



## **AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF COCONUT CREEK PROVIDING FOR DISBURSEMENT OF HOME PROGRAM FUNDS FOR HOUSING REHABILITATION PROGRAM FOR FISCAL YEAR 2018–2019**

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

### **RECITALS**

A. Pursuant to 24 C.F.R. Part 92.101, the Parties entered into a standard form HOME Consortium Cooperation Agreement, incorporated herein by reference, pursuant to which the Parties joined the Broward County HOME Investment Partnerships Program Consortium (“HOME Consortium”), and County was designated the HOME Consortium’s representative member or lead entity to carry out the objectives of the HOME Program (as herein defined) on behalf of all of the HOME Consortium’s members.

B. County, as the representative member or lead entity for the HOME Consortium is the recipient of HOME Program funding from the United States Department of Housing and Urban Development (“HUD”) for all members of the HOME Consortium, 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 C.F.R. Part 92, and County desires to allocate a portion of the HOME Program funding to City.

C. Pursuant to 24 C.F.R. Part 92.105, County has been designated by HUD as a participating jurisdiction and receives its HOME funding allocation pursuant to the County’s consolidated plan, submitted to HUD in accordance with 24 C.F.R. Part 91.

D. The Project (as defined herein) was included in County’s consolidated plan.

E. On August 14, 2018 (Agenda Item No. 43), the Broward County Board of County Commissioners authorized HOME funding to City in the amount of \$174,425 to fund the Project in City, under the terms more specifically described herein.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **ARTICLE 1. DEFINITIONS**

1.1 **Board** means the Board of County Commissioners of Broward County, Florida.

- 1.2 **Commitment** means “Commitment” as defined under 24 C.F.R. Part 92.2.
- 1.3 **Contract Administrator** means the Director of the Housing Finance and Community Redevelopment Division, or such other person designated by same in writing.
- 1.4 **County Administrator** means the administrative head of County appointed by the Board.
- 1.5 **County Attorney** means the chief legal counsel for County appointed by the Board.
- 1.6 **HOME Funds** means the HOME Program (as defined herein) funds provided to City under this Agreement, as set forth in Exhibit B to this Agreement.
- 1.7 **HOME Program** means the HOME Investments Partnerships Program established 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 C.F.R. Part 92.
- 1.8 **Income Eligible Household** means a “low-income” or “very low-income” family, each as defined in 24 C.F.R. Part 92.2.
- 1.9 **Project** means the project provided and implemented by City, as described in Exhibit A to this Agreement.
- 1.10 **Project Completion** means when the Project meets certain conditions set by County for close-out, including but not limited to: construction completion (if applicable), title transfer (if applicable), property standards met, funds disbursed and final draw-down, completion information entered into HUD’s Integrated Disbursement and Information System (IDIS), including beneficiary information for purchase assistance projects, and completion of all required reports and documentation required by County.
- 1.11 **Rules and Regulations of HUD** means the rules and regulations of HUD, including but not limited to 24 C.F.R. Part 92, “HOME Investment Partnerships Program,” 24 C.F.R. Part 91, “Consolidated Submissions for Community Planning and Development Programs,” the applicable provisions under 2 C.F.R. Part 200, “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards,” 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, 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.
- 1.12 **Subcontractor** means an entity or individual providing services to City for all or any portion of the Project. The term “Subcontractor” shall include all subconsultants.

## ARTICLE 2. EXHIBITS

The following exhibits are attached hereto and incorporated into this Agreement:

<b>Exhibit A</b>	<b>Project Description</b>
<b>Exhibit B</b>	<b>Budget</b>
<b>Exhibit C</b>	<b>Project Timeline</b>
<b>Exhibit D</b>	<b>Quarterly Progress Report</b>
<b>Exhibit E</b>	<b>Request for Payment</b>
<b>Exhibit F</b>	<b>Form of Mortgage and Note</b>
<b>Exhibit G</b>	<b>Affirmative Marketing Policy</b>

## ARTICLE 3. PROJECT

3.1 City shall provide and implement a Housing Rehabilitation Program for Income-Eligible Households in City as outlined in Exhibit A attached hereto.

3.2 City must comply with the Project Timeline set forth in Exhibit C. If City fails to meet any of the deadlines set forth in Exhibit C by one hundred and twenty (120) days or more, County may terminate this Agreement in accordance with Article 11 of this Agreement. Time is of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

3.3 Monitoring and Reporting. County will carry out periodic monitoring and evaluation activities as determined necessary in County's discretion, and as required by applicable law. County has the right to conduct a full review of the Project at any time. County's evaluation of the Project will include, but not be limited to, compliance with the terms of this Agreement, and comparisons of planned versus actual progress relating to the Project's scheduling, budget, in-kind contributions, and output measures.

3.3.1 Upon County's request, City shall promptly furnish to County such records and information requested by County related to the Project.

3.3.2 City shall meet with County at reasonable times and with reasonable notice to discuss the Project.

3.3.3 City shall provide County with quarterly progress reports utilizing the form provided in Exhibit D, attached hereto ("Quarterly Progress Reports"). The Quarterly Progress Reports must be submitted to County no later than the tenth (10<sup>th</sup>) calendar day following the end of the preceding quarter. For purposes of the Quarterly Progress Reports, the quarters shall be as follows: First quarter - October 1 through December 31; Second quarter - January 1 through March 31; Third quarter - April 1 through June 30; Fourth quarter – July 1 through September 30.

3.3.4 In addition to the Quarterly Progress Reports, City shall submit on a quarterly basis, and at other times upon the request of the Contract

Administrator, information and status reports required by County or HUD on forms approved by the Contract Administrator.

3.3.5 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 2 C.F.R. Part 200, 24 C.F.R. Part 92, and the Rules and Regulations of HUD, including but not limited to, the consolidated plan, annual action plan, and the annual performance report. Any changes to the Project as described in the consolidated plan, and/or the annual action plan must be approved by County prior to implementation.

3.4 If the work, services, or activities for the Project fail to comply with the terms of this Agreement, or if, in County's judgment, City, or any Subcontractor, has violated federal guidelines or regulations, or the terms of this Agreement, County may issue a written stop order to City pursuant to which City must halt all work, services, or activities for the Project.

3.5 City shall ensure that the recapture and affordability restrictions set forth in 24 C.F.R. Part 92.254 are enforced by requiring that each person provided HOME Funds under this Agreement shall execute a mortgage and a promissory note in favor of County in the forms attached hereto as Exhibit F. City shall ensure that the amount of HOME Funds and the affordability period set forth in the mortgage and promissory note are consistent with the requirements of 24 C.F.R. Part 92.254 and Exhibit A hereto. The executed mortgage and promissory note shall be properly recorded by City and must be furnished to County within ten (10) days after recordation. City shall cooperate with County to modify and re-record any mortgages and notes to the extent modification is required for compliance with the Project terms submitted to HUD or this Agreement.

3.6 HOME Funds shall be provided by City only to Income Eligible Households.

3.7 City shall meet or exceed the standards described in Exhibit A, and all applicable codes, ordinances, statutes, and any other regulations imposed by any regulatory body or authority governing the design, permitting, construction, and approval of the rehabilitation performed under the Project.

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

4.1 The maximum amount payable of HOME Funds to City under this Agreement shall be One Hundred Seventy-Four Thousand Four Hundred Twenty-Five Dollars (\$174,425). This Agreement is subject to the availability of HOME Funds, as more specifically described in Articles 4 and 11. No County funds shall be payable under this Agreement. The HOME Funds payable under this Agreement are HOME Funds allocated by County to City in accordance with 24 C.F.R. Part 92 and are not designated as a fifteen percent (15%) Community Housing Development Organization set-aside.

