program subject to 2 CFR Part 2424. The Agreement may also be terminated for cause if CITY is placed on the Scrutinized Companies

with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, or if CITY provides a false certification submitted pursuant to Section 287.135, Florida Statutes.

10.2.3 In the event this Agreement is terminated by COUNTY for cause, CITY shall repay to COUNTY any HOME Funds determined by COUNTY to be due in accordance with Section 8.5. COUNTY may, in its sole discretion, reduce CITY's obligation to repay COUNTY by making an administrative offset against any requests by CITY for payment up to the effective date of termination as provided in Section 10.4.

- 10.3 Termination for Convenience. This Agreement may be terminated for convenience by either party, which termination date shall be not less than thirty (30) days after the date of such written notice. Termination for convenience for COUNTY shall be by the Board. 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. If COUNTY erroneously, improperly, or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.
- 10.4 In the event this Agreement is terminated for any reason, COUNTY will reimburse CITY upon receipt of a Request for Payment utilizing the form provided in Exhibit "F," for documented and committed eligible Project expenses in accordance with the terms of this Agreement and Exhibit "B," Costs/Budget for Project, incurred by CITY prior to the effective date of termination of this Agreement. For purposes of this Agreement, documented and committed eligible Project expenses means any verifiable committed expense including, but not limited to, a Purchase Order for payment of materials and supplies, executed by CITY or a Subcontractor on CITY's behalf, for Project activities under this Agreement. However, CITY shall not encumber any HOME Funds under this Agreement after either party provides written notice of termination to the other party. Any payment by COUNTY pursuant to this Section 10.4 is subject to the repayment provisions in Section 8.5.
- 10.5 Notice of suspension or termination of this Agreement shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the County Administrator, which the County Administrator deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

- 10.6 In the event CITY elects to terminate this Agreement, or withdraw from the HOME Consortium in accordance with the provisions set forth in 24 CFR Part 92, Subpart C, CITY shall not be entitled to receive any unused portion of the HOME funding allocated to CITY.
- 10.7 In the event this Agreement is terminated for any reason, any amounts due CITY shall be withheld by COUNTY until all documents are provided to COUNTY pursuant to Section 12.1 of Article 12.

## **ARTICLE 11 - NOTICES**

In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change in accordance with the provisions of this Article.

### **FOR COUNTY:**

Ralph Stone, Director  
Broward County Housing Finance and  
Community Redevelopment Division  
110 N.E. 3<sup>rd</sup> Street, Third Floor  
Fort Lauderdale, Florida 33301  
Email address: [Rstone@broward.org](mailto:Rstone@broward.org)

### **FOR CITY:**

City of Coconut Creek  
Attention: City Manager  
4800 West Copans Road  
Coconut Creek, Florida 33063  
E-mail address: [mblasi@coconutcreek.net](mailto:mblasi@coconutcreek.net)

## **ARTICLE 12 - MISCELLANEOUS**

### **12.1 RIGHTS IN DOCUMENTS AND WORK**

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of COUNTY, and, if a copyright is claimed, CITY grants to COUNTY and the Federal Government a non-exclusive, royalty free, and irrevocable license to

use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by CITY, whether finished or unfinished, shall become the property of COUNTY including, but not limited to, any patent rights with respect to any discovery or invention which arises or is developed in the course of or under this Agreement, and shall be delivered by CITY to the Contract Administrator within seven (7) days of termination of this Agreement by either party. Any compensation due to CITY shall be withheld until all documents are received as provided herein. CITY shall ensure that the requirements of this section are included in all agreements with its Subcontractor(s).

## 12.2 EQUAL EMPLOYMENT OPPORTUNITY

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.

CITY shall include the foregoing or similar language in its contracts with any Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 CFR Parts 23 and 26.

Failure by CITY to carry out any of the requirements of this section shall constitute a material breach of this Agreement, which shall permit COUNTY to terminate this Agreement or to exercise any other remedy provided under this Agreement, Broward County Code of Ordinances, Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

By execution of this Agreement, CITY represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes. COUNTY hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle COUNTY to terminate this Agreement and recover from CITY all monies paid by COUNTY pursuant to this Agreement, and may result in debarment from COUNTY's competitive procurement activities.

## 12.3 PUBLIC RECORDS

CITY shall comply with all applicable requirements of Chapter 119, Florida Statutes, including the requirements of Section 119.0701.

## 12.4 AUDIT RIGHTS, AND RETENTION OF RECORDS

COUNTY shall have the right to audit the books, records, and accounts of CITY and its Subcontractors that are related to this Agreement. CITY and its Subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement and performance thereunder. All books, records, and accounts of CITY and its Subcontractors 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, or its Subcontractor, as applicable, shall make same available at no cost to COUNTY in written form.

In accordance with the minimum required retention period set forth in 24 CFR Part 92.508, related to recordkeeping, CITY and its Subcontractors shall preserve and make available, at reasonable times for examination and audit by COUNTY, all financial records, supporting documents, statistical records, and any other documents pertinent to this final Quarterly Progress Report utilizing Exhibit "D" for the completion/close-out of the funding period associated with the term 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 written notice.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for COUNTY's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to COUNTY of any nature by CITY in excess of five percent (5%) of the total contract billings reviewed by COUNTY, the reasonable actual cost of COUNTY's audit shall be reimbursed to COUNTY by CITY in addition to making adjustments for the overcharges. Any adjustments and/or payments due as a result of such audit or inspection shall be made within thirty (30) days from presentation of COUNTY's findings to CITY.

CITY shall ensure that the requirements of this section are included in all agreements with its Subcontractors.

#### 12.5 TRUTH-IN-NEGOTIATION REPRESENTATION

CITY's compensation under this Agreement is based upon representations supplied to COUNTY by CITY, and CITY certifies that the information supplied, including without limitation in the negotiation of this Agreement, is accurate, complete, and current at the time of contracting. COUNTY shall be entitled to recover any damages it incurs to the extent such representation is untrue.

#### 12.6 PUBLIC ENTITY CRIME ACT



CITY 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, CITY 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 CITY has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this section is false, COUNTY shall have the right to immediately terminate this Agreement and recover all HOME Funds paid to CITY under this Agreement.

#### 12.7 INDEPENDENT CONTRACTOR

CITY is an independent contractor under this Agreement. In providing services under this Agreement, neither CITY nor its agents shall act as officers, employees, or agents of COUNTY. CITY shall not have the right to bind COUNTY to any obligation not expressly undertaken by COUNTY under this Agreement.

#### 12.8 THIRD PARTY BENEFICIARIES

Neither CITY nor COUNTY intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and no third party shall be entitled to assert a claim against either of them based upon this Agreement.

#### 12.9 ASSIGNMENT AND PERFORMANCE

Except for subcontracting approved in writing by COUNTY at the time of its execution of this Agreement or any written amendment hereto, neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by CITY without the prior written consent of COUNTY. If CITY violates this provision, COUNTY shall have the right to immediately terminate this Agreement. CITY represents that each person and entity that will provide services under this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render services. CITY agrees that all services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.

#### 12.10 CONFLICT OF INTEREST

CITY shall comply with the requirements set forth in 24 CFR Part 92.356 relating to the Conflict of Interest provisions. Any possible conflicting interest on the part

of CITY, its officers, employees, or agents, shall be disclosed in writing to the Division.

#### 12.11 CONFLICTS

Neither CITY nor its employees shall knowingly have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CITY's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. None of CITY's officers or employees shall, during the term of this Agreement, serve as an expert witness against COUNTY in any legal or administrative proceeding in which he, she, or CITY is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of COUNTY in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude CITY or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding. CITY shall not be in violation of this paragraph unless it has actual knowledge of such conduct of its officers or employees.

In the event CITY is permitted pursuant to this Agreement to utilize Subcontractors to perform any services required by this Agreement, CITY shall require such Subcontractors, by written contract, to comply with the provisions of this section to the same extent as CITY.

#### 12.12 MATERIALITY AND WAIVER OF BREACH

Each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term hereof. COUNTY's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

#### 12.13 COMPLIANCE WITH LAWS

CITY shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

#### 12.14 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.

#### 12.15 JOINT PREPARATION

This Agreement has been jointly prepared by the Parties hereto, and shall not be construed more strictly against either party.

#### 12.16 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.

#### 12.17 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 12 of this Agreement, the provisions contained in Articles 1 through 12 shall prevail and be given effect. In the event there is a conflict between any provisions set forth in this Agreement and a more stringent state or federal provision which is applicable to any services performed under this Agreement, the more stringent state or federal provision shall prevail.

#### 12.18 AMENDMENTS

The Parties may amend this Agreement to conform to changes in federal, state, or local laws, regulations, directives, and objectives. 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 to or otherwise authorized to execute same on their behalf. The County Administrator shall be authorized to execute amendments that extend the term of the Agreement or that change the Project, so long as the

Project consists of eligible activities for the type of Project under 24 CFR Part 92. The Division Director shall be authorized to approve, in writing, line item budget changes to the information set forth in Exhibit "B," Costs/Budget for Project, during the term of this Agreement and for sixty (60) days after expiration or earlier termination of this Agreement, as provided in Section 4.7 of this Agreement, in order to reconcile CITY's expenditures of HOME Funds, provided such changes do not result in an increase in the HOME Funds set forth in Section 4.1 of this Agreement, and Exhibit "B." The written document from the Division Director approving such changes shall be deemed incorporated into this Agreement.

#### 12.19 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. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

#### 12.20 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.

#### 12.21 PAYABLE INTEREST

12.21.1 Payment of Interest. COUNTY shall not be liable to pay any interest to CITY for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof CITY waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest

in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This paragraph shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

12.21.2 Rate of Interest. If, for whatever reason, the preceding subsection is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by COUNTY under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, 0.25% (one quarter of one percent) simple interest (uncompounded).

## 12.22 INCORPORATION BY REFERENCE

Any and all Recital clauses stated above are true and correct and are incorporated herein by reference. The attached Exhibits "A" - "I" are incorporated into and made a part of this Agreement. The Rules and Regulations of HUD and any other HUD regulations addressed in this Agreement which are not specifically identified in the definition contained in Section 1.17 shall be incorporated herein by reference.

## 12.23 LEGAL PROVISIONS DEEMED INCLUDED

Each and every provision of any law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein, and this Agreement shall be read and enforced as though it were included herein and if, through mistake or otherwise, any such provision is not inserted or is not correctly inserted, then upon application of either party, this Agreement shall be amended to make such insertion.

## 12.24 SURVIVAL

Either party's right to monitor, evaluate, enforce, audit and review, any obligations to indemnify and insure, any assurances and certifications, and items of financial responsibility shall survive the expiration or earlier termination of this Agreement. Any provision of this Agreement which contains a restriction or requirement which extends beyond the date of termination or expiration set forth herein shall survive expiration or earlier termination of this Agreement and be enforceable.

## 12.25 FURTHER ASSURANCE

The Parties shall execute, acknowledge, deliver, and cause to be done, executed, acknowledged, and delivered all such further documents, and perform such acts as shall reasonably be requested of it to carry out this Agreement and give effect hereto. Accordingly, without in any manner limiting the specific rights

and obligations set forth in this Agreement, the Parties intend to cooperate with each other in effecting the terms of this Agreement.

12.26 TIME IS OF THE ESSENCE

Time is of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

12.27 SPECIFIC PERFORMANCE

In addition to all other remedies, CITY's obligations contained herein shall be subject to the remedy of specific performance by appropriate action commenced in a court of competent jurisdiction.

12.28 FORCE MAJEURE

If the performance of this Agreement, or any obligation hereunder is prevented by reason of hurricane, earthquake, or other casualty caused by nature, or by labor strike, war, or by a law, order, proclamation, regulation, ordinance of any governmental agency, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, provided that the party so affected shall first have taken reasonable steps to avoid and remove such cause of non-performance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other party in writing and resume performance hereunder whenever such causes are removed; provided, however, that if such non-performance exceeds sixty (60) days, the party that is not prevented from performance by the force majeure event shall have the right to terminate this Agreement upon written notice to the party so affected. This section shall not supersede or prevent the exercise of any right the Parties may otherwise have to terminate this Agreement.

12.29 COUNTY BUSINESS ENTERPRISE PROGRAM

COUNTY has established a policy relating to County Business Enterprise ("CBE") program participation in all COUNTY contracts. Although this Agreement does not have assigned CBE goals, CITY shall comply with the procurement standards set forth in 2 CFR Part 200.321.

12.30 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.

12.31 DESIGNATED REPRESENTATIVE

CITY's Designated Representative under this Agreement is the City Manager.

12.32 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 the page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties have made and executed this Agreement: BROWARD COUNTY, through the County Administrator, authorized to execute same by action of the Board on January 23, 2018, (Agenda Item No. 16), and CITY OF COCONUT CREEK, signing by and through its Mayor or Vice-Mayor, duly authorized to execute same.

COUNTY

WITNESSES:

BROWARD COUNTY, by and through its County Administrator

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Bertha Henry

\_\_\_\_\_  
Print Name

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Print Name

By: \_\_\_\_\_  
Annika E. Ashton (Date)  
Senior Assistant County Attorney



AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF COCONUT CREEK PROVIDING FOR DISBURSEMENT OF HOME PROGRAM FUNDS FOR HOUSING REHABILITATION PROGRAM, FY 2017-2018 FUNDING, IN THE AMOUNT OF \$71,529

CITY

ATTEST:

CITY OF COCONUT CREEK

By: \_\_\_\_\_  
Leslie Wallace May, City Clerk

(SEAL)

By: \_\_\_\_\_  
Joshua Rydell, Mayor

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Mary C. Blasi, City Manager

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

I HEREBY CERTIFY that I have approved this AGREEMENT as to form and legal sufficiency subject to execution by the parties:

By: \_\_\_\_\_  
Terrill C. Pyburn, City Attorney

**EXHIBIT "A"**  
**PROJECT DESCRIPTION**

Fiscal Year: FY 2017-2018 Funding

Project Name: City of Coconut Creek Housing Rehabilitation Program

HOME Funds Allocation: \$71,529

Recaptured Funds: \$0

Project Description:

The HOME Funds in the amount of \$71,529 provided by COUNTY to CITY under the Agreement shall be used for housing rehabilitation activities. A minimum of one (1) Income Eligible Household shall be assisted in an amount up to Forty Thousand Dollars (\$40,000) per household, including all rehabilitation costs defined in the Agreement for HOME Eligible Activities. Applicants will be processed by CITY on a first come, first qualified, first served basis. CITY's Program shall be administered in accordance with CITY's Local Housing Assistance Plan (LHAP).