4.2 If City is in compliance with the applicable Rules and Regulations of HUD and the terms of this Agreement, including the procedures for invoices and payments set forth in this article, County shall reimburse City for eligible Project expenses expended as set forth in Exhibit B, unless a suspension of payment as provided for in Section 4.9 of this Agreement has occurred. At no time shall County distribute HOME Funds to City if City is not in compliance with the terms of this Agreement or for any Project expenses sought to be reimbursed by City that are not eligible for reimbursement under the Rules and Regulations of HUD. If HUD reduces the HOME funding allocation to the HOME Consortium, County shall reduce City's allocation proportionately.

4.3 City may not request disbursement of HOME Funds under this Agreement until the funds are needed for payment of eligible costs under Section 92.206. City shall invoice County monthly, in an amount limited to the amount needed, if eligible Project expenditures, in accordance with Exhibit B and 24 C.F.R. Part 92.206, have been made, by furnishing to County a request for payment in the form provided in Exhibit E, together with the following supporting documentation:

- 4.3.1 Documentation of costs associated with any City personnel providing any services for the Project, if applicable;
- 4.3.2 An executed copy of each Subcontractor contract authorizing work, services, activities, or purchase of materials for the Project, if applicable and not previously submitted to County;
- 4.3.4 A certified copy of the purchase order or other City document authorizing the work, services, activities, or materials for which City is invoicing;
- 4.3.5 A copy of all Subcontractor invoices for the Project indicating the work, services, or activities rendered or materials purchased and the dates for same, certified by City's engineer, architect, or administrator or manager of the Project, as applicable;
- 4.3.6 A certification from City's administrator or the administrator's authorized representative certifying that the work, services, or activities, or materials being invoiced have been received or completed;
- 4.3.7 Upon submittal of the final invoice for reimbursement of eligible Project expenditures made during the term of this Agreement, a final and complete Quarterly Progress Report, utilizing the form provided in Exhibit D; and
- 4.3.8 For reimbursement of the final billing requested by City, City must provide the following additional documentation:
  - (a) Evidence, satisfactory to County, of completion of all Project work and objectives;

- (b) Copies of executed release forms from all Subcontractors;
- (c) Final documentation, including applicable payroll documents, required under the Davis-Bacon Act (40 U.S.C. 276a-276a-7) and Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u, and the implementing regulations at 24 C.F.R. Part 135, as applicable);
- (d) Copies of final certified plans and drawings, if applicable;
- (e) Copies of final permits for the Project, if applicable, and evidence that all permits for the Project have been closed;
- (f) Final request for payment, in the form provided in Exhibit E, requesting reimbursement; and
- (g) Any other documentation reasonably required by County in connection with reimbursement of the final billing amount.

4.4 Following receipt of invoices and supporting documentation, as described in Section 4.3, County 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. County may, in its discretion, deny a reimbursement payment to City if City fails to provide any of the documentation required by Section 4.3 above. Upon determination by County that the items invoiced have been received or completed, County shall make payment to City the amount County determines to be payable. Payment for travel costs or travel-related expenses permitted under Exhibit B to this Agreement, if any, shall be made in accordance with Section 112.061, Florida Statutes.

4.5 City shall disclose to County any and all third-party funding, whether public or private, for the Project. No HOME Funds shall be used to supplant existing third-party funding.

4.6 City shall not be entitled to reimbursement for any invoices received by County later than sixty (60) days after the expiration or earlier termination of this Agreement.

4.7 County shall pay City within thirty (30) calendar days after 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, including the requirements of Section 4.3. Payment may be withheld for failure of City to comply with any term, condition, or requirement of this Agreement or the Rules and Regulations of HUD.

4.8 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 the execution of this Agreement by the Parties, and thereafter, every ninety (90) days, to the greatest extent possible.

4.9 County may suspend payment under this Agreement for any of the following events:

4.9.1 Ineligible use of HOME Funds under this Agreement or the Rules and Regulations of HUD;

4.9.2 Failure to comply with the terms of this Agreement;

4.9.3 Failure to submit reports as required, including Quarterly Progress Reports and a favorable audit report;

4.9.4 Submission of incorrect or incomplete reports in any material respect; and

4.9.5 Failure to comply with the indemnification obligations under this Agreement.

In the event County elects to suspend payment to City pursuant to this section, County shall specify the actions that must be taken by City as a condition precedent to resumption of payments, and specify a reasonable date by which City must take such actions.

4.10 HOME Funds that are not expended during the term of this Agreement and that are not provided to or reimbursed to City under this Agreement may be reallocated by County to other HOME Program projects approved for funding by the Board.

4.11 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 make an administrative offset against other requests by City for reimbursements.

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

4.13 Notwithstanding any provision in 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 City to the extent necessary to protect itself from loss on account of inadequate or defective work that has not been remedied or

resolved in a manner satisfactory to the Contract Administrator, or due to City's failure to comply with this Agreement. The amount withheld shall not be subject to payment of interest by County.

4.14 Notwithstanding any provision in this Agreement to the contrary, in the event County is required to repay HUD any HOME Program funding received from HUD for the Project, pursuant to any repayment requirements set forth in 24 C.F.R. Part 92, or any other applicable Rules and Regulations of HUD, City must repay County such HOME Funds in accordance with the repayment provisions set forth in Section 9.5 of this Agreement.

## **ARTICLE 5. INDEMNIFICATION**

5.1 To the extent permitted by law, and without either party waiving its sovereign immunity or any limits established by Section 768.28, Florida Statutes, City shall indemnify, hold harmless, and defend County and all of County's 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 attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of City, its officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). In the event any Claim is brought against an Indemnified Party, City shall, upon written notice from County, defend each Indemnified Party against each such Claim by counsel satisfactory to County or, at County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. To the extent considered necessary by the Contract Administrator and the County Attorney, any sums due City under this Agreement may be retained by County until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County. 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. The obligations of this section shall survive the expiration or earlier termination of this Agreement.

5.2 For construction-related activities. To the extent permitted by law, and without either party waiving its sovereign immunity or any limits established by Section 768.28, Florida Statutes, City shall indemnify and hold harmless County, its officers, and employees from liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of City and persons employed or utilized by City in the performance of this Agreement. To the extent considered necessary by Contract Administrator and County Attorney, any sums due City under this Agreement may be retained by County until all of County's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by County. These indemnifications shall survive the



term 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 noncontributory 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 for the Project, 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 for the Project 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. REPRESENTATIONS AND WARRANTIES**

7.1 City certifies, to the best of its knowledge, that:

7.1.1 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.

7.1.2 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 C.F.R. Part 87, in accordance with its instructions.

7.1.3 The language of this section 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.

7.2 In accordance with Section 519 of the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101-144) and Section 906 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), which amended Title I of the Housing and Community Development Act of 1974, City represents and warrants that it has adopted and is enforcing policies within its jurisdiction that:

7.2.1 Prohibit the use of excessive force by law enforcement agencies against any individuals engaged in nonviolent civil rights demonstrations; and

7.2.2 Enforce applicable State and local laws that prohibit any action that physically bars an entrance to or exit from, a facility or location where a nonviolent civil rights demonstration is being conducted.

7.3 Representation of Authority. City represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of City, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that City has with any third party, or violates any law, rule, regulation, or duty arising in law or equity applicable to City. City further represents and warrants that execution of this Agreement is within City's legal powers, and each individual executing this Agreement on behalf of City is duly authorized by all necessary and appropriate action to do so on behalf of City and does so with full legal authority.