CITY shall certify that each Income Eligible Household assisted with HOME Funds under the Agreement execute a Promissory Note and Mortgage in favor of COUNTY, which includes, but is not limited to, the following requirements:

- Fifteen (15) year term, 0% interest Forgivable Loan ("Loan"), or ten (10) year term for Special Needs applicants and Elderly Applicant (62 years of age or older) written down 10% annually.
- Loan due upon sale, transfer, lease, cash-out refinance, or home equity loan, before expiration of the fifteen (15) year occupancy period.
- For Special Needs applicants loan due upon sale, transfer, lease, cash-out refinance, or home equity loan, before expiration of the ten (10) year occupancy period. For Special Needs applicants, ten percent (10%) of the Loan shall be forgiven each year on the anniversary date of the Loan provided the property remains the primary residence of the homeowner.
- Subordination policy, no lower than second position and with no cash out.

CITY will prepare and record all Mortgages and Promissory Notes in favor of COUNTY. CITY will forward all original Mortgages and Promissory Notes with a recorded copy to the COUNTY.

CITY will ensure that the Income Eligible Household(s) list the COUNTY as an additional mortgagee on their insurance policy(ies).

COUNTY will monitor all Mortgages and Promissory Notes recorded by CITY in favor of COUNTY.

COUNTY will prepare Subordination Agreements and Satisfactions of Mortgages, when requested by the homeowner, and as appropriate.

CITY shall comply with HOME Rules and Regulations governing the Project, including, but not limited to, the following:

- All rehabilitation shall be in compliance with applicable local codes and the Florida Building Code in accordance with 24 CFR Part 92.251, Property Standards.
- Lead-based paint testing and abatement, as needed, in accordance with 24 CFR Part 92.355.
- Income Eligible Household shall refer to a household with a maximum household income less than 80% of COUNTY median.
- Federal procurement procedures set forth in 24 CFR Part 92.504(c)(4) are applicable to the selection of the contractor.
- Ensure compliance with the recapture and affordability restrictions set forth in the Agreement.
- Homeowners who have received rehabilitation assistance from the City cannot re-apply for 10 years, except for Emergency Repair. In these cases, applicants must wait at least a period of twelve (12) months before being eligible to apply for assistance. Maximum assistance will be twice in any five-year period.

CITY's Program Design is attached hereto as Attachment 1 to Exhibit "A," solely for the purpose of providing a more comprehensive description of the overall program; however, CITY's responsibilities and obligations for the Project shall be those described specifically in this Exhibit "A." In the event of any conflict between the terms of Attachment 1 to Exhibit "A" and Exhibit "A," the terms of Exhibit "A" shall control.

## **ATTACHMENT 1 to EXHIBIT**

### **PROGRAM DESIGN**

#### **THE CITY OF COCONUT CREEK REHABILITATION PROGRAM FY 2017-2018**

##### **Program Summary**

The City of Coconut Creek's Owner-Occupied Residential Rehabilitation/Minor Home Repair Program was established to assist low and moderate income households, adjusted for family size, in rehabilitating existing owner-occupied homes throughout the City. While the City does have a low to moderate income target area, the City has elected to implement the program city wide to address greater needs. The program is designed to correct code violations, health and safety issues, electrical, plumbing, roofing, windows and other structural, non-luxury items. The primary purpose of the program is to provide repairs necessary to provide safe and decent housing, eliminate any instances of substandard housing, and preserve the City's affordable housing stock.

##### **Program Administration Overview**

The City of Coconut Creek contracts out the administration of the Owner-Occupied Residential Rehabilitation/Minor Home Repair Program to consultants who are responsible for implementing the program. The Owner-Occupied Residential Rehabilitation Program provides assistance to City of Coconut Creek low and moderate income households, adjusted for family size, in rehabilitating existing homes through correcting housing code violations, construction, and/or installation of non-luxury general property improvements that address health and safety issues, electrical, plumbing, roofing, windows and provide basic amenities. Emergency repairs may also be covered in this program, with priority given for life threatening or health and safety issues. HOME funds will not be used for Emergency repairs. The program also includes assisting Special Needs applicants to make their home barrier-free. The City makes available CDBG, SHIP and HOME dollars to fund this program.

1. Direct Service to CDBG Eligible Recipients and Properties:
  - a. Advertise and distribute program information to assure the community is aware of available funding through the Owner-Occupied Residential Rehabilitation/Minor Home Repair Program
  - b. Coordinate Client Intake and Property Eligibility

- c. Process and Approve Applications
- d. Perform Property Assessments
- e. Develop a Comprehensive Bid Specification and Scope of Work for Eligible Units
- f. Conduct Established bidding Procedures
- g. Award to Lowest, Responsive and Responsible Qualified Contractors
- h. Prepare City's Closing Documents
- i. Schedule Closings with Qualified Owner-Occupants
- j. Prepare Transmittal Documents for Recording in a Timely Fashion
- k. Oversee and Manage the Construction Process from Permitting through the Final Inspections
- l. Require Owner-Occupancy of unit for fifteen (15) years, ten (10) years for Special Needs Applicants and Elderly Applicants (62 years of age or older) written down 10% annually.

### **Program Benefits**

- Home inspection and cost estimate.
- Interest-free, deferred loan.
- No repayment of loan if program requirements are met.
- Allows home owners to correct code violations.

### **Eligible Properties**

- Single-Family Homes
- Townhomes
- Condominiums and Villas

### **Recipient Selection Criteria**

Eligible homeowners are selected on a first come, first qualified, first served basis from all eligible applicants, but special needs applicants will be given first priority, by income level. In addition, a case identified as an emergency by the City's housing inspector, will receive priority assistance for repairs.

## **Program Marketing**

The program will be marketed through one or more of the following: advertisement, announcements in the City's newsletter and on the City's and consultant's website. The City will not maintain a waiting list for potential program applicants.

## **Income Categories to be Served**

Up to 80% AMI for CDBG and HOME recipients. Up to 120% AMI for SHIP recipients.

## **Applicant Processing and Verification to Determine Eligibility**

Property must be owner-occupied. Verification of ownership, income, homeowners and flood insurance, and payment of property taxes is conducted to determine eligibility. Income documentation is reviewed by the consultant's program specialists and the applicant is certified if eligible for the program.

Income guidelines (Section 8 Income Limits) provided by HUD each year are used to income certify applicants. State guidelines, for income documentation are used to certify all applicants regardless of program type (CDBG, SHIP or HOME) the applicant is being from assisted.