7.4 Breach of Representations. In entering into this Agreement, City acknowledges that County is materially relying on the representations and warranties of City stated in this article. County shall be entitled to recover any damages it incurs to the extent any such representation or warranty is untrue. In addition, if any such representation or warranty is false, County shall have the right, at its sole discretion, to terminate this Agreement without any further liability to City, to deduct from HOME Funds due to City under this Agreement the full amount of any value paid in violation of a representation or warranty, or to recover all HOME Funds paid to City under this Agreement.

## **ARTICLE 8. GENERAL COMPLIANCE OBLIGATIONS**

8.1 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 that may be imposed by the HOME Consortium. Any conflict or inconsistency between any federal, state, or county regulations and this Agreement shall be resolved in favor of the more restrictive regulations.

8.2 City shall comply with 2 C.F.R. 92.356 regarding conflicts of interest and shall establish safeguards to prohibit its employees from using their 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. Any possible conflict of interest on the part of City, its officers, employees, or agents shall be disclosed in writing to County.

8.3 City shall use its own procurement procedures for the procurements of property and services. City's procurement procedure shall comply with applicable federal, state, and local laws and regulations, including but not limited to, the procurement standards set forth in 2 C.F.R. Part 200, Subpart D, including but not limited to 2 C.F.R. Part 200.321.

8.4 City shall comply with the requirements set forth in County's "Policies and Procedures Manual," 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.

8.5 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, in compliance with 24 C.F.R. Part 92.257 and 24 C.F.R. Part 5.109.

8.6 City shall not take actions designed to discourage affordable housing for sale or rent within the boundaries of County.

8.7 City shall comply with the requirements set forth in 24 C.F.R. Part 92, Subpart H, Other Program Requirements, and 24 C.F.R. Part 5, as applicable to the Project including but not limited to the following:

8.7.1 Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and implementing regulations at 24 C.F.R. 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.

- 8.7.2 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 C.F.R. Part 100 et seq., which prohibit discrimination of persons on the basis of race, color, religion, sex, and national origin in housing practices, and which require that no action be taken that is materially inconsistent with the obligation to affirmatively further fair housing.
- 8.7.3 Executive Order 11063, as amended by Executive Order 12259 (Equal Opportunity in Housing Programs) and implementing regulations at 24 C.F.R. Part 107.
- 8.7.4 Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), and the implementing regulations at 24 C.F.R. Part 146, which prohibit discrimination of persons on the basis of age under any program or activity for which City receives federal financial assistance.
- 8.7.5 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations at 24 C.F.R. 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.
- 8.7.6 Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.), and the implementing regulations set forth in 24 C.F.R. 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.
- 8.7.7 Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability in services, programs, and activities provided by state and local government entities.
- 8.7.8 Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u, and the implementing regulations at 24 C.F.R. Part 135, as applicable), which provides for training, employment, contracting, and other economic opportunities for low- and very low-income persons.
- 8.7.9 The disclosure requirements and prohibitions set forth in 31 U.S.C. 1352 and implementing regulations and restrictions on lobbying set forth in 24 C.F.R. 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.).

8.7.10 The prohibitions set forth in 2 C.F.R. Part 2424 relating to the use of debarred, suspended, or ineligible contractors and participants.

8.7.11 The Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.) and the implementing regulations set forth in 2 C.F.R. Part 2429.

8.7.12 The provisions relating to labor set forth in 24 C.F.R. Part 92.354 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, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701).

Notwithstanding the above, in compliance with 24 C.F.R. Part 92.504(c)(2)(vi), City does not assume County's environmental responsibilities described in 24 C.F.R. Part 92.352 and the intergovernmental review process in 24 C.F.R. Part 92.357.

8.8 City shall comply with the application requirements under 24 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. Part 5.2005(e), and 24 C.F.R. Part 92, Subpart H, 92.359, as applicable.

8.9 City shall comply with the recordkeeping and reporting requirements under this Agreement, 24 C.F.R. Part 92 (including 24 C.F.R. Part 92.520(e) and 24 C.F.R. Part 92.508), 2 C.F.R. Part 200, and 24 C.F.R. Part 5.168, as applicable, to enable County to comply with its recordkeeping and reporting requirements set forth in 24 C.F.R. Part 92.508 and 2 C.F.R. Part 200.

8.10 In addition to the audit rights, and retention of records requirements set forth in Section 12.4, City shall provide County, HUD, and the Comptroller General of the United States, through any of their duly authorized representatives, access to any books, documents, papers, and records of City, or Subcontractors, which are directly pertinent to this Agreement for the purpose of making audits, examination, excerpts, and transcriptions. The rights of access granted under this section 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.

8.11 If applicable, City shall comply, and ensure that all Subcontractors comply, with the Section 3 clause requirements that follow, including the requirement to include the following language set forth in 24 C.F.R. Part 135.38 verbatim, in accordance with the provisions under 24 C.F.R. Part 135. References in the language below to “contract” shall mean this Agreement or any subcontract entered into pursuant to this Agreement, and references to “contractor” shall mean City or its subcontractors:

- 8.11.1 The work to be performed under this contract is subject to the requirements of 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.
- 8.11.2 The parties to this contract agree to comply with HUD’s regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this contract, the Parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- 8.11.3 The contractor agrees to send to each labor organization or representative of workers with which contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of contractor’s commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- 8.11.4 The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the Subcontractor is in violation of the regulations in 24 C.F.R. Part 135. The contractor will not subcontract with any Subcontractor where the contractor has notice or knowledge that the Subcontractor has been found in violation of the regulations in 24 C.F.R. Part 135.

- 8.11.5 The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. Part 135.
- 8.11.6 Noncompliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.
- 8.11.7 With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

8.12 In accordance with 24 C.F.R. Part 92.214(b), City shall not charge any servicing, origination, or other fees for the costs of administering the Project, except as permitted under 24 C.F.R. 92.214(b)(1).

8.13 In accordance with 24 C.F.R. Part 92.504(c)(5), City must enter into a written agreement with each homeowner that conforms with the requirements of 24 C.F.R. Part 92.254(a) and specifies the amount and form of HOME assistance, rehabilitation work to be undertaken, date for completion, and property standards to be met.

8.14 City shall ensure that the home rehabilitation performed pursuant to the Project complies with the property standards set forth in 24 C.F.R. 92.251(b), including but not limited to, (i) applicable state and local codes and ordinances, including zoning requirements and the Florida Building Code; (ii) lead-based paint testing and abatement, as needed, in accordance with 24 C.F.R. Part 92.355; (iii) the standards for major systems, set forth in 24 C.F.R. Part 92.251(b)(1)(ii); (iv) the accessibility standards of 24 C.F.R. Part 8, and Titles II and III of the Americans with Disability Act (42 U.S.C. 12131-12189), as applicable, and (v) uniform physical conditions standard, in accordance with 24 C.F.R. 5.703 and 24 C.F.R. 5.705.

## ARTICLE 9 - FINANCIAL RESPONSIBILITY

9.1 City shall comply with the requirements, standards, and the applicable provisions set forth in 2 C.F.R. Part 200, "Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards" and 24 C.F.R. Part 92.505. In accordance with 2 C.F.R. Part 200.101(b)(3), with the exception of the requirements set forth in 2 C.F.R. Part 200, Subpart F, Audit Requirements, in the event any of the provisions of federal statutes or regulations relating specifically to the HOME Program differ from the provisions set forth in 2 C.F.R. Part 200, the provision of the federal statutes or regulations specific to the HOME Program shall govern.

9.2 City shall comply with the audit requirements set forth in 2 C.F.R. Part 200, Subpart F, "Audit Requirements," and Chapter 10.550, Rules of the Auditor General, State of Florida, as applicable. The audit required under 2 C.F.R. 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.

9.3 City shall use HOME Funds provided under this Agreement only for eligible Project activities as specified in Exhibit A and in accordance with the Project budget set forth in Exhibit B.

9.4 City shall budget and expend all HOME Funds provided by County under this Agreement in accordance with County's "Procedures Manual for Subrecipients."

9.5 In addition to County's right to terminate this Agreement in accordance with Article 11, City shall be required to repay to County, in County's sole discretion, any HOME Funds determined by County or HUD to be ineligible for reimbursement under the terms of this Agreement, including but not limited to in the following events:

9.5.1 Use of any HOME Funds for ineligible Project expenses or activities, including any overpayments by County.

9.5.2 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, City shall repay such funds from nonfederal resources within thirty (30) days after the 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 Program projects. This provision shall survive the expiration or earlier termination of this Agreement.



9.6 City shall account for Program Income, repayments, or recaptured funds, as described 24 C.F.R. Part 92.503 (collectively referred to “Program Income” for purposes of this Agreement), in accordance with the provisions of 24 C.F.R. Part 92.503. City shall report Program Income to County in the City’s Quarterly Progress Reports. Any Program Income received by City after the Effective Date (as defined in Article 10) that was generated under this Agreement or any prior fiscal year HOME Program funding agreement with County shall be returned to County in accordance with 24 C.F.R. Part 92.503, relating to Program Income under the HOME Program. Unless otherwise provided in any Rules and Regulations of HUD, County may reallocate the Program Income to City’s HOME funding award in County’s next HOME Program funding cycle, subject to the retention of a ten percent (10%) administrative fee payable to County.

9.7 Reversion of Assets. Upon the expiration or earlier termination of this Agreement, City shall transfer to County any HOME Funds or Program Income on hand and any accounts receivable attributable to the use of HOME Funds under this Agreement.

9.8 Withdrawal from the HOME Consortium.

9.8.1 If City elects to withdraw from the HOME Consortium in the subsequent three (3) year consortia qualification period, and City is designated by HUD to be a HOME Participating Jurisdiction pursuant to 24 C.F.R. Part 92, Subpart C, and receive HOME funding to operate its own HOME Program, County shall transfer to City any Program Income in County’s possession and attributable to City’s HOME funding allocation, on the effective date of City’s withdrawal from the HOME Consortium. Upon such transfer of the HOME funding to City, City shall assume all obligations and responsibilities attributable to such HOME funding.

9.8.2 If City elects to withdraw from the HOME Consortium in the subsequent three (3) year consortia qualification period, and City is not designated by HUD to be a HOME Participating Jurisdiction pursuant to 24 C.F.R. 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 Program Income in City’s possession and attributable to City’s HOME funding allocation during the period of time City was a HOME Consortium member. County shall retain all obligations and responsibilities attributable to such HOME funding.

9.8.3 If City elects to withdraw from the HOME Consortium, and if the applicable three (3) year consortia qualification period overlaps with the term of this Agreement, City must provide County with notice of termination of this Agreement for convenience as provided in Article 11, and City shall transfer to County, within sixty (60) days of the effective of City’s withdrawal from the HOME Consortium, any Program Income in its possession that is attributable City’s HOME funding allocation during the period of time City was a member of the HOME Consortium.

9.9 City shall comply with 24 C.F.R. Part 92.351, relating to affirmative marketing and minority outreach programs. City shall comply with the Affirmative Marketing Policy set forth in Exhibit G, relating to marketing of the Project to Income Eligible Households.

## **ARTICLE 10. TERM OF AGREEMENT**

The term of this Agreement shall commence retroactively on October 1, 2018 (“Effective Date”), and shall end on September 30, 2020, unless terminated earlier or extended pursuant to the terms of this Agreement. City must ensure Project Completion prior to expiration of this Agreement. City must ensure Commitment of HOME Funds by no later than September 30, 2020. 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 Contract Administrator no less than one hundred and twenty (120) days prior to the expiration date of this Agreement. If the Contract Administrator approves an extension to the term of this Agreement, the Parties shall enter into an amendment as provided in Section 12.17.

## **ARTICLE 11. TERMINATION**

11.1 This Agreement is subject to the availability of HOME Program funding from HUD. In the event that HUD terminates, suspends, discontinues, or substantially reduces the HOME Funds available for the Project activity under this Agreement, as determined in County’s sole discretion, County may terminate this Agreement upon City’s receipt from County of no less than twenty-four (24) hours’ notice.

### **11.2 Termination for Cause.**

11.2.1 In accordance with 2 C.F.R. Part 200.338, 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 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 may file an appeal within five (5) days after receipt of County’s notice of termination.

11.2.2 Termination for cause by County may include but is not limited to: (i) City’s failure to meet any of the project deadlines set forth in Exhibit C, within one hundred and twenty (120) days after the applicable deadline; (ii) City’s repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices; (iii) City’s failure to comply with applicable federal, state, or local law or regulations, including the Rules and Regulations of HUD; (iv) City’s failure to repay County as

provided in Section 9.5; (v) City's failure to comply with the monitoring and reporting requirements of this Agreement, including the requirements of Section 3.3; (vi) City's material breach of the representations and warranties set forth in Article 7; or (vii) City's contracting with a Subcontractor who has been debarred, suspended, or is otherwise excluded from, or ineligible for participation in, any federal assistance program subject to 2 C.F.R. Part 2424. This Agreement may also be terminated for cause by County if a Subcontractor is a "scrutinized company" pursuant to Section 215.473, Florida Statutes, if a Subcontractor is placed on a "discriminatory vendor list" pursuant to Section 287.135, Florida Statutes, or upon the occurrence of any of the grounds set forth in Section 287.135, Florida Statutes.

11.2.3 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 9.5. 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 11.4.

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.

11.3 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. 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.

11.4 In the event this Agreement is terminated for any reason, County may, in County's sole discretion, reimburse City upon receipt of a Request for Payment, utilizing the form provided in Exhibit E, for documented and committed eligible Project expenses, in accordance with the terms of this Agreement and Exhibit B, incurred by City prior to the date either party provides written notice of termination to the other party. For purposes of this Agreement, a documented and committed eligible Project expense means any verifiable committed expense, including but not limited to a purchase order for payment of materials and supplies, executed by City or Subcontractor on City's behalf, for Project activities under this Agreement. Notwithstanding the above, City shall not expend, or commit to expend, any funds for eligible Project expenses under this Agreement after either party provides written notice of termination to the other party. Any payment by County pursuant to this section is subject to the repayment provisions in Section 9.5, and County shall not be required to reimburse City for any or all of the HOME Funds requested by City where County has determined that City failed to complete the Project in a manner complying with this Agreement or the Rules and

Regulations of HUD.

11.5 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.

11.6 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.

11.7 If City elects to terminate this Agreement, or withdraw from the HOME Consortium in accordance with the provisions set forth in 24 C.F.R. Part 92, Subpart C, City shall not be entitled to receive any unused portion of the HOME Funds.

## **ARTICLE 12 - MISCELLANEOUS**

12.1 Rights in Documents and Works. 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 nonexclusive 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, 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 after 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 Subcontractors.