## **Contractor Selection Criteria**

The City, through its consultant, maintains a pool of eligible contractors, in good standing, licensed and insured to carry out residential rehabilitation activity. Contractors are screened annually to ensure they are not on the HUD listing for debarred and suspended participants. Periodically, the City or its consultant will solicit participation for new contractors to join the existing pool. The City conducts business with licensed General Contractors, roofers and plumbers and other appropriate contractors to carry out the necessary repairs. Because the rehabilitation work tends to be more comprehensive, the City maintains relationships with General Contractors to carry out the majority of the program's projects. General contractors are responsible for the oversight of all subcontractors. For each job, the General Contractor will be requested to supply a list of all subcontractors on the job and material persons.

Contractors for, individual jobs are selected through a competitive bid process to perform repairs under this program. Contractors in the program have been selected based on certification, experience, past performance and proper insurance.

## **Award**

The award varies depending on project. Applicants will be eligible for up to approximately \$40,000. However, it is the intent of the program to bring the home up to code and up to acceptable living standards. Upon approval from the City, an applying household can receive assistance that exceeds the subsidy cap, with certain conditions met, to address necessary code violations. The final award amount will depend on the

amount of rehabilitation work that is needed, as per work specs that have been bid on by participating contractors. The total grant amount is the amount indicated on the recapture document recorded.

### **Terms, Recapture and Default (Promissory Note and Loan)**

Applicants must sign recapture documents prior to the start of rehabilitation work. Terms are subject to change, with recommendation from staff and commission approval. The document stipulates which funding source(s) the funds are coming from (CDBG, HOME or SHIP)

- Deferred payment loan
  - Rate: 0%
  - Term: 15 years
  - 100% forgiven on 15-Year anniversary date provided applicant does not sell, rent or transfer property (Specials needs 10 Year – reduced 1/10<sup>th</sup> each year)
- Eligible Properties
  - Owner occupied primary residence  
1-4 family detached, condo, villa, townhome

### **Construction Contract**

There is no standard construction contract in place. Homeowners enter into a contract with the contractor before a Notice to Proceed is issued. The contract has the final scope of work and bid amounts, in which the homeowner will approve.

### **Change Orders**

If a change order arises, the contractor must contact program administrator for approval before going ahead with the work. No change order will be paid unless approval is noted on the file.

### **Property Inspections**

The property will undergo several inspections to ensure quality of work and that all code violations are being addressed. An initial inspection takes place before the work specs are prepared. This inspection is conducted by a licensed home inspector. Site visits can be conducted while the work is in progress if they are needed. Upon completion of the work two final inspections are conducted – one by an independent home inspector who is responsible for checking the work completed against the initial scope. The second is completed by an inspector with the City's Building Department. Building permit finals are necessary for project close-out. Failed inspection requires corrective action by the contractor and then a re-inspection is required.

Projects are monitored for 120 days completion after “Notice to Proceed” has been issued. The City’s consultant has established a 30, 45, 60, 90-day checkpoint for home repair projects. At the various stages of the project the homeowner/contractor will be contacted:

30 Day Check Point: Check on Permits

45 Day Check Point: Call to Homeowner and Contractor to determine if work has started

60 Day Check Point: Call to Homeowner and Contractor to determine

90 Day Check Point: Call Contractor to determine if project is near close and will be completed in 20-day timeframe.

Close-Out Check Point: Verify Project Close Out – Note in File

### **Property Standards**

Minimum standards for projects, is that work will be brought up to local housing code.

### **Payment Disbursement**

Once a rehabilitation project has been completed to the owner’s signed satisfaction and final inspections have taken place, the contractor submits his or her invoice for payment. The invoices are prepared and delivered to the City for review and payment. Once paid, the city’s consultants prepare the monthly reports and payment requests on behalf of the City for reimbursement. The City will allow for 90% (or lesser draw amount) of completion work invoices from the Contractor, provided that 90% (or lesser draw amount) of work has been done according to work specification orders.



**EXHIBIT "B"**  
**COSTS/BUDGET FOR PROJECT**  
**FY 2017-2018**

**FUNDING SOURCE**

Each cost category below reflects the proposed amount necessary to complete the Project by funding source(s).

<b><u>CATEGORY</u></b>	<b><u>HOME FUNDS</u></b>	<b><u>TOTAL</u></b>
A. Direct client subsidy/Construction Costs	\$56,900	\$56,900
B. Soft Costs	\$3,900	\$3,900
C. Staff Costs	\$10,729	\$10,729
<b>E. TOTALS</b>	<b>\$71,529</b>	<b>\$71,529</b>

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**BUDGET NARRATIVE**

The Budget Narrative statements below provide a detailed justification for each cost category shown in the budget table for both HOME and Non-HOME funding sources utilized in financing the Project.

- A. Direct client subsidy/Construction Costs: Cost of rehabilitation and repair for a minimum of one (1) Income Eligible Household at a maximum of \$40,000 each = \$56,900
- B. Soft Costs: Inspections including, but not limited to, lead-based paint and mold inspections, appraisal, documentary stamp/recording fees as needed = \$3,900
- C. Contractual Costs: Service Delivery costs associated with implementing the Project = \$10,729
- D. Total HOME Funds available under Agreement = \$71,529

**EXHIBIT "B"**  
**COSTS/BUDGET FOR PROJECT**  
**FY 2017-2018**  
**(Continued)**

**Allowable Cost for U.S. HUD Share of Budget**

Federal cost principles for grants and contracts with state and local governments are stated in OMB Circular A-87 (relocated to 2 CFR Part 225), Cost Principles for State, Local and Indian Tribal Governments. This document is an extensive and somewhat complicated series of principles governing the allow ability of various types of costs under federal grants and contracts. General information concerning the cost principles is summarized below. The following types of costs are specifically unallowable:

- (A) Advertising costs other than those associated with recruitment of personnel and the solicitation of bids for goods and services.
- (B) Bad debts.
- (C) Contingencies.
- (D) Contribution and donations.
- (E) Entertainment.
- (F) Fines and penalties.
- (G) Interest.
- (H) Losses on other grants or contracts.

**Other** costs include all types of direct costs not specified above. Normally, such costs include space, telephone, utilities, printing, and other basic operating expenses.

**EXHIBIT "C"**  
**TIMETABLE/SCHEDULE FOR PROJECT**

**FY 2017-2018 Funding**

The table below lists the main work tasks required to complete the Project objectives before the term of the Agreement expires.