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 nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

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 such 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 Subcontractors shall make same available in written form at no cost to County.

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 Agreement for a minimum of four (4) years after Project Completion, or until resolution of any audit findings, whichever is longer. In addition, City must comply with the records retention requirements set forth in 24 C.F.R. Part 92.508. County audits and inspections pursuant to this section may be performed by any County representative (including any outside representative engaged by County). County reserves the right to conduct such audit or review at City's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice.

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 after presentation of County's findings to City.

City shall ensure that the requirements of this section are included in all agreements with its Subcontractors performing services for the Project.

12.5 Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by either County or City nor shall anything included herein be construed as consent by either County or City to be sued by third parties in any matter arising out of this Agreement. Both County and City are political subdivisions as defined in Section 768.28, Florida Statutes, and each shall be responsible for the negligent or wrongful acts or omissions of their employees pursuant to Section 768.28, Florida Statutes.

12.6 Independent Contractor. City is an independent contractor under this Agreement and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing the Project, 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.

12.7 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.

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

For County:

Ralph Stone, Director  
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

For City:

City Manager  
4800 W Copans Road  
Coconut Creek, Florida 33063  
Email address: mblasi@coconutcreek.net

12.9 Assignment. 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.

12.10 Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement 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 of this Agreement. 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. To be effective, any waiver must be in writing signed by an authorized signatory of the waiving party.

12.11 Compliance with Laws. City and the Project, including any work, activities, or services provided by Subcontractors, shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations, including the Rules and Regulations of HUD, and any related federal, state, or local laws, rules, and regulations.

12.12 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.

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

12.14 Interpretation. The titles and 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. Any reference to “days” means calendar days, unless otherwise expressly stated.

12.15 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement 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. If there is a conflict between any provisions set forth in this Agreement and a more stringent state or federal provision which is applicable to this Agreement, the HOME Funds, or the Project, the more stringent state or federal provision shall prevail.

12.16 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 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 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.**

12.17 Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by duly authorized representatives of County and City. The County Administrator is hereby authorized to execute amendments that extend the term of the Agreement or that change the Project, so long as the Project, as amended, consists of eligible activities

under 24 C.F.R. Part 92. The Contract Administrator is hereby authorized to approve, in writing, line item budget changes to the information set forth in Exhibit B during the term of this Agreement, and for sixty (60) days after expiration or earlier termination of this Agreement, in order to reconcile City's expenditures of HOME Funds, provided such changes do not result in an increase in the total amount of the HOME Funds. The written document from the Contract Administrator approving such changes shall be deemed incorporated into this Agreement.

12.18 Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter 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.

12.19 Payable Interest.

12.19.1 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.

12.19.2 Rate of Interest. If the preceding subsection is inapplicable or 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, one quarter of one percent (0.25%) simple interest (uncompounded).

12.20 Survival. County's right to monitor, evaluate, enforce, audit, and review, any obligations by City to indemnify and insure, any representations and warranties of City, and items of financial responsibility shall survive the expiration or earlier termination of this Agreement. Any provision of this Agreement that 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.

12.21 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 them to carry out this Agreement and give effect hereto, and as may be required to comply with the Rules and Regulations of HUD or any other applicable federal, state, or local laws, regulations, directives, and objectives. 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.

12.22 Remedies. In the event of termination for cause, County may pursue any remedies available to it at law or in equity, including, without limitation, damages, specific performance, and criminal remedies.

12.23 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, or 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.

12.24 Incorporation by Reference. Any and all recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached exhibits are incorporated into and made a part of this Agreement.

12.25 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.

12.26 Use of County Logo. City shall not use County's name, logo, or otherwise refer to this Agreement in any marketing or publicity materials without the prior written consent of County.

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 the 14<sup>th</sup> day of August, 2018 (Agenda Item No. 43), and CITY OF COCONUT CREEK, signing by and through its \_\_\_\_\_, 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: \_\_\_\_\_  
Alicia C. Lobeiras (Date)  
Assistant County Attorney

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 FOR FISCAL YEAR 2018– 2019

CITY

ATTEST:

CITY OF COCONUT CREEK

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

By: \_\_\_\_\_  
Sandra L. Welch, 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 2018-2019 Funding	
Project Name:	City of Coconut Creek Housing Rehabilitation Program	
HOME Funds Allocation:	FY 2018-2019	Allocation \$100,554
Program Income:	\$73,871	
<b>Total Allocation:</b>	<b>\$174,425</b>	

#### Project Description:

The HOME Funds in the amount of \$174,425 provided to City under the Agreement shall be used for housing rehabilitation activities. A minimum of three (3) Income Eligible Households shall be assisted in an amount up to Forty Thousand Dollars (\$40,000) per household, including all rehabilitation costs defined in this Agreement and Exhibit B as HOME eligible activities. Applicants will be processed by City on a first come, first qualified, first served basis. The Project shall be administered in accordance with City's Local Housing Assistance Plan (LHAP) to the extent that the LHAP does not conflict with this Agreement.

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:

- 0% interest Forgivable Loan ("Loan")
- Fifteen (15) year term or ten (10) year term (for Special Needs applicants).
- Recapture: Loan due upon sale, transfer, lease, or if property is no longer primary residence of the homeowner, before expiration of the fifteen (15) year occupancy period or ten (10) year occupancy period (for Special Needs applicants).
- 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 and homeowner complies with the terms of the Promissory Note and Mortgage.
- County will follow County's Subordination policy.

City will prepare and record all Mortgages and Promissory Notes in favor of County, in the form provided in Exhibit F.

City will forward all original Mortgages and Promissory Notes with a recorded copy to the County within 30 days.

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, if the requested subordination or satisfaction is in compliance with the County's subordination policy and Sections 27.209 and 27.210 of the Broward County Administrative Code, as applicable.

County Subordination Policy must be met for subordination to be considered:

- NO CASH OUT with HOME/CDBG/DRI/NSP junior mortgages. SHIP allows \$15,000 maximum cash out for home repair; medical or education expenses.
- Homeowner must retain at least 10% equity.
- Broward County must stay in second lien position.

City shall comply with HUD Rules and Regulations governing the Project, specifically the rules and regulations of 24 C.F.R. Part 92, 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 means a "low-income" or "very low-income" household, each as defined in 24 C.F.R. Part 92.2.
- 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 will ensure that each household has a written homeowner agreement as per HUD 24 CFR 92.504(c)(5)(ii) prior to disbursing HOME funds.

## EXHIBIT B

### BUDGET

FY 2018-2019

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

CATEGORY		HOME FUNDS	OTHER FUNDING SOURCES	TOTAL
A.	Direct client subsidy	\$147,625.00	\$0	\$147,625.00
B.	Soft Costs	\$15,600.00	\$0	\$15,600.00
C.	Contractual Costs	\$11,200.00	\$0	\$11,200.00
D.	<b>TOTALS</b>	\$174,425.00	\$0	\$174,425.00

### 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 three (3) Income Eligible Household at a maximum of \$40,000 each = \$120,000. A balance of \$27,625 included in Category A will be leveraged with additional funding sources to assist one (1) additional income eligible household, if necessary.

B. Soft Costs: Inspections including, but not limited to, lead-based paint and mold inspections, appraisal, documentary stamp/recording fees as needed = \$15,600

C. Contractual Costs: Service Delivery costs associated with implementing the Project = \$11,200

D. Total HOME Funds available under Agreement = **\$174,425**

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

Federal cost principles for grants and contracts with state and local governments are set forth in 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which contains a series of principles governing the allowability 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.
- (I) Other costs include all types of direct costs not specified above. Normally, such costs include space, telephone, utilities, printing, and other basic operating expenses.

Most other categories of cost are generally allowable under the cost principles provided the costs are allowable and reasonable. General comments on individual cost elements are listed below:

**Salary** costs are generally allowable provided they are based on actual current salaries adjusted for any anticipated cost-of-living or merit increases during the grant period. Salary costs for unidentified new employees must be consistent with City's overall employee compensation structure. City's compensation policy should not change as a result of obtaining a federal grant.

**Fringe Benefit** costs such as pay for vacations, holidays, sick leave, employee insurance, and unemployment benefits are allowable to the extent required by law or established organizational policy.

**Travel** costs consistent with established organizational policy are generally allowable. The difference between first class and coach air fare is specifically unallowable. In the absence of established organizational travel policy, it is a good practice to adopt policies consistent with the federal travel regulations.

**Equipment** costs should be based on the least cost method of acquisition (rent, purchase, lease with option to buy) over the grant period as demonstrated by competitive bidding. Equipment costs are only allowable to the extent the equipment is

directly necessary to accomplish the grant. The cost of equipment not fully utilized under the grant must be allocated to other organization costs to assure a fair share distribution. Whenever practical, used equipment should be considered in meeting equipment needs.

**Material** cost directly associated with the Project is allowable. Prices must generally be justified through competitive bids except for nominal purchases.

**Subcontracts** must be awarded on a competitive basis except in extraordinary circumstances. The same principles applicable to individual cost principles for grantees are generally applicable cost-reimbursement type subcontracts under grants.

**Consultant** agreements should include a certification by the consultant that the consultant rate is equal to or less than the lowest rate the consultant accepts for comparable work. Additionally, Congress prohibits the salary component of consultant fees under HUD grants from exceeding the applicable approved rate schedule.

**Construction** costs include construction of new buildings, structures, or other real property as well as alteration or repair of existing structures. Construction costs should be supported by detailed cost estimates and competitive bidding. Consult with the Housing Finance and Community Redevelopment Division Compliance Officer on applicability of the Davis-Bacon Wage determination to the Project.

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

**Leverage** is that which the municipality or non-profit organization brings to the Project. It may be in the form of services or contributed operating expenses (in-kind contributions) or cash support from the organization itself or from other sources.



**EXHIBIT C**

**PROJECT TIMELINE**

**FY 2018-2019 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	June 15, 2019	March 31, 2020
Provide Quarterly Progress Reports to County	July 1, 2019	September 30, 2020
Commence Work Write-Ups	August 15, 2019	April 30, 2020
Commence Repairs	August 15, 2019	June 30, 2020
Repairs Completed	N/A	July 31, 2020
Final Invoice to County	N/A	August 31, 2020
Provide Final Quarterly Progress Report to County	N/A	September 30, 2020

**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 \_\_\_\_\_

**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>

**HOMEOWNER REHAB - HOUSEHOLD/ACCOMPLISHMENT DATA**

**HOME Funded Activity Accomplishments  
Exhibit "D" Continued**

Subrecipient: \_\_\_\_\_  
 Accomplishment Period: \_\_\_\_\_ Is this a Final Report:\*

*Cells with an asterisk (\*) have DROP DOWN OPTIONS-please click on cell below*

IDIS Activity Number	HOME Funding Year *	First Name	Last Name	Street Address	City	County	Zip Code	Property Type *	Total Completed Units	HOME Assisted Units	Unit Qualified as Energy Star *	Section 504 Accessible Unit *	Applicable Lead Paint Requirement *	Lead Hazard Remediation Actions *	FHA Insured *	Value After Rehab \$			
						Broward													
						Broward													
						Broward													
						Broward													
						Broward													
						Broward													
						Broward													
						Broward													
						Broward													
<b>CHOOSE ONLY ONE HOME FUND TYPE-THIS FY ONLY!</b>						<b>ENTER APPLICABLE PUBLIC FUNDS (Fund Type/Name, Amount and FY)</b>						<b>ENTER APPLICABLE PRIVATE FUNDS</b>							
Amortized Loan \$	Grant \$	Deferred Payment Loan \$	Other \$	Non-Recorded Fees \$- Charged to this FY ONLY	Total \$ (THIS FY HOME FUNDS)	Other Federal Fund Name	Other Federal Fund \$	Other Federal Fund FY	Other State Fund Type -Fund Name	Other State Fund \$	Tax Exempt Bonds	Total \$	Private Loans \$	Owner Cash Contribution \$	Private Grants \$	Total \$	TOTAL HOME Funds \$ (THIS IDIS#/FY ONLY)	All Other Funds \$	HOME RECORDED MORTGAGE TOTAL
				\$ -	\$ -							\$ -				\$ -	\$ -	\$ -	
				\$ -	\$ -							\$ -				\$ -	\$ -	\$ -	
				\$ -	\$ -							\$ -				\$ -	\$ -	\$ -	
				\$ -	\$ -							\$ -				\$ -	\$ -	\$ -	
				\$ -	\$ -							\$ -				\$ -	\$ -	\$ -	
				\$ -	\$ -							\$ -				\$ -	\$ -	\$ -	
				\$ -	\$ -							\$ -				\$ -	\$ -	\$ -	
Unit Number	Number of Bedrooms *	Occupant *	% Median Income *	Hispanic or Latino *	Race *	Household Size *	Household Type *	Total Monthly Rent \$											

**EXHIBIT E**  
**REQUEST FOR PAYMENT**

**HOME Investment Partnerships Grant Program**  
**Fiscal Year 2018 to 2019**

**Contract Period:** \_\_\_\_\_ to \_\_\_\_\_

<b>1. Project Name:</b>			
<b>2. Organization:</b>		<b>Telephone Number:</b>	
<b>3. Billing Number:</b>			
<b>4. Billing Period Covered:</b>			
<b>5. % of Total Contract, Expended through this Billing:</b>			
<b>6. Cost Categories</b>	<b>Total Expenditures Up to Last Billing</b>	<b>Expenditures This Billing</b>	<b>Total Expenditures To Date</b>
<b>A. Project Costs</b>			
Salary and Fringes			
Contractual			
Construction (Retainage)			
Construction (All other construction costs)			
Other Project Costs			
<b>Total Expenditures</b>			
<b>Funds Obligated: (By Funding Agreement)</b>			
<b>Balance</b>			
<b>B. In-kind</b>			

<b>7. Details of Request for Payment (Attach copies of Invoices, Other Applicable Documentation)</b>			
<b>Vendor Name</b>	<b>Invoice # (If Applicable)</b>	<b>Description of Service</b>	<b>Amount</b>

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

**8. Certification:**  
I certify that Items 1 - 7 of this billing are correct and just and are based upon obligation(s) of record for the Project; that the work and services are in accordance with the Broward County approved Agreement, including any amendments thereto; and that the progress of the work and services under the Agreement for the Project are satisfactory and are consistent with the amount billed.

\_\_\_\_\_  
Signature and Title of Authorized Official                      Date

**EXHIBIT F**  
**FORM OF MORTGAGE AND PROMISSORY NOTE**

Return recorded document to:  
Broward County  
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:  
Alicia C. Lobeiras, Esq.  
Assistant County Attorney  
115 South Andrews Ave., Suite 423  
Fort Lauderdale, Florida 33301

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

THIS HOME MORTGAGE TO SECURE LOAN ("Mortgage") made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between \_\_\_\_\_, a \_\_\_\_\_, whose address is \_\_\_\_\_ (hereinafter referred to as "Mortgagor"), and BROWARD COUNTY, a political subdivision of the State of Florida, whose address is 115 South Andrews Avenue, Fort Lauderdale, FL 33301 (hereinafter referred to as "Mortgagee").