<b><u>WORK TASKS</u></b>	<b><u>START-UP</u></b>	<b><u>COMPLETION</u></b>
Identify and process Income Eligible Households	Upon execution of Agreement by the Parties.	March 31, 2019
Provide Quarterly Progress Reports to COUNTY	One month after execution of Agreement by the Parties	September 30, 2019
Commence Work Write-Ups	Upon execution of Agreement by the Parties.	April 30, 2019
Commence Repairs	Upon execution of Agreement by the Parties.	June 30, 2019
Repairs Completed	N/A	July 31, 2019
Final Invoice to COUNTY	N/A	August 31, 2019
Provide Final Quarterly Progress Report to the COUNTY	N/A	September 30, 2019

**EXHIBIT "D"**  
**QUARTERLY PROGRESS REPORT**

Period Covered: \_\_\_\_\_ to \_\_\_\_\_ Date of Report: \_\_\_\_\_

**A. Project Information.**

Agency Name:	
Person Preparing the Report:	
Signature and Title:	
Project Funding Year, Title and IDIS Activity Number:	
Project Start-Up Date:	
Project Completion Date:	
Amended Completion Date:(if applicable)	

**B.1 Project Cost.**

	<i>Budget</i>	<i>Total Expenditures Up to Last Billing</i>	<i>Total Expenditures this Billing</i>	<i>Funds Expended To Date</i>	<i>Percentage</i>
<b>Total Project</b>	\$	\$	\$	\$	%
<b>HOME Funds</b>	\$	\$	\$	\$	%
<b>Other Funding (specify source below)</b>	\$	\$	\$	\$	%

**B.2 Declaration of Agency Budget Changes.**

Program Income/Recapture: \_\_\_\_\_  
\_\_\_\_\_

Source of Program Income/Recapture: \_\_\_\_\_

**B.3 Other Grant Awards.**

Date(s): \_\_\_\_\_ Dollar Amount \_\_\_\_\_  
Funding Source \_\_\_\_\_

**EXHIBIT "D"**  
**QUARTERLY PROGRESS REPORT**  
**(Continued)**

**B.4 Percent of Project Completed to date. \_\_\_\_\_%**

**C.1 Describe specific work tasks and qualified accomplishments completed this quarter:**

<u>Work Tasks</u>	<u>Status (i.e., underway, pending, completed)</u>

**C.2 Describe success or problems encountered with the Project:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**C.3 Anticipated problems or concerns with the Project:** Please identify technical assistance needed and/or requested from the Housing Finance and Community Redevelopment Division staff.

\_\_\_\_\_

**C.4 Anticipated advertisements and/or other contractual services:** If applicable, has the Housing Finance and Community Redevelopment Division staff been advised and appropriate steps taken to assure compliance?

**D. Program Objectives:**

<b>Work Tasks</b>	<b>Projected Yearly Total/ Performance</b>	<b>Quarterly Progress</b>	<b>Progress Yr-To-Date</b>	<b>Supporting Documentation</b>



**EXHIBIT "E"**  
**AFFIRMATIVE MARKETING POLICY**

A. **AFFIRMATIVE MARKETING:**

1. **DISSEMINATION OF INFORMATION**

The following methods shall be used to inform the public, owners, and potential tenants about Federal Fair Housing Laws, compliance with 24 CFR 92.35, Affirmative Marketing; minority outreach program, and the marketing policy of the Housing Finance and Community Redevelopment Division.

From time to time, CITY shall canvass the eligible areas disseminating program and fair housing information flyers to tenant associations, civic associations, public service agencies, tenant groups, civic and fraternal organizations, churches, housing counseling, consumer affairs, business and non-profit groups.

Public service announcements will be made on radio and television stations. Press releases will be placed in newspapers and other publications circulated widely in target areas.

The Equal Housing Opportunity logo will be used on all printed materials.

2. **PRACTICES AND PROCEDURES**

CITY must adhere to the following requirements and practices in order to carry out the affirmative marketing policies of the Housing Finance and Community Redevelopment Division.

Advertise in circulars and periodicals having wide distribution in target areas. Display leaflets, brochures, and other printed materials containing the equal housing logo in conspicuous locations at places frequented by potential tenants and persons least likely to apply for the rental housing.

3. **SPECIAL OUTREACH**

CITY shall endeavor to notify the public of its programs by conducting special outreach activities including, but not limited to, community organizations, places of worship, employment centers, fair housing groups, and housing counseling agencies.

4. **FAILURE TO COMPLY WITH REQUIREMENTS**

Failure on the part of CITY to comply with the affirmative marketing requirements provided herein, or to cure or remedy identified violations within thirty (30) days of notification of violations by the Division shall result in suspension of undisbursed HOME Funds under the Agreement.

**EXHIBIT "E"**  
**AFFIRMATIVE MARKETING POLICY**  
**(continued)**

**B. CIVIL RIGHTS**

No person shall be discriminated upon based on race, color, sex, age, marital status, disability, religion, or national origin in the rental, lease, sale, or use of the property to be constructed with HOME Investment Partnerships Program (HOME) Funds obtained through the HOME Program in accordance with Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) and the Fair Housing Amendment Acts of 1988, 42 U.S.C. 3601 et seq., and implementing regulations set forth in 24 CFR Parts 100, 103, and 104.

**C. INTEREST OF PUBLIC BODY**

No member of the governing body of Broward County or CITY or any employee of the Housing Finance and Community Redevelopment Division or CITY may have any interest, direct or indirect, in the proceeds of any loan or in any contract entered into by the borrower for the performance of work financed, in whole or in part, with the proceeds of the loan.

**D. DISPLACEMENTS**

Multi-family housing projects are designed to increase the supply of rental housing for low and very low-income families. However, in the event that displacement occurs, relocation will be conducted in accordance with 24 CFR Part 92.353, Displacement, relocation, and acquisition, and information on this policy may be obtained from the Broward County Housing Finance and Community Redevelopment Division, 110 N.E. 3rd St., Third Floor, Fort Lauderdale, Florida 33301.

The existing evaluation and monitoring activities conducted by the Housing Finance and Community Redevelopment Division will be applied to the HOME Program to ensure compliance with local and federal policies, regulations, and required reports. In instances of noncompliance, corrective action will be taken.



**EXHIBIT "F"**  
**REQUEST FOR PAYMENT**

Broward County Board of Commissioners, Broward County Florida  
Housing and Community Redevelopment Division

HOME INVESTMENT PARTNERSHIPS PROGRAM  
FY 17 FUNDING

Contract Period From \_\_\_\_\_ To \_\_\_\_\_

HOME Funding Amount: \$ \_\_\_\_\_

1. Project Name: \_\_\_\_\_
2. Agency Name: \_\_\_\_\_
3. Billing # \_\_\_\_\_
4. Billing Period Covered \_\_\_\_\_
5. % of Total Contract Expended through this Billing \_\_\_\_\_
6. Project Costs: (Itemized per Exhibit "B"):

Category(ies)	Budget	Total Expenditures Up to Last Billing	Expenditures this Billing	Total Expenditures To Date
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
<b>TOTAL EXPENDITURES</b>	\$	\$	\$	\$

**EXHIBIT "F"**  
**REQUEST FOR PAYMENT**  
**(continued)**

Detail of Request for Payment (attach copies of supporting documentation for billing)

<b>Vendor/Client Name</b>	<b>Invoice #</b>	<b>Description</b>	<b>Amount</b>

Total Request for Reimbursement: \$ \_\_\_\_\_

Certification: I certify that this billing is correct and just and based upon obligations of record for this project; that the work and services are in accordance with Broward County approved agreement, including any amendments thereto; and that the progress of the work and services under the project agreement are satisfactory and are consistent with the amount billed.

\_\_\_\_\_  
Signature and title of Authorized Official

\_\_\_\_\_  
Date

**EXHIBIT "G"** [Delete reference to Exhibit "G" prior to recording]

Return recorded document to:  
Housing Finance and Community Redevelopment Division  
110 N.E. 3<sup>rd</sup> Street, Suite 203,  
Fort Lauderdale, Florida 33301

Document prepared by:  
[INSERT NAME OF PREPARER]  
[INSERT ADDRESS OF PREPARER]

Approved as to form by:  
Annika Ashton  
Senior Assistant County Attorney  
115 South Andrews Avenue, Suite 423  
Fort Lauderdale, Florida 33301

**HOME MORTGAGE TO SECURE LOAN FOR  
HOUSING REHABILITATION PROGRAM**

THIS MORTGAGE made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, between \_\_\_\_\_, a \_\_\_\_\_, whose address is \_\_\_\_\_ (herein "Mortgagor"), and BROWARD COUNTY, a political subdivision of the State of Florida, whose address is 115 South Andrews Avenue, Fort Lauderdale, FL 33301 (herein "Mortgagee").

WHEREAS, Mortgagor is indebted to Mortgagee in the principal sum of \_\_\_\_\_ Dollars (\$000.00), which indebtedness is evidenced by Mortgagor's Promissory Note of even date herewith (herein "Note"); NOW, THEREFORE,

Mortgagor and Mortgagee covenant and agree as follows:

Mortgagor agrees to secure to Mortgagee the payment a certain Note of even date herewith, for the principal sum of \_\_\_\_\_ Dollars (\$000.00) payable to Mortgagee and agrees to comply with the terms and conditions set forth under 24 C.F.R. Part 92, including the applicable affordability periods referenced herein. Mortgagor does hereby mortgage, grant, and convey to Mortgagee the property described in Attachment "A," located in the County of Broward, State of Florida, together with all improvements now or hereafter erected on the Property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property are herein referred to as the "Property."

The sums secured under this Mortgage are in the form of a zero percent (0%) interest free, forgivable loan ("Loan"), as provided for in the Note attached hereto as Exhibit "A." Upon the [ ] fifteen (15) year anniversary date of the term of this Mortgage as provided in Section 23, or [ ] ten (10) year if "special needs" applicant, Mortgagee shall execute a Satisfaction of Mortgage so long as Mortgagor has complied with all the terms of this Mortgage and the Note. For Special Needs applicants, ten percent (10%) of the Loan shall be forgiven each year on the anniversary date of the Loan provided the property remains the primary residence of the homeowner. Loan due upon sale, transfer, lease, cash-out refinance, or home equity loan, before expiration of the occupancy period.

This Mortgage shall be a \_\_\_\_\_ [insert position] mortgage on the Property.

**UNIFORM COVENANTS.** Mortgagor and Mortgagee covenant and agree as follows:

1. **Payment of Principal.** Mortgagor shall promptly pay the principal on the indebtedness evidenced by the Note.
2. **Charges; Liens.** Mortgagor shall pay, prior to becoming delinquent, all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any, when due, directly to the payee thereof. Mortgagor shall promptly furnish to Mortgagee receipts evidencing such payments.

3. **Insurance.** Mortgagor shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term extended coverage, and such other hazards as Mortgagee may require and in such amounts and for such periods as Mortgagee may require.

The insurance carrier providing the insurance shall be chosen by Mortgagor subject to approval by Mortgagee; provided, however, that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid by Mortgagor, when due, directly to the insurance carrier.

All insurance policies and renewals thereof shall be in a form acceptable to Mortgagee and shall include a standard mortgage clause in favor of and in a form acceptable to Mortgagee. Mortgagee shall have the right to hold the policies and renewals thereof, and Mortgagor shall promptly furnish to Mortgagee all rental notices and all receipts of paid premiums. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and the Mortgagee. Mortgagee may make proof of loss if not made promptly by Mortgagor.

Unless Mortgagee and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage with the excess, if any, paid to Mortgagor. If the Property is abandoned by Mortgagor, or if Mortgagor fails to respond to Mortgagee within thirty (30) days from the date notice is mailed by Mortgagee to Mortgagor that the insurance carrier offers to settle a claim for insurance benefits, Mortgagee is authorized to collect and apply the insurance proceeds at Mortgagee's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

If, under paragraph 18 hereof, the Property is acquired by Mortgagee, all right, title, and interest of Mortgagor in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property, prior to the sale or acquisition shall pass to Mortgagee to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

4. **Purpose of Mortgage.** This Mortgage and the Note were executed and delivered to secure monies advanced in full to Mortgagor by Mortgagee as or on account of a loan evidenced by the Note, for the purpose of home repair or homeownership, as more fully described herein.

5. **Use of Property.** As an inducement for Mortgagor to make the referenced loan, Mortgagee hereby agrees to and covenants that Mortgagee will take possession of the Property and ensure that Mortgagee is the primary resident during the entire term of the loan for homeownership or home repair, as applicable, and as provided under the Note. No building or other structure or improvement, fixture or personal property mortgaged hereby shall be removed or demolished without the prior written consent of Mortgagee. Mortgagor will not make, permit, or suffer any alteration or addition to any building or other structure or improvement now or which may hereafter be erected or installed upon the mortgaged property, or any part thereof, except the improvements required to be made pursuant to paragraph 4 hereof, nor will Mortgagor use, or permit or suffer the use of, any of the Property for any purpose other than the purpose(s) for which the same is now intended to be used, without the prior written consent of Mortgagee. Mortgagor will maintain the Property in good condition and state of repair and will not suffer or permit any waste to any part thereof, impairment, or deterioration of the Property, or make or permit to be made to the mortgaged property any alterations or additions that would have the effect of materially diminishing the value thereof, or take or permit any action that will in any way increase any ordinary fire or other hazard arising out of the construction or operation thereof, and will promptly comply with all of the requirements of Federal, State, and local governments, or any departments, divisions or bureaus thereof, pertaining to such Property or any part thereof. If all or any part of the Property shall be damaged by fire or other casualty, Mortgagor shall promptly restore the Property to the equivalent of its original condition regardless of whether or not there shall be any insurance proceeds therefore. If the Property or any part thereof is damaged by fire or any other cause, the Mortgagor shall provide written notice of same as soon as practicable to Mortgagee. If any part of the Property shall become physically damaged through condemnation, Mortgagor shall promptly restore, repair, or alter the remaining Property in a manner satisfactory to Mortgagee. Mortgagee's approval of such restorations, repairs, or alterations shall not be unreasonably withheld.

6. **Protection of Mortgagee's Security.** If Mortgagor fails to perform the covenants or agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Mortgagee's interest in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankruptcy, Mortgagee, at Mortgagee's option, upon notice to Mortgagor, may make such

appearances, disburse such sums, and take such action as is necessary to protect Mortgagee's interest including, but not limited to, disbursement of reasonable attorneys' fees and entry upon the Property to make repairs.

7. **Inspection.** Mortgagee may make or cause to be made reasonable entries upon and inspections of the Property, provided that Mortgagee shall give Mortgagor notice prior to any such inspection specifying reasonable cause therefore related to Mortgagee's interest in the Property.

8. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Mortgagee. The proceeds referred to in this paragraph shall be applied to the sums secured by this Mortgage with the excess, if any, paid to Mortgagor. If the Property is abandoned by Mortgagor or, if after notice by Mortgagee to Mortgagor that the condemner offers to make an award or settle a claim for damages, Mortgagor fails to respond to Mortgagee within thirty (30) days after the date such notice is mailed, Mortgagee is authorized to collect and apply the proceeds, at Mortgagee's option, either to restoration or repair of the Property, or to the sums secured by this Mortgage.

9. **Mortgagor Not Released.** Extension of time for payment or modification of amortization of the sums secured by this Mortgage granted by Mortgagee to any successor in interest of Mortgagor shall not operate to release, in any manner, the liability of the original Mortgagor and Mortgagor's successor in interest. Mortgagee shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Mortgagor and Mortgagor's successors in interest.

10. **Forbearance by Mortgagee Not a Waiver.** Any forbearance by Mortgagee for exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate the maturity of the indebtedness secured by this Mortgage.

11. **Remedies Cumulative.** All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently, or successively.

12. **Successors and Assigns Bound; Joint and Several Liability; Captions.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Mortgagee and Mortgagor, subject to the provisions of paragraph 16 hereof. All covenants and agreements of Mortgagor shall be joint and several. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

13. **Notice.** Except for any notice required under applicable law to be given in another manner, any notice to Mortgagor or Mortgagee provided for in this Mortgage shall be given by mailing such notice by certified mail, return receipt requested, addressed to the party for whom it is intended at the Property address set forth above.

14. **Governing Law; Severability.** Mortgagor shall comply with all laws, federal, state and local affecting the Property, particularly Mortgagor shall comply with all H.U.D. requirements and 24 C.F.R. Part 92, as maybe amended from time to time. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and Note are declared to be severable. Any controversies or legal problems arising out of this transaction and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs, and shall be governed by the laws of the State of 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 the United States Bankruptcy Court for the Southern District of Florida. **MORTGAGOR AND MORTGAGE HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS MORTGAGE. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS MORTGAGE AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

15. **Hazardous Substances.** Mortgagor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Mortgagor shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Laws. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Mortgagor shall promptly give Mortgagee written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Laws of which the Mortgagor has actual knowledge. If Mortgagor learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Mortgagor shall promptly take all necessary remedial actions in accordance with Environmental Laws.

As used in this paragraph 15, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Laws including, but not limited to, the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 15, "Environmental Laws" means federal laws, and state and local laws of the jurisdiction where the property is located that relate to health, safety, or environmental protection.

16. **Transfer of the Property.** No part of the Property, or any interest therein, shall be sold or transferred by Mortgagor during the term of this Mortgage. If Mortgagor sells or transfers any interest in the Property, the remaining balance of loan amount under the Note secured by this Mortgage shall become immediately due and payable. If the amount becomes due and payable, Mortgagee shall mail Mortgagor notice of acceleration in accordance with paragraph 13 hereof. Such Notice shall provide a period of not less than thirty (30) days from the date the notice is received within which Mortgagor may pay the sums declared due. If Mortgagor fails to pay such sums prior to the expiration of such period, Mortgagee may, without further notice or demand on Mortgagor, invoke any remedies permitted by paragraph 18 hereof.

17. **Event of Default.** The term "Event of Default" wherever used in the Mortgage, shall mean any one or more of the following events:

A. Failure by Mortgagor to duly keep, perform, and observe any other covenant, condition, or agreement in the Note, this Mortgage, or any of the other Loan documents for a period of ten (10) days after Mortgagee provides written notice specifying the breach.

B. If Mortgagor or any endorser or guarantor of the Note shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, wage earner's plan, assignment for the benefit of creditors, receivership, dissolution, or similar relief under any present or future Federal Bankruptcy Act or any other present or future applicable federal, state or other statute or law, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver, or liquidator of this Mortgage for all or any of the properties of Mortgagor or of any guarantor or endorser of the Note; or if within thirty (30) days after commencement of any proceeding against Mortgagor or any guarantor or endorser of the Note, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, debtor relief, or similar relief under any present or future federal, state or other statute or law, such proceeding shall not have been dismissed or stayed on appeal; or, if within the thirty (30) days after appointment without the consent or acquiescence of Mortgagor or of any endorser or guarantor of the Note, of any trustee, receiver, or liquidator of Mortgagor or any endorser or guarantor of the Note, or of all or any portion of the Property, such appointment shall not have been vacated or stayed on appeal or otherwise; or, if within ten (10) days after the expiration of any such stay, such appointment shall not have been vacated.

C. The entry by any court of last resort of a decision that an undertaking by Mortgagor as herein provided to pay taxes, assessments, levies, liabilities, obligations, or encumbrances is legally inoperative or cannot be enforced, or in the event of the passage of any law changing in any way or respect the laws now in force for the taxation of mortgages or debts secured thereby for any purpose or the manner of collection of any such taxes, so as to effect adversely this Mortgage or the debt secured hereby unless Mortgagor can and does in a proper and legal manner, pay any and all sums of whatever kind which may be incurred or charged under such new or modified law.

D. If foreclosure proceedings should be instituted on any mortgage inferior or superior to this Mortgage, or if any foreclosure proceeding is instituted on any lien of any kind which is not dismissed or transferred to bond within thirty (30) days of the service of foreclosure proceedings on the Mortgagor.

E. Any default under any mortgage that is superior or inferior to this Mortgage. Mortgagor shall have the affirmative obligation to immediately notify Mortgagee in writing of the occurrence or existence of any such default.

F. Any breach of any warranty or material untruth of any representation of Mortgagor contained in the Note, this Mortgage, or any of the other Loan documents in reference to purchase assistance or home rehabilitation.

G. Any action prohibited herein.

H. Lease of the Property to a third party.

I. The abandonment or vacation of the Property by Mortgagor whereby said Mortgagor ceases to reside and occupy the Property as Mortgagor's primary residence.

**NONUNIFORM COVENANTS.** Mortgagor and Mortgagee further covenant and agree as follows:

18. **Acceleration; Remedies.** Except as provided in paragraph 16 hereof, upon Mortgagor's breach of any covenant or agreement of Mortgagor in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Mortgagee, prior to acceleration, shall mail notice to Mortgagor as provided in paragraph 13 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than thirty (30) days from the date the notice is received by Mortgagor, by which such breach must be cured to the satisfaction of Mortgagee; and (4) that failure to cure such breach on or before the date specified in the notice may result in any action in law or equity, as Mortgagee determines to be most effectual to enforce Mortgagor's obligations, including an action for specific performance, acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding and sale of the Property. Mortgagee shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorneys' fees, and costs of documentary evidence, abstracts, and title reports.