A. Mortgagor is indebted to Mortgagee in the principal sum of \_\_\_\_\_ **Dollars (\$000.00)** ("Loan"), which indebtedness is evidenced by Mortgagor's HOME Promissory Note of even date herewith ("Note"), attached hereto as Exhibit A.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, 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."

Mortgagor agrees to secure to Mortgagee the payment of the Note, payable to Mortgagee, and agrees to comply with the terms and conditions set forth in 24 C.F.R. Part 92, HOME Investment Partnerships Program, including the applicable affordability periods established by the Broward County Housing Finance and Community Redevelopment Division.

The sums secured under this Mortgage are provided in the form of a zero percent (0%) interest rate, deferred payment, forgivable loan. [\_\_\_\_ percent (\_\_\_\_%) of the initial Loan principal amount shall be forgiven each year on the anniversary of the date of execution of the Note.] Upon the expiration of the term of this Mortgage as provided in Section 2 hereof, so long as Mortgagor has complied with all the terms of this Mortgage and the Note, and no Event of Default has occurred or is occurring, the Mortgage shall be deemed satisfied and, upon request of Mortgagor, Mortgagee shall execute a Satisfaction of Mortgage. Mortgagor shall pay all costs of recordation of the Satisfaction of Mortgage, if any. If, however, the Mortgagor sells or transfers title to the Property used to secure this Mortgage prior to the full term of the Loan, or fails to comply with any terms and conditions of this Mortgage or the Note, the outstanding principal amount of the Note securing this Mortgage shall immediately become due and payable to Mortgagee.

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

Mortgagor hereby further covenants and agrees as follows:

1. **Payment of Principal.** Mortgagor shall pay when due the outstanding principal under the Note in accordance with the terms of the Note.

2. **Term of Mortgage.** The term of this Mortgage shall be [\_\_\_\_] (\_\_) years from the date of execution of the Note.

3. **Charges.** 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.

4. **Insurance.**

(a) 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 any other hazards, including but not limited to floods, for which Mortgagee requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Mortgagee requires.

(b) The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Mortgagee's right to disapprove Mortgagor's choice, which right shall not be exercised unreasonably. All premiums on insurance policies shall be paid by Mortgagor, when due, directly to the insurance carrier.

(c) All insurance policies required by Mortgagee and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Mortgagee as mortgagee and/or an additional loss payee. 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.

(d) 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, any 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.

(e) If Mortgagor abandons the Property, Mortgagee may file, negotiate, and settle any available insurance claim and related matters. If Mortgagor does not respond within thirty (30) days to a notice from Mortgagee that the insurance carrier has offered to settle a claim, then Mortgagee may settle the claim. In either event, 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.

(f) If, under Section 16 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.

5. **Purpose of Mortgage.** It is expressly agreed and understood that this Mortgage secures the indebtedness and the obligation of the Mortgagor with respect to the Loan, as the same is evidenced by the Note, and all renewals, extensions, and modifications thereof. This Mortgage shall not be deemed released, discharged, or satisfied until the entire indebtedness evidenced by the Note is satisfied in full.

6. **Representations and Warranties.** Mortgagor represents and warrants that: (a) there are no actions, suits, or proceedings pending or threatened against or affecting Mortgagor or any portion of the Property, or involving the validity or enforceability of this Mortgage or the priority of its lien, (b) Mortgagor is not in default under any other indebtedness or with respect to any order, writ, injunction, decree, judgment or demand of any court or any governmental authority; and (c) in connection with the Loan, Mortgagor has not



made any material misrepresentations of fact relating to Mortgagor's income and eligibility for the Loan.

7. **Primary Resident.** As an inducement for Mortgagor to make the Loan, Mortgagor hereby agrees to and covenants that Mortgagor will be the primary resident(s) of the Property during the entirety of the term of the Mortgage and Note.

8. **Care of Property.**

(a) 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, if any, required to be made with the proceeds of the Loan, nor will Mortgagor use, or permit or suffer the use of, any of the Property for any purpose other than the purpose or purposes for which the same is now used, without the prior written consent of Mortgagee.

(b) 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 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 of 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, the 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 give immediate written notice of same as soon as practicable to Mortgagee. If a part of the Property shall be physically damaged through condemnation, the Mortgagor shall promptly restore, repair, or alter the remaining property in a manner satisfactory to the Mortgagee. Mortgagee's approval of such restorations, repairs, or alterations shall not be unreasonably withheld.

9. **Transfer of the Property; Assumption.**

(a) No part of the Property or an interest therein shall be sold or transferred by Mortgagor without the written consent of Mortgagee. If Mortgagor sells or transfers any interest in the Property, the outstanding principal amount of the Note secured by this Mortgage shall become immediately due and payable. If the outstanding principal amount of the Note becomes due and payable, Mortgagee shall provide Mortgagor notice of acceleration, in accordance with Section 16 hereof. Mortgagor shall pay the sums declared due and payable within thirty (30) days after the date of the notice. If Mortgagor fails to timely pay such sums, Mortgagee may, without further notice or demand on Mortgagor, invoke any remedies permitted by Section 17 hereof.

(b) Mortgagee may, at Mortgagee's option, waive its option to accelerate if, prior to the sale or transfer, Mortgagee and the person to whom the Property is to be sold or transferred to reach an agreement in writing that the credit of such person is satisfactory to Mortgagee, that the interest payable, if any, on the sums secured by the Mortgage shall be at such rate as Mortgagee shall request, and that all applicable income and affordability restrictions are met. Mortgagee shall release Mortgagor from the obligations under this Mortgage and the Note only if (i) Mortgagee waives its option to accelerate pursuant to this paragraph, and (ii) Mortgagor's successor in interest has executed a written assumption agreement, in form and substance satisfactory to Mortgagee, pursuant to which the successor in interest acquires all of Mortgagor's obligations under the Mortgage and the Note.

10. **Hazardous Substances.** Mortgagor shall not use, generate, store, or dispose of Hazardous Materials on 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, of which the Mortgagor has actual knowledge, by any governmental or regulatory agency or private

party involving the Property and any Hazardous Substance or Environmental Laws. 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, and provide Mortgagor notice thereof. As used in this section, "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 section, "Environmental Laws" means federal, state, and local laws of the jurisdiction where the Property is located that relate to health, safety, or environmental protection, including but not limited to the Federal Resource Conservation and Recovery Act and the Federal Comprehensive Environmental Response, Compensation and Liability Act.

11. **Compliance with Laws.** Mortgagor shall comply with all federal, state, and local laws applicable to the Loan and the Property, including all requirements of the U.S. Department of Housing and Urban Development and 24 C.F.R. Part 92, as may be amended from time to time.

12. **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.

13. **Inspection.** Mortgagee may make or cause to be made reasonable entries upon and inspections of the Property, provided that Mortgagee shall give Mortgagor reasonable notice prior to any such inspection.

14. **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 of such notice, 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.

15. **Event of Default.** The term "Event of Default," wherever used in this 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 or this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, for a period of ten (10) days after Mortgagor gives 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 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 the 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 the 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 the 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 after the service of foreclosure proceedings on Mortgagor.

E. Any default under any mortgage that is superior or inferior to the Mortgage. Mortgagor shall have the affirmative obligation to immediately notify Mortgage 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 or this Mortgage related to the funding assistance provided.

G. Any action prohibited herein.

H. The transfer or 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 his or her principal residence.

16. **Acceleration; Remedies.** Except as provided in Section 9(b) hereof, upon the occurrence of an Event of Default, Mortgagee, prior to acceleration, shall mail notice to Mortgagor as provided in Section 20 hereof specifying: (1) the Event of Default; (2) the action required to cure such Event of Default; (3) a date, not less than thirty (30) days after the date the notice is received by Mortgagor, by which such Event of Default must be cured to the satisfaction of Mortgagee; and (4) that failure to cure such Event of Default 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. The notice shall further inform Mortgagor of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of an Event of Default or any other defense of Mortgagor to acceleration and foreclosure. If the Event of Default is not cured on or before the date specified in the notice, Mortgagee at its option may require immediate payment in full of all sums secured by this Mortgage without further demand and may foreclose this Mortgage by judicial proceeding. Mortgagee shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph, including but not limited to reasonable attorneys' fees and costs of title evidence.

17. **Remedies Cumulative.** All remedies provided in this Mortgage are separate, 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. No act of Mortgagee shall be construed as an election to proceed under any provision or covenant herein to the exclusion of any other, notwithstanding anything herein to the contrary.

18. **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 and effect as if no acceleration had occurred.

19. **Recordation.** This Mortgage and the Note shall be recorded in the Public Records of Broward County, Florida.

20. **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 such party's respective address set forth above in the introductory paragraph to this Mortgage.

21. **Governing Law.** This Mortgage shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Mortgage 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 Mortgage must be litigated in federal court, the exclusive venue shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. All meetings to resolve said dispute, including voluntary arbitration, mediation, or other alternative dispute resolution mechanism, will take place in this venue. The parties both waive any defense that the venue in Broward County is not convenient. **BY ENTERING INTO THIS MORTGAGE, MORTGAGOR AND MORTGAGEE HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS MORTGAGE.**

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

23. **Heirs, Successors, and Permitted Assigns; No Oral Modifications.** This Mortgage shall be binding upon and shall extend to the benefit of the parties hereto and their respective heirs, successors, and permitted assigns. This Mortgage is not subject to modification other than by a written document or instrument executed by Mortgagor and Mortgagee.

24. **Jointly and Severally Bound.** Mortgagor and others who may become liable for all or any part of the obligations under this Mortgage, hereby agree to be jointly and severally bound by this Mortgage and jointly and severally waive demand, protest, notice of nonpayment, and any and all lack of diligence or delays in collection or enforcement hereof, and specifically consent to any extension of time, release of any party liable for this obligation, including any maker, or acceptance of other security therefor. Any such extension or release may be made without notice to said party and without in any way affecting the liability of such party.

25. **No Waiver; Mortgagor Not Released.** It is expressly agreed and understood that a waiver by Mortgagee (which waiver shall only be valid if given in writing) of any right or rights conferred to it hereunder with regard to any one transaction or occurrence shall not be deemed a waiver of such right or rights to any subsequent transaction or occurrence. It is further agreed that any forbearance or delay by Mortgagee in enforcement of any right or remedy hereunder shall not constitute or be deemed a waiver of such 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. An extension of time for payment or a modification of the amortization of the sums secured by this Mortgage granted by Mortgagee to Mortgagor or any successor in interest of Mortgagor shall not operate to release, in any manner, the liability of Mortgagor or 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 the amortization of the sums secured by this Mortgage by reason of any demand made by the Mortgagor or Mortgagor's successor in interest.

26. **Severability.** If any provision, or part thereof, contained in this Mortgage is, for any reason, held to be invalid, illegal, unenforceable in any respect, or in conflict with applicable law, such invalidity, illegality, unenforceability, or conflict shall not affect any other provision (or remaining part of the affected provision) of this Mortgage, but this Mortgage shall be construed as if such invalid, illegal, unenforceable, or conflicting provision (or part thereof) had never been contained herein, but only to the extent it is invalid, illegal, unenforceable, or in conflict with applicable law.

27. **Captions.** 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.

28. **Further Assurances.** Mortgagor shall cooperate with County to modify and re-record this Mortgage and/or the Note to the extent modification is required (i) to correct any defect or error in the Mortgage and/or Note, or (ii) for compliance with applicable federal, state, or local law.

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            )  
  ) SS  
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:

**ATTACHMENT A**

**To**

**Mortgage to Secure Loan for HOME Activities**

Legal Description:

Parcel Identification Number:

Street Address:

**EXHIBIT A TO MORTGAGE**  
**HOME PROMISSORY NOTE**  
**HOUSING REHABILITATION PROGRAM**  
Forgivable Loan

**\$ (Amount to be inserted)** \_\_\_\_\_, 20\_\_

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 location or address as Holder may from time to time designate in writing, the principal sum of \_\_\_\_\_ Dollars (\$000.00) (“Loan”) to be paid in lawful U.S. currency.

1. The real property (“Property”) securing this Loan is legally described as set forth in Exhibit A attached. This HOME Promissory Note (“Promissory Note”) is secured by a HOME Mortgage to Secure Loan (“Mortgage”) of even date herewith executed in favor of Holder, and recorded simultaneously therewith in the Public Records of Broward County, Florida, encumbering the Property, subject to no exceptions.
2. Holder is a recipient of 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 C.F.R. Part 92.
3. The Loan provided under this Promissory Note is a zero percent (0%) interest rate, deferred payment, forgivable loan. [ \_\_\_ percent (\_\_\_%) of the initial Loan principal amount shall be forgiven each year on the anniversary of the date of execution of this Promissory Note. ] On the anniversary date of the \_\_\_ (\_\_\_) year of the date of execution of this Promissory Note, the Mortgage shall be deemed satisfied, and the outstanding principal amount of this Promissory Note shall be forgiven if Maker is in compliance with the terms of the Mortgage and this Promissory Note. If, however, Maker (i) sells or transfers title to the Property used to secure this Promissory Note prior to the full term of the Loan, (ii) fails to utilize the Property for the purposes stated in the Mortgage, or (iii) fails to comply with the terms and conditions of the Mortgage, the outstanding principal 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 all amounts due hereunder, if any, and provided that Maker complies with all other covenants and conditions of the Mortgage and this Promissory Note, then this Promissory Note and the Mortgage shall terminate and, upon request of Maker, Holder shall execute a Satisfaction of Mortgage.
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.
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 Broward County Board of County Commissioners and set forth in the Broward County Administrative Code, at the time of the execution of this Promissory Note.

9. Except for any notice required under applicable law to be given in another manner, all notices under this Promissory Note shall be provided as specified in Section 20 of the Mortgage.

10. No delay or omission on the part of Holder in the exercise of any right hereunder shall operate as a waiver of such right or of any other right under this Promissory Note. No waiver of any of Holder's rights under this Promissory Note shall be binding upon Holder unless Holder approves such waiver in writing. A waiver by Holder of any right or remedy conferred to it hereunder on any one occasion shall not be construed as a bar to, or waiver of, any such right or remedy as to any future occasion.

11. This Promissory Note shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Promissory Note 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 Promissory Note must be litigated in federal court, 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 PROMISSORY NOTE, MAKER AND HOLDER HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS PROMISSORY NOTE.**

12. In the event that any provision of this Promissory Note is held to be unenforceable under the law, all remaining provisions of this Promissory Note shall be binding, valid, and enforceable.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]



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:

EXHIBIT A [to Promissory Note]  
LEGAL DESCRIPTION

## EXHIBIT G

### 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.

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.