19. **Mortgagor's Right to Reinstate.** Notwithstanding the Mortgagee's right to acceleration of the sums secured by this Mortgage, Mortgagor shall have the right to have any proceedings initiated by Mortgagee to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) Mortgagor pays Mortgagee all sums which would be then due under this Mortgage had no acceleration occurred; (b) Mortgagor cures all breaches of this Mortgage; (c) Mortgagor pays all reasonable expenses incurred by Mortgagee in enforcing the covenants and agreements of Mortgagor contained in this Mortgage, including, but not limited to, reasonable attorneys' fees; and (d) Mortgagor takes such action as Mortgagee may reasonably require to assure that the lien secured by this Mortgage, Mortgagee's interest in the Property and Mortgagor's obligation to pay the sums secured by this Mortgage shall remain in full force and effect as if no acceleration had occurred. Upon such payment and cure by Mortgagor, this Mortgage and the obligations secured hereby shall remain in full force an effect as if no acceleration had occurred.

20. **Recordation.** This Mortgage shall be recorded in the Public Records of Broward County, Florida. The Note, of equal date herewith this Mortgage, shall be recorded in the Public Records of Broward County, Florida, simultaneous with the recording of this Mortgage.

21. **Release.** Upon payment or reduction of all sums secured by this Mortgage and performance of all terms and conditions in this Mortgage and the Note, including compliance with the applicable affordability periods, if any, Mortgagee shall, upon the request of the Mortgagor, execute a Satisfaction of Mortgage without charge to

Mortgagor. Mortgagor shall pay all costs of recordation, if any. In the event the Property is conveyed, either voluntarily or involuntarily, the amount to be repaid to Mortgagee shall not exceed the amount owed by Mortgagor under the Note securing this Mortgage, or the amount of sale proceeds that remain after payment of any superior liens and closing costs, if any, excluding attorney's fees.

22. **Attorneys' Fees.** As used in this Mortgage and in the Note, "attorney's fees" shall include those fees, if any, which may be awarded by a trial or appellate court.

23. **Term of Mortgage.** The term of this Mortgage shall be fixed for a term of [ ] fifteen (15) years or [ ] ten (10) years if "special needs" applicant consistent with the affordability period as provided in the Note.

IN WITNESS WHEREOF, MORTGAGOR, \_\_\_\_\_, has executed this Mortgage.

WITNESSES:

MORTGAGOR

Sign Name: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Sign Name: \_\_\_\_\_

\_\_\_\_\_:

(Print or Type Name)

Print Name: \_\_\_\_\_

\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_

\_\_\_\_\_:

(Print or Type Name)

\_\_\_ day of \_\_\_\_\_, 20\_\_.

STATE OF FLORIDA

)

COUNTY OF BROWARD

) SS  
)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, as \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_

Print Name: \_\_\_\_\_

Notary Public, State of Florida at Large  
Commission No. \_\_\_\_\_



**ATTACHMENT "A"**  
**LEGAL DESCRIPTION**

**EXHIBIT "A" TO MORTGAGE  
HOME PROMISSORY NOTE – (Forgivable Loan)  
Home Rehabilitation Activities**

**\$000.00**

FOR VALUE RECEIVED, the undersigned \_\_\_\_\_ ("MAKER"), whose address is \_\_\_\_\_ Florida 33 \_\_\_\_\_, promises to pay to the order of BROWARD COUNTY, a political subdivision of the State of Florida, hereof ("HOLDER") at Governmental Center, 115 South Andrews Avenue, Fort Lauderdale, Florida, 33301, or such other place as HOLDER may from time to time designate in writing, the principal sum of \_\_\_\_\_ Dollars (\$000.00), to be paid in lawful U.S. currency, hereinafter referred to as the ("Loan").

1. The real property ("Property") securing such this Loan is legally described as: See Exhibit "A" attached.
2. HOLDER is a recipient of a HOME Investment Partnerships Program ("HOME") grant funds from the United States Department of Housing and Urban Development ("HUD") for eligible activities set forth in 24 CFR Part 92.
3. The Loan amount due under this Promissory Note shall remain fixed for a term of [ ] fifteen (15) years, or [ ] ten (10) years if "special needs" applicant, commencing on the date of execution. The Loan provided under this Note is a zero percent (0%) interest rate, forgivable loan ("Loan"). Upon the anniversary date of the [ ] fifteenth (15<sup>th</sup>) year or [ ] tenth (10<sup>th</sup>) year if "special needs" applicant of this Promissory Note, the HOME Mortgage executed by HOLDER of equal date herewith ("Mortgage") shall be deemed satisfied, and the amount due under this Promissory Note shall be forgiven. For Special Needs applicants, ten percent (10%) of the Loan shall be forgiven each year on the anniversary date of the Loan provided the property remains the primary residence of the homeowner. If, however, MAKER sells, transfers, or leases the Property, or any portion thereof, used to secure this Promissory Note prior to the full term of the Loan, or fails to utilize the Property for the purpose(s) stated in the Mortgage executed by HOLDER of equal date herewith, or fails to comply with the terms and conditions of the Mortgage, the full amount of this Promissory Note shall immediately become due and payable to HOLDER.
4. Upon completion of the term of this Promissory Note and payment of penalties, if any, and provided that MAKER performs all other covenants and conditions of the Loan, then the Loan and all other documents evidenced by the Loan shall cease and terminate and, upon request of MAKER, HOLDER shall execute a Satisfaction of Mortgage and all other documents evidenced by the Loan.
5. If this Promissory Note is reduced to judgment, such judgment shall bear the statutory interest rate on judgments.
6. This Promissory Note may be prepaid in whole or in part at any time, without penalty or premium. Any prepayment hereunder shall be applied first to unpaid costs of collection, servicing fees, and late charges, if any, then to accrued, deferred, and unpaid interest, and the balance, if any, to the principal balance.

7. This Promissory Note is secured by a Mortgage for a HOME funded Project recorded in the Public Records of Broward County, Florida, encumbering certain real property located in Broward County, Florida (the "Property"), subject to no exceptions.

8. In the event of default in the terms or conditions of this Promissory Note, and if the same is enforced by an attorney at law, MAKER hereby agree(s) to pay all costs of collection, including reasonable attorney's fees. Notwithstanding any of the preceding provisions, HOLDER shall be entitled to collect a late fee on any principal amount due and payable by MAKER in such amount, as may have been adopted by Resolution of the Board of County Commissioners, and set forth in the Broward County Administrative Code, at the time of executing this Promissory Note.

9. Except for any notice required under applicable law to be given in another manner, any notice which may be provided pursuant to this Promissory Note shall be given by mailing such notice by certified mail, return receipt requested, addressed to the party for whom it is intended at the appropriate address set forth in the Mortgage.

IN WITNESS WHEREOF, MAKER, \_\_\_\_\_, has executed this Note.

WITNESSES:

MAKER

Sign Name: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Sign Name: \_\_\_\_\_

\_\_\_\_\_  
(Print or Type Name)

Print Name: \_\_\_\_\_

\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_

\_\_\_\_\_  
(Print or Type Name)

\_\_ day of \_\_\_\_\_, 20\_\_.

STATE OF FLORIDA        )  
                                          )  
COUNTY OF BROWARD    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, as \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_

Print Name: \_\_\_\_\_

Notary Public, State of Florida at Large

Commission No. \_\_\_\_\_

My Commission Expires: